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House of Representatives

The House met at 10 a.m.

PRAYER

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

O gracious God, to whom we address our prayers and petitions and from whom comes every good gift, we pray for the strength of mind and body and spirit so we will do the works of justice and mercy. As the prophet Isaiah has reminded us, we can grow weary and tired in our labors and yet we are comforted by the prophet's words that they who wait upon the Lord shall renew their strength, they shall mount up with wings like eagles, they shall run and not be weary. We pray for Your strength, O God, that sustains in all the seasons of our lives, so we will do Your good work this day and every day. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentlewoman from Ohio [Ms. KAPTUR] will lead the House in the Pledge of Allegiance.

Ms. KAPTUR 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.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive 15 1-minute speeches on each side.

REPUBLICAN CONTRACT WITH AMERICA

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

Mr. BARTLETT of Maryland. Mr. Speaker, it is my happy privilege today to recount our Contract With America and where we are in its fulfillment. Our Contract With America states the following:

On the first day of Congress, a Republican House will: Force Congress to live under the same laws as everyone else; cut committee staffs by one-third; and cut the congressional budget. We have done this.

It goes on to state that in the first 100 days, we will vote on the following items: A balanced budget amendment—we have done this; unfunded mandates legislation—we have done this; line-item veto—we have done this; a new crime package to stop violent criminals—we are now doing this; welfare reform to encourage work, not dependence; family reinforcement to crack down on deadbeat dads and protect our children; tax cuts for families to lift Government's burden from middle-income Americans; national security restoration to protect our freedoms; Senior Citizens' Equity Act to allow our seniors to work without Government penalty; Government regulatory reform; commonsense legal reform to end frivolous lawsuits; and congressional term limits to make Congress a citizen legislature.

This is our Contract With America, and this is why Americans feel better and better about their Government.

BASEBALL FANS LOSE

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

Mr. RICHARDSON. Mr. Speaker, greed has won and America and baseball fans have lost. Baseball has become just another big faceless conglomerate and no longer the national pastime. The owners won't give. The players won't give. The White House tried its best. Now it's time for the Congress to step up to the plate and not stay in the bleachers.

Let us support the President and his call for binding arbitration. That doesn't mean taking sides between these two Goliaths. This is just a dispute about money and the heck with everyone else.

On behalf of America's fans, we should not stand for this.

And who will stand for the hot dog vendors and the ushers and the concessionaires and all of those who depend on baseball for a job?

Can we imagine even another summer without baseball? For many of us, that is a matter of national security that requires us to intervene.

OMISSIONS FROM THE PRESIDENT'S BUDGET

(Ms. MOLINARI asked and was given permission to address the House for 1 minute.)

Ms. MOLINARI. Mr. Speaker, rock-a-bye baby in the tree tops, thanks to the President's budget, your cradle you all going to have to hock.

It appears that the White House left out an important section of their 1996 budget, the section called generational accounting detailing how much future generations must cough up in taxes to pay for his budget priorities.

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It's no wonder he forgot it. It seems, Mr. Speaker, that the budget plan submitted by the White House this week would force taxpayers born after 1993 to bear an 84-percent average lifetime tax rate.

If that is not bad enough, the real reason why this figure was not included in the President's budget is because this year, despite administration promises, this tax rate is 2-percent higher than it was last year. The tax rate rises along with the deficit.

No wonder they chose to forget it. Perhaps they were troubled by what one of their own economists said: ''Levying such high net taxes on future Americans is not only unconscionable, it's also economically unfeasible.''

Mr. Speaker, the President's budget will rob future generations of their hard earned money, not to mention their cradle and all.

MOST AMERICANS FAVOR A MINIMUM WAGE INCREASE

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

Mr. GUTIERREZ. Mr. Speaker, we hear daily updates on the Contract With America.

But my colleagues omit the fact that this contract was built by pollsters and consultants. It was designed for easy popularity, not for the American people.

Well, their consultants must have forgotten to ask about minimum wage.

Because when NBC News asked the American people, 78 percent said they favored an increase.

I guess 78 percent of America was not around when our opponents took their poll.

I think I know who they missed.

They missed the 78 percent who carry around something other than the contract in their back pocket.

They missed the 78 percent who instead carry a lunch pail to their work site, who carry their children to day care, who carry a bus token so they can get to work, who carry a Medicare card for their health care.

So the next time our Speaker waves around a piece of paper and a hole puncher, remember that until we honor the hard work of every person in our Nation with a decent, livable minimum wage, all he is waving is an exclusive contract with some of America.

CONGRESS SHOULD NOT INTERVENE IN THE BASEBALL STRIKE

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

Mr. LAHOOD. Mr. Speaker, the President sent a message to the House last evening asking Congress to pass legislation to establish a 3-person panel to arbitrate the baseball strike.

I say there is no role for Congress in the baseball strike. But I do have a suggestion. How about we get the millionaire owners and the millionaire players to sit around a table and talk to one another so the average person can go see a baseball game?

This is ridiculous for Congress to be involved when we have all of these high-paid people who are supposed to be pretty smart and they can sit down and solve this thing. Congress should not be involved. I do not agree with the President on this.

Have them sit down at a table and solve it all so that all of the average folks out there can watch baseball this spring and this summer.

INTRODUCTION OF LEGISLATION TO REDIRECT FOREIGN AID TO AMERICANS

(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, Congress borrows money from Japan and Germany and then Congress pays interest on that borrowed money to Japan and Germany. Then Congress takes that borrowed money and gives it back to Japan and Germany to protect them.

Now we give money, our borrowed money to Germany to protect them from an invasion from Russia. But then we give money to Russia so that Russia does not have to invade Germany.

If any of this makes sense, beam me up. The only good thing about it, evidently, is that the Russians could not overwhelm the Capitol Police.

But the bottom line is we borrow money to help everybody all over the world, but we cannot come up with money to help our own people. I have a little bill, H.R. 782. It would take $5 billion of foreign aid and transfer it to revenue sharing for cities and counties.

I think Members should take a look at that, Democrats at least.

CURING THE CRIME EPIDEMIC

(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, if there were a disease in this country that affected Americans of all races, ages, and sexes, a disease of epidemic proportions that touched the lives of each American citizen every single day, an epidemic that took over America's streets and literally held our citizens hostage in their homes—if there were a disease such as this in our country, wouldn't this Congress do everything in its power to find a cure?

Mr. Speaker, there is such a disease in this America today—the epidemic of crime—and the American people are crying out for a cure. Republicans are working hard to find a cure. Our crime bill answers the citizens' pleas by forcing criminals to pay and pay dearly for their crimes. It's time that the criminal element in this country takes responsibility and blame for spreading the disease of crime. It's time to stop punishing the victim and start punishing the criminal.

Mr. Speaker, this crime bill is the best cure for the epidemic of crime in America. I urge my colleagues in this Congress to give the American people a cure that is tough and effective. Give them a real crime bill.

□ 1010

THE NAFTA ANNIVERSARY

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

Ms. KAPTUR. Mr. Speaker, incredible as it may seem, certain promoters still claim NAFTA to be a success.

Eighteen thousand United States workers have already lost their jobs to Mexico with thousands more surely to be lost as more plants relocate to that cheap wage environment.

Our trade advantage with Mexico wiped out last year, and red ink is ahead of us as far as we can see.

A 50-percent peso devaluation in Mexico will dry up our consumer market for exports down there, and the $47 billion taxpayer backed bailout of Mexico and its Wall Street friends.

Tuesday's New York Times tells the story of Tracy Bartrom of Indiana. A former maintenance worker for Magnatek in Huntington, IN, she recalled a meeting she had in Mexico as she trained her replacement worker. Through a translator, she asked how much he was paid. He told her $1 an hour. And for him, the job is certainly not desirable as strong fumes cause nausea and vomiting.

The true story of NAFTA needs to be told, but it will never get the coverage that the O.J. Simpson trial gets on U.S. television.

COMMON SENSE AND YOUR TAX DOLLARS

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

Mr. KNOLLENBERG. Mr. Speaker, last week Congressman KOLBE and I introduced the Common Sense Welfare Reform Act.

The American people are frustrated with dependency-fostering federal welfare programs. They realize that the War on Poverty has failed and are demanding real welfare reform.

Our bill turns the reins of welfare reform over to the people who pay the Federal Government's bills—the American taxpayers. We would allow each American to direct up to ten percent of their Federal taxes to charities engaged in fighting poverty instead of sending that money to Washington.

We believe that giving taxpayers the freedom to determine how their welfare dollars are spent will spur interest in antipoverty efforts and enhance the role of private charities. Replacing traditional self-help networks with Government checks has failed.

Mr. Speaker, it is time for the Federal Government to step aside and allow caring individuals and community based organizations to begin attacking poverty in a meaningful way.

I urge my colleagues to take another bold step to change the way Government works and to cosponsor the Common Sense Welfare Reform Act.

RAISE THE MINIMUM WAGE TO A DECENT LEVEL

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

Mr. EVANS. Mr. Speaker, the same old story still applies: The harder working Americans work the farther they fall behind. That is why it is so important to raise the minimum wage to a decent level.

The Republican response to this problem is to argue that trickle down proposals will create better paying jobs.

But corporate welfare does not lift all boats equally.

Business Week has pointed this out in an article called ''Plumper Profits, Skimpier Paychecks.''

According to this article, only 81 percent of corporate incomes go to salaries and benefits,

The lowest since 1969.

Corporate America needs to adopt a new social contract with its workers, and so does the Republican Party.

The first step is to support a fair and livable wage for all Americans.

SUPPORT THE VIOLENT CRIMINAL INCARCERATION ACT

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

Mr. JONES. Mr. Speaker, yesterday, I spoke about Kermit Smith, the individual who spent 14 years on death row for the brutal kidnaping, rape, and murder of a college cheerleader in North Carolina. However, I forgot to mention that he was on parole during the time of the murder. Two years prior, he was convicted of a violent crime and spent 1 year and 8 months in prison—less than 50 percent of his sentence.

According to the Justice Department, a violent criminal serves roughly 42 percent of his prison term which breaks down to an average of 24 months in jail.

The American people are fed up with this. Congress needs to send a strong message to criminals. We must increase the amount of time spent in prison. Criminals must receive harsh punishments, not merely a slap on the wrist.

The Violent Criminal Incarceration Act does exactly this. It allows States to strengthen its sentencing policies by providing grants to expand prisons. Let us work together to put these violent criminals away and end the revolving door policy at our prisons.

SUPPORT SLAUGHTER AMENDMENT TO H.R. 667

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

Ms. SLAUGHTER. Mr. Speaker, how many more headlines like these do we have to read, and how many more times do we have to hear abut a sexual predator who was released from jail and then terrorized new victims?

Just yesterday, the New York Times and the New York Post reported another instance of where a paroled rapist returned to his former tactics. According to the reports, the New York police had just arrested Johnny Rosado for 8 rapes in 1 month. He had been out of jail for a year. All that time he was visiting his parole officer and attending required rape counseling sessions.

But the parole officer and the counseling provided no protection for 8 victims, women between the ages of 16 and 28.

What is worse, Mr. Speaker, is the parole officers in the State of New York did not want to let Johnny Rosado go free at all. He was denied parole four times before being released on good behavior because there were no women or children to rape in prison.

The State parole board told reporters, ''Under our law, he was held as long as he could be. There was nothing we could do.''

If that is the best we can do, Mr. Speaker, we need a new law. I urge my colleagues to support my amendment to H.R. 667 later today so that States will not allow second-time sex offenders to go free to pounce again.

THREE-FIFTHS MAJORITY PROTECTION AGAINST TAXATION

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

Mr. SOLOMON. Mr. Speaker, the tax-and-spend Democrats are at it again. They are suing us Republicans, do you believe it, to overturn our rules change that requires a three-fifths majority vote to raise taxes. Can you believe it? These Democrats will stoop to anything to continue their hell-bent-for-leather ways of taxing and spending this Nation into bankruptcy.

Mr. Speaker, you tell them for me, it is not going to work. Article I, section 5 of the Constitution, read it, clearly gives us the right to set the rules of this House.

The three-fifths majority vote to raise taxes will stand as a hindrance to any Democrat attempt to foist more taxes on the American people. There ain't going to be any more.

BIPARTISAN APPROACH NEEDED FOR WELFARE REFORM

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

Mr. LEVIN. Mr. Speaker, the key test of any welfare reform is how quickly and how effectively people on welfare move into work. The main objective must be not to penalize children but help put to work their custodial parent and hold both of their parents responsible for their welfare.

According to press reports, Republicans are unveiling their welfare reform plan this morning. I have two major concerns, among others. One is that it appears that the Republican proposal will be strong on punishing children and will be weak on getting their parents into work.

Washington, our responsibility is more than just doing this, punting, paying, and then praying.

I favor State flexibility, but this must be within a new partnership with the States.

A second concern I have is the lack of bipartisanship. The Republicans are making the same mistake as the Democrats did on health reform, going it alone. As we on the Human Resources Subcommittee begin to mark up the bill next week, I hope there will be a more bipartisan approach. Welfare reform deserves it.

THIS CONGRESS IS DOING THE BUSINESS OF THE PEOPLE

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

Mr. HOKE. Mr. Speaker, for the first time in a long time, Congress is setting records that it can be proud of, and records apparently the American people are proud of, too, by the result of a poll that was released last week indicating that the approval rating of Congress has doubled in the last month.

In only 36 days, the House has gone from being a do-nothing Congress to being a can-do Congress. We are working hard to keep our promise to produce real changes, and we are moving forward at a record pace.

In the first 36 days, this Congress has spent more hours in session, taken more votes on the floor, held more committee meetings, and reported more legislation than any previous Congress in at least 15 years. We have passed seven major bills, and contrary to the sniping that you might hear from the other side and the impression that it might create, every single one has been passed with broad, broad bipartisan support including, in some cases, every single Democrat as well as every single Republican voting in favor of those bills.

If we continue working at this pace and with this rate of success, this will be the most productive 100 days in the entire history of the U.S. Congress. We are proving Congress can make a difference. This Congress can rise above partisanship. This Congress can do the business of the people.

□ 1020

RAISE THE FEDERAL MINIMUM WAGE

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

Mr. ROMERO-BARCELÓ Mr. Speaker, I rise today in strong support of the President's initiative to raise the Federal minimum wage. This is an initiative that will benefit millions of American workers throughout the Nation.

The President's proposal for a moderate 90 cent increase in 2 years is needed since workers at the minimum wage level have actually seen their real incomes decrease in the last decades. For example, in 1968, the minimum wage was the equivalent of about $6.30 per hour in 1994 dollars.

Real wages and the purchasing power of millions of families have become stagnant. We must maintain the incentives that reward hard work. The minimum wage is one such incentive.

When I was Governor of Puerto Rico, I took the bold and unprecedented step of asking the Federal Government to extend minimum wage laws to Puerto Rico, where at the time they did not apply. Special interests and many corporations complained and objected to the move. They lobbied hard against it predicting economic havoc and job displacement.

Such bleak scenarios did not materialize. In fact, the minimum wage has been a blessing for the 3.7 million American citizens of Puerto Rico. It raised the standard of living of thousands of working class families, took tens of thousands of working families out of welfare and brought added dignity to their daily endeavors at their job sites.

Both sides of the aisle should seek every instrument to promote and assure a decent standard of living for all Americans. The President's move is a wise one, based on solid economic policy and common sense.

I urge our colleagues to support raising the minimum wage to $5.15 an hour over the next 2 years, it is the right thing to do. Millions of hard working Americans who deserve better economic opportunities will appreciate our leadership.

WITHDRAW YOUR NOMINATION, DR. FOSTER

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

Mr. MCINNIS. Mr. Speaker, credibility, credibility, credibility. Here was the story yesterday: The nominee for the Surgeon General of the United States of America advised the White House, the U.S. Senate, that he had performed only one abortion. Within hours he changed his story and gave a written statement that in fact it was less than 12 abortions. Then the pro-life group, some pro-life group came out and said it looked more, based on an excerpt from testimony of this gentleman from years back that it was 700 abortions. That was the story yesterday.

Today, last night or last night's news makes today's story. It was not 1, it was not 12, it is now 39.

The issue is not abortion. The issue is credibility. Where is the credibility of this nominee for Surgeon General? Can he devote the time necessary for rural health and other key issues?

It sound like another story of, ''I didn't inhale.''

Do yourself a favor, do your country a favor, ''Withdraw, your nomination, Dr. Foster.''

LIVABLE WAGE ACT

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

Mr. CLYBURN. Mr. Speaker, there has been much talk about reforming welfare; about getting people off the Government dole and on to the payrolls.

Well, Mr. Speaker, if we expect people to work, these jobs should at least provide a livable wage.

While it is true that the economy is growing, the deficit is falling and unemployment is declining, many American are still finding it difficult to make ends meet.

The current minimum wage is $4.25 an hour, or $8,500 a year. You tell, me, Mr. Speaker, how can one person live off such an income, much less a family?

The President has introduced a proposal to raise the minimum wage to $5.15 an hour. I would take that one step further.

I have introduced a bill, H.R. 768, the Livable Wage Act, which would raise the minimum wage to $5.30 an hour by the year 2000.

Mr. Speaker, if we truly want welfare reform let us put the Livable Wage Act into law.

VIOLENT CRIMINAL INCARCERATION ACT

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

Mr. NORWOOD. Mr. Speaker, I rise today in support of the Violent Criminal Incarceration Act. In support, I will cite three statistics. Two-thirds of all violent crimes are committed by 7 percent of criminals; 51 percent of violent criminals are released within 2 years. We have 65 murders a day; 30 percent of all murders are committed by people on probation, parole, or bail. Mr. Speaker, we are abdicating our responsibility to protect society. By passing this act, we provide States with the incentive to keep violent criminals in prison, and we provide the support for them to do so. We cannot expect to deter crime in this country if we do not have serious punishment. This bill makes a real change in how we attack the problem of crime in America. If we cannot do this much to protect society, then we have no business being here.

WE NEED MORE COPS ON THE BEAT

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

Mr. OLVER. Mr. Speaker, yesterday I was able to call mayors and police chiefs of over 40 small communities in my district. I told them they would be getting a grant to hire a cop because of last year's crime bill, the Anti-Crime Act of 1994. Some will get two, and one will get even three.

Chief MacDonald, in Townsend, said it would help him and his small town. And in Williamstown, at the other end of my district, Chief Kennedy said he would assign a cop where kids gather and make trouble.

Mr. Speaker, we agreed, Democrats and Republicans, on one thing during last year's crime bill debate: We need more cops on the beat.

So why does the Republican contract cut funds for new police? That is right, the block grant shell game in the Republican contract would cut funds for community policing.

That means less money to help us feel more safe in our neighborhoods, and it kills the chances for small town police chiefs to get the cops that they need.

This is not smart, this is not savings.

Wake up, America, ''Don't fall for the shell game.''

IT IS TIME FOR DR. FOSTER TO STEP ASIDE

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

Mr. CHABOT. Mr. Speaker, President Clinton's nominee for Surgeon General, Dr. Henry Foster, is having a hard time remembering how many babies he has aborted. Last week, he said it was around a dozen. Yesterday, he thought it was more like 39. Now, to some folks who think that abortion is not such a big deal, I guess it would be easy to forget a few unborn babies here and there. But to those of us who put a higher value on human life, Dr. Foster's latest revelations are very disturbing.

It's time for Dr. Foster to step aside. His evolving revelations of the last few days have destroyed his credibility

with this Congress and with the American people. Should his nomination remain in place, the debate will only become more acrimonious. And, frankly, after the embarrassing reign of Surgeon General Jocelyn Elders, this country deserves better.

Mr. Speaker, Dr. Foster should do the right thing and withdraw his name from consideration immediately. And, if he chooses not to, President Clinton should do the right thing and withdraw it for him.

I WILL NOT BE SILENCED

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

Mr. LEWIS of Georgia. Mr. Speaker, I rise today to tell my Republican colleagues from Georgia that I will not be intimidated. I will not be cowed and I will not be silenced.

Yesterday's Atlanta Constitution reported that Republican members of our delegation are threatening retribution against me and another member of our delegation because of our calls for an outside counsel to investigate Speaker GINGRICH. According to the article the Atlanta Federal Center, the King Historic Site and even funding for the 1996 Olympic Games may be jeopardized because we have dared to speak out.

My Republican colleagues should have more courage. Do they really think they can silence me with their threats. If they want to confront me, they should take me head on, man to man. The nerve, the gall, Mr. Speaker, to hold the people of Atlanta, the citizens of Georgia, and the athletes of the world hostage in their attempt to silence the legitimate calls for an investigation of Speaker GINGRICH.

Is there nothing this new Republican majority will not do to silence the voices of dissent? Well, Mr. Speaker, I will not be silenced, I will not be intimidated. We need an outside counsel to investigate this Speaker and we need one right now.

WE NEED WELFARE REFORM NOW

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

Mr. FRANKS of Connecticut. Mr. Speaker, I would also like to wish the Speaker pro tempore [Mr. BARRETT of Nebraska] a happy birthday today.

Mr. Speaker, every day there are dreadful examples of why it is so important to take cash out of our welfare system and replace it with a debit card.

In Chicago, 20 people were living in a 2-bedroom apartment, 5 families used the address to qualify for welfare. Thus, $4,500 in welfare benefits were going to the adults in the apartment.

□ 1030

All five adults were alleged drug abusers. The adults were using the children to feed their drug habits. Their children were being abused, and we, the taxpayers, were inadvertently assisting.

Mr. Speaker, it is our welfare system that helps create this problem. A welfare debit card instead of cash payments will help prevent child abuse, help us with our war on drugs, and, finally, give the taxpayers an accounting of their hard-earned tax dollars.

I encourage my colleagues to join the bipartisan supported welfare debit card bill.

MORE IMPORTANT NEWS THAN SHREDDING THE FOURTH AMENDMENT?

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

Mr. DEFAZIO. Mr. Speaker, yesterday the House of Representatives concluded a long and heated debate on the exclusionary rule. It was not on the evening news. I mean who knows or cares about obscure legal arguments? There was more important news: The OJ trial, 10 minutes on the pitiful howls of the dog, the baseball strike. Well, after all, the actions taken here on the floor only shredded the fourth amendment to the Constitution:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause supported by oath or affirmation particularly describing the place to be searched and the persons or things to be seized.

America, bar your doors, they do not need warrants anymore.

INTRODUCTION OF THE CHILD CARE AVAILABILITY INCENTIVE ACT

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

Ms. PRYCE. Mr. Speaker, today, I join with my colleague, the gentleman from Indiana [Mr. ROEMER] to introduce the Child Care Availability Incentive Act, a bill that will increase access to affordable, quality child care for America's working families.

Today, few parents have the luxury of foregoing an income to stay at home with their children. There has been a dramatic rise in single-parent households, and dual-income families have become the norm. Unfortunately, the supply of child care has not kept up with the demand, and the care that is available is often inadequate.

Our bill addresses this crisis by offering tax incentives to businesses to provide licensed, on-site or site-adjacent care to their employees. Both the employer and the employee benefit from this approach. Child care convenient to the workplace increases productivity, improves worker morale, and cuts down on absenteeism and provides for better overall employment relations.

The Child Care Availability Incentive Act does not create another Government program or offer a new Federal mandate. Instead, it provides a simple way Government can encourage business to address a growing societal need.

I invite my colleagues to cosponsor this urgently needed legislation.

SUPPORT THE CHILD CARE AVAILABILITY INCENTIVE ACT

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

Mr. ROEMER. Mr. Speaker, I rise as a cosponsor with my colleague, the gentlewoman from Ohio [Ms. PRYCE] to address a serious concern facing single-parent households and dual-income families, finding affordable, safe, and educational child care. The Child Care Availability Incentive Active Act which we are introducing helps to solve this very problem.

We can all share stories of constituents who grapple with the problem of child care. With the high cost of care, many single mothers receive a higher income on welfare than from working. Our bill would provide tax credits to businesses which offer on-site child care services to their employees.

Studies have shown that onsite care increases worker productivity and combines high quality care. According to a study released last week, 40 percent of centers for infants and toddlers provide mediocre to poor care. Seventy-six percent of these studies showed that health and safety needs are met, but growth and developmental needs are not.

I encourage my colleagues to support in a bipartisan was this very constructive legislation.

INTRODUCTION OF H.R. 862

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

Mr. DORNAN. Mr. Speaker, I introduced a piece of legislation yesterday, H.R. 862, that is really going to help Bill Clinton. Our distinguished colleague and leader of the minority, the gentleman from California [Mr. FAZIO], is here. He may appreciate this. This may be a first, Mr. Speaker.

The show ''Nightline'' last night showed a very nice man and probably a very good doctor, Dr. Henry Foster, trying to get himself out of the position he described of the inside-the-beltway climate of speaking before really researching something, and he tells us now that he has performed 89 abortions, not the 700, but it still has given him such a truthfulness problem that here is how we solve the problem:

We roll the job back into Health and Human Services. The Assistant Secretary of Health, prior to President Ronald Reagan, always wore both hats.

It has become not a bully pulpit, but a pulpit of political correctness. He is on a hot seat. If President Clinton withdraws this nomination, then he is in trouble, and how is anybody going to get through the nomination process after this?

Put it back where it belongs, in the Assistant Secretary of Health. Solves problems for everybody.

SUPPORT THE INCREASE IN THE MINIMUM WAGE

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

Mr. FAZIO of California. Mr. Speaker, yesterday marked the fifth year in a row that the productivity of the American worker has increased. But despite this good news, most American workers have had no real increase in earnings in over 15 years.

In the last Congress, we gave a tax cut the help those Americans who were working hard but failing behind. Now, President Clinton has endorsed a small increase in the minimum wage to reward Americans who choose work, not welfare.

At the current minimum wage—just $4.25 an hour—someone working day-in and day-out would bring home just $8,500 a year. A family of four trying to live on this wage—just $700 a month—would find it nearly impossible to pay the rent, buy groceries, or purchase clothes for school. If the minimum wage is increased by just 90 cents over 2 years—we can provide working Americans with additional rewards for their work.

And while we are at it, let's arbitrate an end to the baseball strike. Democrats are worried about minimum wage workers selling peanuts in the bleachers—not about multi-millionaire ballplayers and owners who can afford to sit out another season.

CONGRATULATIONS TO HARD-WORKING CONTRACT WITH AMERICA SUPPORTERS

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

Mr. DREIER. Mr. Speaker, I think it is 36 days ago the 104th Congress convened, and on opening day we passed nine major reforms. We turned around the way this place does business by eliminating committees and making this place more accountable and deliberative in many ways. We passed the Congressional Accountability Act. In the last 4 weeks we have passed legislation that makes it much tougher to impose unfunded mandates on States, the balanced budget amendment to the Constitution, line item veto authority for the President, which is what he has asked for, and we are now in the midst of working on a wide range of legislation which has been discussed for years that will finally focus a little more attention on the victim than the perpetrator.

It seems to me that, if we look at what is talking place over the past few weeks, we clearly have been able to proceed effectively in a bipartisan way, gaining support from Democrats for these Republican initiatives in the Contract With America, and I would simply like to extend congratulations to those who have worked so hard to make it happen.

THE SWEETHEART DEAL OF THE CENTURY

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

Mr. BONIOR. Mr. Speaker, today's Washington Times has an article that provides a fascinating window on how the special interests and policy are intertwined in this Republican Congress.

Now the Speaker has mounted a consistent attack on the Corporation for Public Broadcasting, and at times he has even called for funding to be reduced to zero. Today we find out that the Speaker's close friend and ally, Vin Weber, who has, according to the Times, and I quote, frequently been in the Speaker's office the past 6 weeks, often working in his shirt sleeves, has signed a $250,000 contract with the Corporation for Public Broadcasting, and guess what the contract was for? To plot out the future for the Corporation.

In other words, in one room Mr. Weber was engaged in discussions with the Speaker on how to do away with the Corporation, and in the other room he is telling the Corporation that for a cool quarter of a million dollars he can help salvage what the Speaker is trying to do away with.

□ 1040

Mr. Speaker, it is appropriate that we are less than 1 week away from Valentine's Day because this is the sweetheart deal of the century.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). This will conclude the 1-minutes for the morning, and the Chair will take the liberty at this time of recognizing the gentleman from Arkansas [Mr. THORNTON] for the purpose of making an announcement.

THE LATE HONORABLE J. WILLIAM FULBRIGHT

Mr. THORNTON. Mr. Speaker, I ask unanimous consent to speak out of order for 1 minute in order to make an announcement of interest to the Members of this institution.

The SPEAKER pro tempore. Without objection, the gentleman is recognized.

There was no objection.

Mr. THORNTON. Mr. Speaker, I come before the House today to make an announcement that is sad, not only to the Members of this institution but to all those who love freedom throughout the world.

This morning, at 89 years of age, with his wife Harriet at his side, Senator J. William Fulbright died. Our condolences and thoughts are with his family.

Senator Fulbright came to this House in an election in 1942 and as a freshman Member of this House introduced and passed the Fulbright resolution, which was the foundation and the architecture for the postwar peace effort. Moving from this House to the Senate, he compiled an extraordinary career. Throughout the world Fulbright scholars will be in mourning today as the man who gave his name to the greatest exchange of students in the history of the world departs from the world.

He never lost confidence in America. He will be remembered as one of our Nation's greatest statesmen, a leader, not a follower, who significantly influenced the course of human events.

Senator Fulbright was not afraid to challenge the conventional wisdom. We will miss his courage, his intellect, his competence, and his character.

Mr. Speaker, there will be a service in Washington, DC, as well as at the University of Arkansas, whose College of Arts and Sciences bears the Senator's name, and in due course there will be an opportunity for a special order in this body for all those who knew and revered Senator J. William Fulbright.

VIOLENT CRIMINAL INCARCERATION ACT OF 1995

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 63 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 63

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 667) to control crime by incarcerating violent criminals. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with clause 2(1)(2)(B) or clause 2(1)(6) of rule XI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule for a period not to exceed ten hours. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. Points of order against the committee amendment in the nature of a substitute for failure to comply with clause 7 of rule XCI or clause

5(a) of rule XXI are waived. During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume.

During consideration of this resolution all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 63 is a modified open rule, providing for the consideration of H.R. 667, the Violent Criminal Incarceration Act of 1995. The rule makes in order the judiciary amendment in the nature of a substitute as an original bill for purpose of amendment which shall be considered as read.

House Resolution 63 provides 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate, the bill shall be considered for amendment under the 5-minute rule. The rule does provide a 10-hour limit on the amendment process and affords the Chairman of the Committee of the Whole the option of granting priority recognition to those Members who have caused their amendments to be printed in the CONGRESSIONAL RECORD prior to their consideration. This rule also provides certain waivers necessary to allow for the expedient consideration of this bill.

Specifically, the rule waives clause 2(l)(6) and clause (2)(l)(2)(B) of rule XI pertaining to the 3-day availability of committee reports and the inclusion of rollcall votes in Committee reports. The rule also waives clause 7 of rule XVI because of the nongermane relationship of the Committee substitute to the introduced bill and waives clause 5(a) of rule XXI pertaining to appropriations in a legislative bill. Finally, the rule provides one motion to recommit with or without instructions.

The Violent Criminal Incarceration Act will enable States to deal more effectively with violent crime by repealing the Truth-in-Sentencing Incarceration Grant Program and the Drug Court Grant Program included in last year's crime bill.

The bill authorizes $10.5 billion for two new incarceration grant programs. Half of these funds will be allocated to States that are making progress in punishing violent criminals, and the other half will be allocated to States that enact truth-in-sentencing laws which require violent felons to serve not less than 85 percent of the sentence imposed.

Additionally, the bill addresses prisoner litigation through various reforms and would permit Federal courts to limit the relief awarded prisoners in certain civil actions, including attorney's fees. H.R. 667 also bans weight lifting and other strength training for Federal inmates.

This measure authorizes a net increase over the 1994 crime bill of $1.9 billion over 5 years. Crime is one of the biggest problems facing our Nation today, and this is money well spent. We made a commitment to the American people in the Contract With America to build more prisons, make sentences longer, and keep violent criminals in jail so that our streets will be safer.

I urge my colleagues to adopt this rule so we can proceed with the consideration of this important piece of crime legislation.

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

□ 1050

Mr. BEILENSON. Mr. Speaker, I thank our friend, the gentleman from Tennessee [Mr. QUILLEN] for yielding the customary half hour of debate time to me, and I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of H.R. 667, the Violent Criminal Incarceration Act.

Unfortunately, the bill itself, as our colleagues on the minority side on the Judiciary Committee noted in their dissenting views in the committee report on the bill, is so poorly drafted in concept and in its language that many who support the stated purpose of the bill, to control crime by incarcerating violent criminals, are unable to support the legislation as it is being presented to us.

While I shall not oppose the rule, I am concerned about the nature of the rule—it is not the type of open rule the new majority has been promising, especially for legislation as significant as H.R. 667.

First, the rule provides for several waivers of points of order, including one for the requirement that a committee report be available for 3 days. The advisability of this waiver should be questioned when it is for a piece of legislation that represents a dramatic shift in national policy, setting back, as H.R. 667 would, the ambitious prison program we enacted just last year in the Congress.

As with other major legislation that we have been required to consider so that the Contract With America can be fulfilled within an artificial time period, many of the problems with this bill could have been averted had the bill been given proper committee consideration. As it is, the bill was rushed through committee with neither adequate hearings nor the kind of deliberate evaluation it demands.

More important, the Republicans on the committee also included a 10-hour time limit on the amendment process. My colleagues should fully understand the implications of this restriction. This limit is not applied to debate time. It is, instead, an entirely new invention: It is a restriction on all time, including the time required for voting itself. It will reduce actual debate time to obviously less than 10 hours.

I repeat, this is an altogether new type of constraint on debate and, in the opinion of this gentleman and many others, an extremely objectionable restriction that I hope we will not be asked to accept again. Unfortunately, the attempt of the gentleman from Massachusetts [Mr. MOAKLEY] to strike this time limit was defeated yesterday in the Committee on Rules.

Mr. Speaker, I am disturbed about the disingenuous nature of this rule. In fact, we are beginning to detect the development of a pattern in the majority's attempt to delivery the open rules it has long advocated and promised, but rules that are open in name only. Our colleagues on the other side of the aisle cannot have this both ways—they cannot claim, as they have been doing, to be providing open rules when the result is in actuality a process that closes down and restricts debate.

We saw this pattern in the debate on unfunded mandates and on the line-item veto. In each of those instances, the rule was in effect modified after the fact. The debate on each started under an unfettered rule, only to end with time restrictions on amendments.

I am only suggesting that the majority be straightforward from the start in describing the terms of debate and that they not make a habit of changing the rules in midcourse. Members have a right to know from the beginning how they will have to deal with the bills before us.

Unfortunately, H.R. 667 itself, which places greater restrictions on funding for the prison construction grant program while also increasing the funding level, begins the process of eliminating the newly enacted community policing grant program and crime prevention programs—including the acclaimed drug courts program which reduces the recidivism rate of participants dramatically. Given the proven level of success of this prevention program, which costs about $800 per participant as opposed to $20,000 or more for the cost of a year in prison, the cut in funding in this area will result in substantially higher costs and more crime victims.

Ironically, it appears that States would be eligible for more funding under the provisions of the 1994 crime

bill. We are told that as few as three States—North Carolina, Arizona, and Delaware—can currently qualify for funding under either of the two pools of funds that the bill establishes. In any case, it is clear that these funds will go to only a very small minority of the States in the foreseeable future. So, for those of us who support more prison cells for violent crime, this legislation is not the promised solution.

Mr. Speaker, the programs we enacted just last year have only begun to work—we should allow them to continue so that more police will be on the streets of our communities and more criminals are locked up.

If I might, I would like to discuss briefly one significant issue that we discussed in the Rules Committee. The gentleman from California [Mr. BERMAN] testified, requesting that he be allowed to offer an amendment to address another very significant problem—reimbursing States and localities for the costs of imprisoning criminal illegal aliens.

In today's Los Angeles Times, the Speaker was quoted as declaring that the cost of imprisoning illegal immigrants is a ''Federal responsibility'' and calling on Congress to approve $630 million in reimbursement to States. I could not agree more with our distinguished Speaker, and I am glad the Speaker has finally decided to champion this issue which several of us from affected communities have been arguing for quite some time now. I am still concerned, however, that full funding for State reimbursement will not be forthcoming.

Congress recognized the unfairness of this situation and acknowledged the Federal Government's responsibility for the criminal alien population as far back as 1986, when we approved the Immigration Reform and Control Act. Section 501 of that act specifically authorizes the reimbursement of States of costs incurred in the imprisonment of illegal aliens. Unfortunately, no funds were appropriated for that purpose until just last year, under an amendment which this gentleman carried on the floor and which was supported by colleagues from both sides of the aisle. The amounts recently appropriated will not even cover one-third of the costs. In addition, no funds have been made available for local governments, which also incur huge costs in this regard.

During the current fiscal year, California alone will spend nearly $400 million to incarcerate illegal alien felons. With that $400 million, California could instead build and operate two prisons housing 4,400 criminals each; put more than 2,400 highway patrol officers on our streets; and provide drug rehabilitation programs for 3,400 inmates.

In short, this is as members know, a serious problem for many States and one for which the Federal Government has the primary responsibility. We will have the opportunity to hasten the work we began on that last year, when Mr. BERMAN offers an amendment to this bill today, and I urge my colleagues to support Mr. Berman's amendment at the appropriate time.

To repeat, I shall not oppose this rule and urge my colleagues to approve it so that we may consider this important legislation today.

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

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

Mr. SOLOMON. Mr. Chairman, I thank the chairman emeritus of the Committee on Rules.

Mr. Chairman, I would just say to my good friend from California Mr. BEILENSON, that I sort of take exception to the word of my colleague when he used the word ''disingenuous.''

This Committee on Rules has been overly fair to this body, even to the point that we are being criticized for being so open and so fair by Members of the Democrat party who want us to move legislation along and not take so much time on the floor.

The gentleman mentioned the line-item veto, which was not a constitutional amendment but was in fact a proposed statute. At the request of the minority leader, I think his name is RICHARD GEPHARDT, he suggested on the final day of the 3 days debate we had been on that bill that we close down debate and move it along.

We have taken exception to that. We have tried to be as open and fair and accountable as we possible can. As a matter of fact, look at the bills that came on this floor that we have considered during this first 5 weeks, when the Congress is normally not even in session. Boy, what we have accomplished in this first 5 weeks is just so exciting I can hardly stand it some times. But we put out an unfunded mandate bill, a very complex piece of legislation, and we spent days on this floor. And Republicans and Democrats, conservatives and liberals, all had the opportunity to do what I have yelled about for so many years here. They had the ability to work their will on the floor of this Congress. That, to me, is just so terribly important.

The line-item veto, open rule. Victims Restitution Act, open rule. Exclusionary rule, where we had really, I think, effective debate yesterday on that bill. All of these were handled under open rules.

As a matter of fact, the only restricted debate that we have had at all was on a proposed constitutional amendment. And that was of course, the constitutional balanced budget amendment.

I would just point out that even with the restrictions that were placed on that debate, that it was more open and fair than at any other time when we debated the balanced budget on this floor. I am sure the gentleman from California, I think the gentleman told me that. The Democrats had twice as many alternate substitutes than we did.

So I would just take exception to the question of it being disingenuous.

□ 1100

Also, the gentleman mentioned the fact that we did not have the normal 3-day layover. It was necessary to waive clause 2(l)(2)(B) of rule XI against consideration of the bill because the rule prohibits the consideration of a bill until the third day of which a report is available to House Members.

And again, I would call attention to the fact that although this report was filed on Monday, February 6, it did not become available to Members on Tuesday from the Government Printing Office, as we anticipated. Instead, it was not delivered to the House until early on Wednesday, meaning that the third day of availability under the rules would be Friday. So with consultation with the minority, they agreed to waive the extra day so that we only had availability for 2 days and so that we could bring the bill to the floor and have meaningful debate on it today.

I think when it comes to the question of how long we will spend on this bill, there is 1 hour available on the rule, which we are debating now. There is 1 hour on general debate, and then 10 hours of consideration for amendments.

That will take up 2 days in this body, and that is what was suggested by the minority. We acceded to their wishes and gave the 10 hours of debate. I just wanted to clear the air.

Mr. Speaker, I yield to the gentleman from Boston, MA [Mr. FRANK].

Mr. FRANK of Massachusetts. Not from Boston. That is a lesser inaccuracy. Under the circumstances, let us get to the more substantive ones.

Mr. SOLOMON. Careful now.

Mr. FRANK of Massachusetts. ''Inaccuracy'' is a perfectly acceptable word under the rules.

The first point I would make is that the balanced budget constitutional amendment was not the only bill we considered under a restricted rule. We considered on the first day a statute dealing with compliance of Congress with the laws which was considered under a totally closed rule.

Mr. SOLOMON. I am the chairman of the Committee on Rules, and the Committee on Rules did not put out a rule on that bill. That was not a rule.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, the gentleman makes a distinction that is absolutely without any point or purpose whatsoever. The fact is, if the gentleman wants to take this personally as a commentary on his record, he is free to do that on his own time. But the question is, how has the House considered things? And in fact,

under the Republican leadership's direction, the House considered an important piece of legislation, the compliance bill, under a total closed procedure.

Mr. SOLOMON. Reclaiming my own time, Mr. Speaker, so that the gentleman can get his time and then I would be glad to respond to him. The gentleman says if I would do it on my own time. He is on my time. I reclaim my time and would then ask the ranking member over there to yield time to the gentleman. Then we can have a meaningful discussion on his time.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, the point I was making is that the gentleman's concern with his own personal reputation did not seem to me to be all that relevant to the debate.

The question is, what has the House been able to do? And the compliance bill was considered under a procedure which allowed no amendments whatsoever. Similarly on the balanced budget amendment, which the gentleman talks about, some amendments were allowed and some were not.

I went to the Committee on Rules with an amendment which got the most votes of any amendment offered in the Committee on the Judiciary. It is the one that allowed a full debate on the question of separating out the receipts and outlays of Social Security from the balanced budget. And the Committee on Rules, under the gentleman's direction, refused to allow that amendment, a freestanding Social Security amendment, not linked with other things, to be voted on.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just say to the gentleman, first of all, his amendment was offered, I think, in a motion to recommit. But we had given the minority the opportunity to select any of the amendments that they wanted to make in order. They did not select his amendment.

Mr. FRANK of Massachusetts. I would have to disagree with the gentleman. First of all, Members should understand that, yes, there was a motion to recommit, which the minority has, which allowed for 10 minutes of debate rather than what would have been an hour. And the minority was not able to present that view.

Second, it has been my information, with the ranking minority member, that we did ask that my amendment be made in order. And the fact is that the Committee on Rules did not want it made in order. When we dealt with the compliance bill, what was kept off the floor was the question of frequent flier miles, because the Speaker does not want us to be able to vote on preventing Members from using frequent flier miles for personal purposes when they are acquired with Government funds.

On the balanced budget, the majority did everything it could to keep the minority from voting and fully debating the Social Security question. The amendment that got the most votes in committee, in fact the one amendment that drew some Republican support, was given by the majority the shortest shrift possible. We did choose to use the recommit for it, but that is, as I said, a 5-minute debate on each side as opposed to an hour.

So the record is very clear that when the majority anticipates that an issue will be troublesome, they do what they can to keep it off the floor. They are perfectly willing to have us debate issues that are not going to be troublesome to them politically.

Finally, I want to agree with what the gentleman from California said when he talked about the haste, and we have a majority operating under a self-imposed campaign promise of 100 days to bring out a large amount of legislation. It is proving harder for them to do than they had anticipated. They are running in strains. They are running into strains in the committee process. They are running into strains on the floor. Yesterday we had the bill on habeas corpus amended with the author of it, the chairman of the subcommittee, agreeing that he had made a major error in the bill he had brought forward and agreeing that it had to be corrected. We do not know what other major errors are there.

To meet a political pledge, the majority is doing violence to the procedures, in many cases, and committee meetings have been cut off without amendment process action, and the open rules have not been open. A 10-hour limitation on some of these major things is not a completely open rule and is intended, in fact, to cut down on the debate. And we have had more need for the majority itself to amend and correct its own legislation on the floor.

There are strains that have gone on in virtually every committee, in the Committee on Government Reform and Oversight, in the Committee on Science, in the Committee on the Judiciary, there have been these problems. So what Members should understand is that we have got a series of difficulties, procedural and substantive, because of this haste.

I will repeat again, to my knowledge, there are two issues I wanted to see fully debated on this floor, separating out the Social Security receipts and outlays from the balanced budget, and the Committee on Rules would not allow that as a freestanding amendment, required us to do it only in the recommit because they could not stop that one. They would have liked to, and we only had, of course, a very small amount for debate. And the compliance bill came out in a form in which the Speaker was able to keep us from debating the question of whether or not Members should be restricted from, with public funds, acquiring frequent flier miles and using them for their personal advantage.

And so, in fact, the pattern is this, where nothing turns on it, where there is no potential embarrassment, the majority will be for an open rule. But where they have something that might be politically troublesome, they are going to do what they can to try to restrict the debate.

Mr. SOLOMON. Mr. Speaker, if the gentleman from Newton, MA, will continue to yield.

Mr. FRANK of Massachusetts. I just asked the gentleman if he wanted me to yield and I will.

Mr. SOLOMON. I am looking at the first 10 rules that were issued by the gentleman's majority Democrats 2 years go, all restricted and closed. Here is the record. The gentleman never had it so good.

Mr. FRANK of Massachusetts. I agree. I had thought, just as the gentleman did with me, I had thought that the gentleman on the other side was talking about how much better they would be. The point is——

Mr. SOLOMON. Absolutely.

Mr. FRANK of Massachusetts. That they are in fact using their power to restrict debate a little bit more technically than we did. We did tend to overuse it. The gentleman on the other side only shuts off debate if it is going to be embarrassing to them, I acknowledge that. Where in fact nothing turns on it and there is no problem, they will have debate. But where we talk about restricting frequent flier miles used with public funds for personal purposes, a pet project of the Speaker's, apparently, then, no, we cannot debate that.

Where we talk about separating out Social Security in the balanced budget, no, we cannot debate that. Where the gentleman from California had an amendment that passed in the Committee on the Judiciary that would give us a chance to give to California and other States the relief the Speaker says he wants to give them, the Committee on Rules makes that impossible. So, in fact, we have a pattern.

Mr. SOLOMON. Wait a minute. We have rules of the House that we have to abide by. And I have great respect for my friend, the gentleman from California, [Mr. BERMAN], and for what he is trying to do. As a matter of fact, it affects my State of New York very much so. But the question—that was a budget waiver and creating a new entitlement program—the question was one of germaness. The gentleman is going to have his opportunity on this bill today, and we better kind of take it easy and not get Members all shook up.

Mr. FRANK of Massachusetts. I understand that the gentleman does not want members shook up on certain issues. Fortunately, he does not have the power to stop that.

The amendment the gentleman offered in committee is not going to be

able to be offered because the Committee on Rules would not give them a waiver and there are other waivers in this bill. The notion that the rules cannot be waived is silly. There are four waivers in this bill. There are not five. Because the fifth would have been embarrassing. So four waivers they can give, but the fifth they cannot give because, as with the Social Security relevance to the balanced budget; as with frequent flier, it would be troublesome.

□ 1110

Mr. Speaker, I acknowledge that the gentlemen are very clever about it. They do not get caught restricting the rules when there is no political problem, but as soon as the issue gets tough, down go the bars.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield, just briefly?

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

Mr. SOLOMON. Mr. Speaker, I understand that the managers of the Judiciary Committee bill that has come before the floor are now in the Chamber, so I am not going to take up any more time.

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

Mr. SOLOMON. I am glad to yield to the gentleman from Illinois.

Mr. HYDE. I just want to comment, Mr. Speaker, on the recent remarks of the gentleman from Massachusetts [Mr. FRANK] about frequent fliers.

I must say, it is an issue that has troubled me. I accumulate them, and there is a concern, because they are acquired by flying with Government-paid airfare. However, in 20 years here, I have noticed that this job, this work, creates an awful strain on the family.

Sometimes Members like to have their spouses fly with them to see what they are doing and where they work. Sometimes the children like to fly with them. We are trying to establish a family-friendly place.

I must say, Mr. Speaker, I am torn about the uses of these frequent fliers miles. If it can keep a family sharing the work that is done, the issues, the responsibilities, I do not think it is all a bad thing. That is all I want to say.

Mr. FRANK of Massachusetts. Will the gentleman yield, Mr. Speaker, just to respond to the gentleman from Illinois?

Mr. SOLOMON. Since the gentleman yielded to me, I yield to the gentleman from Massachusetts briefly, Mr. Speaker, because we have to get on with this work.

Mr. FRANK of Massachusetts. Mr. Speaker, I will not engage the gentleman on the merits, because I think he has some points, although I disagree with him.

My point is that it is precisely this kind of thoughtful debate that we have not been able to have on the floor. I would like to have a chance to explore all the issues, but by the procedure that was used, the whole issue was kept off the floor, and it is that procedural objection, not the substantive one, that I am making.

Mr. HYDE. Mr. Speaker, would the gentleman yield 15 seconds more?

Mr. SOLOMON. Mr. Speaker, I yield for 15 seconds, and then that is it. We are going on to debate on this bill.

Mr. HYDE. I understand. I am overly grateful, Mr. Speaker, to the gentleman for yielding to me.

I just want to say to my friend, the gentleman from Massachusetts, that recognizing the practice of the former majority party in the Committee on Rules, I would just say that he does hold us to a higher standard, and he is right in so doing.

Mr. FRANK of Massachusetts. Mr. Speaker, that was debated on the floor last year.

Mr. SOLOMON. Mr. Speaker, I would hope that we can move this rule.

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

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MOAKLEY], the distinguished ranking minority member of the Committee on Rules.

Mr. MOAKLEY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, this is not a wide open rule. There are four waivers of points of order. This is not even close. This is a backhanded gag rule that waives not one, not two, not three, but four points of order, something the Republicans used to say was a horrible thing to do.

I would like to quote this great man who made the statement on March 31, 1993: ''Mr. Speaker, waiving the 3-day rule, the 3-day layover requirement, is never a good idea, never.''

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

Mr. MOAKLEY. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would ask the gentleman from Massachusetts, who was that great man?

Mr. MOAKLEY. That great man was the gentleman from New York [Mr. SOLOMON]. I just want to show the Members, whatever side one is on, this thing cuts both ways.

Mr. SOLOMON. Mr. Speaker, if the gentleman will continue to yield, I would ask, did the gentleman vote for this rule up in committee?

Mr. MOAKLEY. Yes, Mr. Speaker. However, I am here showing the American people and the people here that the statements made by the gentleman from New York [Mr. SOLOMON], are not being carried out: ''We are going to have the wide open rules.''

We had three open rules this year that we put through on suspension last year. We will have open rules when they figure it is noncontroversial. When the Republicans were in the minority, they complained loud and long about what they called closed rules.

If there was a time cap, the rules were closed. Anything but a wide open rule they considered closed. Now they say ''Well, this is almost an open rule.'' There is no such animal. It is closed or it is open. All have to play by the same rules.

Mr. Speaker, that was then, and now is now. These days the Republicans are passing out closed rules like Fenway franks at a Red Sox game. Today's rule is no exception.

In fact, Mr. Speaker, this rule counts votes on amendments toward the 10-hour time cap. In the end the 10 hours goes pretty quickly when every three votes eat up an hour. This bill needs all the help it can get.

Mr. Speaker, I cannot understand why Republicans would not want all the improvement that they could get. I do not know why on Earth they would take money from the Cops on the Beat Program, which has provided over 16,000 new police officers to American communities in the last 5 months, and had it over to just three States to build prisons.

Mr. Speaker, a lot of those communities that have gotten no police officers, are represented by my Republican friends, but they are saying they have had enough. They have had enough of new police officers in their cities and towns, and they want to provide money for fancy helicopters and tanks and prisons for North Carolina, Arizona, and Delaware.

Mr. Speaker, the last time I counted, we had 50 States in the Union, not 3. I think every single one of them deserves to be able to apply this prison money, and I think the Democrats should be able to offer amendments to that effect.

However, Mr. Speaker, they will not be able to, because using the Republicans' own definition, the rule is closed and the Members of Congress are gagged.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. BERMAN].

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

Mr. BERMAN. Mr. Speaker, the issue is, for me, far less the question of whether or not the rule is open than the question of whether there is fundamental fairness in the operation. I think what happened to me with respect to my amendment yesterday in the Committee on Rules was not fundamentally fair.

In this case, by refusing to give an essentially technical waiver, four of which were already given in this rule, as has been previously discussed, by refusing to give me an essentially technical waiver from the Budget Act, an amendment that I had that would have addressed the question of the unfair situation where States and local governments in many parts of this country, particularly on the border, but also in New York and in Illinois and in

other areas, are shouldering the entire burden of the cost of incarcerating undocumented immigrants who have been convicted of felonies and who are housed in State and local prisons as a result of those convictions, people who should not have been in this country or in those States, except for the failure of the Federal Government to enforce the laws that we are supposed to enforce, and we have pledged to enforce.

I proposed an amendment to provide a capped entitlement to guarantee to the State and local governments that they would be reimbursed for the properly expended costs submitted to the Justice Department. After a review of the Justice Department, and within the terms of the amendment, I proposed payment for that capped entitlement, a capped entitlement of $650 million, by reducing proportionally the existing authorization, which everyone intends to fund, they claim, for reimbursement for the States under last year's crime bill, and by reducing the amount of the authorization in the prison bill that is up before us today that is going to be made in order by virtue of this rule.

Technically, Mr. Speaker, because it was enhanced, it was a capped entitlement, a Budget Act point of order stood against it, but in terms of the amendment, the amendment paid for itself.

The four members of the minority on the Committee on Rules all supported granting that technical waiver. The eight members of the majority, each of whom expressed tremendous sympathy for the amendment, understood the inequity that exists, indicated their intention to do something about it, recognized that my amendment paid for itself, each of them expressed those sentiments, and then proceeded on a rollcall vote to deny me the waiver which would have allowed me to offer that amendment.

□ 1120

The issue to me is not whether this rule is open or not. I understand the need of the majority to try and manage the business of the House. The question is whether the rules process is used to fundamentally tilt the process one way or another.

We have a situation with this whole issue. I listened to the Speaker this morning in his morning press conference, and he spoke eloquently about the propriety and the legitimacy of the claims of both States that are shouldering the costs of the incarceration of undocumented criminal aliens and their rightful need to be reimbursed.

Two weeks ago we passed a balanced budget constitutional amendment. States and local governments raised a question. They said are you going to cut Federal spending by shifting to the States, or are you going to cut Federal programs, and without exception the chief proponents of the constitutional amendment said we are not going to be doing it by shifting the cost to the States and local governments, we are going to do it by cutting Federal programs.

Let me tell my colleagues, the biggest cost shift of all is the cost shift that comes by forcing the State and local governments to pick up the cost of incarcerating people who should not be in this country, except for the failure of the Federal Government to enforce its own laws.

A week ago we passed the unfunded mandate bill. We are not going to do this anymore, we are not going to shift the costs to the State and local governments, we are not going to decide what is happening. The biggest unfunded consequences, in effect a mandate as the Speaker himself referred to it, that goes on now is this shifting of costs to the States and local governments. Let me say to my colleagues, were the Federal Government to pick up the obligation we would then have an incentive, the same incentive that the chairman of the crime committee says is the justification for conditioning prison grants to the States on their sentencing, we would have the incentive to do something.

The President of the United States, President Clinton, is the first President to actually propose trying to help the States in this area and we appropriated $130 million last year, but that is far short of what the actual costs are. The CBO suggests they are $650 million.

I am just going to take one moment here to read a little bit from the computer printout of the AP wire story. It says,

> House Speaker Newt Gingrich says the Federal Government should help border States pay for imprisoning illegal immigrants, but the proposal still faces resistance from other senior Republicans.
>
> Gingrich said he supports the provision in the crime bill,

That is the provision that I put into the bill in the Judiciary Committee on the alien deportation bill, which I have been told very clearly is going to be ruled out of the order by the Rules Committee, GINGRICH says he supports that provision and supported it even before a meeting with California Governor Pete Wilson.

> Texas Governor George Bush and officials of other States also have sought the reimbursement, contending immigration is a Federal problem.
>
> Arizona, California, Texas, Florida and other States have sued the government in an effort to recoup billions of dollars spent on illegal immigrants, contending the costs arose because of the Federal Government's failure to enforce its immigration laws.
>
> ''I am very sympathetic to Governor Wilson and to Governor Bush and others who have made this case,'' Gingrich said. ''The Federal Government has failed to secure the American borders and the Federal Government is dumping on our border States an entirely inappropriate problem.''
>
> The proposal part of a larger crime package now before the House could cost Federal taxpayers about $640 million in the first year.
>
> Senior Republicans, such as Representative Henry Hyde,

And it hurts me, but it says it here,

> Henry Hyde, chairman of the House Judiciary Committee, John Kasich, chairman of the House Budget Committee oppose the measure because of the costs.
>
> ''More money for California. What else does California want?'' Kasich exclaimed. ''Tilt the Treasury this way,'' he said, gesturing to signify dumping Federal dollars toward the West Coast,

As if this is some benefit where the supplicant Californians and Floridians and Texans and New Yorkers are coming to say, ''Please, Federal Government, help us out with our problem.'' This misunderstands the fundamental nature of this issue. It belies all of the rhetoric that was given when we passed a constitutional amendment to balance the budget. It undercuts everything that was said when we passed the notion of no more unfunded mandates to States and local governments through Federal action.

They are in those States. They have committed those crimes. They have been convicted of those crimes and they are imprisoned at a cost in New York of $24,000 per individual per year, California $20,000, Florida $16,000 per year, each of them because the Federal Government failed to enforce this.

This is the most compelling case for automatic reimbursement of the legitimate costs that the States and locals spend. It will help us focus our attention on solving the problem.

It was wrong to deny me that technical waiver in an amendment that would have paid for itself and not added a penny to the Federal deficit. And I think that question should be brought to the House only because again, I am not yelling about whether the rule is open or not, I just think in this case a waiver was not granted to keep a particular issue from coming to the floor in a way that unfairly deprived one Member and a number of States and a number of other colleagues who support this measure of a chance to raise the issue in this fashion.

I have an amendment which I will be offering which will seek to do the same thing. It will seek to reserve the first $650 million of the appropriated moneys for the prison programs for reimbursement for the States. Before we start putting money on the States for new prison construction, according to our notion of social engineering, and it is interesting how social engineering was so bad last year, but now, depending on who is in, the different notions of social engineering are more appropriate, but before we start spending that money, let us pay for the costs that the States and local governments now face because of the Federal failure to enforce the immigration laws.

That amendment will be before us. But let me tell my colleagues that that amendment seeks to try and bring this money to the State and local government through a reservation of funds. In other words, no funds may be appropriated for other parts of the prison

bill until that $650 million is given back to the States and local governments.

But the Appropriations Committee can say when they go through that process, notwithstanding if this amendment would pass, notwithstanding this provision of the law, ''We hereby appropriate the following moneys.'' Let me tell my colleagues, the Appropriations Committee I understand has all of these pressures, and I understand only certain States are affected. I understand it is not a national problem in one sense of the word. But the Appropriations Committee will be very tempted to include that language, and then they will be legislating on an appropriation bill. Then I suggest the Rules Committee may very well grant that waiver, and that will be the question that they will have to face then.

So I think the Rules Committee did me an injustice yesterday by not granting the waiver. But I think, and more important to me, I think they did a very legitimate cause that is consistent with their own rhetoric on the unfunded mandates bill and the balanced budget constitutional amendment by denying that kind of a capped entitlement program to be offered on the House floor and to be debated on the House floor.

I am not going crazy on the rule because we will offer this other amendment on the floor that will be in order. It is not as good. It does not work as well. It does not fit the terms of what the Speaker himself supports, and I believe him, because I know he cares. But I think he is getting a lot of pressure from inside the ranks, particularly from Members who are focused very narrowly on the Federal budget and not on the concept of State and local unfunded mandates and the legitimacy of specific expenditures.

I want to add one last thing, and then I will yield back the time that the gentleman from California [Mr. BEILENSON] has given me, and who led this cause and got the initial language into the bill last year which allowed for the first money to be appropriated.

The Speaker appointed a task force on California and named very competent and distinguished colleagues of mine to lead that task force, indicating an understanding that the problems of California are not just isolated to California, that the country and the Congress should not turn its back on the problems of the largest State. At the same time that all of this is happening and that we are being kept from offering the kind of amendment which would deal with the problem most effectively, I find that the Speaker, the majority leader, the chairman of the Committee on Appropriations and the chairman of the Committee on the Budget have sent a letter to the President, who submitted a supplemental appropriation request to continue to finish the funding for the devastating earthquake we faced in southern California, to provide the budget funding for the floods that northern and southern California faced, as well as additional money for the floods in other parts of the country.

□ 1130

And they said for the first time, of any time I can remember in terms of congressional leadership, ''We are not going to take up your supplemental for these federally-declared natural disasters until you find offsets for each and every one of these expenditures.'' When I take that together with this, I wonder about the whole meaning of that task force.

These are positions that, if held onto, will work very much to the detriment of my State, and I think people should think twice about that.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DREIER], a distinguished member of the Committee on Rules.

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

Mr. DREIER. Mr. Speaker, I feel compelled to rise not only wearing my hat as a member of the Committee on Rules, but also as chairman of the task force to which my good friend, the gentleman from California [Mr. BERMAN], referred.

The issue of unfunded mandates is one we addressed earlier. Quite frankly, I would say to my friend, with whom I am working very closely on this issue, along with our Governor, along with a wide range of Republicans and Democrats in this House, I have to say that this problem was created under the watch of the majority, the former majority, which had a pattern of saying to State and local governments that they have the responsibility of financially shouldering what is clearly, clearly a Federal issue and should be a Federal responsibility.

Speaker GINGRICH, in appointing this task force when he asked me to chair this, said obviously the issue of illegal immigration is going to be one of the priority items we are going to address.

I would say to my friend, as we begin the second month of the 104th Congress, we have, in fact, Mr. Speaker, proceeded with dealing with this issue in a very responsible way. We are dealing with it in a responsible way, because we reported out of the Committee on Rules by a unanimous vote last night a rule which does not waive the Budget Act. One of the things that has been very frustrating for many has been this pattern of waiving the Budget Act, and it seems to me that as we look at our attempt to deal with this, there are going to be amendments offered which will address that responsibility in which States like California, Texas, New York, New Jersey, Florida, Illinois, those priority States that are shouldering the responsibility which should be Federal are facing, and it seems to me that as we look at this question, we are doing it in a fair way under the standing rules of the House.

Now, my friend, the former chairman of the committee, the gentleman from Massachusetts [Mr. MOAKLEY], said that if we would have had a rule like this when they were in the majority we would have called this a gag rule, we would have called it a rule that was restrictive, a closed rule. I would challenge my very dear friend to find a time when a rule came down allowing for the 5-minute rule, whereby Members were able to stand up, offer amendments that were printed in the RECORD and amendments that were not printed in the RECORD, where we would call it a gag rule, restrictive rule, a closed rule. I have not done the research on it, but I cannot imagine that gentleman from New York [Mr. SOLOMON], or the gentleman from Pennsylvania [Mr. WALKER], or the gentleman from Tennessee [Mr. QUILLEN], or the gentleman from Florida [Mr. GOSS], or any of our Members would have called a rule that allowed for the 5-minute rule would have been considered restrictive or closed or gag.

What we are trying to do here is we are trying to work in a bipartisan way. While I was here in the chair last night when this rule was reported out, the gentleman from New York [Mr. SOLOMON] has told me it was handled unanimously upstairs, and what that means is that we worked in a bipartisan way, or the committee worked in a bipartisan to come to some kind of consensus and as well as possible to comply with the standing rules of the House.

So it is a new day. There is a new Committee on Rules. We are going to be able to address the issue of reimbursement on the incarceration of illegals. We are going to be able to address a wide range of provisions as we move ahead with this very responsible bill, and I hope very much that we will be able to pass this rule, proceed with this legislation which has been discussed for years and years and years, and we are finally moving ahead with what the American people want and what I am happy to say a new majority of this institution would like.

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

Mr. DREIER. I am happy to yield to my friend, the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to emphasize the point he is making about the 5-minute rule and the way in which the kinds of rules are being admitted here do, in fact, I think, enhance debate of the House of Representatives.

In the past, the problem with the limitations that were put on many of these rules was they basically stifled debate. What you had was limitations on the offering of amendments, and then time limitations which assured that what happened on the House floor was that Members would offer the amendment and then, because of the

time allocations, each Member would get allocated 1 minute or 2 minutes to get up and speak. As a result, the debate always went past each other. A Member would stand up and talk about cats. The next Member would stand up and talk about dogs. The next guy would stand up and talk about elephants. No one could understand what we were doing as a result of that kind of debate.

Under the 5-minute rule, Members are permitted to yield to each other. They can get their time extended. The fact is you get real debate on the House floor.

I think what we have seen happening out here on the floor in the last couple of weeks has, in fact, been impressive. People have actually engaged each other in real debate. That is what the floor of the House of Representatives should be all about, and it seems to me that the rules that we are bringing forward that allow debate under the 5-minute rule preserve that kind of tradition in the House of Representatives.

I want to congratulate the gentleman and his colleagues for the kinds of things that they are doing to assure that we have real debate on real issues in the House of Representatives.

Mr. DREIER. I thank my friend for his contribution. I would very simply say that I am very pleased that there is a lot more focus on elephants today than has been the case in the past.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. COMBEST). Pursuant to House Resolution 63 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 667.

□ 1136

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. 667) to control crime by incarcerating violent criminals, with Mr. KOLBE 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 Florida [Mr. MCCOLLUM] will be recognized for 30 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 30 minutes.

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

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

Mr. Chairman, we come now to the first of two bills that will address what we on this side of the aisle, as well as many on the other side, believe are some of the major deficiencies of last year's crime bill. H.R. 667 deals directly with what America's criminal justice system needs most—accountability for violent criminals. Titles I and II are nearly identical to titles V and VII of H.R. 3, the Taking Back Our Streets Act of 1995.

Mr. Chairman, the American people understand what is wrong with our criminal justice system. For too long it has failed to hold law-breakers accountable. Criminals learn that a confrontation with the criminal justice system is nothing to be feared. As a result, a group of violent offenders keep cycling through the system. They get arrested, sometimes convicted, occasionally sent to prison, and then they're almost always released after serving only a small fraction of their sentences. This is the revolving door of justice, and it must stop.

H.R. 667 provides more than $10 billion to enable States to expand their prison capacity for incarcerating violent criminals. It does this in two ways. First, it rewards States that are trying to get serious with violent criminals, helping them to defray the costs of getting tough with dangerous criminals. Second, it provides additional support to States that take the bold but right step of enacting truth-in-sentencing and require violent criminals to serve at least 85 percent of their sentences.

This bill does not dictate sentencing policy to the States. It merely rewards States that are doing the right thing—getting and keeping violent criminals off the streets.

My friends on the other side will say that last year's crime bill already addressed this problem. They are mistaken. Last year's crime bill is a clear example of misguided micro-management from Washington, and a lack of truth-in-legislating. What was called by some a tough-on-crime bill was in reality a missed opportunity to put accountability back into our system of justice.

It rewards States for maintaining the status quo;

It encourages States to enact programs for getting offenders out of prison not into them; and

It shifts funds away from truth-in-sentencing incentives and into a general fund available to States that do not make any special effort to incarcerate violent Criminals.

Mr. Chairman, we now have the chance to right those wrongs with H.R. 667, and to support sensible reforms that are long overdue. To be specific, Mr. Chairman, H.R. 667 includes the following:

Title I provides nearly $10.3 billion in funding to enable States to expand their prison capacity. Half the funds are available to States that are making progress in holding violent criminals accountable. Such States can qualify for funds if they can assure, the Attorney General that, since 1993, they are:

First, incarcerating a higher percentage of violent offenders;

Second, requiring that violent offenders serve a higher percentage of the sentences they receive; and

Third, increasing the actual time violent offenders will be serving in prison.

Now you will hear the charge made today that these three assurances will be difficult for States to make. And that is clearly false. States know enough about their own corrections systems to predict time served averages for violent criminals—they do it everywhere as a simple matter of planning for the future. They know how many violent criminals get sentenced to prison, and they know the averages for expected time served. This is all we are asking of them.

The other half of the funds are available for States that enact truth-in-sentencing laws which require violent criminals to serve at least 85 percent of their sentences. Title I also requires States to enact laws requiring notification of victims or families of victims concerning the release of offenders and provide the victims an opportunity to be heard.

Title II—Stopping abusive prisoner lawsuits—places sensible limits on the ability of prisoners to challenge the legality of their confinement. Too many frivolous lawsuits are clogging the courts, seriously undermining the administration of justice.

Title II requires that all administrative remedies be exhausted before a prisoner can bring a civil action in Federal court. The title also requires Federal courts to dismiss any prisoner lawsuit that fails to state a claim for which relief can be granted, or if the suit is frivolous or malicious.

Finally, Mr. Chairman, few problems have contributed more to the revolving door of justice than Federal court-imposed prison population caps. Cities across the United States are being forced to put up with predators on their streets because of this judicial activism. Title III provides much needed relief by providing reasonable limits on the remedies available in prison crowding suits—yet with complete deference to the Bill of Rights and civil rights laws.

The title limits court-ordered relief to those specific conditions affecting the individual plaintiff, and requires courts to consider the potential impact of such relief on public safety. The title includes provisions that will guard against court-ordered caps dragging on and on, with nothing but the whims of Federal judges sustaining them. It grants standing to officials who arrest, prosecute, or incarcerate criminals to challenge any prospective relief if that relief was granted in the absence of an actual finding by the court that the conditions violated a Federal right. And it places reasonable restrictions on attorney's fees.

It is my belief that the Violent Criminal Incarceration Act of 1995 will do more to stop the revolving door of

justice than anything this Congress has done in recent memory. I urge my colleagues to support this bill.

□ 1140

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

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

Mr. Chairman, the new majority has succeeded in turning a silk purse into a sow's ear, in terms of our crime bill efforts. I would just like to take a few minutes to recall what the contract has been doing to us in the crime area.

First of all, we have just said, as of this week, that law enforcement officers can kick the doors down on our houses at any time for any reason without a warrant. Magistrate requirement? Oh, yes; you go to a magistrate afterward to determine if the officer was acting in good faith or not, instead of going before to have it determined by an arbiter in the court.

They have also created a system so that a defendant, a criminal defendant, can be executed even though he may have an appeal pending before he ever knows whether the appeal has been disposed of or not.

Then the new majority, for partisan reasons, wants to eliminate one of the great features of the 1994 crime bill, namely the promise of 100,000 new community policemen on the beat, and replace it with a wasteful revenue sharing program that harks back to the eighties that has failed miserably. We have had so many horror stories that we understand why eventually the plug was pulled on that old program.

Now that the Republican majority has actually done all these things, they are going to provide less money for prisons while trying to pretend that they are going to be providing more. How? Because the cumbersome truth-in-sentencing requirements in which the Federal Government paternalistically tells States how to run their criminal justice systems will tie the States up in such knots that they will not be able to qualify. It is to this point on prison funding that we will be examining this in greater detail.

Mr. Chairman, study the new majority proposal closely. First, it takes away the $2.5 billion from the ''cops on the beat'' program and puts it into what is already a $10 billion pot for new prison construction. Only then it says to States, ''You can't have half of that unless you do it our way,'' which most States tell us they cannot. In fact, we cannot count more than three that can.

So the Republican program decreases the money both for police and for prisons, so the truth-in-sentencing fiasco is in some ways the ultimate hypocrisy.

At a time when there is wide consensus that we need to return power to communities, this bill says that the Federal Government in Washington will dictate to the local communities what to do with crime. Simply put, it is paternalistic.

If the balanced budget amendment was the mother of all unfunded mandates, this prison proposal might be a close second cousin because the truth-in-sentencing requirements will create enormous costs to State Governments that are not offset with the $6 billion dangled in front of them in the name of truth-in-sentencing.

And so we got it right when they proposed realistic truth-in-sentencing last year. We provided flexibility to States and allowed the truth-in-sentencing monies to roll over to a general prison fund in the event that it was not drawn down.

This bill, however, forces States to make promises about how long prisoners will serve before they have served their entire sentence. How can a State prove that?

And, puzzingly, it says that for States with indeterminate sentencing, that the average time served for violent crimes must exceed the national average by 10 percent. Only one problem: No such average exists. State criminal statutes define crimes differently. So we have ambiguities that would require sometimes dozens of criminal law changes in each State to qualify for this madcap scheme that is before us.

But we on the Democratic side have a different program. We want to codify what the Supreme Court has said when it comes to the fourth amendment. We want to put 100,000 community police on the street. We want to tell the States that their judgment is the best on how to use their prisons and the scarce space that they need, and not tie them up with paternalistic dictates from Washington.

And we want to replace the new majority revenue sharing program with a crime prevention program that we know works.

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

Mr. MCCOLLUM. Mr. Chairman, I yield 4 minutes to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. I thank my colleague, the gentleman from Florida, for yielding this time to me.

Mr. Chairman, I want to thank him also for the outstanding leadership he has shown on this important issue as we have been moving these bills to the floor.

Mr. Chairman, I rise today in strong support of H.R. 667, the Violent Criminal Incarceration Act of 1995. This bill represents an important opportunity for us to help the States keep violent offenders off the streets by providing them with prison grants.

The bill also provides much needed relief for States dealing with the problem of frivolous litigation by prisoners and unreasonable Federal court intervention in the operation of jails and correctional facilities.

Title I of the bill provides that States that have enacted truth-in-sentencing laws in States that have significantly increased the time violent offenders spend behind bars will receive $10 billion over the next 5 years.

□ 1150

Title II of the bill will significantly curtail the ability of prisoners to bring frivolous and malicious lawsuits by forcing prisoners to exhaust all administrative remedies before bringing suit in Federal court. In doing so it will save States and local governments millions of dollars in helping ensure that taxpayer money is not wasted. There is no reason that, as happened in an actual case, a prisoner should bring a lawsuit in Federal court because he requested chunky peanut butter for a sandwich and he was given creamy instead.

Title II also requires a Federal court to dismiss on its own motion claims which do not state a claim upon which relief may be granted or are frivolous or malicious. In addition, title II will require prisoners who file lawsuits in federal court to pay at least a nominal filing fee if the prisoner has sufficient assets. These reasonable requirements will not impede meritorious claims by inmates but will greatly discourage claims that are without merit.

Mr. Chairman, I would also like to speak about title III of the bill.

Title III contains the provisions of H.R. 554, which I, along with the gentleman from Texas, Mr. PETE GEREN, introduced earlier this year. These provisions of the bill will substantially improve the provision contained in last year's crime bill to restrict judicial interference in the management of jail and correctional facilities, as well as to stop the release of dangerous criminals from prison. This provision will ensure that relief granted goes no further than necessary to remedy the deprivation of an individual plaintiff's rights, and it will make clear that imposing a prison or jail population cap should absolutely be a last resort and that the court should take into account the import such caps will have on the public safety.

The bill also contains provisions which will prevent permanent court supervision of correctional facilities by placing a 2-year time limit on prospective relief provided by the court and providing for immediate termination of relief if there has been no prior finding that prison conditions violated a Federal right of an individual inmate.

The bill establishes additional requirements to ensure that prison condition litigation is conducted in a manner which is not unduly burdensome. These requirements include requiring the court to rule promptly on motions to modify provisions of consent decrees and placing common sense limitation on the recovery of attorney fees in prison litigation.

Finally, the bill gives standing in prison conditions litigation to prosecutors and other elected officials. For too long the courts have attempted to

micromanage correctional facilities throughout the country. Unnecessary judicial intervention in our jails and prisons has often resulted in the release of dangerous criminals.

Title III will help stop the abuses and thereby protect the public. Titles II and III will help ensure that actions in the Federal courts do not require States and local governments unnecessarily to spend precious taxpayer resources.

I am very pleased that these provisions have been included in the bill.

Mr. CONYERS. Mr. Chairman, I yield 6 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for his leadership for the gentleman from New York's legislation, and I must say I find this a rather sad day.

I come from a State where we are growing like mad. Colorado is just exploding. In fact, just this week we had our Denver Bar Association just want to do a Proposition 187 to keep Californians in California because we are exploding with them coming over the border. They meant that kiddingly. But as a consequence, the pressure on trying to build enough prisons, trying to keep up with the whole law enforcement requirement, has really been stressful on our State government.

We all know that it costs a lot to build prisons, and I say, ''You don't want to just slam-bam them up because what people want is something that's going to hold dangerous criminals, and unfortunately we are here today forced to debate an empty prison promise. Let's call this the empty prison promise bill because this is a very empty promise if you are waiting for prisons because you aren't going to get any money if you are under the pressure that States like mine are under. In fact, no State in the Union is going to get any money out of this bill because, as the attorney general says, none of them qualify.''

Under the bill that we passed last year, Mr. Chairman, my State would get help. Under the bill that we passed last year, every State would get help. But the way this bill is crafted is no State will get help until they reach the ceiling that the Federal Government has put in there.

Now think about that. We just finished talking about unfunded mandates on this House floor, and everyone tells us that for all the States to reach this level and build a number of prisons required to hold prisoners for 85 percent of their sentence they will have to spend $70 billion before $1 of this bill kicks in.

Now, if that is not an unfunded mandate, I have never heard of one. In other words, how soon we forget what our promises were just a week ago as this body passed on unfunded mandates.

We need prison building help now, and I say to to my colleagues:

''Look. You don't have to be a rocket scientist to know that even if my wonderful State of Colorado got a check tomorrow under the old bill, which I would hope it would, but even if it did, it would still take years to get these prisons placed and to get them built. So it still would be a time lag before we would see help. But what will happen now is my State is going to have a figure out where it's going to get all this money to go it alone, to go it alone to build more prisons so we can hold the number of people we need to hold to get to 85 percent of the prison sentence, and then the Federal Government, under this bill, will give them some money, and what will that be for? That will be to alleviate prison crowding at that point.''

Mr. Chairman, that is not the people of Colorado's priority. We want to get on with this program now. There is a reason we cannot hold people that long, and that is we do not have the space, and we need help with the space because these things are not cheap. There is no way we can have a stealth prison. We got to have money. It takes money, Mr. Chairman, and it takes time to build them, and until we have that, we are forced to try and figure out who to put out early.

Now we at least did one thing in committee to make this bill a little bit better, and that is to at least allow localities to try and do boot camps as an alternative way. When this was first written, we could not even do boot camps, so it is a little teeny bit better.

But I rise today to say, as my colleagues know, what I heard the main problem to be last year, we fixed last year, and I never heard of anything taking something that was just fixed and proceed to break it, especially after we just said to the States, ''We're not going to keep doing these things to you,'' and then we turn right around, and do it to them, and do it to them big time.

I think Americans are so tired of politicians trying to outdo each other, and I understand what the outdoing is on this bill. What we are saying is the price tag on this bill is much higher than the one we did last year. Last year we committed $7.9 billion for immediate beginning of grants and prison building. Under this bill it will be over $10 billion.

So, last year's was $7.9 billion, and if we pass this one, it is supposed to be $10.5 billion. So we are supposed to say, ''Great, we are going to spend more on prisons, we're going to do more.'' That sounds wonderful, but do not be fooled, Mr. and Mrs. America. The Federal Government would not be putting one dollar out. We may have put $10.5 billion in a pot, which is more than the almost $8 billion we did last year, but nobody can make a claim on that pot because that pot has been put on such a high shelf that no one State meets the standard according to the Justice Department who will be monitoring.

Now that makes no sense. We ought to be helping the States get up so they meet that standard. We ought to be helping the States with this incredibly expensive problem of building prisons. That is what is there now. If we vote for this today, we will be robbing the prevention funds, robbing the funds for cops, and putting in prisons that no one can get to.

Please, please vote against this bill.

□ 1200

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. WELLER].

Mr. WELLER. Mr. Chairman, before I begin my comments in support of H.R. 667, I wish to commend my colleague, the gentleman from Illinois [Mr. HYDE] and my colleague, the gentleman from Florida [Mr. MCCOLLUM] for their leadership in bringing forward legislation which has earned bipartisan support.

This crime problem in our country is out of control. I believe we must do everything we can to protect our children and our communities, and I believe that a combination of more police officers, more prison space, and longer sentences will send a clear message to criminals that they will be caught and that they will serve time. The middle class working families of my district have made it very clear to me that they want hard-core, violent criminals off the streets.

We need more prison space so we can bring an end to the revolving door policy that moves criminals in and out of the justice system. The recidivism rate among violent offenders is extremely high. In fact, 60 percent of convicted felons will be rearrested within three years of their release. Eighty percent of all violent crimes are committed by 20 percent of criminals. If we keep letting them out of prison early, we are only subjecting ourselves to the continuing threat of violence in our neighborhoods and our society.

The Violent Criminals Incarceration Act authorizes $10.5 billion to provide grants to the States to build and operate prisons. Half of this money will be provided on the basis of the implementation of ''truth-in-sentencing laws.'' This means that the felon must serve 85 percent of his or her sentence, more than twice the average time they currently serve.

Think of it in this way: In my State of Illinois the average murderer serves less than 10 years, and I find it hard to believe there are some who believe they should serve no longer.

It is also my hope that we can include language in this bill which will make funds available specifically for juvenile facilities, and shortly I will be offering an amendment for this purpose.

Americans are ready for real crime-fighting legislation. The Violent Criminals Incarceration Act is just that. Not only is this crime-fighting legislation, it is an investment in our society and deserves the same kind of bipartisan

support that every crime initiative or every anticrime initiative in the Contract With America has received.

Mr. Chairman, I urge full support of H.R. 667.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Chairman, in this bill, in section 503(b)(2), it would require that the sentencing and releasing authorities notify and allow the victims of the defendant or the families of such victims the opportunity to appear before those authorities and give reasons why they should not be released. I do not oppose that.

But I am offering an amendment that was printed in the RECORD, although it was not printed in the guide for the Members. It says this: There are individuals who get convicted, for example, on a drug offense, and when they are convicted, they look at the victim who turned the evidence—it might have been somebody who helped get the conviction, somebody who got immunity—and they say, ''When I get out of here, I'm going to hurt you.''

The Traficant amendment says that the releasing authorities shall upon release notify the families of the victims and the victims and the convicting court that that felon is going to be released. We have many cases where individuals who have been convicted by the testimony of witnesses say to those witnesses, ''I'm going to hurt you,'' and they come back and they hurt those witnesses or those individuals who helped with that conviction.

So it is not necessarily an amendment that is going to require a whole lot of brain surgery, but it is a safeguard for the victims, the families of victims, the courts, the officers of the courts who made those arrests, and the policeman who may have been involved in an undercover sting when they made the arrest, and that person looks at that police officer and says, ''When I get out of here, I'll deal with you.''

This gives them notification. It gives the courts such notification. It is something we should do, and it is in fact something that is remiss from this bill. It makes this bill a better bill.

Mr. Chairman, I appreciate the time given to me by the gentleman from Michigan [Mr. CONYERS] and all the effort he has given to this bill and other bills.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I want the gentleman to know that this is a very real life, commonsense, practical amendment that I hope both sides can agree to, because it is really important to know that out there in the world there are these kinds of threats of ''what will happen when I get out.''

We have got to curb that. We have got to curb jury intimidation, we have got to curb witness intimidation, and we have got to make the courts safe for people to go in and give testimony and believe that they are going to live a safe, honorable, reasonable life after they have done their duty.

Mr. TRAFICANT. Mr. Chairman, let me say in response to the gentleman that we appreciate the leadership he has given over the years to help a lot of people. I believe that he has helped, and I do not believe my amendment hurts anybody who is getting released or keeps them from getting a job. I do not want to do that. I do not want to hurt that person who has paid his dues. I just want a safeguard to make sure that someone does not live up to a promise they made when they were being convicted, one that says, ''I'm going to hurt you,'' and then live up to it.

So with that, Mr. Chairman, I thank the gentleman, and I hope the majority party will look at the amendment with favor.

Mr. MCCOLLUM. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I want to alert my colleagues that later today I will be introducing a ''no frills'' prison amendment to this legislation.

Simply put, this amendment will provide that prisoners in Federal prisons will be provided no more than the least amount of amenities and personal comforts consistent with constitutional requirements and good order and discipline in the Federal prison system.

Too often sight has been lost of the fact that prisons should be places of punishment, that prisons should be places where you do not want to go and to which you do not want to return.

There are amenities in our Federal prison system. There are amenities in many of our State and county prisons. This amendment would deal only with the Federal prisons, and there are some real examples of Federal prisons which do earn the nickname, ''Club Fed.''

For instance, in Lomboc, CA, the Federal penitentiary there offers all-channel cable TV, movies 7 days a week, pool tables, handball, tennis, and miniature golf.

The Federal prison in Estill, SC, has dormitories with cathedral ceilings, carpeting, skylights, checker and chess tables, and it offers basketball and handball courts.

Prison perks are wrong in two respects: No. 1, they undermine the theory of prisons as places of punishment, and No. 2, they waste taxpayers' money. Professor John DiIulio of Princeton has estimated that roughly 40 percent of what we spend on prisons nationwide is for expenses that are not necessary to secure the prisoners and not required by the Constitution. Roughly speaking, he says, half the money we spend on prisons is spent on nonessentials. This is a huge amount of money when we consider that nationwide we spend $20 billion per year on prisons.

So, Mr. Chairman, I urge my colleagues to support the ''no frills'' prison amendment when I offer it later today.

□ 1210

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. Schumer]. No one has worked harder on the crime bill than the former chairman of the Subcommittee on Crime.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding and for his guidance and leadership on this proposal and last year's proposal, through the arduous days of working it through.

Mr. Chairman, I would like to make two points on this bill. The first is that it sounds good, but will not do much. It will not do hardly anything at all.

In the State legislature we had a word for these kinds of bills. They were called rain dance. You know, the rain dance that the native Americans did? They made a lot of dancing, a lot of noise: No rain. Same thing with this bill. It sounds great: Make sure all prisoners serve 85 percent of their maximum sentence, or you will not get any money. Make sure the actual time served is on the increase dramatically, or you will not get any money.

Sounds great. The only problem is, by the Attorney General's own estimate, and it is she who will administer this bill if it is passed, guess how many States will get money to build prisons? None. And if the bill is amended to change some of the words that are technically deficient, guess how many States will qualify under our estimates? Three.

So if you are from Delaware, North Carolina, or Arizona, you should welcome this bill, because you will get to divide up all of this $10 billion in prison money. But if you are from the other States, forget it.

This bill is basically a false promise. It is a hoax. It will not build any prisons. And for the few States that are very close, it may give them the money. But the point has been made, and this one really sticks with me, why give it to the States that are already doing a good job? Why not give it to the States that are not incarcerating the violent criminals? Because once a State meets the very tough and high standard in this bill, they do not need the money. It is the States that have not met that standard, such as my own, that need the help.

So I would say to my colleagues, look at the amount of money that will be available to your State under present law. And that amount of money is not available 5 years from now or 3 years from now, which it would be even under the best of circumstances in the

H.R. 3 bill. Look at how much is available this year.

Mr. Chairman, I feel the anger and anguish of my constituents as they talk about crime. I feel the real frustration of police officers who say they arrest people and then they are convicted of violent crimes and they are out much too quickly.

I feel the anguish of families who see that those perpetrators of vicious crimes against a loved one is not punished long enough. If you feel those things, then you cannot vote for the bill before us, because the bill before us does nothing.

I must say, it seemed to me that H.R. 3 and its six components were not designed very carefully. Other parts of the contract, there is a real ideological divide; should we have a balanced budget amendment, should we have a line-item veto, should there be unfunded mandates. But this part of the contract, H.R. 3, the philosophical differences with the present law are not very great.

Oh, yes, you might fine tune it here, there, or the other way. What was done in H.R. 3 and in this prison section and the prevention and police section we will do in the future, seems to me, to be different. When the contract was put together last year, it seems to me, those who did it said ''Well, the Democrats have done a good job on crime. We have to show that we can do more, we can do better.'' So they rip up something that just about every law enforcement agency supported, something that many Members on that side of the aisle supported, and most Members on this side of the aisle supported, and said ''Let's start over.''

Why? Why? When our streets are savaged by crime. When the anguish of people in communities, from the poorest to the richest, is heard by us. Why rip up a bill that is going to get money out there immediately and start over with a bill that is a false promise and a hoax?

Mr. MCCOLLUM. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. SCHIFF], a member of the committee.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, a great deal of discussion has already started with respect to the idea of truth in sentencing that is represented in H.R. 667. But I think there is another reason to support H.R. 667, and that is it represents the idea of truth in legislation.

During the consideration of the crime bill which was enacted last year, from the beginning all the way through to the time the President signed it last September, news report after news report in all aspects of the media said this bill includes $7.9 billion for prisons. I saw that in newspapers, I heard that on the radio, I saw it in TV programs. Over and over and over again, the American people were told that the previous crime bill contained a certain amount of money for prisons.

The only problem with that representation is, it is not true. The crime bill as written and enacted last year, does not guarantee that a dime of that money goes to prisons. The actual wording of the legislation says that the money can go for prisons or for alternatives to prisons, including keeping convicted criminals right there in the community.

Now, is there a time when alternative sentencing is appropriate? I think so. Though I was a career prosecutor before having the privilege of serving in Congress, I never felt that every single criminal convicted of every offense should go to prison. I did not think that was always necessary as a punishment or always necessary as deterrence. But I think those who should be in prison ought to go to prison, and the prisons need to be built to house them.

The representation was made, in my judgment falsely, in the media when it said over and over again, American people, you should support the crime bill, because the crime bill guarantees that money will go to prisons.

The crime bill that was enacted said no such thing. But this bill, H.R. 667, certainly does. All of the money authorized here is for prisons, and therefore that is a reason why we should adopt this legislation this week.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the minority member for yielding time to me.

Mr. Chairman, I guess I should be happy to be able to come to the floor for a change and not argue that a bill that we are considering is unconstitutional. I do not come to make that argument today, although there are some very serious constitutional questions about a part of this bill. But the bulk of the bill I would concede is constitutional, so I guess I should be relieved that I am not here raising the constitutional arguments today.

What I say to you instead about this bill is that it may be constitutional, but it makes absolutely no sense. And that is just as unforgivable in the legislative context, it seems to me.

Mr. Chairman, I do not know why, even though I am from the State of North Carolina, which is one of the 3 States that would qualify for funds under this bill, why a Congress of the United States that is representative of 50 States would pass a piece of legislation that can benefit only 3 States.

I guess I ought to be quiet as a person from North Carolina, which is one of the 3 States that can benefit under this legislation, but it just seems to me to be irrational to be talking about passing a piece of legislation that can benefit only 3 out of the 50 States in this country.

Second, it seems to me to be irrational to be passing a whole new set of laws about the award of attorneys fees, when for years and years and years we have been litigating about the standards that are applicable in the award of attorneys fees in these kinds of cases, and all of a sudden again the Republicans have decided, as they did in prior bills, that they are smarter and more articulate than the Founding Fathers.

□ 1220

Now they have decided they are smarter and more articulate than reams and reams and reams of case law that has interpreted the attorney's fees provisions in civil rights laws. And so we have new words. I do now know that changing the wording of an attorney's fee statute is going to do anything other than set off years and years and years of more litigation about what those words mean. It is kind of like yesterday we put a new standard in for the exclusionary rule, when we have been litigating for over 200 years about what the words we already had meant.

Finally, it seems to me that it is irrational in the face of evidence that was presented at committee level that weight lifting can enhance the self-esteem and self-image and deterrence of crime to come and say to the American people that we are going to be so naive and so shortsighted as to pass a statute that prohibits people in prison from engaging in weight lifting. It makes so sense. And I submit to my colleagues and to the American people that this is irrational and we should defeat this bill.

Mr. MCCOLLUM. Mr. Chairman, at the present time, I have no other requests for time other than the closing speaker.

Mr. CONYERS. Mr. Chairman, how much time is remaining on our side?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 6 minutes remaining, and the gentleman from Florida [Mr. MCCOLLUM] has 12½ minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, there are several problems that I have with the bill. I just want to point out a couple of them. The first, Mr. Chairman, is the fact that we are taking $2.5 billion out of the 1994 crime bill from the programs that actually work. That $2.5 billion added to prisons will be a drop in the bucket for the prison expenditures.

We already have an incarceration rate five times that of the rest of the industrialized world. Putting $2.5 more billion into it will do very little good at all. We heard evidence that the city of Philadelphia could use almost $2.5 billion itself. Texas and California are going to spend tens of billions of dollars. Virginia, if they fund the present program that we passed last August, will spend about $7 billion in the next 10 years on prisons.

Our share of this $2.5 billion will be about 1 percent of what we are already spending, so it will not make any difference, but it will take money away from what works. Drug courts have been studied. We can have, in lieu of an incarceration strategy, going to a treatment strategy, Mr. Chairman. We can have a drop in crime of 80 percent at a cost of one-twentieth of what it costs to lock people up. If you eliminate that program, and we have $1 billion in the present crime bill, but not in the crime bill that is before us, if we eliminate that, we will spend 20 times more money and end up with about 5 times more crime.

We can do better than that.

Mr. Chairman, I think there is another problem, and that is the so-called truth-in-sentencing. Eighty-five percent, there is no rational basis for 85 percent. We ought to focus on the time actually served, 85 percent of 5 years or half of 20 years. We want to spend twice the money on where we actually need the money to go.

We also need to research the expenditures we are making, and we will have amendments along those lines.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

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

Ms. JACKSON-LEE. Mr. Chairman, I thank my colleague, the gentleman from Michigan [Mr. CONYERS]. I am grateful that we had a process in the Judiciary Committee that would allow us to speak for States and counties and cities that right now might be abandoned in this whole process of prison building. I am appreciative of the acceptance of the gentleman from Florida [Mr. MCCOLLUM] of my amendment that allowed for these moneys to also go to boot camps which have proven to be successful all over the country in so many of our jurisdictions. But I am unhappy that we are facing a time now when States like Texas and other large States are working so very hard to ensure that those who do the crime pay the time, to now be penalized and not be subject to being able to receive these very important prison building funds.

Likewise, I raise another grave concern that rather than accept the acknowledgement by law enforcement officers across this country that crime prevention is also incarceration, it is prevention and it is supporting police on the street, this new bill now abolishes the opportunities for cops on the street and prevention dollars.

I clearly think that what we are doing in this particular legislation is penalizing law-abiding citizens and providing punishment to the States who are trying to be more effective in incarcerating those who committed the violent crime. I still believe, as Attorney General Reno has joined in to say, that there is an opportunity to strike a chord of bipartisanship, not one that follows the political road but takes the best road to make sure that we ensure that we save the citizens of the United States of America, we save them from the burdens of not being able to build prisons, because we put such strict strictures on top of them which they cannot meet.

Why penalize a State who right now, like Texas, is striving to get 40 percent even 50 percent of those who are violent criminals to be incarcerated? Why tell them they cannot get prison dollars to build more to ensure that those violent criminals are in fact incarcerated? Now, as well, why tell them that they cannot use prevention dollars to save our children?

Mr. Chairman, I think it is time for a bipartisan accord to fight for the people of the United States of America.

Mr. CONYERS. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] has 2 minutes remaining.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I thank the gentleman for yielding time to me.

As we begin this debate here on the prison and how we are going to fund it, I wish we would take into account a number of things that are going on. Having been a police officer for many years, it frustrated me to no end to find that after you do a thorough investigation, you get a conviction, you send them to prison, and there is no prison space and there are early release programs, we need more prisons. This is true. But every State, every geographic location in this country should be allowed to participate in such a program. It does us who are police officers no good to do our work, get them ready to go to prison, and there is nothing there.

The Republican alternative that we are dealing with here today simply says 3 States will get half of the money; the other 47 States, they will receive their money when their prison population serves 85 percent of its time, when the actual prison population serves it.

Michigan just passed a truth-in-sentencing law in the last few years. It is going to take probably 8 to 10 years for our current prison population to reach that 85 percent level. What do we do for 8 to 10 years?

□ 1230

What do we do that it is going to take 2 or 3 years to build those prisons? What we are doing, in the Taking Back the Streets Program, is giving the streets back to the criminals. The money is not allocated appropriately. In the crime bill last year, every State received money. In the proposal before us today, three States will receive money. The other 47 States will have to wait their turn after their prison population actually serves their time to meet the magic numbers.

Mr. Chairman, this is nothing new. The Committee on the Judiciary pointed that out, but because Members are so focused on moving this bill forward, they are not giving us the flexibility that States and local governments need.

The CHAIRMAN. All time on the minority side has expired.

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

Mr. Chairman, I simply want to take this time to respond to a number of statements that have been made, I think quite erroneously, on the other side of the aisle with regard to who is eligible and who will not be eligible for money under this $10.3 billion bill.

Mr. Chairman, it is very clear if we read the language that for the half of the money involved for the first part of this bill, half of that, over $5 billion, virtually every State of the Union, and I would think every State in the Union, would be qualified, because all that is required is that the State provide some assurances to the Attorney General that since 1993, that the State has increased the percentage of convicted violent offenders sentenced to prison, No. 1; No. 2, has increased the average prison time served in prison by convicted violent offenders, that are to be served by convicted violent offenders; and, No. 3, increased the percentage of the sentence actually served in the prison by violent offenders sentenced to prison.

None of that is hard to do. They keep the statistics on this. Virtually all States do. They only have to increase these things by 1 day. It is not difficult to do. We want to see, and what we are encouraging in this, we want to see States actually increase the people who go to jail.

There is a substantial percentage, as shocking as it is, of violent felons out there every year who never receive a single day of jail time in their sentence. That simply should not be.

However, we are not requiring the State actually put every single violent offender behind bars. We are not requiring that they do that, but we are requiring them to demonstrate, to get the money, that they show some increase in the percentage overall in their prison population of convicted violent offenders, that there is an increase in the percentage that are actually sentenced to some prison time.

Second, the increase in the average prison time actually to be served in prison by a convicted violent offender means, for example, if we give somebody a 6-year sentence and the average in that State is a 2-year sentence that they are serving, that they are really serving 2 years of the 6 years; that we want to see it increased to whatever number of years, or to 3 years, or some increase in the amount of time that is to be served by the person who is receiving the sentence, who is a violent

offender. That is not hard to demonstrate, either.

Third, Mr. Chairman, we want to increase the percentage of the sentence to actually be served by the offender who is sentenced to prison, the percentage of the sentence. So if you have a 6-year sentence, you can have a percentage of that sentence increased and demonstrated. None of that is difficult to do. I dare say that every State in the Union probably since 1993 has indeed done that, or it would be very, very simple to accomplish, to qualify for this pool of money.

I might add, Mr. Chairman, that these very requirements were in the bill that had passed into law in the last Congress as part of the qualifying materials that was drafted by the other side of the aisle. This is not language that we created, this is language the Democrats created, actually. It is supposed to be simple. I dare say that it is.

At any rate, this simple qualifying procedure, once accomplished, will entitle any State to money in the first pool of $5 billion-plus for prison grants.

Now, the second one is more controversial, I will grant. Only those States which pass laws that say that they are going to have violent felons actually serve 85 percent of their sentences are going to qualify to get at that $5 billion, but that is the reason for it. We know there are a lot of States that have not qualified, the vast majority have not. It is an incentive grant program to encourage them to take these violent felons off the streets and lock them up and throw away the keys.

We want them to change their laws. This is a carrot approach. I might add, Mr. Chairman, that there is nothing about this that is an unfunded mandate. This is not an unfunded mandate under what we passed before. This is a carrot grant program that clearly is not part of what we describe or define as an unfunded mandate.

This simply says to the States:

Look, we have a reason to want you to go where we want you to get the violent felons off the streets that are going through the revolving door. If you do that, then you can have a lot of money. Not only that, not only can you have a lot of money to build these prisons, we will give you a 3-year grace period. If you pass a law under this bill that says in your State that you will get to the 85 percent requirement for violent felons in your State 3 years hence, and it will not be effective for 3 years, you can get money under this grant program under the second pool of money to build the prison beds necessary to complete the actual imprisonment of the people whom you have passed the law concerning.

It makes sense. It is a good incentive grant program.

North Carolina, Arizona, and Delaware are the three States the Justice Department said at the present time already qualify. We believe there is a clearly arguable case for California, Missouri, Virginia, and Kansas, and I believe they would qualify based on what we have examined of their laws, if they applied to the Justice Department, though the Justice Department has not precertified those particular States already.

My State of Florida currently is a good example of what we want to see happen and what is happening around the country right now by the State legislatures. The State Senate and the State House are prepared to make a truth-in-sentencing provision at the 85-percent level for violent felons and others, as a matter of fact, the first order of business when they convene their session of the legislature this year.

It is already out there. I talked to the Senate President today. It is his No. 1 priority, and his first bill. Mr. Chairman, I think lots of States will make this their first bill. That is the idea; not that they already have qualified, but that during the duration of the 5-year life of this legislation they will.

The purpose, again, is to get States to move to change their laws to qualify in order to get the repeat violent felon off the street and locked up, and keep him there for a long period of time so the revolving door stops, and we take that 6 percent of those criminals in the population that are committing about 70 percent of the violent crimes off the streets and stop the revolving door today, where they are only serving about a third or so of their sentences.

At any rate, that is what the bill is about. The arguments, I think, are nonsense to the contrary, that ''Gee, this is terrible, nobody qualifies.'' The idea is not for a lot of people to qualify. Some already have. Many more will soon. That is for the second pot, the incentive grant program, the $5 billion.

Again, the first pot is 5 billion additional dollars, and that is available to the States with actually very little, if anything, that any of them would have to do to qualify.

Therefore, Mr. Chairman, I urge the adoption of this bill. It is common sense, it is good policy. It is the heart of the Contract With America crime legislation on our side of the aisle, and it is what we thought needs to be corrected, we thought all along needed to be corrected, to make some teeth put into the law that was passed last year.

Mr. YOUNG of Florida. Mr. Chairman, I rise today in support of H.R. 667, the Violent Criminal Incarceration Act. This legislation represents titles V and VII of H.R. 3, the Taking Back our Streets Act, 1 of the 10 points of the Republican Contract With America, and is the fourth of the six bills we will consider which compose this important crime legislation.

Today's legislation boosts the State prison grants in the 1994 Crime Control Act from $8 to $10.5 billion over 5 years while increasing the incentives for States to curtail early parole for violent offenders. In addition, the bill places restrictions on the ability of prisoners to challenge the constitutionality of their confinement and limits remedies that may be granted in a prison conditions suit.

Half of the funds available each year under this act would go to States that have worked to toughen their incarceration records over the years, while the other half goes to States that have enacted ''truth in sentencing'' and victim notification laws. The bill also amends the Civil Rights of Institutionalized Persons Act [CRIPA] to make maximum use of administrative rather than judicial procedures and to compel judges to dismiss frivolous, false, or weak lawsuits brought by inmates. H.R. 667 also limits the remedies that can be granted or enforced in prison conditions suits, and prevents judges from placing arbitrary caps on prison populations.

Finally, in response to the rising tide of violence in our Nation's prisons, and the concern about inmates who spend their time simply strength training, H.R. 667 bars prisoners from engaging in physical activities designed to increase their strength or fighting ability, and orders the immediate removal of all exercise training equipment, except for those specifically authorized for medical reasons.

Mr. Chairman, statistics indicate that a small percentage of criminals commit the vast majority of violent crimes. Just 7 percent of criminals commit two-thirds of all violent crime, including three-fourths of rapes and robberies, and virtually all murders. To make matters worse, many of these criminals either are never caught, or, if caught and found guilty, do not serve their entire prison sentence. Every year, more than 60,000 criminals convicted of a violent crime never serve time—for every 100 crimes reported only 3 criminals go to prison. The Bureau of Justice Statistics has found that only 45.4 percent of court-ordered confinement is served on average, and 51 percent of violent offenders sent to prison are released in 2 years or less.

These numbers are even more telling in light of the fact that at least 30 percent of the murders in this country are committed by people on probation, parole, or bail. Faced with prison overcrowding, 17 States have begun emergency release programs. Overall, the risk of punishment has declined in the past 40 years while the annual number of serious crimes committed has skyrocketed.

All this has led to public calls for ''truth in sentencing'' laws which require criminals to serve a significant percentage of their sentences without chance of parole, and ''three strikes, you're out'' statutes requiring life in prison for repeat offenders convicted of their third violent felony. Opponents of strict sentencing laws like these argue that locking people up does not address the problem of why crimes are committed in the first place. Evidence suggests, however, that there is a strong correlation between increased incarceration and lower crime rates. In fact, from 1990–91, States with the greatest increases in criminal incarceration rates experienced, on average, a 12.7-percent decrease in crime, while the 10 States with the weakest incarceration rates experienced an average 6.9-percent increase in crime.

Mr. Chairman, the time for coddling the criminal has passed. The American people are crying out for us to put away—and keep away—America's violent criminals. They have tasked us with putting an end to the frivolous inmate law suits and the seemingly pleasant treatment of murderers, rapists, drug dealers, and the like. We have made substantial efforts this week to help our police and prosecutors capture and prosecute these heinous individuals. Today we give them a place to put them

behind bars and the tools to keep them there. I urge the support of this important legislation.

Mr. PACKARD. Mr. Chairman, Republicans are keeping their promises and working to pass the Republican crime fighting agenda. Our message is clear. Criminal behavior will no longer be tolerated. Punishment must be certain, swift, and severe. Criminals are not victims of society, they victimize society and belong behind bars.

Today's criminal justice system distorts common sense and puts criminal's rights far out ahead of victim's rights. The result, criminals running rampant on our streets and law-abiding citizens afraid to go outside. The Republican crime fighting agenda seeks to turn this distortion around and make criminals afraid to break the law.

The best crime fighting tool is a criminal justice system which sends criminals the message that your chances of being caught are high. Once we catch you, you will be punished quickly and severely. The Violent Criminal Incarceration Act works to do just that. It breaks the gridlock in our criminal justice system which gives legal escape routes to repeat violent offenders.

Criminals will finally have to face the consequences of their actions. They will do the time for committing the crime. Violent criminals belong behind bars, not behind the coat tails of expensive lawyers clogging up our overburdened judicial system with endless baseless appeals.

Mrs. COLLINS of Illinois. Here we go again, Mr. Speaker. For the second time in the last 6 months, I come to the floor of this body totally perplexed by the mistaken belief of my Republican colleagues that throwing billions more taxpayer dollars down the prison-building sinkhole will somehow miraculously solve the crime problems we face in this country. In the words of Bart Simpson, Mr. Speaker, ''Aye Carumba!''

H.R. 667, the Violent Criminal Incarceration Act, strips $2.5 billion in already scarce and long-awaited police and prevention dollars from last year's Crime Control Act without a second thought. You know it's funny that the GOP vehemently rejects targeting Federal grants for these particular initiatives, but doesn't even flinch in deciding to impose an overwhelming number of Federal conditions for prison building grants included in H.R. 667.

What is even more confusing to me is the fact that, after the last few weeks of spirited rhetoric from the other side of the aisle about the inherently evil nature of unfunded mandates, we have a bill before us today which would impose just such mandates on many States.

Under H.R. 667, the awarding of prison grants is contingent upon States meeting extremely stringent and largely unworkable sentencing requirements. States would be required either to show that, since 1993, their correctional policies have increased the percentage of convicted violent offenders sentenced to prison, increased the average time actually served by prisoners, and increased the percentage of sentences actually served or they would have to mandate that those convicted of a violent felony serve at least 85 percent of the sentences ordered by the court.

Those States that could not meet these requirements would then either have to spend millions of dollars simply to build the necessary additional prisons to handle the overcrowding that would result from having to house prisoners for a longer period of time—an unfunded mandate which my GOP friends all love to hate—or forgo prison grants altogether. In this second instance then, H.R. 667 would actually provide less funding for prison construction than there was under last year's crime bill that was derided as too soft on crime by my Republican colleagues.

Moreover, the prison construction grants under this legislation are targeted to States based on their population rather than on their rate of violent crime—in direct contradiction to the language included in last year's crime bill. This doesn't seem to jive with rationality, Mr. Speaker.

Meanwhile, as precious Federal dollars are being wasted pouring concrete and forging steel bars, our communities which so vociferously called out for more cops, more control, more resources on the local level to provide greater social and economic opportunities for underserved youth and their families will be once more neglected, left holding the bag. Welcome back to the 1980's, Mr. Speaker.

I would, however, like to at least give credit to the leadership for formulating a crime policy that is in keeping with its Contract on America. Yesterday the GOP in this body passed legislation that would allow evidence illegally obtained by law enforcement officials to be admitted as evidence in Federal trial proceedings, thereby effectively gutting the fourth amendment's constitutional protections against improper searches and seizures. Today, they will more than likely pass this bill to increase prison construction to incarcerate those Americans convicted with the use of illegally obtained evidence. If anything the GOP has been consistent in its assault on the Constitution and all the ideals of equality and justice that this country has stood for over the years. You've got to respect that, Mr. Speaker—not.

I strongly urge my colleagues to rise up and reject this politically-motivated, ill-conceived, wrong-headed approach to the substantive crime problems that exist in our Nation and to continue with the more reasonable and balanced program that both the President and my Democratic colleagues and I worked so tirelessly to enact last year.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill is considered as an original bill for the purpose of amendment and is considered as having been read.

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

H.R. 667

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 ''Violent Criminal Incarceration Act of 1995''.

TITLE I—TRUTH IN SENTENCING

SEC. 101. TRUTH IN SENTENCING GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''TITLE V—TRUTH IN SENTENCING GRANTS

''SEC. 501. AUTHORIZATION OF GRANTS.

''(a) IN GENERAL.—The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases and boot camp facilities, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

''(b) LIMITATION.—An eligible State or eligible States organized as a regional compact may receive either a general grant under section 502 or a truth-in-sentencing incentive grant under section 503.

''SEC. 502. GENERAL GRANTS.

''(a) DISTRIBUTION OF GENERAL GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for general eligibility grants for each State or States organized as a regional compact that meets the requirements of subsection (b).

''(b) GENERAL GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

''(1) increased the percentage of convicted violent offenders sentenced to prison;

''(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison; and

''(3) increased the percentage of sentence to be actually served in prison by violent offenders sentenced to prison.

''SEC. 503. TRUTH-IN-SENTENCING GRANTS.

''(a) TRUTH-IN-SENTENCING INCENTIVE GRANTS.—50 percent of the total amount of funds made available under this title for each of the fiscal years 1995 through 2000 shall be made available for truth-in-sentencing incentive grants to each State or States organized as a regional compact that meet the requirements of subsection (b).

''(b) ELIGIBILITY FOR TRUTH-IN-SENTENCING INCENTIVE GRANTS.—In order to be eligible to receive funds under subsection (a), a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that each State applying has enacted laws and regulations which include—

''(1)(A) truth-in-sentencing laws which require persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing; or

''(B) truth-in-sentencing laws which have been enacted, but not yet implemented, that require such State, not later than three years after such State submits an application to the Attorney General, to provide that persons convicted of a serious violent felony serve not less than 85 percent of the sentence imposed or 85 percent of the court-ordered maximum sentence for States that practice indeterminate sentencing, and

''(2) laws requiring that the sentencing or releasing authorities notify and allow the victims of the defendant or the family of such victims the opportunity to be heard regarding the issue of sentencing and any postconviction release.

''SEC. 504. SPECIAL RULES.

''(a) ADDITIONAL REQUIREMENTS.—To be eligible to receive a grant under section 502 or 503,

a State or States organized as a regional compact shall provide an assurance to the Attorney General that—

''(1) to the extent practicable, inmate labor will be used to build and expand correctional facilities;

''(2) each State will involve counties and other units of local government, when appropriate, in the construction, development, expansion, modification, operation, or improvement of correctional facilities designed to ensure the incarceration of offenders, and that each State will share funds received under this title with any county or other unit of local government that is housing State prisoners, taking into account the burden placed on such county or unit of local government in confining prisoners due to overcrowding in State prison facilities in furtherance of the purposes of this Act; and

''(3) the State has implemented or will implement, not later than 18 months after the date of the enactment of the Violent Criminal Incarceration Act of 1995, policies to determine the veteran status of inmates and to ensure that incarcerated veterans receive the veterans benefits to which they are entitled.

''(b) INDETERMINANT SENTENCING EXCEPTION.—Notwithstanding the provisions of paragraphs (1) through (3) of section 502(b), a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

''(1) practices indeterminant sentencing; and

''(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

''(c) EXCEPTION.—The requirements under section 503(b) shall apply, except that a State may provide that the Governor of the State may allow for earlier release of a geriatric prisoner or a prisoner whose medical condition precludes the prisoner from posing a threat to the public after a public hearing in which representatives of the public and the prisoner's victims have an opportunity to be heard regarding a proposed release.

''SEC. 505. FORMULA FOR GRANTS.

''To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502 or 503, the Attorney General shall apply the following formula:

''(1) $500,000 or 0.40 percent, whichever is greater, shall be allocated to each participating State or compact, as the case may be; and

''(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

''SEC. 506. ACCOUNTABILITY.

''(a) FISCAL REQUIREMENTS.—A State or States organized as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

''(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

''(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.

''SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(1) $997,500,000 for fiscal year 1996;

''(2) $1,330,000,000 for fiscal year 1997;

''(3) $2,527,000,000 for fiscal year 1998;

''(4) $2,660,000,000 for fiscal year 1999; and

''(5) $2,753,100,000 for fiscal year 2000.

''(b) LIMITATIONS ON FUNDS.—

''(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

''(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section may be used for administrative costs.

''(4) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

''(5) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

''SEC. 508. DEFINITIONS.

''As used in this title—

''(1) the term 'indeterminate sentencing' means a system by which—

''(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

''(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

''(2) the term 'serious violent felony' means—

''(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more,

''(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense and has a maximum term of imprisonment of 10 years or more, or

''(C) such crimes including murder, assault with intent to commit murder, arson, armed burglary, rape, assault with intent to commit rape, kidnapping, and armed robbery; and

''(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.''.

SEC. 102. CONFORMING AMENDMENTS.

(a) OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—

(1) PART V.—Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

(2) FUNDING.—(A) Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking paragraph (20).

(B) Notwithstanding the provisions of subparagraph (A), any funds that remain available to an applicant under paragraph (20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be used in accordance with part V of such Act as such Act was in effect on the day preceding the date of enactment of this Act.

(b) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1994.—

(1) REPEAL.—(A) Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is repealed.

(B) The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to subtitle A of title II.

(2) COMPLIANCE.—Notwithstanding the provisions of paragraph (1), any funds that remain available to an applicant under subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 shall be used in accordance with such subtitle as such subtitle was in effect on the day preceding the date of enactment of this Act.

(3) TRUTH-IN-SENTENCING.—The table of contents of the Violent Crime Control and Law Enforcement Act of 1994 is amended by striking the matter relating to title V and inserting the following:

''TITLE V—TRUTH-IN-SENTENCING GRANTS

''Sec. 501. Authorization of grants.
''Sec. 502. General grants.
''Sec. 503. Truth-in-sentencing grants.
''Sec. 504. Special rules.
''Sec. 505. Formula for grants.
''Sec. 506. Accountability.
''Sec. 507. Authorization of appropriations.
''Sec. 508. Definitions.''.

TITLE II—STOPPING ABUSIVE PRISONER LAWSUITS

SEC. 201. EXHAUSTION REQUIREMENT.

Section 7(a)(1) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e) is amended—

(1) by striking ''in any action brought'' and inserting ''no action shall be brought'';

(2) by striking ''the court shall'' and all that follows through ''require exhaustion of'' and insert ''until''; and

(3) by inserting ''are exhausted'' after ''available''.

SEC. 202. FRIVOLOUS ACTIONS.

Section 7(a) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(a)) is amended by adding at the end the following:

''(3) The court shall on its own motion or on motion of a party dismiss any action brought pursuant to section 1979 of the Revised Statutes of the United States by an adult convicted of a crime and confined in any jail, prison, or other correctional facility if the court is satisfied that the action fails to state a claim upon which relief can be granted or is frivolous or malicious.''.

SEC. 203. MODIFICATION OF REQUIRED MINIMUM STANDARDS.

Section 7(b)(2) of the Civil Rights of Institutionalized Persons Act (42 U.S.C. 1997e(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (E) as subparagraphs (A) through (D), respectively.

SEC. 204. PROCEEDINGS IN FORMA PAUPERIS.

(a) DISMISSAL.—Section 1915(d) of title 28, United States Code, is amended—

(1) by inserting ''at any time'' after ''counsel and may'';

(2) by striking ''and may'' and inserting ''and shall'';

(3) by inserting ''fails to state a claim upon which relief may be granted or'' after ''that the action''; and

(4) by inserting ''even if partial filing fees have been imposed by the court'' before the period.

(b) PRISONER'S STATEMENT OF ASSETS.—Section 1915 of title 28, United States Code, is amended by adding at the end the following:

''(f) If a prisoner in a correctional institution files an affidavit in accordance with subsection (a) of this section, such prisoner shall include in that affidavit a statement of all assets such prisoner possesses. The court shall make inquiry of the correctional institution in which the prisoner is incarcerated for information available to that institution relating to the extent of the prisoner's assets. The court shall require full or partial payment of filing fees according to the prisoner's ability to pay.''.

TITLE III—STOP TURNING OUT PRISONERS

SEC. 301. APPROPRIATE REMEDIES FOR PRISON CONDITIONS.

(a) IN GENERAL.—Section 3626 of title 18, United States Code, is amended to read as follows:

''§3626. Appropriate remedies with respect to prison conditions

''(a) REQUIREMENTS FOR RELIEF.—

''(1) LIMITATIONS ON PROSPECTIVE RELIEF.—Prospective relief in a civil action with respect to prison conditions shall extend no further

than necessary to remove the conditions that are causing the deprivation of the Federal rights of individual plaintiffs in that civil action. The court shall not grant or approve any prospective relief unless the court finds that such relief is narrowly drawn and the least intrusive means to remedy the violation of the Federal right. In determining the intrusiveness of the relief, the court shall give substantial weight to any adverse impact on public safety or the operation of a criminal justice system caused by the relief.

''(2) PRISON POPULATION REDUCTION RELIEF.—In any civil action with respect to prison conditions, the court shall not grant or approve any relief whose purpose or effect is to reduce or limit the prison population, unless the plaintiff proves that crowding is the primary cause of the deprivation of the Federal right and no other relief will remedy that deprivation.

''(b) TERMINATION OF RELIEF.—

''(1) AUTOMATIC TERMINATION OF PROSPECTIVE RELIEF AFTER 2-YEAR PERIOD.—In any civil action with respect to prison conditions, any prospective relief shall automatically terminate 2 years after the later of—

''(A) the date the court found the violation of a Federal right that was the basis for the relief; or

''(B) the date of the enactment of the Stop Turning Out Prisoners Act.

''(2) IMMEDIATE TERMINATION OF PROSPECTIVE RELIEF.—In any civil action with respect to prison conditions, a defendant or intervenor shall be entitled to the immediate termination of any prospective relief, if that relief was approved or granted in the absence of a finding by the court that prison conditions violated a Federal right.

''(c) PROCEDURE FOR MOTIONS AFFECTING PROSPECTIVE RELIEF.—

''(1) GENERALLY.—The court shall promptly rule on any motion to modify or terminate prospective relief in a civil action with respect to prison conditions.

''(2) AUTOMATIC STAY.—Any prospective relief subject to a pending motion shall be automatically stayed during the period—

''(A) beginning on the 30th day after such motion is filed, in the case of a motion made under subsection (b); and

''(B) beginning on the 180th day after such motion is filed, in the case of a motion made under any other law;

and ending on the date the court enters a final order ruling on that motion.

''(d) STANDING.—Any Federal, State, or local official or unit of government—

''(1) whose jurisdiction or function includes the prosecution or custody of persons in a prison subject to; or

''(2) who otherwise is or may be affected by; any relief whose purpose or effect is to reduce or limit the prison population shall have standing to oppose the imposition or continuation in effect of that relief and may intervene in any proceeding relating to that relief. Standing shall be liberally conferred under this subsection so as to effectuate the remedial purposes of this section.

''(e) SPECIAL MASTERS.—In any civil action in a Federal court with respect to prison conditions, any special master or monitor shall be a United States magistrate and shall make proposed findings on the record on complicated factual issues submitted to that special master or monitor by the court, but shall have no other function. The parties may not by consent extend the function of a special master beyond that permitted under this subsection.

''(f) ATTORNEY'S FEES.—No attorney's fee under section 722 of the Revised Statutes of the United States (42 U.S.C. 1988) may be granted to a plaintiff in a civil action with respect to prison conditions except to the extent such fee is—

''(1) directly and reasonably incurred in proving an actual violation of the plaintiff's Federal rights; and

''(2) proportionally related to the extent the plaintiff obtains court ordered relief for that violation.

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'prison' means any Federal, State, or local facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law;

''(2) the term 'relief' means all relief in any form which may be granted or approved by the court, and includes consent decrees and settlement agreements; and

''(3) the term 'prospective relief' means all relief other than compensatory monetary damages.''.

(b) APPLICATION OF AMENDMENT.—Section 3626 of title 18, United States Code, as amended by this section, shall apply with respect to all relief (as defined in such section) whether such relief was originally granted or approved before, on, or after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The item relating to section 3626 in the table of sections at the beginning of subchapter C of chapter 229 of title 18, United States Code, is amended by striking ''crowding'' and inserting ''conditions''.

TITLE IV—ENHANCING PROTECTION AGAINST INCARCERATED CRIMINALS

SEC. 401. PRISON SECURITY.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following new section:

''§ 4048. Strength-training of prisoners prohibited

''The Bureau of Prisons shall ensure that—

''(1) prisoners under its jurisdiction do not engage in any physical activities designed to increase their fighting ability; and

''(2) all equipment designed for increasing the strength or fighting ability of prisoners promptly be removed from Federal correctional facilities and not be introduced into such facilities thereafter except as needed for a medically required program of physical rehabilitation approved by the Director of the Bureau of Prisons.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following new item:

''4048. Strength-training of prisoners prohibited.''.

The CHAIRMAN. The bill will be considered for amendment under the 5-minute rule for a period not to exceed 10 hours.

During consideration of the bill for amendment, the chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

Are there any amendments to the bill?

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA .

Mr. CANADY of Florida. Mr. Chairman, I offer an amendment, amendment No. 16, which has been printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CANADY of Florida: Page 18, line 11, after ''agreements'' insert ''(except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding which such agreement settled)''.

Mr. CANADY of Florida. Mr. Chairman, this is a technical amendment, and is intended to clarify the definition of the term ''relief'' as used in title III of the bill, the provisions of the bill relating to prison conditions litigation.

The amendment makes clear that any prison conditions litigation may be settled between the parties without the involvement of the Federal court. There should be no question that this bill allows parties to settle prison condition cases out of court.

Through this clarifying amendment, settlement agreements that do not require court enforcement are explicitly removed from the definition of the term ''relief'' contained in the bill.

Mr. Chairman, I urge the passage of the clarifying amendment, and I reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me just engage my colleague in a colloquy to get a better understanding of what he is trying to do.

Mr. Chairman, the gentleman says that he is exempting from the attorney's fees provisions for any private settlement. I guess the concern I have is I am not aware of any prison litigation which is taking place which has been settled without either court approval or court involvement of some kind.

□ 1240

These cases simply do not resolve themselves in the way that an automobile accident resolves itself. In fact, every prison litigation involves a public issue which typically is brought as a class action and under the rules of civil procedure cannot be settled without court involvement.

I am trying to get a better understanding of what you think you are accomplishing. I do not really think this amendment accomplishes anything based on my understanding of the way these kinds of litigation cases play themselves out.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. I thank the gentleman for yielding.

Mr. Chairman, let me say this. I think the gentleman is correct in stating that in most cases, court involvement is required to settle prison condition litigation. I do not think there is any dispute about that. There are circumstances, however, in which particular matters, particular cases can be settled without the involvement of the court.

In this amendment we are just trying to make absolutely certain that in those cases, none of the provisions of this bill would have to come into play.

I understand that you have an underlying problem with the provision of the bill that requires that in order for the court to order any relief, there must

have been a specific finding that an individual was deprived of his constitutional rights, and I understand that you believe that that——

Mr. WATT of North Carolina. Mr. Chairman, just reclaiming my time, that is not the focus of my concern about this amendment. I think the focus of my concern is that the gentleman is covering cases that do not exist. So the need for this amendment, I just do not understand.

Can the gentleman cite one case that he is aware of, a prison litigation case or a prison condition case where the case has been resolved by private settlement? I take it that would be the only situation that the gentleman's language would apply to.

Mr. CANADY of Florida. Mr. Chairman, if the gentleman would yield, this specifically would also apply in circumstances where there was a class action and the class action was going to be dismissed. In order to dismiss any class action, the court must approve the dismissal and that will come into play potentially in these circumstances, and this definition would take that circumstance into account and would allow the dismissal of such class actions with the court's approval without any specific finding of any particular facts with respect to constitutional deprivations.

Mr. WATT of North Carolina. I am not necessarily going to speak in opposition to the gentleman's amendment, but I think the gentleman is not going to be able to override the Federal Rules of Civil Procedure and the body of case law that has to do with the lawyers' and the courts' responsibility to members of a class of people who are not even before the court by sticking this little amendment into the bill.

I think while it may not do any harm, I hope the gentleman is not going to go out and tell anybody that this solves any kind of problem that exists.

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. I understand the gentleman's concerns. I understand that the gentleman views our approach as fundamentally flawed. I believe that this does address some of the concerns that other people have raised, and I believe it does so in a way that is efficient.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CHAPMAN

Mr. CHAPMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHAPMAN: Page 2, after line 3, insert the following:

SEC. 2. CONDITION FOR GRANTS.

(a) STATE COMPLIANCE.—The provisions of title V of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, shall not take effect until 50 percent or more of the States have met the requirements of 503(b) of such Act.

(b) REPORT.—Beginning in fiscal year 1996, the Attorney General shall submit a report to the Congress not later than February 1 of each fiscal year regarding the number of States that have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act.

(c) EFFECTIVE DATE.—Beginning on the first day of the first fiscal year after the Attorney General has filed a report that certifies that 50 percent or more of the States have met the requirements of section 503(b) of the Violent Crime Control and Law Enforcement Act of 1994, as amended by this Act, title V of such Act shall become effective.

(d) PRISONS.—Until the requirements of this section are met, title II of the Violent Crime Control and Law Enforcement Act of 1994 shall remain in effect as such title was in effect on the day preceding the date of the enactment of this Act.

Mr. CHAPMAN. Mr. Chairman, I want to begin by thanking the majority, the gentleman from Florida [Mr. MCCOLLUM], the chairman, for all his hard work and the work we did last year on truth-in-sentencing.

I must take just a minute to remind my colleagues and remind the House of where we are on this issue of prisons and how current law works.

The 1994 crime bill, clearly the toughest provision of it was the truth-in-sentencing provisions. Those provisions assume, one, that our prison systems are overcrowded and, two, that if we want violent criminals to go to prison and stay there longer, we need to assist the States.

We created in that legislation two pots of money: One in which at the discretion of the Attorney General based upon violent crime rates in the country, assistance from the Federal level would go to build new State prisons to incarcerate violent criminals if the State made a good-faith effort to change or comply its laws to qualify for the second pot. The second pot quite honestly and very simply just said, ''You've got to put more violent criminals in prison more often, for longer periods of time, and we will measure each of those standards in such a way that if you qualify, then you are eligible for the prison construction funds.''

I think it is great to get as tough as we can on violent criminals. It is not so great to change the law today in such a way that the vast majority of the States cannot qualify for the prison funds. We cannot lock up violent criminals if we do not have a place to put them.

Current law, the 1994 crime bill, gives us a reasonable way to do both, get violent criminals in prison and a carrot, as the gentleman has suggested, to get the States to continue to get tougher and tougher and tougher each year on violent crime.

My first amendment bringing us up to the current point does simply this. It leaves in place current law. It leaves in place current law; that is, the financial resources there to assist the States for new prison construction and to incentivize the States to toughen their sentencing, toughen their prosecutions and lengthen the sentence for violent criminals. But it does so by saying that until at least half, 25 States can qualify under the new law, we do not stop the progress we have made, we do not cut off the spigot, we do not deny the States the ability to continue constructing prisons and moving forward. We will move forward under current law until half the States as certified by the Attorney General can qualify under this new bill.

In my discussions today on the floor of the House, I understand perhaps as few as only 3 States and at the most 6 States can qualify under this new legislation for prison construction funds. Forty-four States at the minimum are going to be shut out of this prison construction money, are going to be denied the fiscal resources to do the things that we ask them to do to lock up violent criminals, if we pass this bill.

Mr. Chairman, this amendment simply says we should not do that until we know at least half of our States can qualify for this funding, and that we continue the present program until the Attorney General can so certify.

With the notion here today or at least the belief that as many as 44 States cannot qualify under this bill, we will literally stop the good work of the last Congress, stop the good work of the gentleman from Florida, stop the work of getting violent criminals off our streets, stop the work of building new prisons, stop the work of incentivizing our States.

I will tell you, my State of Texas has said that there is no way that they can comply with a hard 85-percent rule, and that is from a State which currently is constructing or is under the largest prison construction period in the history of the country, Federal or State system.

We are building the prisons, 77,000 new prison beds in Texas, and even with those new prison beds added to the 40,000-plus prison beds we already have, we cannot comply with a hard and fast 85 percent rule. We cannot do it. And we are spending $2 billion, with a ''B'', $2 billion of Texas taxpayers' money for these new prisons.

Mr. Chairman, why would we want to pass a bill in the House today when Texas is doing what we have asked them to do? When Texas has doubled its sentences in the last 5 years for violent crime, why would we say now, ''We're cutting you off, Texas''? And not only Texas, we are cutting off perhaps as many as 43 other States.

I ask my colleagues, we had better check with our prison authorities back at home. We had better check with our department of corrections officials. We

better find out what this bill does to us. We ought to pass this amendment to keep current law in place until we know the States can qualify for the funding.

□ 1250

Mr. MCCOLLUM. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I recognize that Texas does not qualify for the second pool of money, and I know quite a number of other States do not. We debated that and I concur.

What the gentleman wants to do wrecks the incentive program to get them to qualify. They could qualify any number of different ways, if they manage to lower the amount of sentence, if they want to qualify so that 85 percent of whatever it is, if they need to do that, then just lower the maximum sentence down in those areas. The statutes can be changed in all kinds of ways to qualify, if that is what is needed.

Of course, I want to see them serve 85 percent of real sentences, so if we have truth-in-sentencing, whatever it is the States are saying out there, let us at least let them serve 85 percent of whatever sentence is awarded.

The fact of the matter is the gentleman wants us to say we have to wait until 50 percent of all 50 States qualify to pass any money out. That destroys the incentive. That undermines the very premise of this pool of money that is out there, $5 billion, dangling as a carrot to get the States to make the changes, to get the revolving door, the repeat violent felons off the streets. So it really undermines the essence of the bill to make the change the gentleman wants.

I would add one other caveat. I think the gentleman from Texas, having worked with me in good faith for a long time on this matter over a period of several years, understands fully that his State, as do virtually all of the States of the Union, qualifies for the first pool of money. There is another pot of $5 billion out there that Texas will be able to draw from to help it assist in building its prisons immediately and in each fiscal year, and I daresay that the Attorney General will grant Texas, who needs the assistance in this regard, money to do that until such time as it feels it can pass the laws to make it qualify for the second pool of money.

I would further remind the gentleman that we have a 3-year grace period of once Texas gets to the point of saying look, within 3 years we get more money than we could get under the second pool of money, we can qualify to build the necessary beds that will get us to the 85 percent rule, at the level of the sentencing length that we want to be at for these serious, violent felons, then Texas can go ahead and get the money to be able to qualify at that point in time. They do not have to actually implement.

So there are all kinds of opportunities out there for the gentleman's State as well as others to meet the needs of that State in building prisons to take these violent felons off the streets.

Mr. CHAPMAN. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I am glad to yield to the gentleman from Texas.

Mr. CHAPMAN. Mr. Chairman, I appreciate the gentleman recognizing that our State has, which it has, and I appreciate the gentleman recognizing that our State has taken the initiative legislatively to qualify for the first pot of money, the $5 billion.

But I would say to the gentleman, and would suggest that not every State has taken those steps, and not every State can qualify for that first pot of money if this legislation as currently drafted passes.

So while Texas has taken those initiatives, we still cannot qualify for the second pot, and I would suggest to the gentleman it is very likely, if not guaranteed, that not all States can qualify for even the first pot.

Mr. MCCOLLUM. Reclaiming my time, it may be that not all States can qualify for the first pot, but I would guess that most do at this point, because it only requires minimum advancement of 1 day in the averages that are there. But I would suggest what we are dealing with here now again is a destruction by the gentleman's amendment of the very underlying premise of why truth-in-sentencing grants are out there, to offer the carrot that would get the job done in order to encourage States to make the motion to get to the 85-percent rule, to take these repeat felons off the streets.

If we do not keep those provisions in the bill the way they are today, we are not going to get States to take that step. They are never going to expend the money that is needed.

Do not forget that this is a 75–25 match. When they do take the steps under the first pool of money they get 75-percent grants from the Federal Government and only have to put up 25 percent. Boy, that is a good deal for States like Texas that are in need of building more prisons and are going to do it anyway. So they are going to get Federal assistance in doing it. That will move them a long way toward the golden rainbow they want to get to.

The other point we can make is our provision allows them to build not the most expensive type of prisons, but alternatives, boot camps even that might alleviate already existing hardened prison cells where they can put the violent felons, and that will again help them get there for the purposes of our bill, which does not cover truth-in-sentencing or all types of prisoners and criminals, only the most violent felons that are really the bad, bad apples that we are talking about in order to qualify.

So I am not in support of the gentleman's amendment. I must oppose it. I think that it is a gutting amendment for the purposes of the truth-in-sentencing bill.

Mr. CRAMER. Mr. Speaker, I move to strike the last word, and I want to speak in strong support of my colleague from Texas's amendment here. I want to say I represent the State of Alabama, one of 44 of 47 States that likely would not qualify under this current approach to building prisons.

In my former life I was the president of the Alabama District Attorneys Association. I spent 10 years prosecuting violent offenders, violent juvenile offenders, and just this week I was checking on three of those who are in prisons where they will have to be released because there simply is not enough bed space or places to incarcerate those prisoners.

I think the 1994 crime bill made sense. I think we started an effective partnership with the States where we gave the States a hand in building prisons, and we told them that we wanted to be part of the solution, not part of the problem.

I think it is only fair and this amendment seeks to address that, that we amend this incarceration provision so that we do allow States to begin gaining in this partnership with us, and I think it is only fair that we rectify this by saying that when 50 percent of them reach this level then we will provide prison grants for the States.

Mr. SCHIFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and I do so with a certain degree of reluctance because the gentleman from Texas who has offered this amendment has been a leader in trying to establish truth-in-sentencing laws in his own State and throughout the country. Nevertheless, I must agree with the views of the gentleman from Florida, the subcommittee chairman, that what we are tying to do there is to help those States which are going to move ahead to protect their citizens by keeping confined the most violent of criminals. And we do not want to penalize those States willing to move ahead now because other States, for whatever reason, are not willing to move. And, as has already been pointed out, half of this money is most likely going to be available to virtually every State immediately. That is over $5 billion, but I suggest we want to make the other half of this fund the other approximately $5 billion available immediately to those States that say yes, we are going to confine our worst offenders for as long as possible.

I would again reiterate the fact that in this bill there is a 3-year grace period, that if a State does not have a provision that requires the serving of a minimum of 85 percent of a prison term for a serious violent felon now, if they enact it, it does not have to go into effect in their States for 3 years before they are still eligible now for those funds to assist them at that time.

I think we want to help those States move forward now. Several States obviously already have. I am convinced other States will if they get some further assistance on what everyone acknowledges is going to be an expensive but a necessary undertaking.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

This is an amendment that truly goes halfway to the other side, and is one that I commend the gentleman from Texas [Mr. CHAPMAN] for and our colleague on the committee, the gentleman from New York [Mr. SCHUMER].

The country has a violent offender program that is working at this minute, and it is in the 1994 crime bill prisoner grant program.

We know that this program works, we know that most of the States choose to take advantage of it and those that can, do. But, H.R. 667 would totally disrupt the program and it will replace the carefully negotiated, well-known conditions of the 1994 crime bill being implemented as we speak and replace it with different formulas and different conditions.

The people at the Department of Justice and elsewhere believe that perhaps three States could qualify for one-half of the funds under the present funding scheme in H.R. 667.

□ 1300

But this amendment simply says let us keep the program that we have now, one that we know that works and is working until such time it is clear the new program will work. That is about all that we are doing here is forming a bridge to make sure that there is continuity and coordination until half the States would qualify under 667.

And the point that we are making is that if the new majority is right and 667 should kick in real soon, fine, but if they are not, with this 50 percent or more requirement that the States are meeting the so-called truth-in-sentencing, we will be able to have something during the time that we are waiting until more States are able to qualify under the very complex provisions of the proposals that are in 667.

So let us be smart and bipartisan and support Chapman-Schumer at the same time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. CHAPMAN].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 261, not voting 4, as follows:

[Roll No. 110]

YEAS—169

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Conyers
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hastings (FL)
Hayes
Hilliard
Hinchey
Hoekstra
Holden
Hoyer
Jackson-Lee
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Knollenberg
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Tejeda
Thompson
Thornton
Torres
Torricelli
Towns
Tucker
Upton
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—261

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Collins (MI)
Rose
Smith (MI)
Walker

□ 1320

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Walker against.

Mr. SKELTON and Mr. CHALLAHAN changed their vote from ''aye'' to ''no.''

Mr. HOEKSTRA, Mrs. MEEK of Florida, and Messrs. KENNEDY of Rhode Island, KLINK, DOYLE, MASCARA, HALL of Texas, McHALE, BARRETT of Wisconsin, and PAYNE of Virginia changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1320

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: PAGE 4, LINE 21, STRIKE ''., AND'' AND INSERT A SEMICOLON.

Page 5, line 2, strike the period and insert ''; and''.

Page 5, after line 2, insert the following paragraph:

(3) laws requiring that the releasing authority notify the victims of serious violent felons or the family of such victims and the convicting court regarding the release of a defendant.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, my amendment says that, when a serious violent felon is being released from prison, the releasing authority shall notify the victims, the family of the victims and the convicting court of that release.

Many of these prisoners when convicted say, ''When I get out, I'm going to hurt you.'' This will prevent that.

Mr. Chairman, it is a good measure. It is accepted by both sides.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, the gentleman's amendment is a good amendment. It is an amendment which would say that, as he has stated, ''that if you have a serious violent felon out there that has committed a very serious crime, you have to notify the victims and the convicting court when you release him from jail.''

It seems like a good thing to do for anybody, and it is a condition that adds to the already existing conditions on victims rights in this bill, and I would be more than happy to accept the amendment.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan [Mr. CONYERS], the distinguished ranking member.

Mr. CONYERS. The gentleman's amendment, Mr. Chairman, is a very practical one that requires notification in those instances where someone is being released and that the victim's family would be able to know about it, or police officers, or others. We have had a number of cases of intimidation, and sometimes actual violence that has occurred, and this kind of notification would work no harm on anyone in or out of the court system, and it does follow along with the protection for victims that we have examined before.

I commend the gentleman from Ohio [Mr. TRAFICANT] for offering the amendment and applaud the fact that we have received the support of the other side.

Mr. TRAFICANT. Mr. Chairman, I think all these comments explain it very well, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SCHUMER: Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12, and insert the following:

TITLE I—PRISON BLOCK GRANT PROGRAM

SEC. 101. LOCAL CONTROL PRISON GRANT PROGRAM.

Subtitle A of title II of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''Subtitle A—Prison Block Grants

''SEC. 201. PAYMENTS TO STATE GOVERNMENTS.

''(a) PAYMENT AND USE.—

''(1) PAYMENT.—The Attorney General shall pay to each State which qualifies for a payment under this title an amount equal to the sum of the amount allocated to such State under this title for each payment period from amounts appropriated to carry out this title.

''(2) USE.—Amounts paid to a State under this section shall be used by the State for confinement of persons convicted of serious violent felonies, including but not limited to, one or more of the following purposes:

''(A)(i) Building, expanding, operating, and maintaining space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony.

''(ii) Building, expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps, and other alternative correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing space for the confinement of persons convicted of a serious violent felony.

''(iii) Contributing to funds administered by a regional compact organized by two or more States to carry out any of the foregoing purposes.

''(b) TIMING OF PAYMENTS.—The Attorney General shall pay to each State that has submitted an application under this title not later than—

''(1) 90 days after the date that the amount is available, or

''(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by section 203(d),

whichever is later.

''(c) ADJUSTMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the Attorney General shall adjust a payment under this title to a State to the extent that a prior payment to the State was more or less than the amount required to be paid.

''(2) CONSIDERATIONS.—The Attorney General may increase or decrease under this subsection a payment to a State only if the Attorney General determines the need for the increase or decrease, or if the State requests the increase or decrease, not later than one year after the end of the payment period for which a payment was made.

''(d) RESERVATION FOR ADJUSTMENT.—The Attorney General may reserve a partnership of not more than 2 percent of the amount under this section for a payment period for all States, if the Attorney General considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the States.

''(e) REPAYMENT OF UNEXPENDED AMOUNTS.—

''(1) REPAYMENT REQUIRED.—A State shall repay to the Attorney General, by not later than 27 months after receipt of funds from the Attorney General, any amount that is—

''(A) paid to the State from amounts appropriated under the authority of this section; and

''(B) not expended by the unit within 2 years after receipt of such funds from the Attorney General.

''(2) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

''(3) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States.

''(f) NONSUPPLANTING REQUIREMENT.—Funds made available under this title to States shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of funds under this title, be made available from State sources.

''SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this title—

''(1) $232,000,000 for fiscal year 1995;

''(2) $997,500,000 for fiscal year 1996;

''(3) $1,330,000,000 for fiscal year 1997;

''(4) $2,527,000,000 for fiscal year 1998;

''(5) $2,660,000,000 for fiscal year 1999; and

''(6) $2,753,100,000 for fiscal year 2000.

''(b) ADMINISTRATIVE COSTS.—Not more than 2.5 percent of the amount authorized to be appropriated under subsection (a) for each of the fiscal years 1996 through 2000 shall be available to the Attorney General for administrative costs to carry out the purposes of this title. Such sums are to remain available until expended.

''(c) AVAILABILITY.—The amounts authorized to be appropriated under subsection (a) shall remain available until expended.

''SEC. 203. QUALIFICATION FOR PAYMENT.

''(a) IN GENERAL.—The Attorney General shall issue regulations establishing procedures under which a State is required to give notice to the Attorney General regarding the proposed use of assistance under this title.

''(b) GENERAL REQUIREMENTS FOR QUALIFICATION.—A State qualifies for a payment under this title for a payment period only if the State submits an application to the Attorney General and establishes, to the satisfaction of the Attorney General, that—

''(1) the State will establish a trust fund in which the State will deposit all payments received under this title;

''(2) the State will use amounts in the trust fund (including interest) during a period not to exceed 2 years from the date the first grant payment is made to the State;

''(3) the State will expend the payments received in accordance with the laws and procedures that are applicable to the expenditure of revenues of the State;

''(4) the State will use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General after consultation with the Comptroller General and as applicable, amounts received under this title shall be audited in compliance with the Single Audit Act of 1984;

''(5) after reasonable notice from the Attorney General or the Comptroller General to the State, the State will make available to the Attorney General and the Comptroller General, with the right to inspect, records that the Attorney General reasonably requires to review compliance with this title or that the Comptroller General reasonably requires to review compliance and operation;

''(6) a designated official of the State shall make reports the Attorney General reasonably requires, in addition to the annual reports required under this title; and

''(7) the State will spend the funds only for the purposes authorized in section 201(a)(2).

''(c) SANCTIONS FOR NONCOMPLIANCE.—

''(1) IN GENERAL.—If the Attorney General determines that a State has not complied substantially with the requirements or regulations prescribed under subsection (b), the Attorney General shall notify the State that if the State does not take corrective action within 60 days of such notice, the Attorney General will withhold additional payments to the State for the current and future payment period until the Attorney General is satisfied that the State—

''(A) has taken the appropriate corrective action; and

''(B) will comply with the requirements and regulations prescribed under subsection (b).

''SEC. 204. ALLOCATION AND DISTRIBUTION OF FUNDS.

''(a) STATE DISTRIBUTION.—Except as provided in section 203(c), of the total amounts appropriated for this title for each payment period, the Attorney General shall allocate for States—

''(1) 0.25 percent to each State; and

''(2) of the total amounts of funds remaining after allocation under paragraph (1), an amount that is equal to the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for 1993 bears to the number of part 1 violent crimes reported by all States to the Federal Bureau of Investigation for 1993.

''(b) UNAVAILABILITY OF INFORMATION.—For purposes of this section, if the data regarding part 1 violent crimes in any State for 1993 is unavailable or substantially inaccurate, the Attorney General shall utilize the best available comparable data regarding the number of violent crimes for 1993 for such State for the purposes of allocation of any funds under this title.

''SEC. 205. UTILIZATION OF PRIVATE SECTOR.

''Funds or a portion of funds allocated under this title may be utilized to contract with private, nonprofit entities or community-based organizations to carry out the purposes specified under section 201(a)(2).

''SEC. 206. PUBLIC PARTICIPATION.

''(a) IN GENERAL.—A State expending payments under this title shall hold at least one public hearing on the proposed use of the payment from the Attorney General.

''(b) VIEWS.—At the hearing, persons, including elected officials of units of local government within such State, shall be given an opportunity to provide written and oral views to the State and to ask questions about the entire budget and the relation of the payment from the Attorney General to the entire budget.

''(c) TIME AND PLACE.—The State shall hold the hearing at a time and place that allows and encourages public attendance and participation.

''SEC. 207. ADMINISTRATIVE PROVISIONS.

''For the purposes of this title:

''(1) The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that American Samoa, Guam, and the Northern Mariana Islands shall be considered as one State and that, for purposes of section 104(a), 33 percent of the amounts allocated shall be allocated to American Samoa, 50 percent to Guam, and 17 percent to the Northern Mariana Islands.

''(2) The term 'payment period' means each 1-year period beginning on October 1 of any year in which a grant under this title is awarded.

''(3) The term 'part 1 violent crimes' means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.''.

Mr. SCHUMER. Mr. Chairman, this is the block grant amendment to H.R. 667. It is a very, very simple concept. It says, ''Let the money for building prisons be distributed to the States on a block grant basis without any formula that stands in the way of the States getting the money.'' We take the language; the block grant language is the very same language in H.R. 3 that applies to the police and the prevention parts of the bill; and what we do is we distribute the money to the States and say, ''As long as you're building and operating prisons, you may use that money.''

What is the difference? My colleagues, the difference is very simple:

''If you are in any of these States, which is all of them, under this amendment your State will get money, millions of dollars, to build prisons. If you vote no on this amendment and keep the very complicated formula now in H.R. 3, your State will get no money.''

H.R. 3 sounds good, but according to the attorney general, just as recently as this morning—who is in charge of administering H.R. 3, should it become law, not a single State will get money.

Now we make a very simple argument:

The other side has argued that block grants are the way to go. It certainly is the way to go for police, as in the bill that will be before us Monday. It certainly is the way to go for prevention, which is the bill that will be before us Monday. Why in God's name is it different for prisons?

We are making H.R. 3 consistent. We are saying very simply:

If you want your State to get money and build the prisons that are needed, support the block grant. If you're from California, New York, Texas, Illinois, Michigan, any of the States in this country, your State will get real dollars under the block grant.

Many objected to the formula in the crime bill last year. This amendment takes out that formula. Many object to the formula in H.R. 3. It takes out that formula. It simply says, if the States know what they are doing, if we want to return responsibility for fighting crime back to the States, then give them the money, and let them build.

I say to my colleagues, ''If you vote for this amendment, that's what will happen.''

I say to my colleagues, Yes, we want the States to incarcerate more violent criminals. No question about it. But under the present law your State will not get the money—you're from Illinois, you're from Pennsylvania, you're from Louisiana, you're from Florida; your State won't get money, at the very best, for 3 years, and at the very worst, for 20 years, under H.R. 3, but under the block grant you will.

So what are we doing here, my colleagues?

I hear the anguish of my constituents when they complain about crime. I hear the plaintive cry of police officers who say they arrest criminals and they are back out on the streets. I care about that, and that is why I have proposed this amendment. I propose this amendment because instead of a lot of verbiage and a very complicated formula that at best is under dispute as to how much it gives to each State, give them a block grant.

What about the language for how the money is distributed under the block grant? It is the very same language proposed by the majority, the gentleman from Illinois [Mr. HYDE], the gentleman from Florida [Mr. MCCOLLUM], that distributes the money for police, that distributes the money for prevention.

☐ 1330

So I say to my colleagues very simply, if you want to get tough on crime, put your money where your mouth is. A no vote on this amendment will deprive your State of millions of dollars of badly needed prison building dollars.

So it is a simple amendment, my friends. It is not complicated. It is not what you would say is the old way, which means lots of formulas, lots of Federal intervention. It simply says States, here is your money; go build the prisons.

The public will be watching. They will want to see if we really want to get tough on crime, or if we just want fidelity to some document that was poorly written and poorly planned. I urge a ''yes'' vote on the block grant amendment.

Mr. SCHIFF. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an extension of a debate that, of course, began in the Committee on the Judiciary, and I understand the position of the gentleman from New York. But let me take this a step further.

What the gentleman from New York is essentially arguing is if our side has proposed a block grant approach to assist State and local law enforcement with police and prevention programs, why then would we propose grants that have certain conditions with respect to prisons? The gentleman is essentially asking, is there not a contradiction somewhere?

Well, if there is a contradiction, Mr. Chairman, it is not at that point. If there is any contradiction at all with what the majority is proposing, it is the fact that we propose identifiable prison grants. Because it could be argued why not give the money to the States to choose whether or not to build prisons? Maybe some States do not want to build prisons.

Now, the problem with that hypothetical is it does not fit any realistic situation. The gentleman from New York has recognized that, because his amendment to this bill is also a prison grant proposal.

So what we have in common here is that both those of us who authored the original bill and the gentleman from New York's amendment are for prison grants. We are both making the assumption that every State has made a decision that it needs a prison system of some kind.

So there really is no debate here about are we in some way infringing upon State and local judgment by offering prison grants, because we both know that prison grants are necessary and we both have offered prison grants. So that is not the difference between us.

The difference between us, Mr. Chairman, with respect to this amendment is that under the amendment offered by the gentleman from New York [Mr. SCHUMER], it will be business as usual in the prison systems throughout much of the United States. It will be the continuation of revolving door justice. It will be the continuation of as soon as the police complete a case and go on to the next case, they find in a relatively short period of time they have got the same violent offender back to deal with again.

What the bill says as written is that we recognize those States that are seeking to improve their system, which is to extend the time of incarceration of serious violent felons. And this is in two ways. One way is the truth in sentencing approach, but that is half the money. The other half of the money is for simply an increase in the incarceration of serious violent criminals, without the specificity of serving 85 percent of the maximum.

We are saying that we understand that those state legislatures which have undertaken to protect their citizens from violent criminals will within their prison systems absorb greater costs, because there is no doubt, there is no hiding from the fact, the longer a prison sentence is, the more costs there will be to the State.

Now, the States that are recognizing that the cost is worth it, that the protection of their citizens is not only worth the expenditure in and of itself, but it saves money, because criminals, especially career criminals, will cost the taxpayers more money on the outside than the wildest imagined cost of their incarceration, we recognize those States will spend more money to incarcerate serious violent criminals longer. And as an incentive to help those States improve the prison system and the revolving door justice, we have written the bill with these incentives. To go to the block grant system at this point would be to say to the States that have a revolving door now, ''You can keep it. You can pretend like you are doing something to protect your citizens, when you are not doing enough.''

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SCHIFF. I yield to the gentleman from Illinois.

Mr. HYDE. It is not enough to arrest violent criminals. It is not enough to convict them. It is not enough to lock them in jail. You have got to keep them in jail. If there is one thing that offends the public, it is knowing that you get a 10-year sentence and you are out in 3.

This bill provides the incentive necessary to have the States elevate their sentencing to 85 percent of the years granted. That is what the public wants. We would be very foolish just to say build more prisons, if the same 5 to 7 percent of the hardened criminals that commit 70 percent of the crime go in and come out, go in and come out.

We can kill two birds with one stone here by providing the resources to build the badly needed prisons, but at the same time make sure that these violent, and we are talking about violent felons, get locked up for a decent term, at least 85 percent of their sentence.

So we would be just foolish to give the money and say do the right thing. We are going to goad them to do the right thing by providing this carrot, this incentive.

So I reject the amendment, however much I am warmed by the fact the gentleman from New York [Mr. SCHUMER] likes the block grant approach.

Mr. SCHIFF. Mr. Chairman, reclaiming my time, I would just like to say, and this may or may not be significant, but I would note in the gentleman's amendment he has added a word which does not appear in our bill. The amendment says that ''The funding can be for expanding, operating, and maintaining temporary or permanent correctional facilities, including boot camps and other alternative correctional facilities.''

The word ''alternative'' does not appear in our bill. The word ''alternative'' has come to mean something other than confinement. I wonder if the gentleman can explain if that is in fact what he means.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

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

Mr. VOLKMER. Mr. Chairman, I have been sitting here listening to this debate, and I just really wonder how many Members of this body have done as I have done? I have been working with the State of Missouri for some time now because we have been trying to comply with and work with the present law, the 1994 crime bill, to get additional money to build prisons for our criminals. Not only that, the State of Missouri, under the leadership of our Governor, has this year proposed in their budget a large increase for prison construction, because we know that we need to have that prison construction, because last year the general assembly and our Missouri Governor did a truth-in-sentencing law.

So you think, hey, we are doing good. We are taking criminals and putting them in prisons, making them serve longer sentences, and we have got a truth-in-sentencing law. So we ought to comply under the 1994 act.

Well, under the general provisions, we do. Under the truth-in-sentencing, we do not. Under this bill we get nothing. Under this bill we get nothing. Under this bill we get nothing.

Why do we not get it? For the simple reason that our truth-in-sentencing law is not in compliance with last year's law because we did not use the words ''violent criminals.''

□ 1340

We used a definition that does not comply, and we actually set, the Missouri General Assembly actually set up the criminal actions, the crimes that could be punishable, that were severe enough. And they do not qualify as all total encompassing.

As a result, we are not going to be in compliance with the present law under the truth-in-sentencing. That is a little silly. It is a little bit silly.

Now, what do we do under the bill? We do not keep that terminology. We change it to violent felonies. Now we are going to have a new definition of what they have to comply with. And as a former member of the Missouri General Assembly, I want my colleagues to know, those that have served in a State legislature, how many times did they object to the Federal Government telling them how to write in detail the laws of the State of Texas, the State of Illinois, the State of Georgia, or any other State? But that is what we are doing in this bill. We are trying to tell the State legislative bodies that this is the way they have to write it in detail, if they want these penitentiary moneys, if they want to build prisons.

I have been corresponding with my department of corrections head, with my Governor's office about this quandary, because we want to build prisons. We want to put criminals, violent criminals, behind bars. We want to keep them there for 85 percent of their time. But they are not going to help us one bit.

To the gentleman from Illinois, I say, ''When you threw that rock, you didn't get two birds, you got none. You didn't get any with this bill. You are going to miss the whole mark.''

That is why I support the amendment of the gentleman from New York, because for sure, I am going to have prisons under a block grant. There are not all of these onerous conditions on my State legislature and my Governor.

I said that this would come up, this debate would occur back when we were talking about the unfunded mandates. I had an amendment to that, which I withdrew, but I wanted to discuss it. And this is it.

Sometimes we think we know it all. We know it all. Well, they are trying it right now. They are saying they know what is good for the States, they know how they should have to write their legislation in order to get this money.

Where did the money come from? It did not grow on trees out here. It did not float from the sky. That money came from right back home, folks. It sure did, and what is that? I thought we had Members up here that believed in States rights.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. VOLKMER] has expired.

(By unanimous consent, Mr. VOLKMER was allowed to proceed for 3 additional minutes.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I remember the gentleman was a leader in resisting the 55-mile-an-hour speed limit that was imposed by the Federal Government on the States, and the gentleman was in violent opposition to the Highway Beautification Program. The gentleman is a crusader for States rights. He speaks with some credibility. I just suggest that you do not need to be a nuclear physicist to understand that we ought to lock these people up and not kid the people that 10 years means 3 years. And the gentleman ought to help us do that.

Mr. VOLKMER. Mr. Chairman, what I am trying to tell the gentleman is that the State legislatures that want to do it, like Missouri wants to do it, we are doing it. We have got to build new prisons. We are taking money away from higher education, from mental health and everything to build those prisons, right now in this year's budget. We already have truth-in-sentencing. It just does not meet the little bit of criteria that the gentleman writes, so we do not get any of the Federal money. But we are going to do it on our own anyway.

Mr. HYDE. Mr. Chairman, if the gentleman will continue to yield, he can meet it and get his share.

Mr. VOLKMER. No. We cannot get it. Under this bill, I get some money. It is going to help my State. And maybe under that, maybe Missouri's higher education will be able to get a little more of the budget because they will get a little bit of their money back from the Federal Government that they send here anyway. That is what the Schumer amendment does.

I strongly support it. If Members really believe in States rights, if they really believe in building prisons and letting the legislature decide, I hope they have as good sense as the State of Missouri and a few other States that have truth-in-sentencing, because I believe in truth-in-sentencing. But I do not believe that I should dictate it to anybody, especially a State legislative body. I believe that that State legislative body and that Governor should be able to decide on its own what is good for their own State. I do not believe that I should make that decision for them.

I do not believe that I have all the answers, that I am smarter than they are. That is what the bill says. You are smarter than the State legislative bodies and governors.

I object to it. I feel strongly, I urge everybody to support the amendment of the gentleman from New York.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for those who doubt that there is progress, they should have been at the Committee on the Judiciary markup on this bill. Because there is the most blatant, glaring, irreconcilable inconsistency in approach between this bill, which dictates to the States, which assumes that the State legislatures are not smart enough or courageous enough or courageous enough to deal with sentencing, and we have heard Members on the other side say, in effect, we cannot trust the State legislatures to do this on their own so we have to tell them how to do it. That is a total inconsistency between this and the bill we will see on Monday, where in fact they say, we will give things to the States and we should not proscribe anything because that would be an interference with States' rights.

At the committee session, the best answer we got to that was the chairman citing Ralph Waldo Emerson that a foolish consistency is the hobgoblin of small minds, which I pointed out is a remark everybody says when they get caught in an inconsistency and cannot come up with an answer. They have had a few days so they have elaborated a rationale to try to explain it. But it makes no sense.

Today they will be telling us that we cannot trust the State legislatures, the we must dictate to them and dictate to them, it seems to me foolishly, as I will get into.

Then on Monday they will tell us that we must give everything to the States and make no Federal proposals.

What holds these two together, and I think it is very clear, what motivates the Republicans here is clearly no consistent philosophy about deferring to the States, because they will dictate to the States today and denigrate their capacity for self-determination. And then on Monday they will defer to it. What they have in common is this.

Last year, over the opposition of most of the Republicans, the Democratic Congress and the Democratic President passed a good, tough crime bill that had sensible prevention funds, that had money for prisons, that had money for police.

Now, when the Democrats do something that is wrong, my Republican friends are a little unhappy. But when the Democrats do something that is manifestly right, they are very, very unhappy. They cannot tolerate the notion that we would have been as successful as we were. And, therefore, they have come forward with legislation which would interrupt a process that is well along of getting crime fighting funds out to the States.

They are doing it today, and they will do it on Monday. They will take absolutely inconsistent positions. They will be Federalists today and States' rights people on Monday. And the only common thread is that they want to undo what we did last year. Having lost last year, they are not prepared to abide by that, and they will disrupt the processes. Police officers who are being hired will now face an uncertain future if their bill passes and becomes law, because they do not like the notion that the Democrats might have gotten credit for putting out more police.

The States will be told, and here is the degree of proscription, it says to a State, you get money if you have increased the extent to which you were sentencing violent criminals. So if you are a State which had already been sentencing violent criminals to long sentences, you will lose money to a State that still sentences them to less than you do because they have gotten more less than you do. If you have been doing it for 10 years and they have been doing it for 6 and they get up to 8, 8 will be more than 10 by the peculiar arithmetic that the Republicans have been driven to by their desire to mess this thing up. Because what they will measure is not how long you sentence people but whether or not you increased it.

Similarly, they will be told that they have to serve 85 percent of their sentence. If in fact people are sentenced to 15 years and serve 10 of those 15 years, that is only two thirds, they do not qualify. But if they were in fact sentenced to 8 years and serve 7 of the 8, that will be more than 85 percent, and they will qualify. They use meaningless items. States that in fact have tougher sentencing will manifestly lose out under this bill to States that have less sentencing because the Republicans needed to come up with a way to undo what we had done.

□ 1350

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

As I understand it today, Mr. Speaker, just to underscore the gentleman's points, the point we have been making, the Speaker, at his morning press conference said that his Members would vote for this bill whether their States got money or not. I would suggest that is not a way for people to vote, particularly those of us who want to incarcerate more violent criminals.

Mr. FRANK of Massachusetts. I would not want to get between the Speaker and his troops, Mr. Chairman. If the gentleman so instructed them or advised them, that is his prerogative. We should be very clear, though, that this bill is premised on the notion that, left to their own decisionmaking process, the States of this Union will not adequately deal with violent criminals.

Therefore, the Federal Government must prescribe, but not only prescribe, prescribe foolishly; tell them that they must have 85 percent of the sentence served, no matter what that length of time is.

I hope the Schumer amendment is adopted and sense prevails over partisanship.

Mr. GALLEGLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to respectfully take this from the top. First of all, Mr. Chairman, this amendment is being presented to us as basically a mirror image of what is in the bill, with the exception that the proponents of the amendment offer a block grant approach, rather than the bill's provisions, which encourage greater sentences for those who commit serious violent crimes.

I have to go back again and say I am at least not certain that that is correct, Mr. Chairman. It may well be, but the language that is in the amendment adds a word when it talks about funding correctional facilities; it adds the word ''alternative,'' that under the amendment the funds can go to alternative correctional facilities. The word ''alternative'' was used all throughout the last crime bill to mean alternatives to confinement.

The fact of the matter is, Mr. Chairman, that is the reason why, although the media announced over and over again how much money in the last crime bill would go to prisons, not a dime has to go to prisons. It could go into community situations for those who have committed serious crimes, and there may be, for other individuals, a place for community corrections, but a confinement bill should be a confinement bill. A prison bill basically should be a prison bill.

Second of all, Mr. Chairman, I want to say, again, that the contradiction, if we are offering it, is not the one argued by the gentleman from Massachusetts, [Mr. FRANK]. The contradiction, if offered, in theory is the fact that we would offer a prison grant. What right do we have to tell the States, ''You should be interested in prisons''? But their amendment is a prison grant amendment, too, so that is not the difference. The difference is our encouraging and wanting to assist those States which have come to the realization that they want to do more to lock up violent criminals longer.

Mr. Chairman, I suggest that the amendment offered by the gentleman from New York [Mr. SCHUMER] is going to keep the same revolving door that has so disgusted the American people throughout this country.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. The gentleman from New Mexico [Mr. SCHIFF] is trying too hard to reconcile the irreconcilable, but he is unsuccessful. He says it is inconsistent just to even talk about prison grants. What he is apparently arguing is that either you say that everything the Federal Government provides to States goes in one undifferentiated huge revenue-sharing pot, or else you have no difference between categorical programs and specificity in the categorical programs.

In other words, we have generally said there was general revenue-sharing, then there were categorical programs which say ''for health,'' which say ''for prisons,'' et cetera. The question then becomes do you overprescribe in the category.

It is one thing to say, ''We will give you money for prisons and we will give you money for crime fighting.'' It is another to say, ''We will give you money for prisons if, in fact, you do 85 percent and if, in fact, you do all these specific things.'' The gentleman is wrong when he says this is meant to encourage the States. This does not encourage, this says to the State, ''You will meet the rather contorted definitions we have or you get nothing.'' That is much more than encouragement. That is coercion, and it is a perfectly valid point.

However, to say, as he has said, ''Well, under the amendment of the gentleman from New York [Mr. Schumer], we will go back to the revolving door'' is to say that the State legislatures and Governors of this country cannot be trusted, because what the amendment of the gentleman from New York does is to leave it up to the States.

When we say that is going back to the revolving doors, as the gentleman says about this amendment, as his amendment said, ''You cannot trust the States, they will not do it right, we know better,'' that is a perfectly valid position, but take off your Thomas Jefferson costume when you are saying it and put on your Alexander Hamilton mask.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I just want to come down to the central issue. Once we have decided it is all right to offer States prison grants, and that by offering that, it is not a violation of federalism, as long as we seem to be both on board on that, the major issue in prisons, of all the issues, is what is the length of time served by those who have been committed to prisons.

Mr. Chairman, our bill offers to help those States which are trying to keep the serious violent criminals off of the streets longer.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would simply answer to my friend, the gentleman from New Mexico, if he surveyed the 50 States, probably every one of them wants to keep the criminal in jail longer.

The States, probably on this issue, probably more so than on the other issues that the gentleman is for a block grant on, agree.

The CHAIRMAN. The time of the gentleman from California [Mr. GALLEGLY] has expired.

(By unanimous consent, Mr. GALLEGLY was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, every State wants to incarcerate more violent criminals. The question is simple on this; that is, do we give the States the money to do it.

Under the formula in the base bill, under the best of estimates, only three States, Delaware, North Carolina, and Arizona, would be eligible for the money.

Mr. Chairman, I have a Governor in my State who is very tough on crime, the newly elected Governor. He would not be getting a nickel of money to build the more prisons that he promised in his campaign under this formula. We know that for a fact.

I would say what he is going, Mr. Chairman, is, quite frankly, taking some people out of jail, but because the bar that the gentleman has set is so unrealistically high that the Governors of most States, after all, 30-some-odd of the Governors are Members of the gentleman's party, would not be able to use the money at all, so the issue, Mr. Chairman, is not who wants to incarcerate. Just about every State does. My State does, and I do.

The issue, Mr. Chairman, is will the formula in the bill or a block grant that automatically gives the money better serve the State in doing it?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. GALLEGLY. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, some States are, through their legislature, showing the priority of passing laws which will incarcerate their serious violent criminals longer. It is the purpose of this bill to assist those States.

There are two pots of money, and we believe that virtually every State, if not in fact every State, would qualify under the first.

□ 1400

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if the States were doing everything right, we would not

have all this furor about truth-in-sentencing. The truth of the matter is, 10 years does not mean 10 years; 15 years does not mean 15 years. The public thinks it does, but they are learning that it does not.

We are trying to use a concept that is alien to some people in this Chamber. It is called incentives. It works in economics, and it works in crime fighting.

The gentleman from Massachusetts said somehow a pall of depression falls over us Republicans when the Democrat administration does something right. I would just tell the gentleman: NAFTA and GATT. When the administration does something right, and it does—it does—they get support from this side of the aisle. But the romance with categorical grants has been on their side.

I recall the last crime bill, the so-called omnibus crime bill, if you wanted to get a piece of that $50 million, you had to have midnight basketball. You had to shoot free throws, because that was a Federal program and you had to participate. We were telling communities. ''If you want some of this money, then here's a program where you can get it.''

But what we are doing here is saying here is money to build prisons. If you want to build prisons, let we have truth-in-sentencing. That is a simple exchange. It is not asking too much.

I think this is what the public wants. They want tougher sentences, and we are going to help them impose the tougher sentences by giving them the resources to build prisons. That ought not to be too difficult.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I thank the gentleman for yielding.

But I must say I was disappointed when the gentleman from Illinois said under the bill we passed last year, if you wanted part of the $50 million pot, you had to do midnight basketball. That is not in the bill. It was permissive, just as it is in their bill that they are going to bring up on Monday. Midnight basketball was an option. To say that under the bill we passed you had to do midnight basketball is simply a misstatement.

Mr. HYDE. Reclaiming my time, is it not true that there was a $50 million program for midnight basketball?

Mr. FRANK of Massachusetts. Not as I understand it.

Mr. HYDE. Was it $49 million?

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from New York.

Mr. SCHUMER. No; in the original bill there was such a proposal. Many people said that that is not a good idea and it was block-granted. So in the crime bill that is now law, there is no pot of money for midnight basketball. It is the same as the gentleman's bill, H.R. 729.

Mr. FRANK of Massachusetts. Permissive.

Mr. SCHUMER. It is one of the many options under a block grant.

Mr. HYDE. That is an improvement.

Mr. SCHUMER. It is now law.

Mr. HYDE. May I ask the gentleman, were there any categorical grants in that omnibus crime bill?

I wanted to ask the gentleman from New York [Mr. SCHUMER] because he is an expert on this: Were there any categorical grants?

Mr. SCHUMER. There were certain large programs that had categorical grants.

Mr. HYDE. Are those where we tell the States what they must do to get the money?

Mr. SCHUMER. Yes.

Mr. HYDE. I thank the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. I just want to congratulate the gentleman for the nimbleness with which he skipped away from his error, in which he said that you had to do midnight basketball when in fact you do not.

Mr. HYDE. I appreciate the congratulations. I usually disappoint the gentleman.

Mr. FRANK of Massachusetts. That is true. That is true. Therefore, it seemed to me, it behooved me to give credit where credit was due. But the point I would make is that, yes, we have had some categorical programs. We have never claimed or pretended that we were against some direction to the States. It is the gentleman on the other side who had made that point, and it is that point which they are directly, blatantly, and thoroughly contradicting today.

If I could make one last sentence, I will give the gentleman one more credit. He began by saying if the States were doing the right thing. Yes, that is exactly the point. This is a bill from people who do not agree with choices the States are making, and they are going to coerce them to make other ones. That is valid. But do not pretend to be the Articles of Confederation when you are in the process of doing that.

Mr. HYDE. Coerce? Reclaiming my time, coerce is not the same as incentive. And we are providing incentives for them to have—does the gentleman not agree that sentencing someone to 10 years and they get out in 3 is a fraud?

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Of course. How could the gentleman answer if I do not yield?

Mr. FRANK of Massachusetts. Under the gentleman's bill, if you sentence them to 10 years and they serve 3, there are two ways you can qualify. You can make them serve 8 or 9, or you can cut the sentence to 4. The gentleman's bill does not require you to increase the time served. It simply says it has got to be 85 percent of the sentencing.

So the gentleman's bill is flawed even in trying to do what he says he is trying to do.

Mr. HYDE. Reclaiming my time, the gentleman's conversion to block grants is indeed reassuring.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

(At the request of Mr. SCHUMER and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. HYDE. I yield to my friend the gentleman from New York.

Mr. SCHUMER. I thank the chairman, and I always do. He is always very courteous and generous in the yielding.

Let me just say that the gentleman's colleague, the gentleman from Florida, just before made the very point the gentleman from Massachusetts made.

He said, and we sort of let it go by, but he said, and check the record, ''Well, the States could qualify for this. They can reduce the maximum sentence.''

This bill does not require an increase in the maximum sentence. It simply requires that truth——

Mr. HYDE. Truth-in-sentencing.

Mr. SCHUMER. Exactly.

Mr. HYDE. Right. Honor. Integrity.

Mr. SCHUMER. I would say to the gentleman, a far more important argument than truth-in-sentencing, important as that is, is having people serve, violent criminals serve a long time in jail. Our proposal makes that happen much more than the gentleman's.

Mr. HYDE. Reclaiming my time, if someone is sentenced to a term of years, the public is entitled to know that term of years is pretty close to what he is going to serve. If it is too low a term of years, they will get new judges. But I welcome the gentleman's conversion to block grants.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, when I hear the chairman of the Committee on the Judiciary tell me that midnight basketball is some Democratic prerogative, I would be otherwise proud of it, but the fact of the matter is in the block grant program combining prevention and police programs coming up Monday, midnight basketball is as permissible in their program as it would be and is in ours, in the 1994 crime bill, and we are proud of that.

But to come on the floor and continually deride it, and this being one of the most economical investments that we can make in prevention programs, I mean, how much cheaper can you get than a hoop, a net and a basketball?

So it seems to me very, very important when we recognize that it is in both of our programs and it was started in the former President Bush's 1,000 points of light.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. I do not criticize midnight basketball at all. I think it is a great way to spend your hours from midnight till 3 a.m. I do wonder how you get up and go to school the next day, but I will leave that to deeper thinkers than I am.

Mr. CONYERS. I think that you are criticizing midnight basketball, if you think it keeps people from going to school.

The people in the cities that are using it happen to think that it keeps people from doing activity that might otherwise bring them in connection with the law.

So I think that the gentleman cannot have it both ways. He cannot continually deride midnight basketball, and then tell me in the next breath that he really likes it, but he thinks they ought to be getting ready for school.

My larger consideration here today is that if you wanted to relieve the number of people that are in prison so that you could keep the violent offenders, how about overcrowded State prisons that had releases that would not occur if we had boot camps, drug courts and prevention programs that were keeping minor offenders and young people from taking up all of this space?

We have the largest and most infamous lockup rates in the world in this country. In the inner cities of the United States, it is 3,000 people per 100,000 that are in prison. So there are no circumstances that I will ever advocate building more prisons to lock up more people. I would advocate, however, building more prisons to contain violent offenders and support the block grant program as opposed to a program that the States clearly will never qualify for.

It is in that spirit and that limited spirit only that I support a block grant program. It is not that I have just converted or changed my position incredibly for the purposes of this debate.

The fact of the matter is there is flexibility in block grant programs in this bill and the one we consider next that allows for boot camps, allows for drug courts, allows for prevention programs, and, yes, allows for night basketball.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, I would just make one other point to my colleagues, particularly on the other side of the aisle.

If this amendment is voted down and H.R. 3 is passed and becomes law, the gentleman will find out a year from now how many prison spaces his State will be able to build. My guess is a year from now, the vast majority of us will find that our State has not gotten a nickel from the bill and has not built a single prison space, whereas under our proposal the States get anywhere from $10 million to $400 million to build prisons.

Mr. CONYERS. In addition, look what we have done just in today's debate alone. We have rejected the only amendment that would give us a carryover that would allow a few years for the States to get ready for your draconian proposal because you have rejected allowing a bridge in which until 50 percent of the States could qualify, we could at least use the 1994 crime bill distribution of prison construction funds.

What you have done is you have blown up any possibility of us getting any money to the States, and now you are saying that the block grant program itself which you cited is now going to be ineffective.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired.

(At the request of Mr. SCHIFF and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. I thank the gentleman from Michigan for yielding.

I just want to ask of the gentleman from Michigan, I thought I heard the gentleman from Michigan say that he favored the block grant approach because it offered flexibility to the States in terms of whether to use funds for prisons or other kinds of programs.

Mr. CONYERS. It would allow boot camps, not prevention programs but at least boot camps for helping relieve those who would be coming in as nonviolent offenders and youthful people.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from New York.

□ 1410

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding. In my State the Governor, again, a get-tough-on-crime Governor, because the prisons are filled with low level drug offenders and the violent criminals get out more quickly, wants to build boot camps. Under the proposal on the other side he would not be allowed to. But in our proposal he would, and that would in effect incarcerate the violent criminals much longer.

This is a conservative Republican Governor who called for this, and that is what the gentleman from Michigan is talking about.

Mr. SCHIFF. Mr. Chairman, will the gentleman from Michigan yield?

Mr. CONYERS. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I appreciate the gentleman yielding. I want to say I think we are getting at a part of this amendment now that I raised and which has not been really developed by the other side until right now.

There is a difference here between a block grant approach and between our proposing to help those States that want to incarcerate violent criminals longer. We have debated that and I presume in a few minutes we are going to vote.

But the gentleman from Michigan's reference to alternative confinement that might be allowed under the bill, that is the language that was used in the crime bill to mean other than confinement such as community corrections. And I have suggested twice, and I am now suggesting a third time, that really may be the bigger difference in the amendment in this bill, that the amendment would allow block grants for nonconfinement alternatives.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the Federal Government gives money to the States in the form of block grants to build prisons, I think the Federal Government should have something to say about how this money is used and what kind of prison we are going to build, what length people should be incarcerated for. I think this is an important issue.

The lawyers here may argue the nuances of the legislation, but I would like to address this bill on people's terms for a minute.

Last summer a man in Oklahoma raped a 3-year-old girl. The people were so outraged they did not give him 100 years, they did not give him 200 years, or a 1,000 years, or 5,000 years; they gave him a 30,000-year sentence.

But the outrage of it all is this: That he is eligible for parole in 15 years.

I, as a Member of this body, when I vote to give money to the States, I want to have something to say about these paroles and about these issues. And that is why this amendment, in my opinion, is not appropriate.

I want the people who are building prisons in the States, I want those Governors, if they are giving harsh sentences, I want those people to get additional block grants. I want to give them incentives to be hard. I do not want a person who gets 30,000 years, because the people of that State are so outraged, to be walking the streets in another 10 or 12 years. That is what the people of America are saying, and that is why the amendment of my friend from New York is not a proper amendment.

If we have some liberal Governor or State legislature who says let us let him out in 5 years or 10 years, I do not want that State to get these block grants.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I am happy to yield to the gentleman from New York.

Mr. SCHUMER. I very much sympathize with the case from Oklahoma, and I think someone who did something like that ought to serve his life

in jail. But under the gentleman's proposal, unless that gentleman served 25,000 years, 85 percent of the 30,000-year sentence, they would not qualify under H.R. 3. And that is just the reason we would like to give the State of Oklahoma, a nice get-tough State, money with no strings attached so we could build prisons and build them quickly.

Mr. ROTH. Mr. Chairman, reclaiming my time, that is not the way I read this amendment. What the gentleman's amendment would do would be to gut the tough provisions of this bill. We would be going right back to again having a social welfare bill and not a real crime bill, and that is why we cannot accept the gentleman's amendment.

I want this person, I want this criminal, for example, who raped this 3-year-old girl, I do not want him out in 15 years. And I, as a Member of this Congress, want to have something to say about that, and I think the people in the States who are tough on those criminals ought to get more of the grant money and not less. And that is why I am opposed to the gentleman's amendment and why I am for this bill.

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment and say we are making this issue unfortunately the way we do many issues, a lot tougher than it has to be.

I want us to build prisons right now; I do not want to see the prisoners in my State eligible to be released who are today being released. They are being released because we do not have enough room for them.

So, again, I think this amendment makes sense. We cannot have it both ways. We cannot say we are going to block grant this money which later we will say we are not going to block grant this money here today.

Our States are dealing with a lot of tough offenders. I was happy that the committee chose to accept the youthful offender issue in terms of a boot camp, the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE], which will allow States to build the youthful offender incarceration programs that we need, because I think we have to form a more effective partnership with the States and allow the States to build these facilities.

If we want to incarcerate these criminals and we want to do it now, vote for this amendment. This is a States rights amendment and it will allow the States to deal effectively today with those violent offenders that are out there that we want to put away.

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I am happy to yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for his courtesy. I just want to point out that it is true that the majority accepted the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE] of your side which allowed some funding for boot camps for certain individuals who were appropriate for it, because boot camps at least are still a type of confinement the way they are set up, the way I am familiar with them for a confinement facility, maybe a fence, not a wall. But we accepted that.

This amendment uses different language. This amendment offered by the gentleman from New York talks about boot camps, and I am quoting here: ''Other alternative correctional facilities,'' and the key word here is ''alternative.'' The key word here is that has come to mean in the crime bill we passed as nonconfinement alternatives.

So this amendment is more a philosophical difference about block grants. Ours is a confinement bill and the amendment is not.

Mr. CRAMER. Reclaiming my time, I would assert this amendment would allow the States the flexibility to build all kinds of facilities. I will support later amendments to this bill that will allow other kinds of juvenile incarceration facilities to be built, but I think the block grant approach is the way to go.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, it is just such an anomaly from the gentleman from New Mexico. We heard on the block grant proposal that the States know best from everyone on that side, except on this issue. There is no provision here for any prevention or social welfare. Everything that must be built must be a correctional facility, confinement, nothing else.

What I would say is that the vast majority of money will be used, indeed, for building maximum security facilities. But boot camps, the gentleman admitted that was all right, and other kinds of facilities that the States may have in mind, that we do know that would be all right as well, and the real issue here, the gentleman, in all due respect, is throwing up a smokescreen because he knows darn well there is going to be far more dollars to build prisons, hard core, barbed wire prisons under this bill than under the bill there, that he is hooking on a word that is no mandate, that is no anything.

I have faith in my Governor, I do not know if the gentleman does in his, to use the money for the toughest type facilities possible.

Mr. CRAMER. Mr. Chairman, I yield back the balance of my time.

Mr. MCCOLLUM. Mr. Chairman I move to strike the requisite number of words.

Mr. Chairman, I think we have had a very heated debate about something I have heard a lot about in the past, and it is very straightforward. What the gentleman from New York wants to do is gut and completely eliminate the truth-in-sentencing provisions in this bill, the whole purpose for creating the bill from my standpoint, I think, and should have been the whole purpose last year of creating the entire bill.

The truth in sentencing is to provide incentives in Federal laws for grants to States to change their laws. That is what the purpose of the bill is. The purpose of the bill is in order to establish incentives for States to change their laws to make sure that we incarcerate, for long periods of time, violent offenders, very serious violent offenders, who right now are going through the revolving door and serving only a fraction of their sentences, and they are creating most of the violent crimes out there in the country today, a comparately, relatively small number of people.

□ 1420

We want to get them off the streets. We want States to take the steps necessary to do this, and yet we know there is an emergency in the States right now that the States do not have the resources to be able to build enough prison beds on their own to do it, and we are providing the supplement to get this to happen.

It is absolutely utter folly for us to put money out there on the table that does not provide this conditionality. This is a carrot. This is not an unfunded mandate that we have in this bill. This is a carrot. This is saying, ''Look, we would like to see this accomplished like we know you do.'' Those good States, those States that are willing to take the steps necessary to make the matching grants in here, the 25 percent versus 75 percent, those that are willing to get out and do it, then we are going to provide you the money, and we are going to be so liberal in this that we are even going to set aside half the money, $5 billion, for States that all they have to do is just barely bump up the length of time somebody serves a sentence and assures that violent felons actually get increased time in their jail. They do not even have to go to the so-called 85-percent rule. They do not have to abolish parole to get half the money in this bill.

I have heard an awful lot from the gentleman from New York today and in debate. I am sure he is sincere about it, about how no State can qualify for the first set of grants. I believe that is nonsense. I strongly disagree with his interpretation of this. The statistics, the data we have, show that virtually every State can qualify for the first $5 billion. It is no big deal to demonstrate, since 1993, you have increased the length of time somebody who is a violent felon is serving the actual sentence in your State. This is essentially all that that does.

That is what the pattern is, the average person.

And as far as the second pot of money is concerned, the extra $5 billion, you destroy in this completely

the incentive grant program, because we want, the objective of this bill is that, to put the pot out there and say, ''Look, change your laws and you get the money. You do not change your laws, the money is not there.'' It is as simple as that.

The gentleman's amendment guts that, and as I understand it, it also strikes out from the bill the Kennedy-Geren language. It is a substitute. I want the people to understand this, who are watching, Members who are paying attention and listening to the floor debate, this amendment is a complete striking substitute amendment for the underlying bill. It would put a block grant program in that has no strings attached to it whatsoever; no truth-in-sentencing would be provided by this proposal. We would give money out to States to spend that money as they want, States that have not been doing the law changes that we would like to see them do, and the gentleman will probably say, well, heck, that is inconsistent with the position of the gentleman from Florida, that he takes on the block grant program for prevention and cops, and to a certain extent, he is right. It is inconsistent. Because I see two different purposes. I see the purposes in the cops on the street and the prevention grants programs as being something where the Federal Government cannot begin to see what is the best interest to be done in each of these cities from Spokane to Key West or wherever.

There are so many different prevention programs. Some cities can use cops and some cannot, and so on. In the case of the prisons, we know exactly what is wrong. We know exactly what needs to be done, and so do the States. They need the resources to build prison beds to take the violent offenders off the streets, abolish parole, and lock them up for long periods of time. If they are not willing to change their laws to do this, they should not be getting the money. That is the whole purpose.

So there is a big difference.

I urge in the strongest of terms a ''no'' vote to this gutting amendment that the gentleman from New York offers.

Mr. MOLLOHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope that all Members of this body are really listening carefully to this debate.

And what really is at stake here is how much money, what additional resources, each and every of your respective States are going to receive under each of these proposals. States are starved for resources to fund prisons, both construction and for operating those prisons.

We have a number of States right now, as we sit debating this issue, that do not have enough money to operate the empty prison beds that they already have. Some States it is not a question of building the prisons. They do not even have enough money to operate the prisons, so the real question is under which version of this bill do we get the State money for prison construction and operation. Under which provision, which proposal do we do that?

And I submit to you, and I rise in support of the amendment offered by the gentleman from New York which gets the fastest, the most money to all of the States to operate and build prisons.

Now, under last year's bill, my colleagues, every State was eligible for prison funding, for construction or operation, meeting those dire needs, every single State in the Nation under the general provisions. Under the proposal offered in the majority's bill, as it appears in our legislation before us, that is not true.

So which one of your States is not going to receive any money under this legislation? Which ones of your States are going to suffer, are going to have money that is under current law available to them, which ones of your States are going to have that money taken away by this legislation? You better look at that, each one of my colleagues, because your constituents are going to be looking at it. Your constituents are going to ask the question, ''Did you vote for legislation that took money that was already available to us away?''

Second, I think you need to ask, after you get beyond that, under which of the two provisions before us today are your States going to get more money? And I submit to you it is under the block grant amendment offered by the gentleman from New York [Mr. SCHUMER]. Every State is going to receive dollars and more dollars than in this bill or even last year's bill for prison operation and construction, and that is the need. You can get esoteric about sentences and incentives, but the real question is for resource-starved States, under which proposal do they get the money, do they get it faster? It is under the amendment offered by the gentleman from New York [Mr. SCHUMER].

I would like to engage the gentleman from New Mexico [Mr. SCHIFF] in a colloquy if he would accommodate me, please, because I really am not sure, under the general grant provisions here, any State is going to be eligible for resources under the gentleman's legislation, and I just read to you, and what does this mean, it says:

> That a State or organization shall submit an application to the Attorney General that provides assurances that such States, since 1993, have more violent offender sentencing time, increased the sentences, and increased the percentage of the sentences served.

Which States have, since 1993, met those qualifications and would receive any funding under this provision? Could you tell me?

Mr. SCHIFF. Mr. Chairman, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from New Mexico.

Mr. SCHIFF. Mr. Chairman, I would just point out specifically the wording that if any State, in fact, has not made changes in their law, all a State has to do is to increase the average prison time actually to be served. In other words, any State that increases the time to be served for the violent criminals compared with 1993.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield to me, I will be glad to explain this to him.

Mr. MOLLOHAN. My question is, which State right now would qualify for money under general grant provisions?

Mr. MCCOLLUM. Let me explain that every 2 years the Department of Justice issues a study on exactly these points. That is why these are in here this way. It is why it was in last year's crime bill, by the way. This is not new language.

Mr. MOLLOHAN. What language applies to the general grants program?

Mr. MCCOLLUM. If the gentleman will yield further——

Mr. MOLLOHAN. Reclaiming my time a moment, every State was eligible under the general grants provisions for dollars.

Mr. MCCOLLUM. If the gentleman will yield, I would like to explain which States. You asked that question. All I wanted to say to you is that the trend, every time we have seen those statistics for the last umpteen years, shows a lot of States qualify. Each year States increase their time, most of them do.

The CHAIRMAN. The time of the gentleman from West Virginia [Mr. MOLLOHAN] has expired.

(By unanimous consent, Mr. MOLLOHAN was allowed to proceed for 2 additional minutes.)

Mr. CHAPMAN. Mr. Chairman, will the gentleman yield to me?

Mr. MOLLOHAN. I yield to the gentleman from Texas.

Mr. CHAPMAN. Mr. Chairman, I appreciate the gentleman yielding.

I want to answer your question, because you asked the key question as it applies to my State, because you asked under the 1994 crime bill, what is at stake here, and you made the point correctly, so that all States were eligible to begin their prison construction programs or to apply for grants to operate those prisons that they are unable to operate now.

Let me tell you about Texas. In Texas we lose $215 million. That is what we lose. The gentleman from Florida loses, according to the Department of Justice, the gentleman from Florida loses $230 million. California loses $475 million.

□ 1430

So the gentleman asked the key question. The truth of the matter is, under current law, this program is in place, people have the ability to begin prison construction, and there is a

truth-in-sentencing component to apply. But you asked the key question. I hope our colleagues are listening to this debate because they are losing this money in every State in America and in every congressional district if this bill passes.

Mr. MOLLOHAN. That is the key question. I would ask my colleagues consider carefully under which provision is their State most benefited.

Mr. EDWARDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if there is anything the American people are crying out for these days, it is for common sense. I think this amendment ought to be called the commonsense prison amendment of 1995. This is a truth-in-serving amendment, maybe more so than a truth-in-sentencing amendment. I am much more concerned about truth in serving time in jail than in some sort of notion of truth-in-sentencing.

Let me put in very simple terms this complicated debate.

Let us take Texas, for example. I served in the Texas Senate for 8 years. We have very tough sentencing requirements for crimes and felons in our State. Take an example: Texas gives a sentence for a serious felony of 100 years. That inmate, that felon serves 80 years. Another State, for the exact same crime, sentences someone to 20 years in prison, and they serve 17 years. So the inmate serves 80 years in prison in Texas, they only serve 17 years in the other State, but the other State gets the prison money and Texas does not.

Now, where is the common sense in that?

Would you not rather have somebody serve 80 years in prison if he raped a three-year-old child than to serve 17 years in another State and be rewarded for that?

The way the bill reads without this amendment, you could actually be rewarding States who have a rapist serve 17 years rather than 80 years. That is pretty simple to understand, and it just does not make common sense.

I would like to be very specific in my remaining time and ask the question of the gentleman from West Virginia as to what each State will lose. I would pose this to my Republican colleagues as well as my Democratic colleagues, that, in effect, if you vote ''no'' on this commonsense prison amendment, this is what you are voting to cut your own State out of in terms of new prison funding: Alabama will lose $56 million; Alaska, $12 million; Arizona might actually qualify for $44 million, one of the 3 States that might qualify.

If you are from Arkansas and you vote against this amendment, you are taking $28 million out of your prisons in Arkansas. If you are from California and you vote again this amendment, you are taking $475 million our of your State prison system. In Colorado you are taking $35 million out. Connecticut would lose $32 million. Delaware is a lucky State, they may gain $14 million, even if this amendment does not pass.

Florida, as has been mentioned, will lose $230 million. Georgia would lose $77 million, Hawaii would lose $12 million, Idaho would lose $12 million, Illinois would lose $175 million if our colleagues defeat this amendment.

Indiana would lose $48 million, Iowa $20 million, Kansas $25 million, Kentucky $30 million, Louisiana would lose $64 million, Maine would lose $10 million. If our friends from Maryland vote against this amendment, their State will lose $73 million in prison construction money. Massachusetts would lose $69 million, Michigan $110 million, Minnesota $27 million, Missouri $63 million, Mississippi $22 million. We would lie $15 million from Nebraska. Nevada would lose $20 million; New Hampshire would lose $9 million if you vote against this amendment.

New Jersey, if our Republican friends from New Jersey vote against this commonsense prison amendment, their State would lose $77 million. That is extra money that will have to come out of their State taxpayers' pockets to build the prisons that could be built with this amendment.

New Mexico would lose $26 million, New York, New York would lose $300 million. I would be amazed, I could not understand any Republican or Democratic Member from the State of New York would vote against this amendment and say to the taxpayers of New York, ''We are going to take $300 million out of your pockets that you are going to have to find if you want to be tough on these criminals.''

North Carolina, one of those three lucky States, may get $70 million regardless. North Dakota would lose $8 million. Ohio, $90 million, Oklahoma $34 million, Oregon $29 million, Pennsylvania $83 million, Rhode Island $14 million, South Carolina $56 million, South Dakota $9 million, Tennessee $58 million.

I hope someone else will finish this list.

The CHAIRMAN. The time of the gentleman from Texas [Mr. EDWARDS] has expired.

(On request of Mr. SCHUMER and by unanimous consent, Mr. EDWARDS was allowed to proceed for an additional 30 seconds.)

Mr. EDWARDS. I thank the gentleman.

Texas, $215 million, Utah, $15 million, Vermont $9 million, Virginia $41 million, Washington State $45 million, West Virginia $12 million, Wisconsin $27 million, Wyoming would lose $10 million.

Mr. Chairman, it defies common sense to say that these millions of dollars out of prison money in 47 States would somehow be tough on criminals.

Vote ''yes'' on the commonsense Schumer prison amendment.

Mr. BRYANT of Tennessee. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, during the course of my campaign last year, the people that I dealt with, the voters in Tennessee, wanted to make sure that people who committed violent crimes, and let me underline the words violent crimes, violent criminals spent their time in jail. I very strongly support this bill because what it does is gives a strong incentive to build those prisons to finds ways to lock up the violent criminals, not in a revolving, endless cycle of putting one bad guy in and letting one bad guy out; but to lock them up for the full amount of their sentence, or 85 percent of their sentence. I think this bill accomplishes that, and it does it in such a way that these States can have the prison spaces available to keep the violent criminals locked up in jail.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Tennessee. I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. I thank the gentleman from Tennessee for yielding to me.

Mr. Chairman, I think the gentleman made absolutely the correct statement about why we need to keep the bill as it is instead of having this gutting amendment. What the gentleman who just spoke in the well, the gentleman from Texas, and I know he was sincere about what he was doing, but what he was saying, though, in my judgment, misses a couple of points.

One of the points is that absolutely no money was appropriated for fiscal year 1996. So that is the fiscal year we are in now. Nobody is going to lose anything, any money, no matter what, from the standpoint of anything that has been appropriated, because it is not out there.

Second, nobody is going to lose any money anyway in the future if we change the law, the bill and so forth, like we have in the underlying law, because those States that he listed out there, I will guarantee you 99 percent of them, probably 100 percent of them, will qualify for the first pool of money under the $5 billion simple grant program where you just have to show that since 1993 you have increased the percentage of violent offenders sentenced to prison. That is not hard to show. Almost every State has been doing that; reference to the Bureau of Justice statistics shows that fact. Most every year they are submitted every year and complied and printed every 2 years. We have seen the records, you see a whole list of the history of that.

In addition to that, they have to show that they increased the average prison time actually to be served. That is if they have increased the time they are going to require somebody to serve on the average who are serious violent felons in those States, and that is not hard to see accomplished, because State after State is doing that. Again, the statistics show that, the pressures

of the public are very, very great to do that.

They have increased the percentage of sentences actually served in prison, the percentage served in this case.

The statistics also bear out that every time these reports come out, virtually every State in the Union has been on the march for a number of years doing that. This is a very simple matter of encouraging the States to be on the path they been doing for some time in increasing the time that people are actually incarcerated for really bad crimes. It is nothing more or less than that.

You do not have to increase it by one day. Nobody has to increase it by one day. Nobody has to increase it for a year or 6 years or anything else.

So it is a phony argument to say that the whole list of States he reeled off out here will lose money if the underlying bill passes. They will not lose any money. They will gain at least as much money, if not more, because we are adding more money to this prison bill, including more money to part A, by a couple of billion dollars than the present law has. So they are going to have a larger pool of money to get at then they had before.

In addition to that, of course, what we said before, the gentleman made such an eloquent point about, the gentleman from Tennessee, this also destroys, in addition to the underlying incentive grant program, which he and I think this bill ought to be here in the first place, to get the States to change their laws.

□ 1440

So, I thank the gentleman from Tennessee [Mr. BRYANT] for yielding to me and giving me a chance to respond to that list of States that the gentleman, I am sure in good sincere conscience, says is going to lose money, but they really are not.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

I rise to speak in favor of the Schumer amendment. Yesterday, I stoke in favor of another Schumer amendment because it dealt with revolving door habeas motions in the most effective way, instead of the arbitrary means of the legislation passed by the committee.

I support this amendment for the same reason. It is smart and effective.

The bill we consider today devotes $5 billion in prison spending to a program that only three States can use. How is that effective?

I am the chairman of the Urban Caucus, and it is no secret that I favor a balance when it comes to fighting crime. We have to spend Federal dollars to prevent crime so we can steer violent offenders, especially the young ones, away from prison. But, make no mistake, we must put the most violent criminals in prison, for good, long sentences. And, we must give States and cities the resources to build and operate new prisons.

The question is not, ''Should we.'' The question is ''how.''

Let us not squander $5 billion of the people's money on a program that will not work.

The Schumer amendment makes sense. It sends exactly the message that the contract is supposed to be spreading: Let us give States and cities flexibility to deal with their problems. It creates one block grant with maximum flexibility. It also corrects a mistake I believe we made last year—it removes the match requirement which has caused many local governments to say no to Federal crime money because they just cannot afford it.

If we really want to move forward we would be continuing the progress we made last year. Let us build more prisons—but let us do it in the right way.

Let us keep the right balance between prevention and punishment.

One of the things the voters said to us last November was, ''Listen to us.'' Let us listen to our constituents, our cops, and our mayors. Support the Schumer amendment.

Mr. SCOTT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for the money we are—if we are going to put money into prisons, the Schumer amendment will put the money into prisons. The underlying bill; we do not know what is going to happen or who qualifies. Furthermore, Mr. Chairman, the 85 percent rule has been referred to as truth-in-sentencing. It is actually half truth in sentencing. It is true that people cannot be let out early, but under the whole truth in sentencing we have to acknowledge that we cannot hold people longer.

The gentleman that was described from Wisconsin that had all the numbers of years and would be eligible for parole, well, he could be denied parole and held for a long time.

In Virginia, we went to the 85 percent rule, and to do that we had to reduce the sentence by 50 percent. It cost $7 billion, and, to put that number in perspective, Mr. Chairman, on a national basis we are about 2 or 2½ percent of the national population. That would translate to $250 and $300 billion to get to the 85 percent rule even after we have reduced the sentences 50 percent.

Mr. Chairman, with parole a person with the 10 year sentence, that puts the numbers in perspective. A person with a 10-year sentence would serve anywhere between 2 and 10 years.

Mr. Chairman, those with a 10-year sentence, to put some numbers in perspective under the present law in Virginia—under the previous law in Virginia, would serve between 2 and 10 years. Those that got out in 2 were not randomly released. They had gotten education and job training. They have a home to go back to. They have a job waiting for them. They would get out early. Those with no job, no job training, nowhere to go, those that would say they want to go out and commit more crimes, they would serve longer.

Mr. Chairman, under the so-called truth-in-sentencing or the half truth in sentencing, those with the longer sentences, those who have actually served the 10 years, would not be getting out in 5 years.

Why should we dictate to the States a situation where there will actually be serving—the worst will be serving less time, and those least at risk will be serving significantly more time?

Mr. Chairman, the half truth in sentencing eliminates the ability for States to use their prison space effectively by reserving it for those that are really truly dangerous, relieving the flexibility of letting those out early who are less risk.

We need the whole truth in sentencing, so those who are seriously at risk can serve the full sentence without the reduction of one half, as we have in Virginia.

Mr. Chairman, I would hope that we would adopt this amendment for the money that we are going to spend, for prisons, to go to prisons across the board, not so that States can reduce the amount of time that the most dangerous criminals are serving.

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I sat on the floor here for the last half hour, I have listened to the gentleman from Florida say that we are going to get the Truth in Sentencing Act, and I hear the gentleman from my neighbor State of Wisconsin say we have to put a human face on this bill in what we are trying to do here today. Let us put it in people terms, as they have said:

''If you take a look at the example that the gentleman from Wisconsin brought up, that the individual from Oklahoma got 30,000 years, let's put that in human terms. Who is going to live 30,000 years, serve 85 percent of that time, as the bill requires, as the GOP bill requires? Eighty-five percent of 30,000 years is 25,000 years. It's not realistic. It's not going to happen. The bill, as written right now, says, 'When you get 85 percent of the actual prison time, 85 percent of the actual prison time, you qualify for money underneath this bill.'''

The Schumer amendment, in which I am proud to support, says on page 8—go to page 8. The bill is right there. Each State shall receive 25 percent, 0.25 percent, for the most violent criminals, and we define what the most violent criminals are.

Go to page 10. The most violent criminals are murderers, nonnegligent manslaughter, forcible rape, robbery, aggravated assault. Those are the people we have to get off the street.

So the Schumer amendment allows every State to receive money not just to build prisons, but to operate and maintain prisons.

My State of Michigan, this past year we had four prisons that were built,

ready to go, but we had no money to operate, no correction officers, no one to prepare the food, no one to provide the services in those prisons. They sat empty, and the latest Department of Justice report shows Michigan, Georgia, Connecticut, with the most heinous criminals. We need space; there is nothing there. We have places to hold them, but we cannot operate them. So the Schumer amendment not only allows us to build them, the Schumer amendment allows them to operate, it allows them to maintain their prison population.

There are no prevention programs in here. This is not a social welfare. This is exactly what they say they want to do. They want to get tough on criminals, they want to lock them up, and we have to have the means to provide for correction officers and for the maintenance of those prisons. That is what the Schumer amendment does.

Mr. Chairman, I say to my colleagues, ''When you take a look at it, the State of Georgia alone on the Department of Justice facilities, they have over 3,200 criminals that they cannot lock up, over 3,200. This bill would help alleviate that by building the prisons and by also allowing the operation and maintenance.''

□ 1450

This is no social welfare program. We take the money, make it available right now. Underneath the Republican plan, only when your prison population actually serves 85 percent will you then get the money. Is that going to be 3 years from now, 8 years from now? We do not know. The Schumer amendment makes the money available right now to build prisons for the operation and maintenance of the prisons. I urge my colleagues to support the Schumer amendment.

Mr. ZIMMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, some of my colleagues on the other side of the aisle are having some difficulty determining how truth in sentencing would apply to a 30,000-year term. It reminds me of the judge who sentenced a defendant to serve 100 years. The defendant said, ''But, Judge, I will never live that long.'' The judge said, ''Well, you just do the best you can.'' It is quite clear that a 30,000-year sentence would result in a life term for a prisoner.

What this is about is gutting truth in sentencing. What this is about is prisoners who are sentenced ostensibly to 20 years who serve 3 years. The public does not want this, their Representatives in Congress do not want this. That is why I believe this amendment will fail.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield to the gentleman from New York.

Mr. SCHUMER. I would just make two points. Certainly we want to see as long a sentence as possible. But what the bill does, it does not simply say 20,000 years is too long. It does not. It says your proposal on your side that your are supporting, would say if the person did not serve 25,300 and some odd years, the State would fall below the 85-percent goal.

The second point I would make is this, and this one I think is very important. On both sides of the aisle we want to incarcerate people longer. That is the purpose of my amendment, that is the purpose of this amendment. The argument is not over who wants to do it. And I think for the other side to say oh, we do; you do not, is really an unfair form of argument. We do, too. That is why I derived it, and my record shows it since I have been here. But which amendment will do it better, I would submit ours does it better than yours.

Mr. ZIMMER. Mr. Chairman, reclaiming my time, if a prisoner dies before he fulfills his sentence, it does not disqualify that sentence under truth-in-sentencing.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I review the legislation before us, I at first blush thought it was an unfunded mandate bill on the States. But as I have listened to the debate and as I have studied the bill, I find that it is not only an unfunded mandate bill, but it is also a blackmail bill.

We have been told for years that the attitude that Congress knows best and one size fits all, and we should tell the locals what to do because we are smarter, has to end. With some of the legislation we already passed this session, we indicated it is a new day, those things are going to end.

But now that same attitude has reared its ugly head in this legislation. What we are calling for here is longer sentences, the 85 percent goal. And my friends, it is not only on Federal crimes, which we have a right and responsibility to legislate and dictate, but it is on State violations of their criminal law.

We are telling the State legislatures and the Governors, who are up here all the time hugging the Republicans, that when it comes to welfare block grants and Medicare block grants, you can have all the latitude you want, including millions and billions of dollars. But when it comes to your legislature handing out prison sentences to your inmates in violation of your State crimes, which the Republican Congress know best, I think that is phony. I think that is hypocrisy, and I will tell you where the mandate comes in.

Now we are going to, with the carrot and the blackmail, give the States the bricks and mortar. We know full well, and I know full well in Wisconsin, we need the construction dollars. We are overcrowded. But we are going to have to change our State law to further exacerbate the crowding problem, and then the unfunded mandates come, my friend, when the Feds leave town after they dump the bricks and mortar and the State and the taxpayers and the State legislatures have to cough up the State-raised funds to house the inmates, to provide security for three shifts a day, just like a hospital, to provide all the other maintenance efforts. And at that point, my friends, are you going to help the States continue that expenditure, or help pay for it?

So, Mr. Chairman, this is not only an unfunded mandate bill, but it is also a blackmail bill. Blackmail today and tomorrow. Once the States have incurred the costs, we are going into another area of trying to help the States out. That is their problem. Sorry, States.

I urge the Members to support the Schumer amendment.

Mr. ROEMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I cannot help, in listening to the debate, but be reminded of a great line from a great movie which happens to take place in a prison. The name of the movie is ''Cool Hand Luke.'' He is incarcerated in prison, and the warden is punishing Cool Hand by making him dig holes. And he is out there digging a hole. He gets done digging this hole, and the warden comes out and says, ''Luke, you got a hole in the yard. Fill it up.'' The warden goes back inside. Luke has to fill the hole back up. The warden goes back outside and says, ''Luke, where did that hole go? I want you to dig another one.'' This goes back and forth. Finally, the warden goes out and says, ''Luke, what we have here is a failure to communicate.''

That is what we are doing right here with the language in this bill. It is a failure to communicate on the part of the Federal Government and our States. Under this bill, the Federal Government is saying to the States, ''You either dig this hole or you dig this hole, the way we want you to do it. And if you don't do it our way, then either this pot of money for $5 billion or this pot of money for $5 billion, you are not going to get anything.''

What have we been doing for the past month? I just voted to prohibit unfunded mandates. I have been working with many of my colleagues on the Republican side to try to provide more flexibility for our States, to do what they see is the right thing, to both prevent crime, to incarcerate people, and then to keep them there for a long time.

But the Federal Government should not be going about telling each and every State, my State of Indiana, you either do it precisely the way we mandate it in Washington, DC, or you are not going to qualify for anything.

Now, current law probably has it best. I am not particularly enamored 100 percent with the way the gentleman from New York [Mr. SCHUMER] wants to do this, in a flexible block

grant. I would like to see some standard set, but not the standard set and mandated under this bill.

I think we can do it better. Forty Republicans voted in the last session of Congress for us to do it by funding police on the streets, where many of these Republicans just qualified to get police on the streets under the Cops Fast Program. I think we can do it by helping our States build prisons, such as Indiana, where we are over capacity. We do not want to be cut over $48 million with this unfunded mandate from the Federal Government under this bill. Give us some more flexibility. Do not do what the warden did to Luke in the movie ''Cool Hand Luke,'' you either dig it here or dig it there. Let us communicate with our States more effectively and with more flexibility.

□ 1500

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

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

Ms. JACKSON-LEE. Mr. Chairman, we sat for a number of days of hearings and markups concerning the proposed changes of this crime bill in the Committee on the Judiciary. I listened, hopefully, again, in the spirit of bipartisanship, to my Republican colleagues promote their arguments on the many reasons why money allocated for crime prevention programs should be placed in block grants to the States with no delineation. Their reasoning, States know better how to spend this money to meet their specific needs. But now I am in a fog of inconsistency.

We are all seeing a mirage. We are not understanding the direction in which the majority party is going. The existing program that is being planned now provides for disbursement of the funds to eligible States for prison construction primarily in proportion to part 1 violent crimes. In contrast, the proposed new program, meaning the one that is now on the table, provides for the disbursement of such funds primarily in proportion to the general population.

This approach of disbursing funds for violent offenders incarceration, under the prison funding bill in proportion to general population without regard to the incidence of violent crimes in the affected areas will produce gross misallocations of resources in relation to actual needs. We will not be targeting the problem. That is to incarcerate violent offenders. This rewriting of the prison program has aggravated the case. As we spoke earlier today, it is fixing what is not broken.

These, Mr. Chairman, are inconsistencies in the majority's arguments. And while they push to provide fewer to no prevention dollars, which those of us who have come most recently from our local communities can attest do work, they put restrictions on prison building dollars. Just a while ago I was on the telephone talking about the urban scouting program, a program that has put in my community more than 12,000 boys in the urban scouting program, a prevention program of the Boy Scouts of America, using parks and recreation staff, using police staff, a real prevention program.

Now such dollars will go to block grants and not be used in prevention dollars. Also we now are going to throw all that into prisons, but yet we are going to tell the States how to use such dollars.

They are moving to increase prison dollars while dictating spending guidelines for their use.

The reasoning is not fluent. It is not clear. It is cloudy. It is fixing what is not broken.

Why should dollars be sent in block grants for prevention, to help the urban scouting program, the Boy Scouts program, the boys and girls program, the children-at-risk program, and, yes, midnight basketball, among others and then have requirements for prison dollars? What is this? We first say States know best and now we are saying, no, they do not.

Perhaps my colleagues on the other side of the aisle will be willing to agree that if States do know best and, therefore, seek their input and blanket authority to spend Federal tax dollars which could potentially put programs at risk during tough fiscal years, then they would agree that if block grants are good enough for prevention dollars, they should be good enough for prisons, too.

I support the Schumer amendment because I believe we should not play favorites among crime dollars. Block grants for one, block grants for all.

Mr. Chairman, I would simply say that States will be losing the opportunity to incarcerate violent criminals. Texas will lose $215 million. Let us go to block grants in a fair and bipartisan way to truly incarcerate violent offenders and truly emphasize that we are trying to work to prevent crime together.

PARLIAMENTARY INQUIRY

Mr. SCHUMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. SCHUMER. Mr. Chairman, who gets the right to conclude?

The CHAIRMAN. We are operating under the five-minute rule.

Mr. SCHUMER. I would ask, if there are any speakers on the other side, for them to go because the gentleman from Texas [Mr. BRYANT] is our concluding speaker and we have had about 10 in a row.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we had some figures that were thrown out before that allegedly indicated that a number of States would lose money, would lose prison money under this particular bill.

Those figures are not accurate. Most of the States would actually gain a significant amount of money under this bill, and, therefore, we oppose the Schumer amendment.

I think we also have to look at what is happening right now. Right now violent criminals are only serving one-third of their sentence, one-third. Murderers, what is happening with murderers in this country? Are most of them getting the death penalty? No. Are most of them getting life? Maybe they get the sentence but how much of the time do they actually serve? On average a little over 8 years, for murder in this country.

So what this bill will do will help the States and encourage the States to incarcerate prisoners for a longer period of time because when these criminals are behind bars, they are not out on our streets terrorizing our citizens and committing more and more crimes.

For that reason, I would strongly encourage that we vote down the Schumer amendment, that we pass this particular bill.

Mr. Chairman, I yield to the gentleman from Florida [Mr. MCCOLLUM].

Mr. MCCOLLUM. Mr. Chairman, I thank the gentleman for yielding to me.

I think we are to wrap up the debate that has been going on on this amendment. I would just like to reiterate before the closing argument, I would just like to conclude the thoughts over here and let the proponents have the last word on this, even though the rules do not say who has the last word.

I am quite sure that we will hear again in the closing comments that somehow States are going to lose under the underlying bill and that we are going to have to have this bill preserved through the current law in order for States to get the money for prison programs.

That, in my judgment, is just not so. as I have said before, and I will not go into a long discussion of it again, under the truth-in-sentencing concept that is out here today in the bill that underlies this, we have two pots of money, $5 billion is very easy for States to qualify to get the money for, $5 billion plus set aside for those States that are willing to change their laws. Most of them have not yet but that is why it is there. We want them to change their laws, to make sure that violent felons, serious violent felons serve at least 85 percent of their sentences.

In other words, abolish parole and get these violent felons off the streets, lock them up once and for all and throw away the key.

The whole purpose of this legislation is to accomplish that. That is the singular purpose of why we would have a grant program in the first place, is to get that to happen, not just to give money to states.

But I would submit regardless of that being the purpose, that anybody who says that this language that is in the

first part of this bill that deals with the first $5 billion is tough to qualify for does not understand the simplicity with which it is written, has not researched the statistics at the Department of Justice that clearly demonstrate that year after year as these statistics for the three provisions that come in as statistics to be recorded downtown, they have shown historically a trend up in ever increasing severity of sentences and time served in all three of these things so that it is unquestionable that 99 percent if not all States will qualify for the first $5 billion pool. The arguments are spurious to the contrary.

I would urge my colleagues to defeat the Schumer amendment when the vote comes in a few minutes, because it is truly a killer amendment. It destroys completely the underlying truth-in-sentencing provisions of this bill. It just guts the bill altogether.

Mr. BRYANT of Texas. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. Mr. Chairman, I thank the gentleman for yielding to me. I have a point I think is very important to make. Under last year's crime bill, as it applied to prisons, we authorized $10.5 billion, and I ask the chairman of the committee to make sure I am right about this. We authorized $10.5 billion, but that was not funded in the 1994 act. We only actually funded $7.9 billion from the standpoint of the 1994 act. But under the gentleman's bill, under H.R. 667, as I understand it, there is a $5 billion, in effect, pot A, a $5 billion pot B. States cannot under any circumstances apply for both. They apply for a grant either under pot A or pot B.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, they can apply for both. They can qualify either way.

Mr. CHAPMAN. That is not what the gentleman's bill says.

Mr. MCCOLLUM. The plain language does not say they cannot.

Mr. CHAPMAN. Mr. Chairman, if the gentleman will continue to yield, I would just make the point that as I read the gentleman's bill, and I just read it about a minute ago, it says they can apply for a grant under one or the other. If that is the case, the gentleman's bill actually has less money, substantially less money for prisons than the 1994 crime bill.

Mr. BRYANT of Texas. Mr. Chairman, reclaiming my time, I think the decision that we are about to make on the Schumer amendment really is a very fundamental decision that goes even beyond the details of this bill. That is, whether we are going to continue campaigning and continue sounding campaign themes or, in the second month of this Congress, we are going to begin to govern. And my appeal, and I think the appeal of our side with regard to this amendment is, to our friends on the other side, let us join together and begin governing this country. It is time to end the campaign. It ended last November.

The fact is that they have brought a bill to the floor that is filled with flaws, as would any bill be that is essentially a campaign slogan.

The fact is that they have brought a bill to the floor that has the crazy, almost totally unexplainable, anomalous result of only three States being able to fully participate in a $10.5 billion bill. That is the facts.

The gentleman from New York [Mr. SCHUMER] brought an amendment to the floor that fixes that in a way that is good for all of our States, it lets every State participate. That is what is at stake here.

If we go without the Schumer amendment, Mr. Chairman, and we go with your version, it is going to require that States prove somehow that they are making their inmates comply with 85 percent of their sentences. That means that every State is going to have to enact a multitude of new laws.

As Members know, at the State level that takes at least 18 months. Many of these States only meet every 2 years in their legislature. They then have to build prisons using their own money, so they can keep everybody in prison that they are now having to let out because they are overcrowded, so they can meet the 85-percent rule.

Third, they have to then keep them in for an undetermined number of years to prove they had met the 85-percent requirement, and the bill does not say how in the world you calculate whether they have met it or not.

The fact of the matter is that the guy with the 30,000-year sentence would have to stay there for 25,000 or 28,000 years to meet it. It is a preposterous result. It is an accidental result. It is the result of a campaign slogan, as opposed to a bill that has been brought out here to govern this country.

Mr. Chairman, the fact of the matter is that the Schumer proposal gives block grants to the States to build prisons based on the number of violent crimes in the States. It lets all of our States participate. It increases prison capacity. In short, it governs this country.

Mr. Chairman, to conclude this debate today, I would simply say that it is time for us to quit campaigning, quit talking about campaign slogans, and start governing this country.

Vote for the Schumer amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SCHUMER].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 251, not voting 4, as follows:

[Roll No. 111]

YEAS—179

Abercrombie	Gordon	Olver
Ackerman	Green	Ortiz
Andrews	Gutierrez	Orton
Baesler	Hall (OH)	Owens
Baldacci	Hamilton	Pallone
Barcia	Hastings (FL)	Pastor
Barrett (WI)	Hayes	Payne (NJ)
Becerra	Hilliard	Pelosi
Beilenson	Hinchey	Peterson (FL)
Bentsen	Holden	Pomeroy
Berman	Hoyer	Poshard
Bevill	Inglis	Rahall
Bishop	Jackson-Lee	Rangel
Bonior	Jacobs	Reed
Borski	Johnson, E.B.	Reynolds
Brewster	Johnston	Richardson
Browder	Kanjorski	Rivers
Brown (CA)	Kaptur	Roemer
Brown (FL)	Kennedy (MA)	Roybal-Allard
Brown (OH)	Kennedy (RI)	Rush
Bryant (TX)	Kennelly	Sabo
Chapman	Kildee	Sanders
Clay	Kleczka	Sawyer
Clyburn	Klink	Schroeder
Coleman	LaFalce	Schumer
Collins (IL)	Lantos	Scott
Conyers	Laughlin	Sensenbrenner
Costello	Levin	Serrano
Coyne	Lewis (GA)	Skaggs
Cramer	Lincoln	Slaughter
de la Garza	Lipinski	Spratt
Deal	Lofgren	Stark
DeFazio	Lowey	Stokes
DeLauro	Maloney	Studds
Dellums	Manton	Stupak
Dicks	Markey	Tanner
Dingell	Martinez	Taylor (MS)
Dixon	Mascara	Tejeda
Doggett	Matsui	Thompson
Dooley	McCarthy	Thornton
Doyle	McDermott	Thurman
Durbin	McHale	Torres
Edwards	McKinney	Torricelli
Ehlers	McNulty	Towns
Engel	Meehan	Tucker
Eshoo	Meek	Velázquez
Evans	Menendez	Vento
Farr	Mfume	Visclosky
Fattah	Miller (CA)	Volkmer
Fazio	Mineta	Ward
Filner	Mink	Waters
Flake	Moakley	Waxman
Foglietta	Mollohan	Williams
Ford (TN)	Montgomery	Wilson
Frank (MA)	Moran	Wise
Furse	Murtha	Woolsey
Gejdenson	Nadler	Wyden
Gephardt	Neal	Wynn
Gibbons	Oberstar	Yates
Gonzalez	Obey	

NAYS—251

Allard	Calvert	Dickey
Archer	Camp	Doolittle
Armey	Canady	Dornan
Bachus	Cardin	Dreier
Baker (CA)	Castle	Duncan
Baker (LA)	Chabot	Dunn
Ballenger	Chambliss	Ehrlich
Barr	Chenoweth	Emerson
Barrett (NE)	Christensen	English
Bartlett	Chrysler	Ensign
Barton	Clayton	Everett
Bass	Clement	Ewing
Bateman	Clinger	Fawell
Bereuter	Coble	Fields (LA)
Bilbray	Coburn	Fields (TX)
Bilirakis	Collins (GA)	Flanagan
Bliley	Combest	Foley
Blute	Condit	Forbes
Boehlert	Cooley	Fowler
Boehner	Cox	Fox
Bonilla	Crane	Franks (CT)
Bono	Crapo	Franks (NJ)
Brownback	Cremeans	Frelinghuysen
Bryant (TN)	Cubin	Frisa
Bunn	Cunningham	Funderburk
Bunning	Danner	Gallegly
Burr	Davis	Ganske
Burton	DeLay	Gekas
Buyer	Deutsch	Geren
Callahan	Diaz-Balart	Gilchrest

Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Istook
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—4

Boucher
Collins (MI)
Frost
Souder

☐ 1530

The Clerk announced the following pair:

On this vote:

Miss Collins of Michigan for, with Mr. Souder against.

Messrs. WHITFIELD, MANZULLO, and DUNCAN changed their vote from ''aye'' to ''no.''

Messrs. HAYES, SPRATT, and WILSON changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1530

AMENDMENT OFFERED BY MR. WELLER

Mr. WELLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WELLER: On page 6, after line 20, insert the following new subsection (c):

''(c) FUNDS FOR JUVENILE OFFENDERS.—Notwithstanding any other provision of this title, if a State which otherwise meets the requirements of this section certifies to the Attorney General that exigent circumstances exist which require that the State expend funds to confine juvenile offenders, the State may use funds received under this title to build, expand, and operate juvenile correctional facilities or pretrial detention facilities for such offenders.

Mr. WELLER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. WELLER. Mr. Chairman, I am here to offer an amendment by Mr. HASTERT and myself today, that would permit States to use funds from this bill to build, expand, or operate juvenile correctional facilities or pretrial detention centers. If a State can certify to the Attorney General that they are experiencing exigent circumstances, that is that they are in severe need of space, then the State may use funds received under this bill for juvenile facilities.

First of all, I would like to say that I am very pleased with H.R. 667. My amendment only seeks to improve on it. It is a positive step forward from last year's social spending bill. I believe that if we are going to spend billions of dollars on stopping crime, we should spend the money wisely on prisons and police officers. By increasing police presence and adding prison space, we will send a message to criminals that violence and crime will not be tolerated.

Our country is facing a crisis. We do not have enough prison space, and as a result, we continue to release criminals early. By doing so we are facilitating the revolving door policy that moves criminals in and out of the justice system. Too often criminals go free because there is not place to put them.

The same problem applies to our juvenile offenders. My amendment seeks to correct this problem. This amendment would allow States to utilize funding from this legislation for the construction of juvenile correctional facilities or juvenile detention centers.

The increase in recent years of crime committed by juveniles is astounding. Juveniles have committed several thousand murders a year. These youth are at risk of becoming products of the system; repeat violent offenders who are in and out of prison.

In my State of Illinois, as I've learned in the case in many States, we face a severe shortage of beds in the juvenile detention system. If you disregard Cook County, there are only 351 beds for the entire State. Because there are no beds to put these juvenile offenders, they are transported all over the State—wherever a bed becomes available. If the next night, the county needs the bed for one of their own, the youth will either be transferred somewhere else in the State or released. Police officers are playing chauffeur, driving these kids back and forth across the State, when they could be using their time much more effectively patrolling the streets. Another problem we face is the mixing of severely violent youths in pretrial detention, with nonviolent youths. It is in the best interest of kids if we separate kids with a bad attitude from violent murderers and rapists.

I have a letter from the sheriff of Will County, Brendan Ward, expressing great concern with prisoner overcrowding and lack of appropriate juvenile detention space. A Department of Justice study shows that more than 75 percent of the confined juvenile population were housed in facilities that violated one or more standards for detention living space. So as you can see, this is not just a local problem. There has been a significant increase in juvenile crime across the Nation. According to the same U.S. Department of Justice study, the number of delinquency cases handled by juvenile courts increased 26 percent between 1988 and 1992. During these 5 years, cases of robbery and aggravated assault grew 52 percent and 80 percent respectively. In the State of Illinois, over approximately the same time span, the number of juveniles arrested for violent offenses increased 16 percent. The rate of juvenile crime is constantly increasing. We need to take this into account when we consider the Violent Criminal Incarceration Act, and make funding available for juvenile facilities.

This situation is also very discouraging because we are forced to release these juveniles when there is no facility in which to put them. Kids are not dumb. They realize that there is nothing that we can do to them; they know that they can continue to get away with their actions. With the amount of crime committed by youth gangs today, it is imperative that they know that they will have to pay the price for their actions, or there is no reason for them to stop. The amount of crimes committed by juveniles is staggering. The FBI reports that in 1992, juveniles were involved in 15 percent of all murder arrests, 16 percent of all forcible rapes, 26 percent of robberies, and 23 percent of weapon and drug law violations. The recidivism rate among these types of offenders is very high. If we can show them that they will be locked up, maybe they will realize that there are consequences to their actions, and think before they commit their next crime. However, without the proper facilities, we cannot keep these kids in custody. We need to make sure that some of the $10.5 billion dollars in this bill are used for juvenile detention centers.

I urge your full support for this very important amendment.

Mr. Chairman, I also want to thank the chairman of the committee, the gentleman from Illinois [Mr. HYDE] my colleague from the great State of the Land of Lincoln, and I ask the Members for their full support for this very important amendment.

AMENDMENT OFFERED BY MR. DOGGETT TO THE AMENDMENT OFFERED BY MR. WELLER

Mr. DOGGETT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DOGGETT to the amendment offered by Mr. WELLER: On line 2, insert ''or unit of local government located in a State'' after ''State''.

On line 3, strike ''this section'' and insert ''section 502 or 503''.

Mr. DOGGETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1540

Mr. DOGGETT. Mr. Chairman, I commend the gentleman from Illinois on his amendment, and I offer this further strengthening amendment, just as he attempts to strengthen the original legislation to strengthen, in our effort, what we are trying to do about the serious problem of juvenile offenders, because the same problem that plagues Illinois plagues in the State of Texas my hometown of Austin, TX.

Mr. Chairman, I would much rather prevent a crime with an effective local crime prevention program than to confine a child. I would much rather deter a crime with 100,000 police on our streets added under the crime bill rather than to confine a child.

But in truth and fact, whether it is in Illinois or Texas or any other part of this country, there are some young people who do need to be confined and that is what this amendment and this amendment to the amendment is really all about. There are young people out today who are terrorizing our neighborhoods, and the only thing, after all else has failed, that we can do with them is to confine them and to prevent them from causing further destruction of the neighborhood.

The legislation that is now before us, as originally presented by the committee, dealt with the problem of adult corrections and adult offenders. It did not address this problem of juvenile offenders.

The gentleman from Illinois was thinking very much along the same lines as I was thinking in a similar amendment that I have offered. In lieu of that amendment, I am offering this amendment to the amendment. The amendment on which I had worked also seeking to deal with the problem of juvenile offenders is one that was drafted with the participation and the cosponsorship of the distinguished gentleman from Michigan, [Mr. STUPAK], a former police officer and State trooper, and the distinguished gentleman from Alabama [Mr. CRAMER], a former prosecutor. All are front line officials in the fight on crime, and whether it is Alabama or Michigan or Illinois, we agree that there is a serious problem with juvenile offenders.

What this amendment to the amendment seeks to do, and I understand that it is acceptable to the sponsor, having worked with him and the distinguished chairman of the Committee on the Judiciary in this regard, is to provide access for local governments to this same group of funds.

Let me tell you why that is so important to those in the State of Texas. We have seen the effect of violence right there in the capital city of the State of Texas. In our community in 1988, there were 307 juveniles that had been certified to the juvenile court four or more times in just a single year. Now, that is a tremendous amount. But by last year, that amount had increased 538 percent, so that we have almost 2,000 juveniles being certified to the juvenile court four or more times. That means too often that the first time they got down there they only got a slap on the wrist, and the same thing happened the second and the third and maybe even the fourth time. They are back out setting an example, a very bad example, for other young people in the community, because we simply have not had the capacity for pretrial detention there at the Gardner-Betts Center in our community.

Indeed, last week, we had such a serious problem there was no longer enough capacity in the local facility, the Gardner-Betts facility, and 15 of these people were turned out back on the street again.

This problem is exacerbated by the fact that in the State of Texas our county, a growing county, has only 50 beds allocated in the State correctional facility for the entire year. Unfortunately, we have got more than 50 young people that are involved in violent offenses, that are involved in serious property offenses, and rapes and murders and aggravated assaults, and without the amendment offered by the gentleman from Illinois, as we have modified it now to include local governmental units, we would not be addressing that problem at all in this piece of legislation.

I will tell the gentleman from Illinois, also, that I have visited, in drafting my own amendment along the same lines, with the officials at the Texas Youth Council who handle statewide, as you have in Illinois, all of our juvenile offenders, and they were quite concerned that this legislation, as originally proposed, did not deal with this problem of juvenile offenders.

I think by working together as we have with this amendment and the amendment to the amendment in a bipartisan fashion we have tried to address this problem of the fact that, frankly, there really are some young thugs out there that somehow we missed on prevention and somehow we missed on education. I wish we could have taken care of that problem. Now it is time to see that they no longer continue to do damage within their neighborhoods and threaten the millions of Americans who are hard-working, who are honest, and who are trying to make a go of it without this example of dangerous young offenders.

Mr. WELLER. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I am happy to yield to the gentleman from Illinois.

Mr. WELLER. My colleague from Texas, I would like to just confirm that the language of the amendment that you are offering to our amendment is language that we discussed and that was agreed to?

The CHAIRMAN. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

(By unanimous consent, Mr. DOGGETT was allowed to proceed for 2 additional minutes.)

Mr. WELLER. I would ask the gentleman from Texas if he would confirm the amendment to our amendment which he is offering is the language that we discussed and agreed to in consultation with the chairman of our committee.

Mr. DOGGETT. It is. I appreciate your agreement. I appreciate your initiative on this. Because the effect, as I understand your amendment now as amended, is by the States or the localities within a State that is certified meeting the other requirements could apply directly to the Attorney General of the United States and indicate that there are exigent circumstances, and heaven knows there are exigent circumstances right now in Illinois, in Austin, TX, and across this country with a large volume of juvenile offenders not being adequately housed.

Mr. WELLER. If the gentleman will yield further, I support and accept your amendment to our amendment. One of the reasons is I think of an example in the State of Illinois, in Will County, which is the largest county in my district, a county without a juvenile detention center. Of course, they are anxious to construct, because they are overcrowded, and they need a place to put bad kids and get them off the street and keep them off the street until they have the opportunity to go to trial, for a juvenile detention facility.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Illinois.

Mr. HYDE. I just want to congratulate the gentleman from Texas [Mr. DOGGETT], the gentleman from Illinois [Mr. WELLER], and the gentleman from Illinois [Mr. HASTERT] for this initiative. I think it improves the bill. It is very useful, and it certainly is acceptable to our side.

Mr. DOGGETT. I thank the chairman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Michigan.

Mr. CONYERS. On this side of the aisle, we are delighted that the gentleman from Texas and the gentleman from Illinois have crafted together a smart and tough amendment that allows us to deal with boot camps and other facilities for youthful offenders. It is a very important part of the bill,

and it will not just help Texas and Illinois, believe me. We need this all over, and I congratulate you all, including the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Weller-Hastert amendment, as amended by the Doggett-Cramer-Stupak amendment.

Mr. Chairman, it is refreshing to see that ideas from both parties can be melded together here on the House floor to make a stronger amendment to achieve the purposes of what we all want to achieve, and that is to provide prisons for youthful offenders.

When I was a police officer, all too often most of the people I would arrest for crime, whether it be breaking and entering to murder, was usually young people.

What would we do in today's society is take these young people and put them in prisons with many members of our society who are there for heinous crimes, and they are 20 and 30 years their senior, and they are treated the same in a judicial system which is insensitive to the needs of young people.

Juveniles go into these prisons, young people; a few years later I would see them out on the street. They may be a little bit older chronologically, but they were much, much wiser in the ways of the crime.

If we are ever going to help young people overcome their responsibilities to society, if we are going to help them be rehabilitated, we should try to isolate them in youthful offender prisons and not imprison them with hardened criminals.

So I am pleased to stand today to say that both sides of the aisle have been able to work together. I thank the gentleman from Illinois [Mr. WELLER] and the gentleman from Illinois [Mr. HASTERT] and the gentleman from Illinois [Mr. HYDE] for their cooperation and guidance in putting together these two amendments, and my congratulations to the gentleman from Texas [Mr. DOGGETT] in his first amendment on this House floor, and hope there will be many more, and the same to the gentleman from Illinois [Mr. WELLER].

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just very briefly, I want to congratulate the gentleman from Illinois [Mr. HYDE] in helping us come together, but the genesis amendment came a year ago after the crime bill was passed, very serious problems, especially in counties where there was simply not enough room to take care of juvenile offenders in a pretrial situation, and they are jockeying these young offenders across county lines, back and forth. We needed to find a way to solve the problem.

So again, with the gentleman from Illinois [Mr. WELLER] and myself and the gentleman from Texas across the aisle, this does solve the problem. It takes care of those juvenile offenders that by law that you cannot intermingle with hardened criminals and those adult criminals waiting for trial.

□ 1550

This is a good piece of legislation. Again, there is bipartisan cooperation, and I thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Illinois [Mr. WELLER] for putting this together.

Mr. CRAMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to quickly congratulate the authors of these amendments, the amendment itself, and amendment to the amendment.

As I said earlier, I thought we would be making a mistake if we left the juvenile issue out of the incarceration issue. I think it is very important. One of the plagues on our local communities is the violent juvenile offenders. While we are talking about violent offenders, we should in fact be talking about violent juvenile offenders as well.

So I want to thank the Members for working in a bipartisan way together. I think this is a terrific improvement in this legislation, and I think it will help the local and State communities realize they have a more effective partnership with the Federal Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DOGGETT] to the amendment offered by the gentleman from Illinois [Mr. WELLER].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Illinois [Mr. WELLER].

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Chairman, I offer amendment No. 17.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CANADY of Florida: Page 1, after line 22, insert the following:

Such grants may also be used to build, expand, and operate secure youth correctional facilities.''

Page 6, after line 2, insert the following (and redesignate any subsequent subsections accordingly):

''(b) JUVENILE JUSTICE INCENTIVE.—Beginning in fiscal year 1998, 15 percent of the funds that would otherwise be available to a State under section 502 or 503 shall be withheld from any State which does not have an eligible system of consequential sanctions for juvenile offenders.

Page 10, line 7, delete ''and'' at the end of the line.

Page 10, at the end of line 10, strike the period and insert ';'', and add the following:

''(4) the term 'an eligible system of consequential sanctions for juvenile offenders' means that the State or States organized as a regional compact, as the case may be—

''(A)(i) have established or are in the process of establishing a system of sanctions for the State's juvenile justice system in which the State bases dispositions for juveniles on a scale of increasingly severe sanctions for the commission of a repeat delinquent act, particularly if the subsequent delinquent act committed by such juvenile is of similar or greater seriousness or if a court dispositional order for a delinquent act is violated; and

''(ii) such dispositions should, to the extent practicable, require the juvenile delinquent to compensate victims for losses and compensate the juvenile justice authorities for supervision costs;

''(B) impose a sanction on each juvenile adjudicated delinquent;

''(C) require that a State court concur in allowing a juvenile to be sent to a diversionary program in lieu of juvenile court proceedings;

''(D) have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years of age and older as adults, rather than in juvenile proceedings, for conduct constituting—

''(i) murder or attempted murder;

''(ii) robbery while armed with a deadly weapon,

''(iii) battery while armed with a deadly weapon,

''(iv) forcible rape;

''(v) any other crime the State determines appropriate; and

''(vi) the fourth or subsequent occasion on which such juveniles engage in an activity for which adults could be imprisoned for a term exceeding 1 year; unless, on a case-by-case basis, the transfer of such juveniles for disposition in the juvenile justice system is determined under State law to be in the interest of justice;

''(E) require that whenever a juvenile is adjudicated in a juvenile proceeding to have engaged in the conduct constituting an offense described in subparagraph (D) that—

''(i) a record is kept relating to that adjudication which is—

''(I) equivalent to the record that would be kept of an adult conviction for that offense;

''(II) retained for a period of time that is equal to the period of time records are kept for adult convictions; and

''(III) made available to law enforcement officials to the same extent that a record of an adult conviction would be made available;

''(ii) the juvenile is fingerprinted and photographed, and the fingerprints and photograph are sent to the Federal Bureau of Investigation; and

''(iii) the court in which the adjudication takes place transmits to the Federal Bureau of Investigation the information concerning the adjudication, including the name and birth date of the juvenile, date of adjudication, and disposition.

''(F) where practicable and appropriate, require parents to participate in meeting the dispositional requirements imposed on the juvenile by the court;

''(G) have consulted with any units of local government responsible for secure youth correctional facilities in setting priorities for construction, development, expansion and modification, operation or improvement of juvenile facilities, and to the extent practicable, ensure that the needs of entities currently administering juvenile facilities are addressed; and

''(H) have in place or are putting in place systems to provide objective evaluations of State and local juvenile justice systems to determine such systems' effectiveness in protecting the community, reducing recidivism, and ensuring compliance with dispositions.''

Mr. CANADY of Florida. Mr. Chairman, this amendment, which was crafted with my good friend, the gentleman from Oregon [Mr. WYDEN] deals with the same issue that we have been discussing, juvenile justice.

I want to commend the sponsors of the previous amendment for their work on this issue. I also want to thank the gentleman from Texas [Mr. PETE GEREN] who has, in the last year, worked with me on legislation on the same subject, a major portion of which is incorporated in this amendment.

This amendment is submitted to encourage the States to implement a serious system of consequential sanctions for juvenile offenders.

Mr. Chairman, we have heard very much in the last few minutes about the serious problem of juvenile crime.

The statistics, indeed, tell a chilling tale. The juvenile violent crime index rose 68 percent between 1988 and 1992, and since then it has been going up. In the past decade, the number of juveniles arrested for murder increased by 93 percent. In 1992 juveniles were responsible for nearly 13 percent of all crimes cleared by police, including 9 percent of all murders, 41 percent of all forcible rapes, 16 percent of all robberies, and 12 percent of all aggravated assaults.

Clearly, the States need resources to fight juvenile crime. I believe we need a major initiative to reform our juvenile justice system in this country. The juvenile justice system is failing in a monumental way. This amendment allows the States to address this problem and provides them with incentives to address this problem. Under the amendment, beginning in fiscal year 1998, 15 percent of the funds which would otherwise be available under the grant program will be withheld if a State does not have in place by that time a system of consequential sanctions for juvenile offenders. A system of consequential sanctions for juvenile offenders would include: a system of increasingly severe sanctions for juveniles who commit repeat offenses; an effective system for prosecution of juveniles as adults for juveniles 14 years of age or older who have committed serious violent crimes; a requirement that parents participate in meeting the sentences imposed on juveniles, and a requirement that juveniles who commit serious violent felonies have their fingerprint and other identification records sent to the FBI to insure that we can track them on the Federal level.

Mr. Chairman, this amendment represents a commonsense, bipartisan approach to the spiraling problem of juvenile crime. I want to thank the gentleman from Oregon [Mr. WYDEN] and the gentleman from Texas [Mr. PETE GEREN] for their vital contributions to this effort.

I also want to thank the gentleman from Illinois, [Mr. HYDE] and the gentleman from Florida [Mr. MCCOLLUM] for their assistance in this matter.

For too long we have only paid lip service to the problem of juvenile crime. It is time we do something serious about it. This amendment is a practical first step, and I urge my colleagues to vote in favor of this amendment.

Mr. WYDEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and colleagues, what the gentleman from Florida [Mr. CANADY] and I have been working on together to do is essentially promote a new philosophy with respect to juvenile justice in our country.

What we are seeing in community after community is that violent juveniles commit one offense after another and face absolutely no consequences whatsoever.

for example, at home in Oregon it was recently reported that a violent juvenile committed 50 crimes, 32 of which were felonies, before the juvenile system took any action to protect the community. The problem has essentially been that the juvenile justice system has been built on the medical model, the notion that even though you are dealing with a repeat violent offender, somehow the offender could be rehabilitated.

I think a number of our leading criminologists—and I would refer specifically to the work of James Q. Wilson of Los Angeles—have indicated that the challenge with respect to juvenile justice is to replace this medical model, which is now in place, with a system of accountability.

And so what we seek to do in this amendment is to, through this Federal legislation, promote the philosophy wherein violent young offenders who commit crimes will face real consequences each time they commit an offense and those consequences will increase each time they commit an additional offense.

Now, I would like to, in closing, particularly commend the Attorney General of my State, Ted Kulongoski. He has been an advocate within the Association of Attorneys General for an approach that would involve graduated sanctions for each offense.

I would also like to thank the gentleman from Illinois [Mr. HYDE] and the gentleman from Michigan [Mr. CONYERS] for their help.

This amendment complements the earlier one, but our colleagues should make no mistake about it, what we would like to do through this amendment is promote a new philosophy of accountability, a philosophy that insures there are consequences every time a young person commits a criminal act.

I particularly want to thank my friend, the gentleman from Florida [Mr. CANADY] who has been so patient in working through this effort.

Mr. WATT of North Carolina. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before we rush to judgment on this, I think we ought to at least let our colleagues and the American people know what we are doing here. In the spirit, whether it is bipartisanship or whatever, the American people deserve the right to know that we are saying, out of one side of our mouth, that we should be staying out of the States' business and we have now set upon a series of amendments that inject the Federal Government further and further and further into the business that has typically been the reserve of the State.

I will say to my colleagues that the Federal Government has no juvenile law. We do not deal with juveniles in the Federal system. We do not have laws in Federal system that deal with juvenile delinquency. Most States have a whole system that they have put in place over years and years and years to deal with juvenile delinquents.

And while we gloss over what we are doing here, embedded in the body of this amendment is a provision that requires, or at least says, ''If you are going to have any of the benefits of these funds, you have got to have established and maintained an effective system that requires the prosecution of at least those juveniles who are 14 years old or older as adults under certain circumstances.''

□ 1600

Well, I would presume, if that is a good idea, the States in their infinite wisdom would have thought about it, and some of them have, but I do not know that we, as a Federal Government, ought to start moving into an area that we have never been involved in before in this way.

I mean I am resigned, I think, that this will pass, as just abut everything else that comes forward that I think is outrageous seems to be passing, but the American people need to understand that our colleagues here are trying to have it both ways. They are saying, ''Look, we believe in States rights,'' out of one side of their mouth, and they are saying out of the other side of their mouth, ''Let me tell you what Big Brother Federal Government would like for you to do, not only in areas that we have been involved in historically, but in areas that we have never ever had any Federal policy discussions about, involvement in or even any connection to.''

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Chairman, I would point out that the Federal Government has been involved in juvenile justice policy for a long time. We have been providing grants to the States with respect to the juvenile justice systems—

Mr. WATT of North Carolina. Reclaiming my time, let me just make sure; do we have any juvenile facilities at the Federal level?

Mr. CANADY of Florida. No, that is not the point, that is not the point.

The Federal Government has been involved in the area of juvenile justice policy and in trying to encourage the States to do certain things in their juvenile justice system.

Now another thing that I think is important to understand about this amendment:

This compliance with these provisions is not a requirement for participation and receiving grant funds. All we are doing in this is——

Mr. WATT of North Carolina. I take the gentleman to mean, reclaiming my time briefly, that this is not a Federal mandate.

I say to the gentleman, anytime it's good for all of you to call something a mandate, you call it a mandate, and it's not convenient this time to call this a mandate; OK, I understand that.

I yield to the gentleman.

Mr. CANADY of Florida. As the gentleman from Illinois [Mr. HYDE] discussed earlier, this is an incentive. It is a modest, quite frankly a very modest, incentive for States to set up systems in which they are going to be serious about dealing with violent juvenile offenders and creating——

Mr. WATT of North Carolina. Reclaiming my time, let me just suggest to the gentleman that, if he truly believes in States rights, there is no requirement that we suggest to the States how they deal with juveniles and get ourselves involved in these issues.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

(By unanimous consent, Mr. WATT of North Carolina was allowed to proceed for 1 additional minute.)

Mr. CANADY of Florida. Mr. Chairman, will the gentleman yield?

Mr. WATT of North Carolina. I yield back to the gentleman.

Mr. CANADY of Florida. I appreciate that.

I think there is an important Federal interest. We have seen cases in which a juvenile who committed murder in one State and was slapped on the wrist has been let out on the streets and has moved to another State. Now let me tell the gentleman that implicates a Federal interest, and I think, when we see circumstances like that, it is appropriate for the Congress to address it and provide a modest incentive, as we are doing in this bill.

Mr. WATT of North Carolina. Reclaiming my time, let me just be clear with the gentleman from Florida [Mr. CANADY] and say, there is not a law that you can come in here with that you can't point out some kind of abuse, some kind of anecdote, that would get the Federal Government involved. Last time, last session, it was carjacking because they were taking the cars across Federal—we never have been involved in that in our lives at the Federal level. There is always some kind of exception that will get the public outraged.

But this is a public policy debate. Should the Federal Government be involved in trying to tell the States, when we are at the same time saying to the States we are getting further and further out of the States' way and yielding back to the States——

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. WATT] has expired.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words because a number of concerns have arisen here as the debate goes on.

As my colleagues know, in most States, in most cities, juveniles are being waived over to be tried as adults. I do not see any place where that is not happening. So the violent crimes now are not being slapped on the wrist. They are being sent to the criminal circuit to be tried as adults, and I do not know if my colleagues have taken that into account.

The second thing that is important to me is that, if there were a Federal involvement, what would it be to do?

Mr. WYDEN. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Oregon.

Mr. WYDEN. Mr. Chairman, the view of the gentleman from Florida and myself is that the juvenile justice system does not work. We see these young people committing offense after offense after offense, and there are absolutely no consequences.

What we are seeking to do with a very small portion of Federal funds is try over the next few years to get States to adopt a new philosophy with respect to juvenile justice so that, when a young person commits their initial offense, the punishment will be specific, but it will not be the most severe——

Mr. CONYERS. Reclaiming my time——

Mr. WYDEN. Offense. They will face additional punishment

Mr. CONYERS. Reclaiming my time, this puts us into the business of creating Federal law for juveniles in every city across America——

Mr. WYDEN. Will the gentleman yield further?

Mr. CONYERS. And the other thing that bothers me:

The gentleman raised the name of Professor Wilson, who is a great scholar of criminal justice but whose ideas and mine occasionally comport, and just as often they probably do not.

So, as my colleagues know, what they are asking us to do is adopt a new philosophy, and I am sure when they say the juvenile system does not work, they mean some parts of it do not work, and there are in many instances for many youngsters that do not keep repeating crimes where the juvenile system has been very successful. But in some instances it has not been, but it is not a total failure, like other systems.

So what I am suggesting here respectfully is:

Shouldn't this matter be considered in the committee? It's an incredibly important event, but now the gentleman from Oregon is asking me to accept a new philosophy on the floor. He's mentioned a professor's name, and that's supposed to do it. I don't know what that philosophy is. It's not clear to me exactly where we are going here.

Mr. WYDEN. Mr. Chairman, would the gentleman yield further?

Mr. CONYERS. Briefly, yes.

Mr. WYDEN. All we are saying is over the next 3 years let us give an incentive to States. It is not a matter of changing the Federal criminal code. No criminal law at the Federal level will be changed, but because there are such serious problems with lack of accountability at the State level, let us encourage States in a modest way to try this out in——

Mr. CONYERS. Mr. Chairman, I have to reclaim my time because what we are doing again is that we at the Federal level are now telling local government how to treat juveniles. Juveniles are under the State and local criminal law, and so, if we do not create Federal law, we are telling the States and other localities how they have got to operate under this new theory that we have trotted out this afternoon with respect to juveniles.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. I just want to make the point that at least they could try to be consistent about this. I mean my colleagues say the juvenile laws are not working, therefore the Federal Government is going to get further involved in the process. The welfare laws are not working, therefore we are going to give all responsibility to the State.

□ 1610

You cannot have it both ways. That is what we kept saying to you in the last debate, on the amendment of the gentleman from New York [Mr. SCHUMER]. You say out of one side of your mouth, we want a block grant, and get out of the way. Then you say out of the other side of your mouth, we want to control what you are doing at the State level. You cannot have it both ways. Be consistent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. CANADY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment which is at the desk and which has the words, ''New A,'' marked on it.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 9, line 7, strike ''508'' and insert ''509''.

Page 9, after line 6, insert the following new section:

"SEC. 508. PAYMENTS TO STATES FOR INCARCERATION OF CRIMINAL ALIENS.

''(a) RESERVATION OF FUNDS.—Notwithstanding any other provision of this title, for each of the fiscal year 1996, 1997, 1998, 1999, and 2000 from amounts appropriated under section 507, the Attorney General shall first reserve an amount which when added to amounts appropriated an amount which when added to amounts appropriated to carry out section 242(j) of the Immigration and Nationality Act for such fiscal year equals $650,000,000.

''(h) PAYMENTS TO ELIGIBLE STATES.—

''(1) Notwithstanding any other provision of this title, for each of the fiscal years 1996, 1997, 1998, 199, and 2000 from amounts reserved under subsection (a), the Attorney General shall make a payment to each State which is eligible under section 242(j) of the Immigration and Nationality Act and which meets the eligibility requirements of section 503(b), in such amount as is determined under section 242(j) and for which payment is not made to such State for such fiscal year under such section.

''(2) For any fiscal year, payments made to States under paragraph (1) may not exceed the amount reserved for such fiscal year under subsection (a).

''(c) USE OF UNOBLIGATED FUNDS.—For any fiscal year, amounts reserved under subsection (a) which are not obligated by the end of that fiscal year under subsection (b) shall not be available for payments under this section for any subsequent fiscal year, but shall be available, in equal amounts, to the Attorney General only for grants under sections 502 and 503.

''(d) REPORT TO CONGRESS.—Not later than May 15, 1999, the Attorney General shall submit a report to the Congress which contains the recommendation of the Attorney General concerning the extension of the program under this section.''.

Page 2, line 6, insert ''(a) IN GENERAL.—'' before ''Title''.

Page 10, after line 10, insert the following:

(b) PREFERENCE IN PAYMENTS UNDER SECTION 242 (J) OF IMMIGRATION AND NATIONALITY ACT.—Section 242(j)(4) of the Immigration and Nationality Act (8 U.S.C. 1252(j)(4)) is amended by adding at the end the following:

''(C) In carrying out paragraph (1)(A), the Attorney General shall give preference in making payments to States and political subdivisions of States which are ineligible for payments under section 508 of the Violent Crime Control and Law Enforcement Act of 1994.''.

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. Mr. Chairman, this amendment is an amendment that has been a work product we have been doing for quite some time with the gentleman from California [Mr. BERMAN], the gentleman from California [Mr. GALLEGLY], and other people from around the country interested in the question of whether or not we as a nation can and should and in what manner reimburse the States for the cost of incarcerating criminal aliens. There are enormous expenses out there, varying, depending upon who is making the projections as to how much it costs States, particularly Florida, California, Texas, and also New York and Illinois. Every State in the union has criminal aliens occupying their bedspace and doing things we would prefer they were not there doing, costing money to those States.

You will see us with a bill out here on the floor tomorrow, I believe, that will attempt to address speeding up the process, expediting the process of deporting these criminal aliens, and getting this moving, so we do not have them clogging it up with the expense and clock running. But the States and Governors of many States have asked us to try to find a way to fund the cost of this. In many ways the burden that is there because of illegal immigration, criminal alien problems, are really and truly Federal responsibilities.

They have asked us to find a way to solve cost of the problem to the States of this mandate out there. If there is anything involved in any of the crime bills we bring up that deals with an unfunded mandate in the more traditional sense that we spoke of the other day when we passed the unfunded mandate legislation, this is it.

A lot of this is grandfathered in so time has passed and it is not appropriate to redebate this issue. But today we have an opportunity to rectify this problem through a method that can be paid for fully and a method that I believe everybody in this Congress would like to do.

No. 1, what this amendment will do is it will protect an existing provision of law that was passed last Congress that provides beginning next year approximately $330 million a year in authorization to reimburse the States for the cost of incarcerating criminal aliens. It will cordon that off and give a preference for that money to those States that do not qualify for some additional moneys we are going to give under the prison bill today, so there will be no question that anybody who would have been eligible or is eligible today for those funds put in last year, any State, will continue to be eligible for that $330 million.

But the Congressional Budget Office estimates that on an annual basis for the next 5 years, 6 years, or whatever, until we get this under control, the cost to the States nationwide will be about $650 million per year. So there is a difference, a shortfall, even if all the money under the trust fund moneys we envision for the crime legislation. And that was part of what was passed last year, was to cover the $330 per year for the purpose of reimbursing States for the incarceration of these criminal aliens. Even if we can cordon off enough money in addition to that $330 million to meet the $650 million, we figure we will fully reimburse the States having this problem for the costs of incarcerating these criminal aliens.

What my amendment does is say we will protect and give preference to everybody who is eligible right now who would not be eligible under this new provision. But then for those States who meet the test of the 85-percent rule under this bill, who qualify as to who are able to meet truth-in-sentencing requirements as they come on line, and many of our larger States will, California, Florida, Texas, et cetera, over the next couple of years, for those States there will be made available preferentially under this grant program, prison grant program, from dollar one, preferentially will be made available sufficient money in order to be able to make up that difference.

So there will be another roughly $320 million a year that will be made available that the Attorney General will have to offer out of the first priority under the prison grant moneys, whether that is prison grant moneys in A or B pot, whatever, the $10.5 billion in this bill.

I think this is a way to fully compensate the States. It is a positive reinforcement method to what is being offered in the bill. It does not disrupt the qualification of any State under the existing law and the roughly $330 million that is there.

I want to compliment the gentleman from California for having created the effort that was put forward in our committee, which did not stand the germaneness test because it was an entitlement. We have come out today with an authorization program which he worked hard on, and I want to thank him for his participation in that effort to accomplish what we are doing today.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. MCCOLLUM was allowed to proceed for 3 additional minutes.)

Mr. MCCOLLUM. Mr. Chairman, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding. I thank him for his kind words, and more importantly, I thank him for offering this amendment because, let us make it clear, what this amendment does is it recognizes the priority of funding. Before we start appropriating funds for new prison construction, we deal with reimbursing the States and localities for the costs they are now expending incarcerating undocumented criminal aliens who are convicted of felonies, who would not be in those States were it not for the Federal failure to enforce the immigration policy.

So the gentleman's amendment, while I would have preferred the amendment I drafted and had preprinted in the RECORD, because that was not tied in any part to the Truth in Sentencing Act, the fact is the gentleman, by giving preferential treatment to the States that do not comply with the Truth in Sentencing Act for the money appropriated under last year's crime bill, and then reserving no less than a total of $650 for this cause, has accepted the preeminent priority of funding this unfunded consequence, if

we want to call it that, that now exists in an unfair fashion. So I compliment the gentleman.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

(At the request of Mr. BERMAN and by unanimous consent, Mr. MCCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. MCCOLLUM. Mr. Chairman, I continue to yield to the gentleman from California.

Mr. BERMAN. I want to ask a couple of questions to make sure we have full understanding.

In the underlying bill for Federal assistance for prison construction, you have three requirements. you have a non-supplanting requirement, a limit on administrative costs, and a requirement for matching funds.

Mr. MCCOLLUM. Yes, that is correct.

Mr. BERMAN. My question is, to just make clear, my understanding is this amendment, if adopted, will not require or put any of those three limitations on. In other words, by definition this is supplanting money. The States are now spending money to operate their prisons.

Mr. MCCOLLUM. If the gentleman will allow, I will reclaim my time. The gentleman is 100 percent correct, because the language that begins this provision says ''not withstanding any other provision of this title,'' and it is obvious on the face of what we are doing today this is intended to be supplanting money. It is supplanting what the States are paying out today, which they should not be paying out, because this is a Federal responsibility.

Mr. BERMAN. If the gentleman will yield further, the same with respect to the 3 percent limit on administrative costs. That was for a new prison construction program. This provision is a reimbursement provision. By definition, 100 percent of these costs are for operating costs of existing State and local prisons and jails.

Mr. MCCOLLUM. Reclaiming my time, the gentleman is correct.

Mr. BERMAN. And there is no matching requirement for the States or local under this program.

Mr. MCCOLLUM. Reclaiming my time, the gentleman is 100 percent correct about that.

Mr. BERMAN. And we have had a problem this year with the appropriated monies, the $130 million. I do have to point out that President Clinton was the first President ever to propose funding for this, and Congress appropriated $130 million, first time ever, last year.

□ 1620

But we have had a problem in that even though we think the language of the existing crime bill is clear, no local governments have been eligible for that. It is our intention, under the underlying crime provisions that exist in existing law, that local governments be eligible for that portion of the money, even though they are not eligible for the Truth-in-Sentencing Act money that is provided for in the gentleman's amendment; is that correct?

Mr. MCCOLLUM. The gentleman is correct. I think the gentleman has made excellent points about this particular proposal today. It is very, very unique and well-crafted. The gentleman and I have worked very hard on it. Governor Wilson of California has worked on it with us. We have had a number of inputs from other State leaders. And the gentleman from California [Mr. GALLEGLY].

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, if I could just make two points. First of all, I think my colleague from California, who authorized the original program in last year's crime bill, the gentleman from California [Mr. BEILENSON], through his amendment that program stays intact. It is very important for us to watch the appropriations process, particularly for certain States that do not qualify for the Truth-In-Sentencing Act.

I am told by the Governor of California, even though the Justice Department does not confirm that, but I am told without qualification by the Governor of California that California qualifies under the Truth-In-Sentencing Act and, therefore, will be eligible for this new prison money that is being reserved for this program. It is on that basis and on those assurances that I am supporting the gentleman's amendment.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, those States like Texas and New York, which do not now comply with the Truth-In-Sentencing Act, will still be better off on this amendment because they will have a preference under the Beilenson language, any money appropriated under that provision. So while they are not going to be as well off as they would have been under the amendment I had intended to offer, they will be better off than they are under existing law.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, they are going to be actually better off because they are going to have a separate pool of money to draw from that the gentleman's State of California will not be able to dig into for better than half of the money available here and all of the money that is available under current law. So consequently in many ways those States will be better off because they are not affected in any way by this than they are presently. In other words, there is more money out here and the gentleman's State and any other qualifying State will have absolutely no divvies on the existing funds after this is passed, that which is out there.

They will have your own pool of money to go to if they qualify.

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, he is right, assuming that these States file enough claims to take up that appropriated money. If not, then the States who do qualify can dip into that money. And so I guess we have covered the ground.

I thank the gentleman for showing the flexibility to take care of this and, more importantly, to start this in fiscal year 1996. The States who are facing these costs are in a crisis in their budgets. They need the money this coming fiscal year.

Mr. MCCOLLUM. Mr. Chairman, reclaiming my time, I would like to say in conclusion that this is a very good, fair proposal for every State involved that has any criminal alien whatsoever in a jail. They are going to get compensation this way and the dollars work out well. The formula works out well. And I would be glad to answer other Members' questions as the afternoon and the debate, if there is any more, progresses so we can clarify that for anybody. But we worked very hard to do this. I want to thank the gentleman for asking those questions so we could clarify as much as possible.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(On request of Mr. DE LA GARZA, and by unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute).

Mr. MCCOLLUM. Mr. Chairman, I yield to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, mention was made of State and local. I want to know the extent of the local? Did this cover our county jails, our city?

Mr. MCCOLLUM. If there would be the opportunity to gain that through the States to cover those, yes. There is no restriction on that whatsoever in what we are offering. So the gentleman would be able to get that kind of pipeline.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will continue to yield, but do we leave it then up to the option of the State? There is no guarantee here that my local county jail, who houses the same type of aliens, is getting any assistance.

Mr. MCCOLLUM. The gentleman is leaving it up to his Governor under this proposal. But the State, the counties, and the cities would be eligible. We do not divvy it up here and say *x* amount of dollars. But the Attorney General is deciding this and it is for each of the fiscal years, she shall first reserve the amount and then she shall make payments to each State which is eligible. So it goes to the State but the States have the power and are not restricted in any way from providing this

money for the jails. And as the gentleman knows, a lot of the restrictions in this bill on prisons are strictly for State prisons. This has no such restriction. This can go to jails.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(On request of Mr. BERMAN, and by unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. BERMAN. Mr. Chairman, if the gentleman will continue to yield, as I read the gentleman's amendment, the new moneys that come, that are tied to the Truth-In-Sentencing Act, only go to the States. But what this does clarify is that notwithstanding the Justice Department position, the Beilenson bill and the clarifications offered by this amendment to that make it clear that county jails that are housing undocumented criminal aliens who are convicted of felonies, and Los Angeles, it is $34 million a year, are eligible to claim that money. So this improves, this gives them a crack at what they were not able to get this past year.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, the gentleman is absolutely right. It is confusing only because we are dealing with two different bills, one in law already and what we are doing today. We are trying to supplement last year's and clarify it. But under the new money for those States that have to get to truth-in-sentencing in order to qualify for it, like California, there would have to be the money going to, directly to the States, not so the old pot.

Mr. GALLEGLY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment merely reimburses the States for the failure of the Federal Government to enforce its borders. The cost of this failure to California alone is well in excess of $100 million a year. Clearly, California and States that are impacted by this policy cannot afford to continue to pick up the tab for the fact that the Federal Government has shirked its responsibility to enforce its borders and the law.

Mr. Chairman, while I wholeheartedly support this amendment, I certainly do not want it, at least my position, to be construed that this should be an substitute for aggressively enforcing the issue of unchecked illegal immigration into our country. I think as the debate goes on in the days and weeks to come, Members are going to find that this Congress is going to very aggressively tackle that issue. But on this amendment, I would ask my colleagues to strongly approve this amendment.

Mr. Chairman, I yield to the gentleman form California [Mr. DREIER].

Mr. DREIER. Mr. Chairman, I thank the gentleman for yielding to me.

I would like to rise in strong support of the McCollum-Gallegly amendment and state that the gentleman from California [Mr. GALLEGLY] is chairman of a new task force that was put together by the Speaker, charged with looking at this issue of illegal immigration. As he says, this is not the sole solution to the problem of illegal immigration.

Quite frankly, we believe very sincerely that if we take this step, it is one of several which will turn the corner on the problem of illegal immigration so that as we look at the end of this decade, we will, we hope, in a large way have actually brought about a solution to the problem of illegal immigration so this funding, which is going to be provided through this amendment, which is going to be provided through this amendment, will not be necessary in the out years.

Now, as we look at this challenge, there are some who might conclude that this is simply a border State issue. We have got people form California and Texas and Florida and others that are impacted. But quite frankly, the issue of illegal immigration is a nationwide problem, and it is a nationwide problem that must be addressed by the Federal Government.

As the gentleman from California [Mr. GALLEGLY] said, the coauthor of the amendment, this is an issue of the Federal Government not policing its borders. The magnet which has drawn people across those lines into California, into Texas, into Arizona, and into Illinois, and to New York and other States is a problem which has been created by the Government services which we have had as the magnet and our inability to provide this kind of policing on the border.

Governor Wilson has worked diligently on this, but he has joined with other Governors from throughout the country who recognize the need to have the Federal Government tackle this.

□ 1630

That is why all we are doing here is not providing relief, necessarily, to States. We are simply meeting our obligation. Our obligation is very clear and forthright, and I hope very much that the McCollum-Gallegly amendment will pass with an overwhelming bipartisan level of support, which can once again state that we are going what we should do.

Mr. CONDIT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I may, I would like to engage the gentleman from Florida [Mr. MCCOLLUM] in a colloquy.

Mr. Chairman, I would like to clarify, last year we passed the 1994 Obligation Act on Reimbursement. My understanding is that when we passed that, the target date for reimbursement was 2004.

If we pass this amendment today, I would ask the gentleman, does that change that? Are we starting reimbursement sooner?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, we do not change the law for last year at all. It stays the same. The year 2004 in entitlement would kick in automatically for full reimbursement. I would expect that having done what we are doing out here today and tomorrow, we will not have need for that, but nonetheless, we do not change that provision. There is, however, a huge gap in the amount of money that would be available between now and then that is being made up by this bill, in large measure, because only $330 million a year is authorized for the next 5 years under that law, and there is an additional roughly $320 million a year that will be available with this bill, if it passes.

Mr. CONDIT. Reclaiming my time, Mr. Chairman, so I interpret that to mean if we pass this legislation, then that period of time between now and 2004, we can use this money to supplement that period of time?

Mr. MCCOLLUM. If the gentleman will continue to yield, for the next 5 years, to the year 2000, yes, but since none of the legislation in this bill or any of the other crime bills or what we passed last year in any other respect except the trigger mechanism for 2004 went beyond the year 2000, there will be a gap of 3 years in which we would have to come back, if we need to, and address this matter.

That is why, in what I proposed and put out here today, there is a requirement that we get a report no later than May 15, 1999, for the Attorney General as a recommendation concerning the extension of this program. So there may be a gap, but it is only because of the nature of this legislation. It has a finite limit.

Mr. CONDIT. Mr. Chairman, I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I appreciate the gentleman yielding.

I do want to thank my colleague, the gentleman from California [Mr. BERMAN] whose initiative in the Committee on the Judiciary really brought about this ultimate amendment which has now been made in order and is now being presented to the House.

This was clearly not part of the contract, Mr. Chairman, but it is a contract that we ought to keep with the American people. I am glad to see that the gentlemen from California, Mr. DREIER and Mr. GALLEGLY, have joined the gentleman from Florida, Mr. MCCOLLUM, and that it is not overlooked and passed over in our zeal to pass the contract unamended.

It is obvious to me that the gentleman from California [Mr. BERMAN] struck a nerve. That nerve is one that we all ought to feel. That is that we have traditionally neglected the seven States that have the biggest burden of incarcerating illegal aliens.

I think it is entirely appropriate that the Republican majority has decided that the contract is not perfect as it was written and that it ought to be adjusted whenever a good argument could be made. But I want Mr. BERMAN and his friends on the Committee on the Judiciary to get the credit for the addition they provided.

Mr. FAZIO of California. Mr. Chairman, if the gentleman will continue to yield, I really believe if it had not been for that sort of leadership, we would not have been here today. I appreciate the gentleman yielding me this time.

Mr. Chairman, most of those who enter our country, legally or illegally, are law abiding. But the small number that commit serious crimes place an overwhelming burden on the seven States that must address this problem.

The plea for assistance with the costs of incarcerating felons who are in this country illegally comes from all of those States that are unfairly forced to share the disproportionate burden for this responsibility—the confinement of America's illegal immigrant population.

For example, in 1993, the 16,000 illegal immigrants incarcerated in California's prisons accounted for 13 percent of our prison population. Our annual cost of incarcerating illegal immigrant felons is $368 million.

Adequate reimbursement to affected States would not only help with shortages in personnel, training, and equipment. It would also ensure—and maybe improve—safety levels in our jails and prisons, and in our communities.

Mr. DREIER. Mr. Chairman, will my friend from the Central Valley yield?

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

Mr. DREIER. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, I would just say to my friend from Sacramento that he is right on target when he refers to the fact that the contract was put into place so that we could allow, through the standing rules of the House, to work our will on legislation.

In fact, Mr. Chairman, that is what we said on September 27 when we stood on the West Front of the Capitol and made that argument, so I appreciate the gentleman's support of the goals of the Contract With America.

Mr. CONDIT. Reclaiming my time, Mr. Chairman, I would like to close, because I am in support of the amendment.

I think what this amendment is about, Mr. Chairman, and what this whole issue is about, and what the gentleman from California [Mr. BERMAN] has brought to our attention is the fact that once again we on the Federal level have to be accountable.

This is one of those mandates on a group of States throughout the country that is burdensome. We need to find a way to resolve that in a bipartisan way. I think this is a way to do this.

We will have to revisit this again, Mr. Chairman, when that time period is over. However, I think this amendment is worthwhile. I think the efforts of the gentleman from California [Mr. BERMAN] ought to be acknowledged, and that we ought to pass the amendment and do the right thing.

The responsibility is ours. The Federal Government runs IMS. We run immigration. States have very little flexibility with immigration, so I support the amendment.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

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

Mr. BILBRAY. Mr. Chairman, I think any reasonable person is going to recognize that the issue of giving grants out is quite appropriate, but that debts owed should be taken care of first. Any responsible person would always say that debts should be paid before you start giving out funds.

The CHAIRMAN. The time of the gentleman from California [Mr. CONDIT] has expired.

(By unanimous consent, Mr. CONDIT was allowed to proceed for 1 additional minute.)

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

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

Mr. BILBRAY. Mr. Chairman, any reasonable person would say you pay off your debts before you start giving out loans. Any person would recognize that there has been an outgoing debt that is continuing to be placed across this country that the Federal Government has walked away from.

In fact, this body has talked last year very strongly about the issue of deadbeat dads, and making people live up to their responsibility, and not allowing individuals to walk away from their responsibilities, not just to be punitive, but to bring people to face their responsibilities for everybody concerned.

Mr. Chairman, this issue really addresses the biggest deadbeat dad in the country, and that is the Federal Government of the United States. It has walked away from our baby, the Federal Government's baby, illegal immigration.

What this says is that now we must pay child support for the responsibilities that we have out there. It is not just for those of us that are in States that are impacted severely. Across the board, Mr. Chairman, that will help us address this issue.

The CHAIRMAN. The time of the gentleman from California [Mr. CONDIT] has expired.

(By unanimous consent, Mr. CONDIT was allowed to proceed for 30 additional seconds.)

Mr. CONDIT. Mr. Chairman, I yield to the gentleman from California.

Mr. BILBRAY. In closing, Mr. Chairman, as somebody who has had to fulfill these obligations, I think all of us will recognize that this will help us fulfill one of the items in the contract, and that is for the Federal Government to address this issue comprehensively.

Until we address the responsibility that we are placing on other people, but with the irresponsibility of the Federal Government, we are not going to really grapple with the reality of what is out there. I think this amendment really does make us responsible to the responsibility and the problems we have committed before and allows us to address those in an appropriate way.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to enter into a colloquy with the gentleman from Florida [Mr. MCCOLLUM], the sponsor of the amendment.

Mr. Chairman, I would say to the gentleman that in the Committee on Rules a few minutes ago we reported a rule which we will put on the floor of this House tomorrow morning, the Alien Deportation Act, which does contain the original Berman amendment.

We chose not to waive a point of order on the Budget Act because that amendment in that bill, which will be on the floor tomorrow morning, in our opinion created a new entitlement program. In other words, the amendment would not have been paid for.

Consequently, under the rule that will bring that bill to the floor, the Berman language will be struck from that bill, the new entitlement program.

My question to the gentleman is, in his amendment, does that create a new entitlement program, not paid for?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. MCCOLLUM. No, Mr. Chairman, it does not create an entitlement program. It is an authorization, strictly an authorization of an amount of money that is the difference between $650 million and the amount of money that is each year for the next 5 fiscal years in present law as an authorization, so there is no entitlement program created by what we are offering in this amendment whatsoever. It is strictly an authorization.

Mr. BERMAN. Mr. Chairman, will the gentleman from New York yield on that issue?

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

Mr. BERMAN. Mr. Chairman, it is an authorization. The reason I am supporting this amendment is because it tracked the language that we had in the amendment that I was going to offer. It reserves the first $650 million that is appropriated, either out of the Beilenson language in existing law, or the new prison money, if this bill were to be signed into law, it reserves the first $650 million for reimbursements to the States for the costs of incarcerating undocumented criminal aliens.

No other money can be spent on this prison program until that money is paid, so it is an authorization plus.

Mr. SOLOMON. Reclaiming my time, Mr. Chairman, I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I think the gentleman from California

[Mr. BERMAN] has explained an additional comment correctly, but it does not make it an entitlement correctly. It is not at all inconsistent with what he stated. He is correct that we could cordon off money to give it priority in the spending, but it is all authorizing language.

Money must be appropriated under the traditional methods to get the funding out there that is asked for, so there is no entitlement, I would say to the gentleman from New York.

Mr. SOLOMON. Therefore, no monies will go forward to the States or counties that has not been appropriated?

Mr. MCCOLLUM. That is correct.

Mr. SOLOMON. One last question which is of great concern to many of us. Many of the new Members do not understand, and the viewing audience, I am sure, the truth-in-sentencing provision.

□ 1640

Can the gentleman explain how that will apply to this bill and to the funds that will go forward to the States?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Florida.

Mr. MCCOLLUM. What that is meaning is that we are going to require a State in order to be eligible for this as well as half of the money in the underlying prison grant money bill to have in place a law that essentially abolishes parole for serious violent felons in their State. That is, that they have to have a law that says that that type of defined felon must serve at least 85 percent of his or her sentence in order to be eligible to get the new money that is put forward for criminal alien incarceration reimbursements in this bill.

It, however, has no effect whatsoever on the moneys that would be appropriated under the authorization under the existing laws, which is roughly $330 million a year.

Mr. SOLOMON. And that they would have to serve 85 percent of the sentenced time?

Mr. MCCOLLUM. The gentleman is correct. That is right. For a State to qualify to get any money under part (b) of the underlying bill for prison grants or for the new money for reimbursing the States for the incarceration of criminal aliens, the new money in this bill.

Mr. SOLOMON. Or for the new money. That is the point I wanted to get across. That means that California, Texas, Florida and my own State of New York had better carry out the truth-in-sentencing and the 85-percent clause or they are not going to get any money.

Mr. MCCOLLUM. Under this bill, if the gentleman will yield. But under the existing law, they still have a pot of money they can draw on if they do not qualify.

Mr. SOLOMON. I appreciate the gentleman's clarification.

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

Mr. SOLOMON. I yield to the gentleman from California, my fellow member of the Committee on Rules.

Mr. DREIER. I thank the gentleman for yielding.

I would like to say that it is very appropriate having here the gentleman from Tennessee [Mr. QUILLEN] the chairman emeritus of the Committee on Rules, and the chairman of the Committee on Rules.

Mr. SOLOMON. And the vice chair.

Mr. DREIER. Because as we look at the issue of dealing with this problem, we are doing it under the standing rules of the House. We are not establishing a new entitlement program as was just said in a colloquy between the author of the amendment and the chairman of the Committee on Rules.

What we are doing now is we are coming together with funds that are appropriated and we are simply saying that it is a priority responsibility of the Federal Government regardless of what State you come from to meet that Federal obligation.

I know we have a wide range of support that has come from the Speaker of the House and others to deal with this in a responsible way. I would like to congratulate the chairman of the Committee on Rules for realizing that we can, in fact, deal with serious issues like this without imposing waivers of the budget act and other provisions.

I believe that the McCollum-Gallegly amendment will go a long way toward addressing——

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from New York [Mr. SOLOMON] has expired.

(At the request of Mr. DREIER and by unanimous consent, Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Let me just say, ''I was glad to see the gentleman rise with the gentleman from California [Mr. FAZIO] concerning the Contract With America.''

It is a new day in this Chamber because in the past we have helter-skelter just waived the budget rules of this House and we have created these huge deficits. We are not going to do that anymore. Here is a situation where we could have, without much effort at all, created a new entitlement program. We are not going to do that today. We are going to start cutting these entitlement programs and not creating others. And yet through cooperation on both sides of the aisle, I might add, we have resolved this problem without having busted the budget. I commend all of you.

Mr. DREIER. If my friend would yield one more time, I would like to underscore again something that the Speaker of the House has said. That is, that as we look in a comprehensive way, and it was just reiterated by my friend the gentleman from San Diego, CA [Mr. BILBRAY] a few minutes ago, as we look in a comprehensive way in the out years to deal with this issue of illegal immigration, I am convinced that this responsibility will not be nearly as great for those States which are shouldering it at this point because we plan to have tough laws, toughening up the border patrol to ensure that we do not have that magnet through unfunded mandates drawing people illegally across the border from other countries into this country. I thank my friend for yielding.

Mr. SOLOMON. Right on.

Mr. BEILENSON. Mr. Chairman, I move to strike the requisite number of words.

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

Mr. BEILENSON. Mr. Chairman, I rise in strong support of this McCollum-Berman amendment which does address the serious burden placed on States and localities by the Federal Government's failure thus far to adequately meet its responsibility to fully pay for the costs of incarcerating illegal aliens.

I also want to take this opportunity to thank our colleague, the gentleman from California [Mr. BERMAN] for successfully pressing this matter to this conclusion. I want to thank the gentleman from Florida [Mr. MCCOLLUM] for his enormously helpful help. Without his help obviously this could not be done.

I want to thank a good many other colleagues, most especially if I may, two friends, the gentleman from California [Mr. CONDIT] and the gentlewoman from Florida [Mrs. THURMAN] for their help in years past as well as this year, and the gentleman from California [Mr. GALLEGLY] and a number of others. I do not want to leave people out.

But many of us as Members know who have been working on this for some time, this does, in fact, build successfully on the effort, at least partially successful effort that 4 or 5 of us together made last year, to which the gentleman from California [Mr. BERMAN] and others have already alluded, for all of the reasons given in earlier speeches in the past half hour or so, this is something that should be done. I am delighted that we seem to be on the verge of virtually total success in this matter.

I thank our colleagues for their support on this very important matter.

The McCollum-Berman amendment simply provides that before the Department of Justice spends any funds appropriated under the authority of this bill for prison construction, the Attorney General must reimburse States for at least $650 million of the cost of incarcerating illegal aliens convicted of felonies. In other words, it makes reimbursement of States, for the cost of imprisoning criminal aliens a priority over spending for new prison construction.

This amendment follows on action Congress took last year at the behest of several of us from States with large populations of criminal aliens. Our amendment to last year's anticrime

bill provided an authorization for State reimbursement from the crime control trust fund of $1.8 billion for the first 6 years, and made that reimbursement mandatory beginning in fiscal 2004. In response to that amendment, the President requested about half the amount needed for such reimbursement in this fiscal year, and Congress approved $130 million, or one-fifth of what is necessary. This amendment is an effort to ensure the appropriation of the full amount States and localities need.

Criminal aliens are people who have entered our country in violation of Federal laws; that makes their incarceration a Federal responsibility, and thus a cost that should be borne by all U.S. citizens, not just those who live in regions with large numbers of illegal immigrants. As the House of Representatives recognized with the recent passage of unfunded mandate legislation, the Federal Government should not continue to pass the costs of Federal actions—or in this case, lack of effective Federal action—onto State and local governments. Yet that is precisely what we have been doing by making States and localities pay for the Federal Government's failure to stop illegal immigration.

While State and local governments have the responsibility for incarcerating criminal aliens and processing their cases, they have no jurisdiction over the enforcement of immigration laws, no authority to deport aliens who are convicted of crimes, and no authority to ensure that those deported are not permitted to re-enter the country.

Congress recognized the unfairness of this situation and acknowledged the Federal Government's responsibility for the criminal alien population in the 1986 Immigration Reform and Control Act [IRCA]. Section 501 of the act specifically authorizes the reimbursement to States, of costs incurred in the imprisonment of illegal aliens. Unfortunately, no funds were appropriated for this purpose until last year, and the amount appropriated was not nearly enough to cover the full costs.

In today's Los Angeles Times, Speaker GINGRICH was quoted as declaring that the cost of imprisoning illegal immigrants is a ''Federal responsibility,'' and calling on Congress to approve $630 million in reimbursement to States. I could not agree more, and I am glad that the Speaker decided to champion this issue that some of us from affected communities have been arguing for quite some time. However, unless we adopt this amendment, we will have no real assurance that full funding for State reimbursement will be forthcoming.

There are between 23,000 and 35,000 undocumented aliens incarcerated in State prisons. The States which have significant numbers of criminal aliens in their prisons—that is, over 2 percent of their prison population—include not just California, Florida, Texas, and New York, as one might expect, but also Alaska, Arizona, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Massachusetts, Nevada, New Jersey, Oregon, Pennsylvania, and Washington.

From 1988 to 1995, the number of illegal alien felons in California State facilities has soared by 235 percent, from 5,700 to an estimated 19,200 by the end of this year. During the same period, the total annual cost of incarcerating and supervising this population has skyrocketed from $122 million to an estimated $503 million by the end of the next fiscal year, a 310 percent increase. The cumulative cost during this 7-year period is in excess of $2.5 billion.

In Los Angeles County alone, the overall cost of deportable criminal aliens to the county's criminal justice system amounts to $75 million per year, out of a $683 million budget.

Although this amendment does not actually make Federal reimbursement for these costs mandatory, as many of us would like, it goes a long way toward guaranteeing these payments. If Congress wants to fund new prison construction, then, under this amendment, we will have to first ensure that there is sufficient funding for criminal alien reimbursement.

I would only add that this amendment is a responsible measure that pays for State reimbursement with appropriated funds, and is not a violation of our budget rules. Its cost—$650 million per year—is, relatively speaking, a modest amount for the Federal Government. On the other hand, for State and local governments, this is quite a significant amount, and relieving them of this expense will free up revenues for other necessary public purposes.

Mr. Chairman, because Congress has been unable, or unwilling, to meet its full responsibility to the States with respect to criminal aliens, it is imperative that we ensure reimbursement to the greatest extent possible. By passing this amendment, we will be relieving State and local governments of the unfair burden they are currently bearing with respect to criminal aliens, and freeing up their limited resources for other essential purposes, including of course, prison construction, the very purpose of this bill.

I urge my colleagues to support this amendment.

Mr. BENTSEN. Mr. Chairman, I move to strike the requisite number of words. I do so to enter into a colloquy with the chairman, the manager of the bill.

It is my understanding, I apologize for not being down here, but I was in a Banking Committee hearing where we were discussing the Mexico peso devaluation crisis, the gentleman is a member of the committee, but I have a question.

As I understand your amendment, it would provide for half the funding, half of the authorization of the funding to come from last year's bill and the other half pursuant to the truth-in-sentencing act; is that correct?

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I yield to the gentleman from Florida.

Mr. MCCOLLUM. What we do is we simply do not disturb the funding that is already in the law from last year's bill. It will be unfettered. People will have it available easily. There will be no conditions to getting it. Except that there will be a preference then given to the States that do not qualify for the new pool of money we are creating today to get that money. So a State that qualifies for money under truth-in-sentencing will not have the same rights to that existing pool of money. So that States that are not eligible for this new pool will have full sway with the underlying moneys.

Thereby, we thought this was being extremely fair to everybody concerned, since California, which is the largest State affected by the criminal alien situation, your State and mine being not far behind, would have early on full sway on the new money.

My State is moving to truth-in-sentencing very rapidly. It is supposed to pass this year, and I believe will become law. And so States that do not qualify for it will be the ones to get preference for the existing money under the existing law.

Mr. BENTSEN. Reclaiming my time, I would ask, is it conceivable or is it possible that a State that does not meet the test as provided under the truth-in-sentencing, that they somehow would not get sufficient moneys for a full reimbursement?

Mr. MCCOLLUM. If the gentleman will yield, I do not believe so. What has been represented to us in the studies we have looked at, what the CBO has presented and so forth—I truly believe and honestly represent to you that I do not think that any State would come up short. There will be a very large pool of money for States to draw on in the $330 million a year roughly that is there for each of the next several years under the existing law for States that do not qualify for truth-in-sentencing, and since California has $300 million or so a year, maybe larger, that it itself says that it is concurring right now, it is going to eat up most of the truth-in-sentencing money, anyway, and I would say that the total amount, which is $650 million that CBO estimates for the entire Nation, is covered by us today. So everybody should be able to get money.

Mr. BERMAN. Mr. Chairman, will the gentleman yield just on that one point?

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

Mr. BERMAN. I think we should be very careful not to overpromise here. Assuming, for example, Texas does not meet the truth-in-sentencing law requirements. They would not be eligible for the money appropriated out of the prison funds, the first portion of which is reserved for this program. It then will depend, for Texas, on there being an adequate appropriation in the Beilenson program that was enacted last year as part of the crime bill so that you can go there where, as the gentleman from Florida pointed out, you have preference.

So it is just very important to watch the appropriation process and make sure. The $650 million total is what CBO says will be full reimbursement for States and local governments for the costs.

The potential for everybody to be covered is there. But it very much depends on the balance of appropriations between the two accounts.

Mr. MCCOLLUM. If the gentleman will yield to me further on that, all of this is subject to appropriations. What is underlying and the new money, all of it is. But we on our side are committed to fully appropriating the money for this.

Our Speaker has said in his words just in the past day that he wants to have this his top priority. This in his judgment and in ours is an unfunded mandate that is intolerable to the States right now and the sooner we recognize the illegal alien problem and the criminal alien problem and resolve it federally and nationally, the better off.

I think the gentleman has a great deal of assurance that our side, who now has the majority in the appropriations process, will make this top priority.

□ 1650

Mr. BENTSEN. Reclaiming my time, I will tell the gentleman my concern. My State, as other States very much believing in States rights and feeling that since most crime and criminals are under their jurisdiction, and as the gentleman knows, immigration is the sole jurisdiction of the Federal Government, and my State does house a large number of alien, undocumented criminals, the problem that I foresee is for some reason, for instance, in Texas we have 4,000 beds that are taken up as a result of that. That may bring us under the requirements under the Truth in Sentencing Act, so we are sort of in a double jeopardy situation where we may not be able to get at that funding because of the problem that already existed. So it is a concern to me, and I would want the gentleman's assurances that that would be something that would be looked at.

Mr. MCCOLLUM. If the gentleman will yield, I think he will be better off in Texas if they do not qualify initially for the truth-in-sentencing money as far as the criminal alien dollars are concerned.

The CHAIRMAN pro tempore (Mr. BARRETT of Nebraska). The time of the gentleman from Texas has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. BENTSEN was allowed to proceed for 2 additional minutes.)

Mr. BENTSEN. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Because there will be States like California and my State of Florida that are in the process of qualifying for the truth in sentencing this year, and within a year will be qualified, because I spoke to our State Senate president today. I know it is a top priority in our legislature to qualify for the truth in sentencing. Once that happens for any State that qualifies for the truth in sentencing grant program for Federal prison money, that State is going to dip into that money and then under that bill they will be ineligible for any additional, and so those States that are qualified for the truth in sentencing will not be able to get it, but the gentleman's State will be fighting with fewer States after that point in time for the money.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

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

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding. I think he makes a very important point. This is a burden that these States are saddled with through no actions of their own or fault of their own, and now what we are doing is when they had access to money under the Berman amendment, what we are now suggesting is that the States have to jump over an unrelated hurdle to get access to the money. The point is the problem that the States have had is that they are saddled with the burden day in and day out through no choice of their own, and yet if they do not change their laws they cannot get access to the money. I appreciate the gentleman has a theoretical formula worked out about what pool of money States will go to and whether that money will be there. It is not an entitlement, so we do not know that it will be there at the end of this budget process. But the fact is the burden goes on in any case, and that is what the States are complaining about.

So now the gentleman is erecting these hurdles, and it has nothing to do with the fact that they have thousands of beds taken up with illegals through a failure of Federal policy.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. BENTSEN. I am glad to yield for a short time to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I would just like to make the point that you are no worse off or better off with regard to the underlying law no matter what happens to the truth in sentencing. It is new money being added, and it is only the new money being added that you did not have before today in this provision of this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. BENTSEN] has again expired.

(On request of Mr. MCCOLLUM and by unanimous consent, Mr. BENTSEN was allowed to proceed for 1 additional minute.)

Mr. MCCOLLUM. If the gentleman will continue to yield, you have new money being added today that you did not have before, and it is only that new money that has any conditionality to it at all. We do not place conditionality on the existing funding mechanism that is there today and, therefore, there is no reason for anybody to feel upset about the conditionality, because we are not doing anything with that. It is still there, unfettered completely, and as a whole we are all better off since we are adding more money today.

Mr. COLEMAN. Mr. Chairman, will the gentleman from Texas yield?

Mr. BENTSEN. I am glad to yield to my colleague from Texas.

Mr. COLEMAN. Mr. Chairman, my only question that I have, and I appreciate the comment of the gentleman from Florida about getting the funding, and he said his side of the aisle was going to work very hard to get the full funding for this amendment, I wonder whether or not, since I represent Texas, you are going to work just as hard to get full funding for what has become known as the old statute, the Beilenson part of the crime bill?

Mr. MCCOLLUM. If the gentleman would yield, absolutely. We are committed to full funding for both of them, for the whole $650 million to reimburse everybody. That is the commitment, and there is no problem making that statement out here on the floor.

Mr. COLEMAN. I thank the gentleman for his answer, and thank the gentleman for yielding.

Mr. BENTSEN. Let me just say I think this is an unfunded mandate on the States.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. BENTSEN] has again expired.

(By unanimous consent, Mr. BENTSEN was allowed to proceed for 2 additional minutes.)

Mr. BENTSEN. It is not inconsistent with what this Congress has done in the past. In 1985 we passed the Emergency Immigrant Education Act to deal with the 1981 Supreme Court ruling that affected our school districts, so we have taken action in the past to have the Federal Government step in and make reimbursements for costs which should be borne by the Federal Government.

Here today we are talking about taxpayer money from the States, and turning around and saying how we are going to allocate it back to the States under certain sorts of mandates. I understand what the bill is trying to achieve, but we have to remember those are the same taxpayers who are shelling out millions of dollars in order to build prison after prison, as we have in Texas probably more that just about any State in the Union. So at the same time we are coming back, and I am a little concerned we may be penalizing States that are trying to address this problem, and at the same time this is a problem that is beyond their control. It is the responsibility of the Federal Government.

Mrs. THURMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all let me thank the Members of this debate, because last year I know it was the Beilenson, Berman, Condit amendment which started this debate, which is what we are going to see coming out in the appropriation. I also want to thank the gentleman from Florida [Mr.

MCCOLLUM] for the work he has done in the deportation, which is also an extremely big issue for our State, making sure we can send them back so that we do not have to have all of those costs all of the time.

However, I do need some clarification, because I do rise to support this amendment but want to make sure that I understand it, and since we are colleagues from Florida and it is a big issue for us.

When the gentleman talks about the 85 percent truth in sentencing, do the States just have to pass a piece of legislation, or do they have to meet the requirements under that?

Mr. MCCOLLUM. Mr. Chairman, will the gentlewoman yield?

Mrs. THURMAN. I yield to my colleague from Florida.

Mr. MCCOLLUM. Mr. Chairman, to me they have to meet the requirements ultimately, but they have to pass it, and they have to have an implementation time to begin no later than 3 years after they pass that act.

Mrs. THURMAN. If the gentleman will yield back, I will take back my time. During that 3-year period of time, would they be able to receive, if they passed that legislation, would they be able to receive the dollars that will be appropriated under this bill?

Mr. MCCOLLUM. If the gentlewoman will yield, the answer is yes, because they would be eligible for these dollars under the criminal alien reimbursement provisions, just as they would be eligible for dollars under the truth in sentencing prison grant money.

Mrs. THURMAN. If I can take back my time, is there any penalty at the end of that 3-year period of time if they were not able to meet that 85-percent truth in sentencing?

Mr. MCCOLLUM. If the gentlewoman will yield, the answer is if they are not eligible any longer at the end of 3 years, which would be quite a ways into this legislation, they would slip back into the category of those States that would have to compete for the moneys in the existing law, that is the $330 million, and they would have a preference as a nonparticipant State in the other pool of money, they would have a preference in the non-truth in sentencing money.

Mrs. THURMAN. Reclaiming my time, the question then that occurs to me, and the gentleman and I both know that we have numbers from the State of Florida talking about I think it is $1.37 million that we have spent just in Florida since 1988 in incarceration of illegal criminals, I guess the concern is because that has been our burden which we have not lived up to at the Federal level, and because they have had to implement and construct and operate prisons in the State of Florida, that I hope that we can look at some language. I mean I understand where the gentleman is coming from on the 85-percent truth in sentencing. That is a big issue for all of us, and we all want that to happen, and all of our State legislatures want that to happen. But I do have to agree with the gentleman from California, because we have not lived up to this responsibility, and it has put our States at a disadvantage, not only at the disadvantage of incarceration, but all of the other services that we are providing that are taking away from that construction for prison moneys because we are having to pay for a lot of other expenses too, and I hope that we figure out a way that we do not penalize those folks because they are trying to do a good job just because they cannot reach that point.

Mr. MCCOLLUM. If the gentlewoman will yield, I recognize that she has had only a little while to look at this, but I have had a lot of time to study this, I guess, as being the author, and having had time to look at it and study it. I am convinced, and I believe she will be too when she has the time to digest this, that actually States that do not qualify for the truth in sentencing will be better off after this provision passes than they are today in terms of getting at the existing $330 million, because there are going to be fewer people, fewer States, if you will, fighting over that money. Therefore, there is no money all together and they will have a preference.

So whether Florida passes a truth in sentencing provision or not, it is going to be better off after we get this amendment in law than it is today.

□ 1700

But I, of course, share your wishes that we pass truth-in-sentencing. As I said earlier, our Senate president, Jim Scott, today assured me that is his No. 1 priority. I understand it is the number one priority in the State house to get a bill out this year that goes to truth-in-sentencing.

Mrs. THURMAN. Reclaiming my time, I just want to ask my colleagues to support this, because I, like many who have spoken before me, recognize this as an issue that faces the National Government, not our State governments, and we are all in this together, and for those that are going to support it, we thank you very much, because it is a big help for us.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

I just thought it would be wise to wade in with my colleague from Florida since there were so many Members from California here just a moment ago, and then there were those Texans here as well.

As one of those seven States that bears the brunt of the kind of discussion that we are having regarding illegal immigrants in our jails, I certainly want to compliment the gentleman from Florida and the gentleman from California and all those associated with them in crafting this legislation.

I do make a very simple appeal though, and that is that somehow or another, centered around criminal activity, we can come up with the most brilliant manner of going forward as legislators in finding money all over the budget, and in the Immigration and Education Act, that was mentioned by my colleague and friend, the gentleman from Texas, I remind everyone that President Reagan zeroed out the budget funding for the Immigration and Education Act, and no offense meant to the former President, but the simple fact of the matter is that if this money is not appropriated, all they are doing is some kind of fancy dance trying to give our constituents the notion that we are doing something about this problem.

Let me tell you something. I am concerned about us paying a debt to the State of Florida, the State of California, the State of Texas, the State of Arizona, New York, all of the States that have this problem, and it is a debt owed because it is a national problem, and it is not one that is a State problem.

But at the very same time, if I had to place my eggs in a basket whether or not to take care of an illegal immigrant in prison and a debt owed to a State, I would much rather that this legislature be about the business of trying to fund measures that will take care of children who are entering our States in vast numbers, such that one educator in Dade County reminded me that every month the equivalent of a school enters their school system who are folk from outside this country, and in my base county, every 3 months a whole school is formulated.

It is nice to find money for prisoners, but we had better find some money for schools.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. BERMAN. You raise an interesting point on empty authorizations. This program has been authorized since the 1986 law. Until President Clinton proposed money last year and the Congress appropriated $130 million, we never funded $1.

As you mentioned for the program of health and education, reimbursements to the States for the cost of the legalization program, nearly every single year President Reagan or President Bush sought to rescind that entire fund. Congress kept it, fortunately, but there is a logic to this in the sense that with the pressure and interest in funding new prison construction, the requirement that this money be appropriated first probably forces this not to be an empty authorization, and it is the basis upon which I think it probably makes some sense.

Mr. HASTINGS of Florida. I want my friend from California to know that while I stand with you almost all of the time, I am going to try to get close to my friend from Florida who seems to know the Senate President well enough to know what we are doing.

Mr. GOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use the 5 minutes, because I know many of my colleagues from Florida and other affected States have spoken on this. I wanted to get up and also join the applause for those who have worked out this very complex and difficult solution to what is a very important problem, obviously the chairman, the gentleman from Florida [Mr. MCCOLLUM], and the gentleman from California [Mr. BERMAN], for the work he has done, the gentleman from California [Mr. DREIER] on the Committee on Rules, and many others who have labored long and hard.

We are a little bit in the situation that probably a lot of American households find themselves when you do not have enough money to the end of the month to pay all the bills. You sort of stack them up. You say, ''Well, I don't have enough money to do all of these bills so I am just going to do this one and this one; I will do the butcher, the baker, and the candlestick maker this month, but will let the gas company wait.'' What happens is sort of the wheel that does not squeak is always the one that stays in the pile that does not ever get paid off, and over the years the Federal Government has just been a giant household that has run up a big debt and has not paid all of its bills, and it seems that every year the good guys who do not make a big enough squeak are the ones who do not get paid for what they have done.

This is a piece of legislation that finally tries to deal with that. It does not solve the whole problem, and it is not retrospective, of course, but it does try to say to folks who are doing the right thing out there on the front lines and say, ''Hey, we know we owe you, and we are going to start paying the bills, at least some of the bills.'' And I am very thankful that we have gotten to this point under the leadership so far to carry this thing forward.

Yes, we could have done this a lot of different ways. There is no question about it. This was not easy to craft, I know, but I think we have come to something that is pretty good. We have got assurances it is going to work, and I think the people who have been bearing the disproportionate burden of the cost over the years can look and smile and say, ''We are making some progress on this thing.''

I am sure the statistics have been made about my State of Florida; the load we are carrying down there has gotten so out of control that 10 percent of our overall prison population is what we are talking about here, more than 5,000 people, and we are talking about not a few dollars. We are talking about hundreds of millions of dollars, even so much so that the Governor of our State has felt the necessity to bring a suit against the Federal Government for a billion dollars to get some claim on back money. Now, that suit did not get very far, but at least we now have something that says we are going to start setting up the system that is going to allow for the great household that is the Federal Government to start paying more of its bills more equitably, and that folks who have waited the longest and perhaps for the most money finally see some relief in sight.

I want to again congratulate those involved and thank you for the opportunity to say these things.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

Mr. MCCOLLUM. Mr. Chairman, at this time I would like to ask unanimous consent that for all amendments that remain to be offered and are offered on this bill today or tomorrow, or whenever, until we complete consideration of it, the entire time for debating any individual amendment be limited to no more than 20 minutes, divided 10 minutes to a side, 10 minutes for the proponent and 10 minutes for any opponent.

The CHAIRMAN. And every amendment thereto?

Mr. MCCOLLUM. And every amendment thereto.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. CHAPMAN. Mr. Chairman, reserving the right to object, I ask the gentleman, is he talking all amendments on the bill including time we spend tomorrow?

Mr. MCCOLLUM. Mr. Chairman, reserving the right to object, that is correct, all amendments remaining on this bill, not any other bill, just this bill. The reason why is that we need to progress through this legislation in order to do the criminal alien bill tomorrow and have time on Monday and Tuesday, as the gentleman's side wants, for us to be able to devote to the remaining block grant bill which is part of the effort to be bipartisan about how we consider this. There are a lot of amendments left on this bill.

Mr. CHAPMAN. Mr. Chairman, I will not object, but I would ask the gentleman, I know I have one additional amendment to come up tomorrow, and I would ask the gentleman if, in fact, we are in debate and there appears to be substance to that debate, I would like to be asking unanimous consent for perhaps some additional time on that amendment. I will not object to the gentleman's request today.

Mr. MCCOLLUM. If the gentleman will yield further, I will certainly consider it. I cannot promise the gentleman what the result will be since I obviously cannot control, nor can the gentleman, the unanimous-consent request.

Mr. CHAPMAN. Further reserving the right to object, Mr. Chairman, I think there are some important amendments to go. If we cannot have some understanding to try to work together, I will have to object.

Mr. MCCOLLUM. We will work together. I assure the gentleman we will work together.

Mr. CHAPMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. CONYERS. Reserving the right to object, Mr. Chairman, I understand what motivates the gentleman from Florida. I agree to it subject to the fact that there may be a couple of amendments on which we may have to ask unanimous consent to go a little bit longer than this.

Mr. MCCOLLUM. If the gentleman will yield, I certainly do not have a problem working with the gentleman on that. I know he wants to strive, as I do, to try to have good limits. If we are only talking another 5 or 10 minutes in addition or something like that, and I think that is what both gentlemen, are thinking, I do not have a problem. What I am really concerned about is you do not get maybe an hour out here.

Mr. CONYERS. Further reserving the right to object, what I am saying to the gentleman is that we can agree to this subject to the fact that there may be several that we would ask unanimous consent to move ahead.

With that, Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1710

AMENDMENT OFFERED BY MR. GALLEGLY

Mr. GALLEGLY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GALLEGLY: Section 505 (2) of H.R. 667 is amended to read as follows:

''(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount equal to the ratio that the number of part 1 violent crimes reported by such state or states to the Federal Bureau of Investigation for the most recent calendar year for which the data is available.''

Mr. GALLEGLY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Pursuant to the unanimous consent request, the gentleman from California [Mr. GALLEGLY] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

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

Mr. GALLEGLY. Mr. Chairman, this amendment is really just a commonsense change in the legislation that would ensure that prison construction grants wind up in the areas that have the greatest need for them.

As currently written, the legislation distributes these grants based solely on population and not on the violent crime rate. This amendment would change that, and allocate these funds to the areas that are facing the greatest challenge in terms of violent crime and in keeping violent criminals behind bars.

H.R. 667 is designed to reduce crime in our communities by ensuring that we have enough room in our prisons to house the violent felons who belong there. Surely, it makes sense to base the level of funding to any one area on the level of violent crime occurring there.

I think we all share the desire to make the most of these grants and to make the streets as safe as we possibly can through the prison construction they will support. It only makes sense to add prison capacity where a clear need has been established rather than simply as a virtue of how many live in any one State.

Mr. Chairman, these grants are intended to help us fight violent crime by locking up violent criminals. They are not just another feel-good Government entitlement to be blindly doled out.

When we are confronting an issue of such tremendous concern to the American people, an extremely challenging issue that poses such a serious threat to our very way of life—we have to be a little smarter with our resources than we sometimes are around here.

This is not the time for us to indiscriminately hang a sign on the government trough reading, ''Open for business.'' It is time for us to do the work necessary to insure that these precious funds wind up in the hands of those who have the greatest need for them. It is in that spirit I urge support of this simple, commonsense amendment.

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

Mr. CONYERS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. CHAPMAN].

Mr. CHAPMAN. I thank the gentleman for yielding.

Mr. Chairman, I join in support of the gentleman's amendment. I did not find his amendment printed in the RECORD. It is identical to an amendment we filed yesterday and had printed in the RECORD, and I would, since it is identical to the one that we filed, say that we think it is a good one. I compliment the gentleman on his offering the amendment and tell him I think it does target—and I tell my colleagues—I think what it does is make a small, but very significant, change in how the grant funds are allocated. It does that by targeting the funds to those areas where the problem is the greatest and it bases the allocation upon the incidence of violent crime, not on population.

Mr. Chairman, the Department of Justice, in analyzing the Republican bill under the contract, made the following analysis, and I read from their analysis:

> The approach in the original bill of disbursing funds for violent offender incarceration in proportion to general population without regard to the incidence of violent crime in the affected areas will produce gross misallocations of resources in relation to actual need.

This amendment, Mr. Chairman, will reinstate the law as it currently exists, will put back in place the allocation of the formulas of the 1994 crime bill. It is one way to target the resources to where the need is greatest.

So I enthusiastically support the gentleman's amendment because it remarkably resembles the one I filed yesterday in the RECORD. I compliment the gentleman for his vision and look forward to supporting him.

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

Mr. Chairman, I thank the gentleman for his kind words and also recognize his great wisdom.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding this time to me.

Very quickly, I do not think this takes a lot of time.

We have an assistance program for low-income people to get subsidies on energy. We do not apportion that based on population. We focus that on States where cold weather requires people to have extraordinary high heating bills. We have crop subsidy programs and we do not base that on population, but we do base that on areas where the crops are growing.

The whole logic of this program is to deal with the—try to assist the States with the costs of dealing, particularly, with the high rates of violent crime. This amendment makes perfect sense. I cannot understand why the formula would be on any other basis, and I urge its adoption.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

I commend both gentlemen, particularly my colleague from Texas [Mr. CHAPMAN], who, although he is not a member of the committee, had his amendment printed in the RECORD. We are in accord.

I like the idea of revisiting the 1994 crime bill. I think this is a good formula to take out of it and put in here.

We have no further requests for time.

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

Mr. GALLEGLY. Mr. Chairman, we have no other Members seeking time. I would urge support and yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from California [Mr. GALLEGLY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer amendment No. 2.

The CHAIRMAN. Is the gentleman's amendment No. 15?

Mr. BURTON of Indiana. It has a No. 2 at the top, Mr. Chairman. We had to make a clerical change.

The CHAIRMAN. The Clerk will report the amendment offered by the gentleman from Indiana [Mr. BURTON].

The Clerk read as follows:

> Amendment offered by Mr. BURTON of Indiana: Page 7, line 18, after ''general'' insert ''including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the State governments at the lowest possible cost and employ the best available technology.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Indiana [Mr. BURTON] will be recognized for 10 minutes.

Is there a Member who rises in opposition to the amendment and wishes to be recognized? If not, the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, the gentleman from New Jersey [Mr. TORRICELLI] and I are cosponsors of this amendment. It a very simple and straightforward amendment designed to make sure that the latest and best technology is used in building prisons and prison cells. It mandates that the States look into this to make sure they are using taxpayer dollars as wisely as possible in the construction of new prisons. That is basically all the amendment does.

I think it is an important amendment. It will help control costs of new prison construction. I think the people of this country want that kind of scrutiny of construction of new prison facilities in this country.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. I thank the gentleman from Indiana for yielding to me.

Mr. Chairman, I am very proud to join with the gentleman from Indiana [Mr. BURTON] in offering this amendment. It is not, Mr. Chairman, simply a question of how much we spend for prison construction, but what value we receive; whether indeed we get the added capacity that is required to prevent the early release of felons onto our streets and insure that there is just and fair punishment.

Much has been learned about prison construction and ways to reduce those costs and the time that is required for construction. Many States and localities have learned that by prefabrication, indeed in the very manufacturing of prison cells, often with steel in a factory setting, these costs can be dramatically reduced. Indeed in a soon to

be released independent national report by the Kitchell Consulting & Engineering Co., of California, it is believed that both the quality can be increased and the costs can be reduced by a significant percentage by these modular steel cells. They are prefabricated, they can be brought to the site and then put together. Indeed at times in the future when prison populations might change, they can even be disassembled and moved.

Our hope is that the experience of some States in using this technology can be duplicated around the country.

All we ask is that the States and the Federal Government, as they look at prison construction, break out of their own methods, be creative about it, use their best judgment to get the best value for their dollars.

□ 1720

With that I want to thank the gentleman for yielding. I also want to thank the chairman of the subcommittee, the gentleman from Florida, for his support for the amendment.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Chairman, I ask, ''By reducing the costs, does that also enable you to go in and reduce the requirements for Davis-Bacon?''

Mr. BURTON of Indiana. I would presume that it might. That has not been a consideration in the amendment, but I presume it would.

Mr. CUNNINGHAM. Since the higher costs come along with Davis-Bacon, under construction under Davis-Bacon, I think it ought to seriously be looked into.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I think an answer to the gentleman's question might be, ''First, because you're reducing construction time, there certainly is an impact on construction costs. Second, while obviously the fabrication at the site continues Davis-Bacon protection because it is construction, the cells themselves are manufactured off the site. Therefore they would probably not be included under construction at prevailing wage. They would be manufactured.''

Mr. BURTON of Indiana. Mr. Chairman, it ought to be pointed out, and I think the gentleman did that, and that is, if they are constructed off site, it is going to cut down construction costs——

Mr. TORRICELLI. If the gentleman would yield, I think that is the savings, reducing time, that these are coming off an assembly line and only to be put together at the site.

Mr. BURTON of Indiana. As I yield back, let me say this in conclusion, Mr. Chairman:

This modular cell construction we are talking about is one new technology. There will be others in the years to come, and we believe every Governor of every State should be looking into these new technologies to cut down the cost of these new prisons that are going to be constructed.

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

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

Mr. Chairman, I am impressed that we want to be as efficient as possible, and I do, too, because it will save money. I want to make a couple of points.

The first is that this is probably the fastest growing industry in our economy, building prisons. We now have cities and towns. It is a fast growing industry because we are putting literally billions of dollars in the 1994 crime bill and now billions of dollars additionally, at least two and a half, into this one, and so I rise to join with every efficiency that we can obtain.

But I think we want to keep in mind that we want to also ensure that there is an effectiveness coming out of this great new industry that we are building in the United States, namely building prisons which does not make the happiest commentary in the world in what direction we are going since we incarcerate more people than any other industrial country that I know of.

So, I would urge all of my colleagues and those who have spoken in favor of this to support the Scott amendment that will be coming up that will ask that we also set aside a fraction of the amount of money merely to determine and study the effectiveness of this enormous new industry that we have spawned at the Federal level. It will be a fraction of an amount of money, be immeasurably tiny. It is so small it is almost beyond calculation. We would urge that we would consider both these amendments as both moving in a very important direction.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

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

Mr. CUNNINGHAM. Mr. Chairman, one of the ways in which we can do, I think, both and not even have to build prisons in the future:

In the State of California we have got 16,000 Federal felons that are illegal immigrants. There are 84,000 nationwide. That is a lot of room at the inn. If the gentleman would help us make sure that those folks are repatriated from whatever country they came from, maybe we would not have to spend as much money on our present——

Mr. CONYERS. Reclaiming my time, beyond that I will say to my colleague I think we ought to have immigration laws that prevent people from effectively coming in illegally as opposed to what we do with them after they get in——

Mr. CUNNINGHAM. I agree with the gentleman.

Mr. CONYERS. And then run up the bill.

Mr. CUNNINGHAM. I will help the gentleman do that, too.

Mr. CONYERS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM: Page 9, after line 6, insert the following:

''(6) TRANSFER OF UNALLOCATED FUNDS.—After making the distribution to all eligible States required under section 503, the Attorney General may transfer as provided in this paragraph, in such amounts as may be provided in appropriations acts, any remaining unallocated funds which have been available for more than two fiscal years, but all such funds shall be available for the purposes of this paragraph after fiscal year 2000. Funds transferred under this paragraph may be made available for expenses of the Immigration and Nationalization Service for investigators and for expenses of the Bureau of Prisons, the Federal Bureau of Investigations and the United States Attorneys for activities and operations related to the investigation, prosecution and conviction of persons accused of a serious violent felony, and the incarceration of persons convicted of such offenses.

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

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

Mr. MCCOLLUM. If I might, this is a very technical amendment. It does something with the funds that might not be allocated, and what it simply says is that, if at the end of 2 years after this legislation is in existence, every 2 years, money then begins to flow that is not utilized, not taken up in the grant programs from certain specified purposes dealing with prisons and law enforcement activities for violent felonies and so forth to go to the appropriations that may be determined by the appropriators to fight crime, and it is a way to capture this money in the trust funds.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?.

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, can I get a copy of the amendment?

Mr. MCCOLLUM. Absolutely; we got a copy here. I thought the gentleman had one; I apologize.

What it does is it says, and since the gentleman does not have one, I will be glad to read these provisions, that any remaining unallocated funds which have been available for more than 2 fiscal years shall be transferred by the Attorney General as provided by the appropriators for the purposes of the expenses of the Immigration and Naturalization Service for investigators or for expenses of the Bureau of Prisons, the Federal Bureau of Investigation and U.S. attorneys for activities and operations related to investigation, prosecution, and conviction of persons accused of a serious violent felony and the incarceration of persons convicted of such offenses. I doubt seriously we are going to have any money left over. I say to my colleagues, I think by the time you get through the period of time we are talking about, you're going to have every penny of this scoffed up, but this allows for us to keep the moneys that are cordoned off in the trust funds, which we all want to keep, from the moneys that came out last Congress in our desire to dedicate these moneys and these resources to law enforcement and to fighting the purposes intended. This allows us to not lose those moneys should the grants not be allocated, should there not be enough applications for them, or qualifications, or whatever.

So, we are trying to keep the money for law enforcement purposes and for the purposes intended in this bill. I am sure the Bureau of Prisons alone, the Federal Bureau or Prisons, could probably consume the balance of any funds that are here, but we tried to make this broad enough to give the appropriators a chance to work their will, but narrow enough, I say to the gentleman from Michigan, that we are able to keep it in our domain so that it is used for the purposes intended.

This is of course again assuming that the grants are not fully awarded. I got a feeling they will all be fully awarded, but there is no escape valve, no carryover provision, no nothing now in the law either in this bill or what was passed in the last Congress to take care of that eventuality.

And so that is all that this does. It does no more than that. We have been requested to try to do things of this nature to protect our interests in the past, and the committee feels very strongly that that is what it is.

When he gets here, and I think he is headed to the floor, the gentleman from Kentucky [Mr. ROGERS] who is our appropriator for State, Justice Appropriations Subcommittee on the Committee on Appropriations, the chairman of that subcommittee would undoubtedly like to address this issue and encourage it because it is something that I think he would favor as well in order for us to be sure that we do not miss out on any moneys. In the end they go back to some general pot somewhere for gosh knows what purpose that might be, general whatever, and I think again that this is a very important amendment but is not one which should be at all controversial, and I assumed the gentleman from Michigan had a chance to examine it before. I apologize that he had not. But in any event I do not think he will find this to be a difficult amendment.

Again all it is is a transfer of unallocated funds for the purposes as may be appropriated by the Committee on Appropriations as long as they are for the purposes specified in here, Bureau of Prisons, FBI, U.S. attorneys, Immigration and Naturalization Service.

Mr. WATT of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Chairman, the question I wanted to ask about this is whether this might have the effect of encouraging agencies to come up with programs that have not been thought through, and that is one part of the question, and the second part of the question is, given the choice between having this money be forced into some other law enforcement purpose that may or may not be worthy certainly would not have been addressed directly by this Congress.

□ 1730

Might it not be better to direct the money to the reduction of the deficit, since we are all very concerned about that?

Mr. MCCOLLUM. Mr. Chairman, reclaiming my time, it has been impressed upon me by the appropriators and the gentleman from Kentucky [Mr. ROGERS] who will be here in a moment, the chairman of the subcommittee, that we in reducing the overhead and trying to balance the budget, may be putting the committee in a very difficult position to fund, for example, the investigators we need for the criminal law enforcement positions of INS, that your administration just requested a 73-percent increase in their current budget.

We may have trouble funding the Bureau of Prisons, which is our Federal responsibility, where we do not allocate any money under any of these major bills and certainly not under this $10.5 billion bill.

So if there is anything left over, it is not going to be under somebody's creative scheme. We really need that to run our prisons and do the things that the bipartisan group of people want to do here. No, we are not suggesting any great devious methodology is involved.

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

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

Mr. Chairman, having looked this over, having examined the question between putting this to the deficit balance, I would prefer that it go into the following programs and the following departments included in the amendment. So I would support the amendment.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am not sure I have strong objections to this. Could I just address another question to the gentleman from Florida [Mr. MCCOLLUM]?

Is there a sufficient flexibility built into this language that would allow the use of these funds for prevention kinds of programs as opposed to just building more prisons? I honestly have not had a chance to look at language.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I do not think the prevention type programs would fit under it, but it would be up to the appropriators to decide. The way it is cordoned off, it would be up to the Federal Bureau of Prisons, the Federal Bureau of Investigation, the United States attorneys, and for the limited purposes of Immigration and Naturalization Service investigators. It is a very narrow law enforcement area.

It is not inconceivable that somebody could come up with a prevention program the FBI would want to run. But barring that, that is not the intent. The reason why is because we just simply are worried about adequate resources for our own Federal purposes here. Prevention programs would normally be the kind of programs we are going to deal with on Monday and Tuesday for money going to the States.

None of this money would go to the States. It would be recaptured, and it would be recaptured in any event by the Federal Government. It would simply go into some big hole that we would not have any control over. But doing this we control it to the extent we force it into the workings that this Committee on the Judiciary would want it to be, and for Federal purposes, as long as it is Federal purposes.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I do not know if this will make my colleague from North Carolina more comfortable or less, but it is our prediction that this will be a large amount of money that will be reserved, because I do not believe the States are going to qualify for it. So we are talking about billions, maybe billions and billions of dollars, all the way up to $5 billion. So I just want to make sure that not only the Members on the committee, but all the Members in the House understand that this little document of 10 lines contains quite a bit of change in it. Of course, this will be revisited in conference. So I just want us to all be aware of it.

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I make two comments in response to the gentleman's statement.

No. 1, he underestimates the will of my Governor, since North Carolina is one of the three States to that qualifies to get these funds under this bill currently. I think you are underestimating the will of my Governor and his pursuit of these funds, first of all.

Second of all, that raises even more the concern I have that since some subsequent bills that are coming to the floor will have the effect of reducing prevention dollars, that I am wondering whether the gentleman might entertain the idea of including specifically some language in this amendment that might allow those dollars to go to fund prevention programs that some of the subsequent bills are going to have under attack which are coming to the floor.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I do not believe that would be appropriate. I understand what the gentleman is getting at. But the moneys were pretty evenly divided at about $10 billion each to the prevention and cops under our construct, and for prisons and law enforcement basically under this kind of legislation here today. And I think in a moment, once the gentleman from North Carolina and Michigan have finished their colloquy and time, I am going to yield to the gentleman from Kentucky [Mr. ROGERS], who I think can explain exactly why we need to do this for the purposes we put in this amendment, so he is the appropriator, and being the chairman of the subcommittee that oversees our program.

Mr. CONYERS. Mr. Chairman, reclaiming my time, let me pursue the idea raised by my colleague from North Carolina [Mr. WATT]. What about some prevention money or some programs that go to those that will be dealing with it? There is a gang resistance program in Treasury. There are all kinds of prevention programs. Because it does raise a difficult point. We are taking, in your bill, $2.5 billion out of prevention, and now we are taking what may well be, based on my estimates, an even larger amount, and transferring back to very important law enforcement agencies and departments of the Federal Government.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will yield further, I really do not know the parameters of the powers we are giving to the appropriators here, but I suspect they are pretty broad in the areas we are giving it to them, though they are constrained here. Perhaps the gentleman would like to direct some of his time to the gentleman from Kentucky, who has that knowledge. I do not have it. I do not wish to personally add to the litany here, because I fear that our money is going to be constrained enough as it is. But, nonetheless, the gentleman thinks there is going to be more here than I think there is.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

Mr. MCCOLLUM. Mr. Chairman, I yield 3½ minutes to the gentleman from Kentucky [Mr. ROGERS], the chairman of the Subcommittee on State, Justice, and those things that concern us here today.

Mr. ROGERS. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the chairman from Florida for offering this amendment.

Mr. Chairman, I hope this is the beginning of a long and productive relationship between the Committee on the Judiciary and the Committee on Appropriations, both of which are under new management. I originally suggested a version of this amendment that the chairman is offering back when the bill was marked up in committee, and we have been working together on it since that time.

This amendment will assure that in the event States cannot use these resources within a reasonable period of time, that those unallocated resources can be appropriated for unmet Federal law enforcement needs. Resources are just too tight to allow pots of money to accumulate unused.

We have a challenge this year and the years ahead. As criminals are increasingly apprehended, tried, and sentenced, Federal law enforcement agencies must grow. New cases mean new FBI agents, new U.S. attorneys, new judges, new marshals, new courthouses, new prisons, new probation officers, and on and on and on.

For instance, in the new 1996 budget—proposed by the budget, there are three new Federal prisons, seven completed prisons that will come on line, and five prison expansions.

□ 1740

Just for the annual cost of the seven prisons coming on line this year, of which five will be operated by private contractors, we will need to find $200 million to operate those on an annualized basis.

Similarly, this year there will be 31 new courthouses coming on line, 150 new courthouses planned over the next decade. Each new courthouse requires rent payments, furnishings, new personnel, and so forth that add substantially to the funding we need to provide just to keep up with the country.

These are examples of the resource requirements that are coming due on the Federal level while overall we are trying to reduce the size of the Federal budget.

I appreciate the gentleman working with us on this amendment and in offering it in his name. I hope to continue to work with him on it to perfect it, and I hope to work with him when he goes to conference on the crime bill to assure that the conference report will adequately reflect the needs of the Federal law enforcement agencies.

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

Let me point out to the gentleman that has just spoken that this is a heck of a way to run a railroad. We legislate $10 billion for prisons and then we say, well, if there is any left over, let us use it for courthouses and other expenses that we need. Those have to stand on their own merit, sir. We cannot start, if we authorize a courthouse or a prison, it has got to have money coming for it to be built. It cannot be money left over in case it is not used. So I am quite unimpressed about why we need the money in that regard.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, if I can engage the gentleman from Kentucky for just a moment, I heard the gentleman say that the unused funds were because of the fact that we may very well have the courthouses and court personnel. Can the funds be used for that purpose?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. HASTINGS of Florida. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, they cannot be used for courthouses. That comes, of course, under another part of the Government.

Mr. HASTINGS of Florida. Mr. Chairman, let me put two or three additional questions. Is there any provision, perhaps the gentleman from Florida [Mr. MCCOLLUM] might join in, that would allow for the addition of Federal judges? And I notice in the litany that was offered of things that it could be used for, absent from that were Federal public defenders and provisions for attorneys for that indigent. Can it be used for that purpose?

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, the amendment specifies what the additional unallocated moneys can be used for.

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

What I would like to find out from my friend from Florida, if a very small amendment would be permissible by unanimous consent and it would read at the end of the last sentence, ''of such offense'' we would put a comma ''or to the Department of Health and Human Services for programs to prevent crime.''

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, unfortunately, that would not be german to yield to the money here. We had to draft this very technically. That is why it all related to serious violent felons, incarceration, investigators, this sort of thing.

I would suggest to the gentleman that would be too broad. If the gentleman wanted to specify something that fits into the area, we did not want to get too much spreading this out,

DEA or something like that, we probably could do it. But I tried to draw it narrowly. The gentleman from Kentucky wanted to broaden it even more. We sort of settled on this.

I am open but not that broad.

Mr. CONYERS. Mr. Chairman, let me point out to the gentleman that a point of order could have lain against this whole amendment. So I am sorry. A point of germaneness could have lain against this amendment itself and was not raised. And so I would ask the gentleman if that is his only problem, that he would use the same comity with us that we used with him.

Mr. MCCOLLUM. Mr. Chairman, if the gentleman will continue to yield, it is not my only problem, because obviously, if there is a germaneness, and I do not know where it may be in here, it would be all still in the area of law enforcement, all still in the area of Federal domain dealing with that, the Justice Department matters, all of the Justice Department.

The gentleman is asking me to unanimously consent to putting in a whole different department and functions. I am reluctant to amend this in any way other than a very minor way that might deal with something that maybe we have not thought of and we did not mean to overlook in terms of something, some function related to one of the law enforcement areas.

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, if the gentleman says that he is amenable and he talks in terms of areas of responsibility, then would not the Federal courts and public defenders and moneys for attorneys for indigent defenders contemplate that?

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CONYERS] has expired. The gentleman from Florida [Mr. MCCOLLUM] has 1½ minutes remaining.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that the gentleman from Michigan [Mr. CONYERS] be granted 3 additional minutes.

The CHAIRMAN. The Chair can only entertain such a request if it is 3 minutes additionally on both sides.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that each side be yielded 3 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 3 additional minutes, and the gentleman from Michigan [Mr. CONYERS] will be recognized for 3 additional minutes.

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

I would like to explain, I do not have any problem, perhaps, as we go through, if the public defenders would balance off U.S. attorneys or something. But I do not think that was the intent.

Mr. Chairman, I yield to the gentleman from Kentucky [Mr. ROGERS] to explain why this is drawn as narrowly as it is, why going into courthouses or courtrooms—and maybe he mentioned that—would be too broad for what is available. I feel that there will not be enough money, but I want him to talk about why.

Mr. ROGERS. Mr. Chairman, mentioning courthouses was a mistake. It does not fund courthouses. It mentioned the personnel that use courthouses. That is what I intended to try to say. Another section of the appropriations bill deals with money for public defenders and the Legal Services Corporation. It is not in the bill. We can deal with that on another day, and we can debate that all day long.

The problem here is, we do not have enough money, as it is, to fund the existing Federal law enforcement agencies that I think we all want to fund, the FBI and the Drug Enforcement Administration, the war on drugs and all of that.

I want to try, if we run short there, to have access to the Crime Trust Fund in case it is not all used up under its State prison construction uses. And that is the reason I would like to have this amendment as it is.

I asked for more, frankly. We have to wait 2 years under this amendment for this unallocated money to show it. I would like to have had it this year, because we are going to run short this year, for the Federal law enforcement agencies. And this is the only reason that I wanted to have that kind of an access to this unallocated money.

Mr. MCCOLLUM. Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, to my friend, the chairman of the Subcommittee on Crime, I would like to point out that we would be willing to agree with this reluctantly if we would add, instead of Health and Human Services, the National Institute of Justice for law enforcement technology programs.

Mr. MCCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. MCCOLLUM. Mr. Chairman, I personally am interested in seeing the National Institute of Justice protected. I have no problem with that. I would like to have the gentleman ask on his time, while he is asking the gentleman from Kentucky, whether or not that is within the purview that he would agree to. He is our appropriator. I am trying to help honor his request, too.

Mr. CONYERS. Mr. Chairman, I yield to the gentleman from Kentucky, [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, I have a problem with that on this bill.

Mr. CONYERS. Mr. Chairman, the gentleman says he has a problem with that.

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, yes, I do. We can talk about that on another bill, if the gentleman would care to. But not on this bill. It is just not possible on this bill.

Mr. CONYERS. Mr. Chairman, reclaiming my time, first of all, we have a measure here before us that gives money for things other than building prisons. I agreed to it. I asked that we include crime prevention programs.

I am told that that is not germane. I asked for adding the National Institutes of Justice for law enforcement technology, which the members of our committee are very familiar with.

□ 1750

Now I am told that ''We are sorry, that will not work.'' I think I get the idea, Mr. Chairman. This amendment is very unacceptable to me for the reason that I cannot get one small program into it, so it is clear what I will be urging Members on my side to do.

The CHAIRMAN. The Chair will advise Members that the gentleman from Michigan, [Mr. CONYERS], has 30 seconds remaining, and the gentleman from Florida, [Mr. MCCOLLUM], has 3 minutes remaining.

Mr. MCCOLLUM. Mr. Chairman, I would ask the gentleman from Michigan, before he makes a declaratory statement with his last 30 seconds, if he would reserve it and let me have my time.

Mr. CONYERS. Mr. Chairman, I reserve the balance of my time.

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

Mr. Chairman, I am curious, does the gentleman from Kentucky, [Mr. ROGERS], if he would answer this for me, have jurisdiction over the National Institute of Justice, his subcommittee?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, I would tell the gentleman that it is in the Justice Department, so we do have jurisdiction, yes.

Mr. MCCOLLUM. So the gentleman would have absolute discretion as a subcommittee, then, Mr. Chairman, over how this money is divided up, whether it goes to the National Institute of Justice or the U.S. attorneys or the Bureau of Prisons in his subcommittee, of course, subject to the approval of Congress, of the body voting on it, would he not?

Mr. ROGERS. We would, Mr. Chairman, and we do, I would tell the gentleman.

Mr. MCCOLLUM. Although the gentleman would prefer not to add it in here, there would not be any real harm in that, because it would just be part of the pot? There is no division of the amount of money here. This would still

be within the gentleman's subcommittee and within the discretion of the Committee on Appropriations, would it not?

Mr. ROGERS. If the gentleman will continue to yield, Mr. Chairman, frankly, I do not like specifying anything in the amendment. When we start specifying some items, then we say ''Why not do so-and-so and so-and-so.'' There are 10,000 things we could specify in the amendment.

I think it would be best for the body, including the gentleman's interests, if we leave that unspoken so we can deal with it in the appropriations process. The gentleman will have a chance at that time, if he is unhappy with it.

Mr. MCCOLLUM. If I could reclaim my time, Mr. Chairman, I think it would probably be in everyone's interest not to keep having a worry over this, if we could amicably offer it. There is not going to be any skin off anyone's teeth with this, because there is nothing that is going to be allocated.

Mr. Chairman, if I acquiesce to the gentleman's request to include the National Institute of Justice, I think that is probably in the best interest of everybody here today. It is not going to make much difference from the gentleman's standpoint. He does not like any of it.

Mr. ROGERS. Mr. Chairman, if the gentleman will yield, I will defer to the chairman on this bill. This is his bill. This is his amending process. I am going to take his judgment on it. I would prefer it not be there, but if the gentleman is happy with it, I will manage to try to be happy.

Mr. MCCOLLUM. Reclaiming my time, Mr. Chairman, if the gentleman from Michigan still wishes to agree with this, I ask unanimous consent, if he is agreeable to the proposal, to amend my amendment to add ''The National Institute of Justice'' for the activities and operations related, as the gentleman requested.

The CHAIRMAN. The Chair will state that it would prefer to have the amendment reduced to writing, in order to have it at the desk. We will suspend for 1 minute while it is being put in writing.

Does the gentleman from Michigan [Mr. CONYERS] offer the amendment that is at the desk?

AMENDMENT OFFERED BY MR. CONYERS TO THE AMENDMENT OFFERED BY MR. MCCOLLUM

Mr. CONYERS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS to the amendment offered by Mr. MCCOLLUM: Strike out the period at the end of the amendment offered by Mr. MCCOLLUM, and insert '', including the National Institute for Justice for law enforcement technology programs.''

The CHAIRMAN. The Chair would state that the amendment is not separately debatable, and comes under the time limit.

The gentleman from Florida [Mr. MCCOLLUM] has 1 minute remaining, and the gentleman from Michigan [Mr. CONYERS], has 30 seconds remaining.

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

Mr. MCCOLLUM. Mr. Chairman, I think what we ought to do is accept this amendment to my amendment, and pass the whole thing. I think it is an amicable thing. I think the gentleman from Michigan [Mr. CONYERS] wishes to do that.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I am glad to yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Chairman, may I just ask the gentleman from Michigan [Mr. CONYERS] the name of the agency again? I heard it wrong, I thought.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the name that the gentleman will come to love is the National Institute of Justice for law enforcement technology programs.

Mr. ROGERS. Mr. Chairman, if the gentleman will continue to yield, could the gentleman from Michigan explain what that agency does?

The CHAIRMAN. The time of the gentleman has expired.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent that each side be granted 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Each side will be granted 2 additional minutes.

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

Mr. MCCOLLUM. Mr. Chairman, I believe this has been written incorrectly. If I am not mistaken, what the gentleman intends is the National Institute of Justice, and it is for law enforcement technology programs, but ''law enforcement technology programs,'' should not be capitalized. I think the gentleman is really talking about those types of programs that the National Institute of Justice has, is that not correct?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman is correct, absolutely correct.

Mr. MCCOLLUM. Would the gentleman from Michigan agree to amend his amendment to put the word ''of'' in between the ''Institute'' and ''Justice'', instead of as it is?

Mr. CONYERS. Mr. Chairman, that is exactly what we intended.

The CHAIRMAN. Without objection, the amendment offered by the gentleman from Michigan [Mr. CONYERS] to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] shall be modified as suggested.

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified offered by Mr. CONYERS to the amendment offered by Mr. MCCOLLUM: Strike out the period at the end of the amendment and insert '', including the National Institute of Justice for law enforcement technology programs.''

Mr. MCCOLLUM. Mr. Chairman, I have no further desire to debate this. I think we have it correct technically now.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman fro yielding time to me.

Mr. Chairman, I am not going to ask for a vote on this, but I will say I am deeply troubled by this. Of all of the complaints that I get in my district, the one that I hear more than any other is that at the end of every fiscal year Federal agencies go rushing to the pot to spend every conceivable amount of money that they can spend on any thing, and never turn anything back to be applied, and our deficit keeps getting bigger and bigger and bigger.

Mr. Chairman, it just seems to me that we are falling prey to that very thing in this amendment. I appreciate the gentleman yielding to me.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CONYERS] to the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment, as modified, to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer an amendment, amendment number 8.

The Clerk read as follows:

Amendment offered by Mr. SCOTT: Page 8, after line 3 insert the following:

''(d) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1/10 of 1% for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title and the benefits of such programs in relation to the cost of such programs.''.

The CHAIRMAN. The gentleman from Virginia [Mr. SCOTT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM], the chairman of the committee, seek recognition in opposition to the amendment?

Mr. MCCOLLUM. I am in opposition, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM], will be recognized for 10 minutes.

The Chair recognizes the gentleman from Virginia [Mr. SCOTT].

Mr. SCOTT. Mr. Chairman, this amendment simply requires that we

use a minuscule portion of the funding for programs under this chapter to determine whether or not the billions of dollars authorized under this bill, plus the hundreds of billions of dollars the prison grants program will encourage the States to spend, whether or not those expenditures actually reduce crime.

Mr. Chairman, I will submit a similar provision to evaluate programs funded under the Police and Prevention Block Grant when we take up H.R. 728. The amendment will set aside one-tenth of 1 percent for research and evaluation of the effectiveness of expenditures under the bill for crime reduction.

Mr. Chairman, this amendment assures that we will try to add not only truth-in-sentencing, but also truth in legislating, as we approach the attack on crime. We need to know whether or not the expenditures are actually having an effect.

Mr. Chairman, we have seen programs evaluated, like drug courts, that cost about one-twentieth of other initiatives and have an 80 percent reduction in crime.

We have seen studies of Head Start, Job Corps and other primary prevention programs that save more money than they cost and reduce crime.

We have even seen recreational programs studied, and significant reduction of crimes are found.

□ 1800

Mr. Chairman, according to the National Academy of Sciences, in various studies of potential years of life lost, violence prevention gets a small portion of the research. We spend $441 for heart, lung, and blood research for each potential year of life lost, $697 for AIDS research, $794 for each potential year of life lost for cancer, but only $31 for each potential year of life lost in research for violence.

Mr. Chairman, we should invest one-tenth of 1 percent of the funds under this bill to see whether we have wasted our money or whether the money could have been allocated better. Five years from now after we have spent $30 billion, we would then be considering spending another $30 billion or more, it would be nice to know what parts of the $30 billion actually had the effect of reducing crime and what part of the $30 billion had no effect at all.

This minuscule investment can give us the answers, and therefore I hope the House will adopt the amendment.

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

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] is recognized for 10 minutes in opposition to the amendment.

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

If I might, Mr. Chairman, I wish to oppose this amendment, and I would like to argue in that behalf very briefly simply to state that what I am concerned about at this point in time is the fact that we already know that 30 percent of those who are convicted of all violent crimes in this country are on probation or parole at the time they are convicted. There is no question that prison time is a great solver in deterring crime. If somebody is in prison they cannot commit crimes, for gosh sakes. We do not need to spend one dime of research to determine that. I cannot imagine the value of it, and I cannot, as much as I respect the gentleman from Virginia, and know he is in good conscience offering this, I cannot for the life of me see why we should do it.

With all due respect, I am going to oppose the amendment. It just does not make any sense to me and I do not think there is much more I need to debate about it. I just do not have any reason to support it and I cannot.

So, Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

The SPEAKER pro tempore [Mr. CUNNINGHAM] assumed the Chair.

SUNDRY MESSAGES FROM THE PRESIDENT

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

The SPEAKER pro tempore. The Committee will resume its sitting.

VIOLENT CRIMINAL INCARCERATION ACT OF 1995

The Committee resumed its sitting.

The CHAIRMAN. Does the gentleman from Virginia seek recognition?

Mr. SCOTT. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman from Virginia has 7 minutes remaining.

Mr. SCOTT. Mr. Chairman, I yield 1 minute to the ranking member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, if we are not willing to spend one-tenth of 1 percent to find out where $10 billion is going in terms of programs, construction, and effectiveness, I do not know how anybody could support this program without having this one safety corrective.

We just passed slightly earlier an amendment that would allow for evaluating and mandating the efficiency of the construction of prisons, and prison construction. Now we are saying to look at the efficacy of this entire program, the construction and the prisons and the programs contained within this bill is unnecessary because we already know, it is the height of arrogance on our part. If we already knew this we would have built prisons a long time ago. As a matter of fact, the debate is very much in doubt as to how much effectiveness building prisons really is.

So I urge the support of the Scott amendment as being very vital to this bill.

Mr. MCCOLLUM. Mr. Chairman, I do not seek recognition. I have no other speakers that I know of except me as a closing speaker.

Mr. SCOTT. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I support the Scott amendment. I support the Scott amendment basically because it questions the blind drive without further study toward incarceration over prevention. Why should we not spend a small amount of money to determine the effectiveness of incarceration?

The bill assumes a government block grant, H.R. 728, will pass next week, and so therefore if it passes it will have an opportunity to eliminate many of the programs that will help policing and community prevention.

I support community policing and prevention programs and therefore I certainly intend to vote against that bill. But at least we should, fiscal responsibility would say we should set aside a small amount to determine if we are spending all of this money in the right way and to what extent it is being effective.

Therefore, State and local governments that have been very supportive with community policing and having resources to prevent crime will find they will be far more vulnerable if the block grants pass and assuming they will be most vulnerable, the likely community policing and technology that should there will not be available. This simply gives an opportunity to study the effectiveness of incarceration.

I urge my colleagues to support this amendment.

Mr. Chairman, I support the Scott amendment. The amendment requires that point 1 percent of all prison funding be used for studying the effectiveness of prisons as a crime control device. In other words Mr. Speaker, the Scott amendment questions the blind drive toward incarceration over prevention as an approach to law enforcement in America.

This bill assumed that the Local Government Block Grants Act, H.R. 728, will pass next week. That act will eliminate community policing and the crime prevention programs that we passed last year. I support community policing and prevention programs, and I therefore intend to vote against this bill.

When we passed the crime bill last year, we were comforted by the prospect of putting another 100,000 police on the streets. Those police were expected to help stem the rising tide of crime and to make our streets safe again. State and local governments have responded enthusiastically to community policing.

More than 8,000 applications have been made for grants to put more police on the streets. Last year's crime bill made sure that

the resources would be used for more police and police related activities, such as new technology and overtime pay. The language of H.R. 728, which allows for block grants, would broaden the use of the funds. That broader use will effectively dilute resources for community policing and would allow funds to be used for such things as street lights and disaster preparation. Those are important uses, but those uses are not as important as more police.

There is absolutely no requirement in this bill or in H.R. 728 that the funds authorized must be used for police. Last year's bill gave sufficient flexibility to the State and local governments while ensuring that the police would be hired to patrol our streets. This bill and H.R. 728 provide no such guarantees. In addition, any block grant funds that might be used for police under this year's bills, may well be threatened by the budget axe under the mandate of a balanced budget constitutional amendment. Block grant funds are far more vulnerable to such a result.

We may not have any new police on the streets, if these bills pass. More importantly, under block grant funding, the critical prevention programs we passed last year are at risk.

Over the next 5 years, under last year's bill, my State of North Carolina would receive millions of dollars in funds to help prevent violence against women. Twenty-seven million dollars would have gone for police, prosecutors, and victims services. And $9 million would have gone to grants for shelters for battered women and their children. There is doubt that those funds will be available under these bills.

Under last year's bill, North Carolina would have received $6 million to treat some 5,400 drug-addicted prisoners, housed in our prisons. We would have received $21 million, over the next 5 years, for afterschool and in-school safe havens for our children. All of those funds will be in doubt, with passage of these bills. We would have received $39 million in direct grants for a variety of local programs for education and jobs programs. And, we would have been eligible for millions more in discretionary grants, money for boys and girls clubs, and antigang grants. Those funds are now in doubt.

Mr. Chairman, it is by now well established that it is far more costly to incarcerate an individual than it is to train or educate him. Prisons are warehouses and training grounds for further criminal activity. If we are serious about crime prevention, we should put more police on the streets and provide resources for programs that discourage crime. The Scott amendment keeps us moving in that direction.

I urge support for the Scott amendment.

Mr. SCOTT. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I thank the gentleman from Virginia for yielding me this time. I rise in support of this amendment.

One of the concerns I had about last year's crime bill and about every crime bill that we have considered since we have been here is that we seem to be in a posture where we are just throwing money out there at crime without any real assessment of whether that money is really having any impact on the crime rate. I do not support throwing money at anything without having some reasonable evaluation of whether it is working, whether it is crime or any other thing. This is the people's money that we are using and it is our responsibility as responsible legislators to use it in a responsible way. And whether it is a prevention program, the building of prisons, the increasing of sentencing, whatever we are doing in the crime context, however frustrated we are in trying to address crime, we still have a responsibility to know that what we are doing is working to actually have some impact.

I do not know how anyone could object to trying to go through some process, setting aside some small amount of funds to make a determination of whether a program or a set of programs or a series of programs is actually having an impact on the crime rate.

For the life of me, I cannot understand why anybody could be in opposition to this amendment, and I encourage my colleagues to support it.

Mr. SCOTT. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER], the Show-Me State.

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

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the gentleman's amendment, because it is very obvious to me when you read this bill we are not going to build any prisons. And that has happened as a result of the Rogers amendment, we are going to be diverting money that should go to the cops on the beat, on the streets in our local communities and we are going to give it to FBI and DEA and BATF and all of these other agencies, so that they could have money when we cut back on spending in a couple of years.

I never saw such a diversion as I just saw from my office in the Rogers amendment. Anyhow, they admit they are not going to spend the money on prisons. Otherwise, they would not use that amendment.

So I would rather use it for cops on the beat any day, and I think that is right there locally where they need to fight crime, and I support the gentleman's amendment.

□ 1810

Mr. SCOTT. Mr. Chairman, just in closing, we have heard a lot of rhetoric on the floor about how safe we are going to be if we build these prisons. Let us see it. Let us study one-tenth of 1 percent of the billions of dollars we are going to spend on the bill, hundreds of billions of dollars that we are going to encourage States to spend. Let us see if it made any difference.

I can understand how people would not want to study it so that they can hide behind the rhetoric.

If these expenditures, if these tens of billions of dollars we are going to spend are doing any good, let us see it. Let us spend one-tenth of 1 percent to evaluate the effectiveness of these programs.

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

Mr. MCCOLLUM. Mr. Chairman, I yield myself such time as I may consume. I assure you, I will not consume much.

I just want to reiterate the opposition that we on our side have to this amendment. It is not that the gentleman wants to do anything all that egregious. It is the expenditure of money on proving something that I think is self-evident, already known to us, and that is, by golly, with the high rate of recidivism we have got out there, if you keep people in prison longer, you are going to have a better crime statistic. You are going to have fewer crimes committed. We are having this revolving door and the repeat of violent offenders going through this process, and that is the reason why we are here having the money and trying to build the prisons we have to build to keep them off the streets and lock them up.

There may be some merit to the fact that there are some root causes of crime out there, some need-to-address poverty or causes that are perhaps in the communities around the country, but that is not something we can address tonight. That is not something that is our province to do in this crime legislation.

What we are about tonight is to try to produce a bill that provides enough resources to the States through grant programs so they can build sufficient prison beds to take off the streets and incarcerate for at least 85 percent of their sentences, in other words, abolish parole, for those committing serious violent felonies and getting out again and going around the horn and coming back and committing more of them again.

I just think it is self-evident we do not need to spend any of this bill to find out if it is true or it is not true if that would help the problem.

I, again, reiterate my opposition.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The amendment was rejected.

AMENDMENT OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WATT of North Carolina: Page 3, line 11, strike the word ''assurances'' and insert in lieu thereof the word ''confirmation''

Page 3, line 17, strike the word ''and''

Page 3, line 20, strike the period and add ''; and''

Page 3, after line 20, insert the following:

''(4) decreased the rate of violent offenses committed in the State, taking into account the population of such State, at a level at least equivalent to the lesser of the percentage increase confirmed in sections (1), (2) or (3) above.''

Page 4, line 7, strike the word ''assurances'' and insert in lieu thereof the word ''confirmation''

Page 4, line 21, strike the comma and replace it with a semicolon

Page 4, after line 21, insert the following:

''(C) procedures for the collection of reliable statistical data which confirms the rate of serious violent felonies after the adoption of such truth-in-sentencing laws.''

Page 6, line 7, strike the ''—'' and insert instead ''confirms that''

Page 6, line 8, strike the word ''and''

Page 6, line 12, strike the period and insert instead ''; and (3) the rate of violent felony offenses committed in such State has decreased since such State commenced indeterminant sentencing for such offenses.''

The CHAIRMAN. The gentleman from North Carolina [Mr. WATT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM] seek time in opposition?

Mr. MCCOLLUM. Indeed I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

This amendment is very similar to the Scott amendment which was just considered. However, Mr. Chairman, under the amendment offered by the gentleman from Virginia [Mr. SCOTT], he would have allocated a small amount of funds under this bill in a fund at the national level to make an assessment of whether the bill was having any impact on violent crime in this country. This amendment gives that responsibility to the States or the localities which are applying for funds under this bill.

Basically what it says is if you have an 85-percent service requirement, your prisoners have to serve 85 percent of their time, give us what indication you have that that has had some impact on the incidence of violent crime in your State; do not ask us to just throw money out there after this problem. If the purpose of your building new prisons or increasing sentencing or providing for longer sentencing is in fact to reduce crime, tell us that that is what has happened in your State, taking into account the increase in population.

The second part of the bill requires that the States track the incidence of violent crime and keep statistical information so that that information can be available to the residents of that State and to the American people, that we are not wasting $10 billion, $12 billion, $15 billion of their money on something that is really not having any impact on violent crime.

So instead of accepting that responsibility, taking it out of the fund at our level, this imposes on the States, which will be applying for funds under this bill, to have an assessment process and present some indication that this money that we are giving them is having some impact on violent crime.

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

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

Mr. Chairman, this amendment is totally unacceptable to this side, because, frankly, what it does is it makes it next to impossible, I would suggest impossible, for some States to ever get any money under this bill. It makes the standard and the conditions for getting it increased. If somebody on the other side of the aisle was complaining about never getting any money under the bill as it exists now, you sure as heck would not get it after it is amended by this amendment.

You have got to prove as a State your crime rate will actually drop as a result of getting money under here, and the crime rate will actually have to go down, and you will have to show the Attorney General it is going down as a result of getting money and building more prisons.

The truth of the matter is States like Florida and other growth States may very well have their crime rate go up no matter what they do simply because there is an influx of people, because we do not have barriers from people moving from one State to another, and while per capita or whatever, maybe the crime rate is going down, but if you kept it the same and did not have more criminals moving in, but it presents an impossible situation, a condition that a State has got to show its crime rate in fact is dropping.

It is something the gentleman offered in committee. I opposed it, and we defeated it there. I have to oppose it again here today.

I hope the gentleman does not seek a recorded vote on this if he loses, but if he does, I want to announce to everybody here we will rise at that time. I will move to rise, and we will not have any more recorded votes out here tonight.

If the gentleman's amendment does not have a recorded vote ordered on it, then at that point in time we might proceed to a couple of other amendments that are not likely to have recorded votes, but there will be no more recorded votes here tonight. So no one has to worry about it.

But, again, I want to reiterate my opposition to this amendment.

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

Mr. WATT of North Carolina. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I rise in support of the Watt amendment, and I find it absurd that accountability or how you plan to address crime is asking any State too much.

It is, indeed, for the very reason we are appropriating these monies that this amendment makes abundantly good sense. It simply says that there should be an assessment by the applicants themselves so as to how they propose, indeed, that crime can go down.

□ 1820

Second, statistical data is always helpful in determining if in fact you have been effective. So, to suggest that a State could not be accountable when they make an application seems absurd. It flies in the face of reality and certainly flies in the face of logic of this Member.

I would assume that this is simply to suggest that States who have a commitment to address the issue of crime are willing to say how they propose to do it in their assessment. These are the methods and this is the strategy.

Further, they would be required to give statistical data showing that they indeed shall be successful in using that money. Accountability is what is at the back of this issue, simply saying we are not throwing money and we are also asking them to be responsible, and I think most States would be responsible.

Mr. MCCOLLUM. Mr. Chairman, I have no more speakers at this time, and I would reserve the balance of my time.

Mr. WATT of North Carolina. Mr. Chairman, I yield myself 30 seconds in order to say that I understand the resolution of this may have been worked out. I yield 1 minute to the ranking minority member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I thank the gentleman for yielding this time, and I compliment the gentleman for his amendment because it has led to the possible resolution of the objective sought by the gentleman from North Carolina [Mr. WATT] and the gentleman from California.

If we do have an agreement on a subsequent amendment known as the Zimmer-Scott amendment, I would implore my colleague from North Carolina [Mr. WATT] to withdraw this amendment and we would move forward.

Mr. MCCOLLUM. Mr. Chairman, would the gentleman yield?

Mr. WATT of North Carolina. I yield to the gentleman from Florida.

Mr. MCCOLLUM. I thank the gentleman for yielding.

Mr. Chairman, we do have an agreement about both the Scott proposal and the Zimmer proposal. It just has been pointed out to me, since we have discussed this, I say to the gentleman from Michigan [Mr. CONYERS] that the Scott amendment should stand on its own as a separate amendment. We have no objection to it. We would suggest both be offered, both Zimmer and Scott, and we will accept both of them.

Mr. CONYERS. We will do this.

Mr. WATT of North Carolina. Mr. Chairman, I ask unanimous consent I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. Are there further amendments to the bill?

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ZIMMER: Add at the end the following new title:

TITLE—PRISON CONDITIONS

SEC. . PRISON CONDITIONS.

(a) IN GENERAL.—The Attorney General shall by rule establish standards regarding conditions in the Federal prison system that provide prisoners the least amount of amenities and personal comforts consistent with Constitutional requirements and good order and discipline in the Federal Prison system.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to establish or recognize any minimum rights or standards for prisoners.

SEC. . ANNUAL REPORT.

The director of the Bureau of Prisons shall submit to Congress on or before December 31 of each year, beginning on December 31, 1995 a report setting forth the amount spent at each Federal correctional facility under the jurisdiction of the Bureau of Prisons for each of the following items:

(1) The minimal Requirements necessary to maintain Custody and security of prisoners.

(2) Basic nutritional needs.

(3) Essential medical services.

(4) Amenities and programs beyond the scope of the items referred to in paragraphs (1) through (3), including but not limited to—

(A) recreational programs and facilities;

(B) vocational and education programs; and

(C) counseling services, together with the rationale for spending on each category and empirical data, if any, supporting such rationale.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from New Jersey will be recognized for 10 minutes.

Does the gentleman from Michigan seek to claim the time on this amendment?

Mr. CONYERS. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] will be recognized for 10 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

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

Mr. Chairman, prison perks are bad public policy, and they are an abuse of taxpayer money.

My amendment is aimned at eliminating them from Federal prisons. In some prisons, inmate amenities are better than what law-abiding Americans on the outside get, and all this is at taxpayer expense.

At the Lompoc, CA, Federal penitentiary, they offer all-channel cable TV, movies 7 days a week, pool tables, handball, tennis, and miniature golf. The Duluth, MN, Federal prison is called Club Fed. It provides a movie theater, musical instruments, softball field, gamerooms.

The Manchester, KY, Federal prison, in which some former State legislators reside, has a jogging track, several basketball courts, and multiple TV rooms.

Mr. Chairman, prisons should be places of detention and punishment, not vacation spas. Prison perks undermine the concept of jail as deterrence, and they also waste taxpayer money.

My amendment would end the taxpayer abuse by requiring the Attorney General to set specific standards governing Federal prisoners that do not exceed what is necessary for prison order, discipline, and constitutional requirements.

The amendment also requires the Bureau of Prisons to submit an annual audit to Congress listing exactly how much is spent at each Federal prison for basics and how much is spent for extra perks and amenities.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding to me.

Mr. Chairman, I want the gentleman from New Jersey [Mr. ZIMMER] to know that under the constraints of time, we accept his amendment on this side, and I would yield back the balance of our time.

Mr. ZIMMER. I thank all my colleagues who are waiting patiently to speak on behalf of this amendment, and I yield back the balance of my time.

Mrs. LINCOLN. Mr. Chairman, I rise today in support of the No Frills Prison Act as an amendment to the Violent Criminal Incarceration Act of 1995. This legislation would deny Federal funds to States who give inmates special privileges.

I believe that we've lost our perspective in this Nation when prisoners eat better than our children, and inmates enjoy air conditioning while senior citizens in nursing homes swelter. Removing such luxuries as Stairmaster's premium cable TV, and weight rooms is essential to ensuring that our prisons are not country clubs, but are instead true place of punishment for crime.

I commend Mr. ZIMMER for his good work in creating a bill that is truly tough on crime, and I encourage my colleagues to support this worthwhile amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. SCOTT

Mr. SCOTT. Mr. Chairman, I offer amendment No. 11.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SCOTT: Page 7, line 24, insert ''(1)'' before ''The''.

Page 8, after line 3, insert the following:

''(2)(A) A State that receives funds under this title shall, in such form and manner as the Attorney General determines, and under such regulations as the Attorney General shall prescribe, require that the appropriate public authorities report promptly to the Attorney General the death of each individual who dies in custody while in a municipal or county jail, State prison, or other similar place of confinement. Each such report shall include the cause of death and all other facts relevant to the death reported, which the person so reporting shall have the duty to make a good faith effort to ascertain.

(B) The Attorney General shall annually publish a report containing—

(i) the number of deaths in each institution for which a report was filed during the relevant reporting period;

(ii) the cause of death and time of death for each death so reported; and

(iii) such other information about the death as the Attorney General deems relevant.

Mr. SCOTT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The CHAIRMAN. Pursuant to the unanimous-consent request, the gentleman from Virginia [Mr. SCOTT] will be recognized for 10 minutes.

Does the gentleman from Florida [Mr. MCCOLLUM] seek recognition?

Mr. MCCOLLUM. Mr. Chairman, I am not in opposition to the amendment, but I do seek recognition.

The CHAIRMAN. Is there any Member in opposition?

If not, the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Virginia [Mr. SCOTT].

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

Mr. Chairman, this is a very simple amendment.

Mr. Chairman, there have been recent press reports about deaths in local jails and prisons. This merely requires the States and localities, when there is a death in the jail, to report it to the Attorney General so there would at least be somewhere in the U.S. Government a record of the information that is available.

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

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

Mr. Chairman, I have no opposition to this amendment. The gentleman from Virginia is simply asking for States who receive funds under this proposal to report the deaths of those who die in their State prisons to the Federal Government, to the Attorney General, along with any causes.

I think such reporting would probably be beneficial to our committee and to the Congress, to know the answers to these things so that we can have statistics available. There are a lot of other statistics that are gathered, and they could probably submit this with no undue amount of burden,

since they keep those records, along with the other reports they submit.

We would be prepared to accept this amendment.

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

Mr. SCOTT. Mr. Chairman, I yield such time as he may consume to the ranking member of the committee, the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. I commend the gentleman from Virginia for his amendment and support it with strong support.

Mr. SCOTT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Virginia [Mr. SCOTT].

The amendment was agreed to.

Mr. McCOLLUM. I move that the Committee do now rise.

The motion was agreed to .

Accordingly the Committee rose; and the Speaker pro tempore (Mr. CUNNINGHAM) having assumed the chair, Mr. KOLBE, 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. 667) to control crime by incarcerating violent criminals, had come to no resolution thereon.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that the name of Mr. GORDON be removed as a cosponsor of H.R. 3, a piece of legislation which I sponsored.

The SPEAKER pro tempore. It there objection to the request of the gentleman from Florida?

There was no objection.

REMOVAL OF NAMES OF MEMBERS AS COSPONSORS OF HOUSE JOINT RESOLUTION 3

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that the names of Mr. HANCOCK, Mr. COBURN, and Mr. RIGGS be removed as cosponsors of House Joint Resolution 3, a piece of legislation that I also sponsored.

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

There was no objection.

ANNUAL REPORT OF NATIONAL ENDOWMENT FOR THE HUMANITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Economic and Educational Opportunities:

To the Congress of the United States:

I am pleased to present to you the Twenty-ninth Annual Report of the National Endowment for the Humanities [NEH], the Federal agency charged with fostering scholarship and imparting knowledge in the humanities. Its work supports an impressive range of humanities projects.

These projects can reach an audience as general as the 28 million who watched the documentary Baseball, or as specialized as the 50 scholars who this past fall examined current research on Dante. Small local historical societies have received NEH support, as have some of the Nation's largest cultural institutions. Students from kindergarten through graduate school, professors and teachers, and the general public in all parts of the Nation have been touched by the Endowment's activities.

As we approach the 21st century, the world is growing smaller and its problems seemingly bigger. Societies are becoming more complex and fractious. The knowledge and wisdom, the insight and perspective, imparted by history, philosophy, literature, and other humanities disciplines enable us to meet the challenges of contemporary life.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

OMNIBUS COUNTERTERRORISM ACT OF 1995—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–31)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, referred to the Committee on the Judiciary and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the ''Omnibus Counterterrorism Act of 1995.'' Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

—Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States;

—Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas;

—Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques;

—Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas; and

—Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

□ 1830

REQUEST FOR PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT ON TOMORROW DURING THE 5-MINUTE RULE

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture, Committee on Banking and Financial Services, Committee on Commerce, Committee on Government Reform and Oversight, Committee on the Judiciary, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

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

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

Mr. WATT of North Carolina. Mr. Speaker, reserving the right to object, I am advised by the leadership on our side that we have agreed to this, notwithstanding the fact that it is contrary to the proxy voting rule that is in effect and will deprive some people of the right to be on the floor and in committee at the same time.

Notwithstanding that, we will not object.

Mr. Speaker, I withdraw my reservation of objection.

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

Mr. CONYERS. Reserving the right to object, Mr. Speaker, could we get a recapitulation of that? I am sorry to say that we were in a discussion over here, and I did not hear the thrust of the gentleman's request.

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

Mr. CONYERS. I yield to the gentleman from Arizona.

Mr. KOLBE. Mr. Speaker, is the gentleman seeking to understand which committees are included in the request? Is that correct?

Mr. CONYERS. Mr. Speaker, does the gentleman have a copy of the document?

Mr. KOLBE. Yes, we can provide that to the gentleman, or I can read it to the gentleman again if he prefers.

Mr. CONYERS. Is the gentleman seeking permission for the committees to sit while we are in session on the floor?

Mr. KOLBE. Tomorrow under the 5-minute rule.

Mr. CONYERS. Further reserving the right to object, is the gentleman talking about Friday?

The SPEAKER pro tempore. The Chair will inquire, is the gentleman from Michigan reserving the right to object?

Mr. CONYERS. Yes, Mr. Speaker, I am continuing to reserve the right to object.

Could I ask the gentleman if he is talking about eight committees?

Mr. KOLBE. That is correct.

Mr. CONYERS. To sit during the consideration of the crime bill?

Mr. KOLBE. Tomorrow, Friday, that is correct.

Mr. CONYERS. Could I ask the gentleman where he got the impression that the minority had agreed to this previously?

Mr. KOLBE. I have been advised that staff did consult with the staff of the gentleman from Missouri [Mr. GEPHARDT] on this.

Mr. CONYERS. Reserving my right to object, Mr. Speaker, I would like to point out to the gentleman that as to the Committee on the Judiciary and the Committee on Resources Subcommittee; we would ask that they both be removed form the list.

Mr. KOLBE. I am sorry; the Committee on the Judiciary, and which other committee?

Mr. CONYERS. Committee on Resources is out already?

Mr. KOLBE. The Committee on Natural Resources is not on the list that I read.

Mr. CONYERS. Then I ask that we add the subcommittee of the Committee on the Judiciary, all Judiciary subcommittees, because we are all due here on the floor tomorrow.

So, with that exception I would be willing to withdraw my reservation of objection.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comment.

Mr. CONYERS. Mr. Speaker, I withdraw my reservation of objection.

Mr. KOLBE. Mr. Speaker, I will revise my unanimous consent request.

Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Agriculture, Committee on Banking and Financial Services, Committee on Commerce, Committee on Government Reform and Oversight, Committee on Science, Committee on Small Business, and Committee on Transportation and Infrastructure.

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

There was no objection.

REREFERRAL OF TITLES V, VI AND SECTION 4003 OF H.R. 9, JOB CREATION AND WAGE ENHANCEMENT ACT TO COMMITTEE ON SMALL BUSINESS

Mr. KOLBE. Mr. Speaker, I ask unanimous consent that titles V, VI and section 4003 of H.R. 9, the Job Creation and Wage Enhancement Act, be rereferred to the Committee on Small Business as an additional committee of jurisdiction.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 668, CRIMINAL ALIEN DEPORTATION IMPROVEMENTS ACT OF 1995

Mr. MCINNIS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–26) on the resolution (H. Res. 69) providing for the consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens, which was referred to the House Calendar and ordered to be printed.

ANNOUNCEMENT ON AMENDMENT PROCESS FOR NATIONAL SECURITY REVITALIZATION ACT

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

Mr. MCINNIS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute for the purpose of making an announcement.

Mr. Speaker, I wish to announce to Members that the Rules Committee will meet next Monday, February 13, at 2 p.m. to consider a rule for H.R. 7, the National Security Revitalization Act.

The Rules Committee anticipates reporting an open or modified open rule with a possible time limit on the amendment process.

The rule will likely accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD, though this would be optional and not mandatory.

The Rules Committee intends to make in order as base text for amendment purposes the text of H.R. 872 which was introduced today. The new bill reflects a consensus product of the various committees of jurisdiction.

Members should draft their amendments to this new base text and are urged to use the Office of Legislative Counsel to ensure that their amendments are properly drafted to the new base text.

If Members wish to avail themselves of this pre-printing option, amendments should be titled, ''Submitted for printing under clause 6 of rule XXIII,'' signed by the Member, and submitted at the Speaker's table.

Amendments must still be consistent with House Rules since neither the rule nor printing in the RECORD will afford any special protection against points of order for such amendments.

It will not be necessary for Members to submit their amendments to the Committee on Rules or to testify on them.

Mr. DURBIN. Mr. speaker, will the gentleman yield?

Mr. MCINNIS. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. speaker, I may have misunderstood. Would the gentleman please state the date and day of that committee meeting?

Mr. MCINNIS. We have just been advised that the time has just now been changed, so the date is February 10 at 3 p.m.

Mr. DURBIN. That is tomorrow, Friday, February 10?

Monday is February 13.

Mr. MCINNIS. All right; I have got a typographical error. It is Monday, February 13, at 3 p.m.

□ 1840

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under the Speaker's announced policy of January 4, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LAW ENFORCEMENT BLOCK GRANTS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, the streets of my district are safer today because of the 1994 crime bill. Streets are becoming safer across this country

because we are putting more police officers on the beat.

Sadly, in the name of politics, the Republican majority wants to undo our progress. The 1994 crime bill struck the right balance between prisons, police, and prevention. This bill was tough on criminals, as it should be. It also recognized that the best way to deal with crime was to prevent it from happening in the first place. And this means more community policing, more cops on the beat. The 1994 crime bill does it right, with the Public Safety Partnership and Community Policing Act, better known as COPS.

Next week we will consider a bill that would destroy this effective program and replace it with an approach that does not guarantee a single new cop on the beat. This new bill is absolutely unnecessary. Why would we ever want to destroy a program that is working? I can only conclude that it is because of politics, and that is sad, because politics should not be allowed to threaten programs that save lives and improve safety.

Mr. Speaker, when I voted for the 1994 crime bill, I made a promise to the people of the Third District of Connecticut. I promised them that I would help put 1,500 more cops on the streets of our cities, and 100,000 on the streets of this Nation by the year 2000.

The President is doing his part to keep the promise he made when he signed the 1994 crime bill into law. His budget for 1996 includes $1.9 billion to hire 20,000 more police officers and to support community policing programs across this country. When combined with last year's appropriations, there will be 40,000 more police officers hired and trained this year. In my district alone, funding has already been awarded to hire 32 police officers in 10 municipalities.

Like the President, I believe we have an obligation to our communities to continue the Community Policing Program. I know how this program works, because I have seen it firsthand. I have seen the difference that it has made in my district, in cities like New Haven and Stratford, CT.

In 1990, my hometown of New Haven had the unfortunate distinction of having the highest crime rate of any city in Connecticut. Then police and community leaders came together and implemented a Community Policing Program. Three years later, New Haven has a much prouder distinction. Crime was reduced by 7 percent in the first year of the program, and by 10 percent in the second year. In fact, New Haven's Community Policing Program has become a model for this Nation.

But under the Republican bill, other municipalities may never have a chance to replicate this model. The Republican bill destroys the COPS Program. The Republican block bill grant does not guarantee that States and municipalities will ever spend one penny on this kind of crime prevention, and the track record of existing block grant programs is not encouraging. According to the National Association of Child Advocates, the states spend only 7 percent of the money that they receive through the Byrne Law Enforcement Block Grant Program on prevention activities, including community policing expenditures.

I support giving flexibility to local officials and using the resources that we provide. The last year's crime bill did provide flexibility. It struck the right balance between flexibility, accountability, and security. I urge my colleagues to support our police and our communities by keeping our commitment to the COPS Program. Let us put COPS on the beat.

I have walked in my neighborhoods with the police. I have driven around with them. I have seen how its program is working. I want to the businesses with the cop on the beat and have felt their sense of security with the police officers being there.

This is a program that keeps our cities safe, our streets safe, and our businesses more in tune with what they want to do, which is keep their business without being concerned about what crime is going to do.

Let us maintain the Cops on the Beat Program. It is in fact making our streets safer.

U.S. MEXICAN AID SENSIBLE

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

Mr. KOLBE. Mr. Speaker, I wanted to take this time today to address the House on a recent crisis that occurred in Mexico. I have not had an opportunity to do it before now, and there has been an awful lot of information and misinformation that has been stated in news media, the floor of this House, by a lot of speakers all over the country, and for that matter, the world.

Let me begin with this observation: What we saw in Mexico I think was a great liquidity crisis, and it was the first one to result from mutual fund redemptions, as opposed to the operation of central banks.

Mutual funds determine their values minute by minute with each and every transaction, so they are vulnerable to very small market ticks which can result in very large scale losses and redemptions.

Banks, on the other hand, report their earnings quarterly. They have wide latitude to hold on to nonperforming loans in their portfolios. This is an important distinction and one which will affect us in the future, because today mutual funds have 90 percent, as much on deposit, as banks do, while only 12 or 14 years ago it was 10 percent of what banks had on deposit.

The bottom line is this: Mutual and pension funds drive the financial markets today. Because of this distinction, the crisis was fundamentally different from the ones we have witnessed before in developing countries, including Mexico.

What would have happened if we had taken no action to meet this stated $40 billion loan commitment that the President and the leadership in this House and Senate gave a few weeks ago? We do not know for sure what might have happened, but there are some facts we do know.

First of all, Mexican reserves were at a perilously low level, and they simply would not have been sufficient to cover the redemption of the treasury bonds called tesobonos. Since loss of confidence had eroded any chance to roll these notes over at virtually any price, the government was resorting to printing pesos to redeem the bonds as they came due. The holders of those bonds were converting them very quickly to dollars, so that resulted in further loss as the peso deteriorated. Unless checked, this combination of events was certain to lead to high inflation and very, very deep recession.

As if these problems were not enough, Mexican private banks were seriously at risk as well. With interest rates soaring to offer 50 percent levels, debtors were simply unable to repay in the short-term. Nonperforming bank loans would have skyrocketed within the Mexican financial system. Widespread bank failures would have been almost inevitable.

The social and political consequences for the United States resulting from such a collapse in the Mexican economy are not too difficult to imagine. Certainly we would have seen the loss of U.S. jobs stemming from the inability of our second largest market to buy our exports, and we would have seen a significant increase in illegal immigration.

□ 1850

Indeed, some of that is likely to happen because of the contraction that we have seen in the Mexican economy. That has already occurred. But the results of a total collapse could have been catastrophic and impossible to reverse in the short term. It is clear to me that it is in our national interest, our national security and our national economic interest to have a prosperous and stable neighbor on our 2,000-mile common border.

By the end of this year Mexico will have a population of at least 90 million people with a growth of 2 percent a year. With 50 percent of the population under the age of 20 and 25 percent over the age of 56, the Mexican job market over the short and medium term must continue to expand to provide jobs to a very competitive Mexican youth who are coming of age. In addition, 700,000 jobs here in the United States are directly tied to the exports we have to Mexico.

If only Mexico had been at risk in this, it is possible we could have ridden out the crisis, although even then with

some considerable difficulty. However, when it became apparent that this crisis was spreading like a huge ink blot across world financial markets and in particular among the emerging markets, it became clear that the economic and national security costs of U.S. inaction were going to be much higher than the risks associated with action.

The collapse in Mexico would have adversely affected our ability to continue steering developing countries on a path to free markets and democratization. Mexico has been viewed as a litmus test for the success or failure in our model of development. It is the largest of the emerging markets, the only one to have joined the 15-member OECD. That this should happen to an OECD country would have been unthinkable just a few months ago.

Second, Mexico has been held up as a model for other developing countries with its privatization, democratization, deregulation, and free-trade orientation. The United States, the OECD, and the IMF have been very public in urging other countries to follow this model. So Mexico's problems become the problems for everyone else.

Finally, let me just speak about the legality of the action. There is no doubt in my mind that the President's actions were within his authority under the law governing the use of the economic stabilization fund.

Mr. Speaker, the President acted when he had to act. The leadership of this body was correct in supporting that action.

It is important, not only the legal correctness of the President's action, but its policy sensibility.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 76

Mr. BARRETT of Wisconsin. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Nebraska [Mr. BEREUTER] be withdrawn as a cosponsor of H.R. 76.

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

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

SHOULD CONGRESS INTERVENE IN BASEBALL STRIKE?

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

Mr. MCINNIS. Mr. Speaker, tonight I would like to visit with you a little about the baseball strike and the very issue that is addressed or has been brought to us in the last week, should the U.S. Congress deal with the baseball strike? I think in order for us to assess an answer to that question, we need to look at what the historical standards have been in the U.S. Congress or in the White House before we intervene in a labor dispute between two private parties.

First of all, how about Presidential involvement? You should know that in the past, it is very rare for a President to intervene in a labor dispute. It has occurred, but the standard that seems to have been set in the past is that it was necessary for a precedent to occur, and the President was brought in when the strike or the labor dispute would have had a crippling impact on the entire Nation.

I will give you some examples. For example, in 1945, at a time of war, President Truman intervened and ordered the coal miners back to work. In 1946, he did so with the railroads. In 1952, again during a time of major conflict, he ordered the steel workers back to work. President Nixon in 1972 ordered the dock workers back to work, obviously a crippling impact because we were not able to bring imports into the country. President Carter, 1978, with coal, and in 1979 with rail. President Reagan in 1981 intervened with the air traffic controllers. But even that intervention was somewhat unique because it dealt with Federal employees. And President Clinton last August intervened in a labor dispute that involved rails.

But nowhere in our history can we find, especially in a sport or a pasttime, that a President has intervened.

I do commend the President the other day for asking the two parties to come to the White House, although I think the President was overly optimistic on his chances of succeeding in bringing about a solution to this dispute. As a result of that, I think the President made a mistake when he offered to both of those parties congressional assistance.

Should Congress intervene? The answer is clearly no. Baseball, the lack of professional baseball, is not a national emergency. I would like to see baseball. I am a baseball fan; my son is a baseball fan. But it is not going to have a crippling impact on this country if we do not have professional baseball for a few weeks or even this summer. It is not going to cripple the Nation. It is not like our coal or our steel or our dock workers. We should not intervene in a private dispute.

As you can see, where does this lead? Where does it lead if Congress does intervene? We had a bill introduced, a bill in this Congress, this is a bill to establish a new Federal agency, the National Commission on Baseball. Federal employees, seven full-time Federal employees will determine such things as what the price of tickets should be, what the contract should be, individual negotiations of contracts in the minor leagues and the major leagues, and where this baseball stadium should be built. The Federal Government will be negotiating TV rights for the baseball teams. The Federal Government will have the right under its Baseball Commission to subpoena people, as if it is a criminal action. You do not want the Federal Government intervening in the private marketplace. And baseball does not, by the very merits of its sport, does not demand that the U.S. Federal Government intervene in the strike.

I think that it is absolutely necessary, especially when you are talking about two very wealthy parties, nobody is going to go hungry between the owners and the players. Granted, there is a ripple effect for people that work for baseball, but does that upon itself mandate that they come in? It sure does not for Bridgestone Tire Co. down in Oklahoma or Caterpillar. The President has not asked Congress to intervene in those because they do not meet that standard of having a crippling impact.

In conclusion, I urge all of you not to allow Congress to intervene in the baseball strike. Let the titans of money resolve it amongst themselves. And for gosh sakes, do not create a new Federal agency called the Commission on Baseball with full-time employees, another building in Washington, DC, another bureaucracy, the right of subpoena, the right to determine private contracts. We do not need it. Baseball players, baseball owners, go out there and settle it yourselves. It is your fight, not the fight of the U.S. Congress.

We should not give you 1 minute of time by taking it away from the debate on crime, which is a national crisis, on the Federal deficit, which is a national crisis.

Go settle your fight amongst yourselves.

NOMINATIONS OF DR. HENRY FOSTER FOR SURGEON GENERAL

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

Mr. LEWIS of Georgia. Mr. Speaker, it is very important that we come here tonight to talk about the President's nominee for Surgeon General, Dr. Henry Foster. Now, a lot has been said about Dr. Foster, but I don't think people truly understand Dr. Foster. Dr. Foster has spent a lifetime making our country a better place.

First, let me say that I think Dr. Foster is a fine choice for Surgeon General. Apparently, many other individuals and organizations do too, including the American Medical Association, which has praised him as ''a dedicated teacher, a dependable leader, and a concerned advocate for improving access to quality health care.'' I would like to include as part of the RECORD

some of the letters of endorsement that have been sent on behalf of Dr. Foster.

I believe we need to stop for one moment and rethink this discussion about Dr. Foster. This should not and must not be a discussion about how many abortions Dr. Foster has performed. He performed a legal medical procedure. Those who oppose a woman's right to choose to have an abortion must take that fight somewhere else. Every woman in America has the right to choose—that is the law of the land. Dr. Foster has done nothing wrong.

In fact, Dr. Foster has done a great deal that is right. He is a leading authority on reducing infant mortality and preventing teen pregnancy and drug abuse. He has educated young people about contraception and preventive health care. He has worked to encourage children to quit smoking.

This is a man who has not been content to simply practice medicine, that is in itself a noble profession. Instead, he has looked in his community, seen that there are problems and has tried to help find solutions.

He created the I Have a Future program at Meharry Medical College, where he was dean of the medical school and acting president. Then I Have a Future program was recognized by President Bush as one of his Thousand Points of Light.

This is a program that helps give teenagers hope and steer them toward college instead of teenage pregnancy. This program works. It has changed Tonika East's life. Tonika lives in public housing and joined the I Have a Future program because as she said, ''everyone else was doing it.'' She is now student body president of her school and has traveled around the country visiting colleges she might attend.

Mr. Speaker, this is just one example among many. Dr. Foster has spent a lifetime working to improve the lives of others. Dr. Foster cares about this Nation and about the future of this country—our children.

It is clear to me that Dr. Foster should be confirmed as Surgeon General. There is too much important work to be done in our country to waste any more time on this.

There is no confusion here. There are no more questions that need to be answered. Dr. Foster should be confirmed. And he should be confirmed now.

Mr. Speaker, I include the following material, which is supportive of Dr. Foster's confirmation:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC

DEAR MR. PRESIDENT: The American Medical Association enthusiastically supports the nomination of Henry W. Foster, Jr., MD for the position of Surgeon General of the U.S. Public Health Service.

Dr. Foster is a leading expert in the field of reproductive health. As Chief of the Department of Obstetrics and Gynecology at the John A. Andrew Memorial Hospital of Tuskegee University, Dr. Foster developed a program which is a nationally recognized model for regionalized perinatal health care systems. During his tenure at Meharry Medical College, Dr. Foster founded the innovative ''I Have A Future'' program to address teen pregnancy which brought to focus one of the nation's most pressing public health issues. The ''I Have A Future'' program provides strategies for at-risk youth to develop positive decision-making in the areas of personal health and responsibility, while enhancing their self-image. With so many of our nation's youth in crisis, we need creative programs like this one to dramatically reduce the alarming rate of teen pregnancy and we applaud Dr. Foster's commitment to this issue. Adolescent health has long been a public health priority for the AMA and we look forward to working with Dr. Foster on this and other critical public health issues.

Dr. Foster is a dedicated teacher, a dependable leader, and a concerned advocate for improving access to quality health care for women and underserved populations. Dr. Foster has been a longstanding member of the AMA and he brings the requisite experience, knowledge, and commitment to provide effective leadership as the Surgeon General. We firmly believe that Dr. Foster will serve in the position of Surgeon General with distinction and make many positive contributions to the nation's public health.

Sincerely,

JAMES S. TODD, MD.

NATIONAL MEDICAL ASSOCIATION,
Washington, DC, February 2, 1995.

The PRESIDENT,
The White House, Washington, DC

DEAR MR. PRESIDENT: The National Medical Association (NMA) strongly supports the nomination of Henry Foster, M.D. as United States Surgeon General. As an active NMA member, Dr. Foster's service has been exemplary and his work has served as a national model that is being replicated in various segments of health care.

The NMA believes that Dr. Foster's presence as U.S. Surgeon General will greatly enhance the Administration's ability and capacity to protect the health and welfare of our nation and applauds your excellent selection.

Sincerely,

TRACY M. WALTON, JR., M.D.
President.

THE ASSOCATION OF MINORITY HEALTH PROFESSIONS SCHOOLS,
Washington, DC, February 2, 1995.

The Association of Minority Health Professions Schools (AMHPS) today expressed its support for the nomination of Henry Foster, MD as the Surgeon General of the United States.

AMHPS President, Dr. Henry Lewis stated, ''Dr. Foster is a national leader in medicine and research. His efforts to develop programs for the education and academic enrichment of young people, particularly minorities, have been commendable. Dr. Foster's ''I Have a Future'' program at Nashville's Meharry Medical College is truly a national model.''

Dr. Foster is a former acting president of Meharry Medical College. Meharry is an institutional member of AMHPS, which represents the nation's Historically Black medical, dental, pharmacy and veterinary schools.

ASSOCIATION OF SCHOOLS OF PUBLIC HEALTH,
Washington, DC, February 2, 1995.

Hon. WILLIAM CLINTON,
President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the deans of the 27 graduate schools of public health in the nation, I wish to go on record in support of Dr. Henry Foster as U.S. Surgeon General. Dr. Foster is well known and respected by the academic public health community for his work with the underserved and for his keen understanding the role prevention plays in reducing morbidity and delaying mortality. He is a recognized leader in the health professions education field and will, no doubt, contribute greatly to fulfilling the administration's primary care and public health workforce goals.

The Association of Schools of Public Health (ASPH) is the only national organization representing the deans, faculty, and students of this nation's 27 accredited schools of public health in the United States and Puerto Rico. These schools have a combined faculty of over 2,000 and educate more than 13,000 students annually from every state in the U.S. and most countries throughout the world. The 27 schools graduate approximately 4,000 public health professionals each year.

ASPH's principal purpose is to improve the public's health by advancing professional and graduate education, research and service in public health.

Sincerely,

HARVEY V. FINEBERG, M.D., PH.D.,
President.

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
Washington, DC, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: The American College of Preventive Medicine is pleased to support the nomination of Henry Foster, MD, for the position of Surgeon General of the United States. Dr. Foster will bring to the position a record of leadership and an understanding of the medical training and health care delivery needs of this nation.

The American College of Preventive Medicine, the national professional society for physicians committed to disease prevention and health promotion, looks forward to working with Dr. Foster on common goals to improve the health of the public.

Sincerely yours,

ROY L. DEHART, MD,
President.

NATIONAL ASSOCIATION FOR EQUAL OPPORTUNITY IN HIGHER EDUCATION,
Washington, DC.

TO WHOM IT MAY CONCERN: On behalf of the National Association for Equal Opportunity in Higher Education (NAFEO), the membership association of 117 historically and predominantly Black colleges and universities (HBCUs), we are pleased to know that Dr. Henry W. Foster, Jr. has been recommended to become the Surgeon General of the United States of America.

I have known Dr. Foster for many years and have long been impressed by his commitment to the health and well-being of the Americans. He has served in a variety of administrative and professional capacities in the Higher Education community including that of Acting President of Meharry Medical College. In addition, his involvement with

several organizations and foundations attests to his being able to keep abreast of issues in the medical areas. These accomplishments should serve him well in his new role as Surgeon General.

On behalf of NAFEO, we wholeheartedly endorse and support the appointment of Dr. Henry W. Foster, Jr. as Surgeon General of the United States.

Cordially,

SAMUEL L. MYERS,
President.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Norfolk, VA, February 2, 1995.

The PRESIDENT OF THE UNITED STATES,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I would like to wholeheartedly endorse, and commend you for, your nomination of Dr. Henry Foster to be Surgeon General of the United States

I have known Dr. Foster for many years. He is a very intelligent, conscientious, and able physician. His calm well-balanced approach to problem solving will serve him and the people of the United States well in carrying out the duties of the office of Surgeon General.

He is highly qualified, and is an excellent choice for the position.

Sincerely yours,

WILLIAM C. ANDREWS, M.D.,
President.

MOREHOUSE SCHOOL OF MEDICINE,
OFFICE OF THE PRESIDENT,
Atlanta, GA, January 31, 1995.

MSM PRESIDENT ENDORSES SURGEON GENERAL NOMINEE

Louis W. Sullivan, M.D., President of Morehouse School of Medicine today released the following statement supporting the appointment of Dr. Henry Foster, Jr., as Surgeon General:

''Dr. Foster is a highly qualified physician and administrator who would be an outstanding Surgeon General. He has had a distinguished academic career and has directed numerous successful community outreach ventures, including Meharry's teen initiative, ''I Have A Future Program,'' focusing on sexual responsibility, self-esteem and job skills.

Dr. Foster is a nationally-known, well-respected physician and a great human being who brings a broad perspective and experience to a variety of health and social issues—knowledge, skills and experience that are essential for America's Surgeon General. I am absolutely confident that he would serve with distinction.

I have known him personally since we were classmates at Morehouse College. I treasure him as a friend and respect him as a colleague.''

LOUIS W. SULLIVAN, M.D.,
President.

VANDERBILT UNIVERSITY,
Nashville, TN.

STATEMENT OF SUPPORT FOR DR. HENRY FOSTER

I have known and worked with Dr. Henry (Hank) Foster for many years. He is a highly qualified and experienced clinician, clinical scientist, educator, medical administrator, and practitioner of problem solving efforts. He is a good friend of good work. He is goal oriented and his goal is a better, healthier life for all Americans. He is a fine choice for Surgeon General.

JOHN E. CHAPMAN, M.D.,
Dean of Medicine.

UNIVERSITY OF PITTSBURGH,
GRADUATE SCHOOL OF PUBLIC HEALTH,
Pittsburgh, PA, February 2, 1995.

Hon. WILLIAM J. CLINTON,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We, the faculty, staff and students of the Graduate School of Public Health would like to enthusiastically endorse the appointment of Henry Foster, M.D. for the position of Surgeon General.

He brings a broad experience in prevention and public health as well as practice of clinical medicine.

We believe he is an excellent choice.

Sincerely,

DONALD R. MATTISON, M.D.,
Dean.

DEPARTMENT OF PUBLIC HEALTH,
Des Moines, IA, February 2, 1995.

Hon. DONNA SHALALA,
Secretary, U.S. Department of Health and Human Services.

DEAR SECRETARY SHALALA: It has come to our attention that Dr. Henry W. Foster may become our nation's next Surgeon General. On behalf of the Association of State and Territorial Health Officials, I would like to indicate our support for this choice and offer any assistance we can in assuring Dr. Foster's success.

The office of Surgeon General has the conscience of our nation's health system. Surgeon Generals have advanced public awareness of the dangers of smoking, unprotected sex and teen pregnancy. No simple issues with forgone conclusions. Today, with health system changes abroad, the need for the public conscience has never been greater, and the need for public health to support this articulation never more imperative.

Dr. Foster's life experience in both urban and rural settings equip him well to understand the diversity of our nation. Moreover, his clinical, academic and administrative responsibilities have prepared him well to ensure that our nation's response to the issues, particularly, of teen pregnancy and primary care, are appropriate, workable and effective.

As we see a renewed emphasis on state based planning and community delivery of human services, the state health officers and ASTHO recognize the need for a clear articulation of national interests, strategies and objectives. We believe that Dr. Foster can be a positive force in ensuring that this outcome is achieved.

Respectfully,

CHRISTOPHER G. ATCHISON,
Director.

Mr. Speaker, what I would like to do right now is to yield to my good friend, the gentleman from Tennessee [Mr. CLEMENT], from the city of Nashville, who has the great privilege of representing Dr. Foster in this body.

Mr. CLEMENT. Mr. Speaker, I thank the gentleman from Georgia [Mr. LEWIS] for yielding to me. He has been a friend of mine for many, many years. We join in strong support of the President's nomination of Dr. Henry Foster as Surgeon General of the United States.

Mr. Chairman, I brought along a lot of faxes tonight. This is just 1 day of faxes, just tens and hundreds of faxes, letters that we are receiving of people at home in Nashville, TN, that know him the best, I would say to the gentleman from Georgia, and they are very much behind Dr. Foster, because they know him.

For example, there is the example of the fax I received today.

IN SUPPORT OF DR. HENRY W. FOSTER, JR.

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. CLEMENT] to complete his remarks.

Mr. CLEMENT. Mr. Speaker, these faxes that I got today are prime examples of those that know Dr. Foster the best. This is just one example. Dr. Henry Foster is a very positive man and doctor. He is a God-fearing man. Dr. Foster cares about people, all people, especially women and children. Dr. Foster said recently that some of his priorities as Surgeon General are teenaged pregnancy, AIDS, low birthweight babies, children that abuse with the consumption of alcohol and tobacco.

He has a lot of priorities, but I think the most we can ask, let Dr. Foster have his day.

We have heard from a lot of people that feel very strongly on issues, and we all feel strongly on issues. We can surely do a lot to divide our country; however, let us find ways to unite the country. Let us at least give Dr. Foster the opportunity to plead his case in the U.S. Senate before the confirmation hearings.

I know, by knowing Dr. Foster on a very personal and professional basis, that when he pleads his case people will listen and understand this man is qualified, this man is compassionate, and this man can serve us well as the next Surgeon General of the United States.

Mrs. CLAYTON. Mr. Speaker, I also want to join in supporting Dr. Foster as the Surgeon General. He is eminently and exceptionally qualified. In fact, his qualifications are not being questioned. His suitability is not being questioned. If there is any question at all, it is just if he had the recall of mind for 30 years of all the details of a very distinguished career.

Mr. Speaker, I would say even those things that he is questioned about, the numbers of, not whether he did anything illegal, he practiced his profession and did it well. He was a researcher. It simply concerned an opportunity to recall something, and he failed to recall the exact number. I question anybody who has not had the opportunity to misstate a number or misstate what they did yesterday.

Certainly, Mr. Speaker, we would not expect, with a man who has had such a distinguished career, that he would be judged for a momentary lapse of a number. In that instant, please understand, Mr. Speaker, there was nothing about anything that he did inappropriately, any violation of the law.

So I honor those persons who say they have legitimate concerns, they have the right to differ, but to deny a person the opportunity to defend himself I think is certainly un-American.

Further, Mr. Speaker, I think there is an erosion of an opportunity to have debate around the issue of abortion. If people really want to have an honest debate about it, they ought to do that, and not find a way to have a way of destroying a man's profession. We can simply be honest in our debate as to where we feel on certain issues, but we ought to be honorable and recognize the service this gentleman has given.

Why I am particularly interested in this gentleman, because he has not only come with a distinguished professional career, but he comes with a service of commitment to the community around teenaged pregnancy and around those issues.

We say we want to do something about welfare reform, so this is an opportunity, I think, to have a gentleman both of the profession and service.

DR. HENRY FOSTER, AN EMINENTLY QUALIFIED SURGEON GENERAL NOMINEE

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

Mr. ENGEL. Mr. Speaker, when I hear the attacks being made against the President's nominee fro Surgeon General, Dr. Henry Foster, I must say that I have never seen such a vicious and mean-spirited mood in this town. This really has to stop. We have to return some civility to the process of confirming nominees.

Mr. Speaker, why would any professional subject themselves to be nominated to serve here in Washington when, by doing so, they know they will be ripped from pillar to post?

It is the right of a President to select nominees, and it is the right of that nominee to get a fair hearing before Congress. Dr. Foster should have an opportunity to lay his record before the Congress and before the American people. I think it is an impressive record that, once aired, will impress many people.

The so-called controversy over Dr. Foster has been fueled by a discussion over one single issue—an issue, I might add, that should not be used as a litmus test. We have hardly heard a word about the decades of caring service Dr. Foster has provided.

Yes, Dr. Foster performed abortions. The last time I looked, Mr. Speaker, abortion was not illegal in the United States. There may be some who do not like the fact that abortion is legal in this country, but Dr. Foster should not be held hostage to their views.

Mr. Speaker, Dr. Foster ran a program called I Have a Future, which urges teenagers to practice abstinence. The program was honored as a Point of Light by President Bush. Why are we not focusing on the positive message that is the heart of Dr. Foster's work?

It is most disturbing that some Members of Congress are looking to score political points on this issue. It appears that they are willing to put their own personal ambitions ahead of the well-being of the American people, especially our teenagers.

I have not seen any evidence that disqualifies Dr. Foster for the post of Surgeon General. In fact, he is eminently qualified for the job. I urge my colleagues to step back and allow the process to proceed. Let Dr. Foster have a fair hearing before Congress. If he has a fair hearing, I have no doubt that he will be confirmed.

Mr. Speaker, I now yield to my colleague and good friend, the gentlewoman from New York [Mrs. LOWEY].

□ 1910

Mrs. LOWEY. Mr. Speaker, the right to terminate a pregnancy is contained in our Constitution, affirmed by our legislatures, upheld by our courts, and supported by the American people. It has been the law of the land in all 50 States for over 20 years, and by vast majorities, the public believes it should remain so.

But today, a war is being waged on that right. For a radical minority, it is a violent war, unleashed on doctors and clinics from Pensacola to Brookline. For others, it is a cold war of intimidation, fought with ugly scare tactics, innuendo, and political pressure.

A new front in the assault on women's health has opened up on the floor of Congress, and its first casualty is the reputation of an outstanding physician ready to serve the public, Dr. Henry Foster.

Dr. Foster is among the most respected citizens of Tennessee. He has had an extraordinary career as an obstetrician and educator, treating literally thousands of patients, counseling teenagers, confronting every kind of social and medical dilemma, and dealing with the human consequences of our public health decisions.

Dr. Foster's commitment to the prevention of teen pregnancy, perhaps the most urgent social challenge facing us today, establishes him as a national authority on the subject.

His passion for the children of America, and his real experience with teenagers in troubled relationships make him ideally suited to be Surgeon General of the United States.

Dr. Foster is the right person, at the right time, for the right job.

And that is why it is so tragic to see his record and character recklessly attacked by individuals who have done nothing to promote our Nation's health, and entirely too much to threaten it.

The antichoice strategy is clear.

Because they cannot achieve their real objective of criminalizing abortion, antichoice forces are instead of pursuing a strategy of de facto abolition—making abortion unavailable by stigmatizing doctors, and by discouraging the study of abortion procedures in medical schools.

Sadly, those tactics have been all too successful. Today, less than 20 percent of the counties in America have an abortion provider—less than 20. For the women who live in the other 80 percent, the right to choose is a paper promise, growing thinner everyday, and threatening to disappear entirely.

It's really quite simple. If you can't make aborition a crime, then just treat abortion providers as though they were criminals. And that is what's happening now.

Make no mistake, this is no numbers game—whether it's 1 or 12 or 40 is irrelevant.

And there is no question about Dr. Foster's character and ability—he has proven both, over and over.

It is the right to choose itself that is under siege, because if a man like Dr. Foster can be denied confirmation on this basis—for engaging in a legal, appropriate, responsible medical practice—then doctors everywhere will shrink from the challenge of reproductive health. And women will return to the back alley and the emergency room.

Opponents of this nomination may not have the guts to spell it out, but they know full well that this is a veiled attack on the right to choose.

I am the mother of three children. And though I have never had to face the trauma of an unplanned pregnancy, I know what it means to raise a family, to care for child, and to assume responsibility for the next generation.

There is no more personal or emotional decision than the one to bring a new life into the world.

Dr. Foster has done a tremendous amount to help young people come to grips with the weight of that decision, and to discourage the irresponsibility and the ignorance which can lead to teen pregnancy and abortion.

Like most Americans, he believes that abortion should be safe, legal, and rare. Unlike so many of his critics, he has actually done something to make that goal a reality.

It would be a disgrace for this Congress to deny to the American people the benefit of Dr. Foster's service simply because he performed his duty as a medical doctor, and obeyed the Constitution of the United States of America.

Mr. Speaker, our children deserve better. We will fight to preserve their health, their rights, and their future.

The SPEAKER pro tempore (Mr. CUNNINGHAM). 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.]

NO MAXIMUM WAGE FOR CONGRESS WITHOUT A NEW MINIMUM WAGE FOR AMERICA ACT OF 1995

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

Mr. GUTIERREZ. Mr. Speaker, last week, our President issued a challenge to Members of Congress. He asked that this Congress take a stand for Americans who work and sweat and toil ever day, yet earn only $4.25 an hour.

And how have we responded to that challenge?

The majority of my colleagues—colleagues who make $64.40 an hour—have responded with a simple answer—$4.25 is enough; $5.15—the level the President has asked the minimum wage be increased to—is too much; and $5.15 an hour is too much to pay the millions of Americans who carry lunch pails to work every day, who sweep the floors of our hospitals, who crouch behind assembly lines putting together our appliances.

This decision means that more painful decisions will have to be made.

My legislation says that if we dismiss this increase from $4.25 to $5.15, my colleagues and I will feel a little bit of the pain as well. Just a little bit of pain. It isn't the pain that day laborers feel at the end of long hours of manual labor. It isn't the pain that young mothers feel at the end of a long day on the assembly line. It isn't the pain garment workers feel after a long day of piecing together our clothing. it isn't the pain of not having the means to support your family or feed you kids. Almost five months of sweat and toil in jobs that most people don't even want.

A Member of Congress has to work from January 1 until January 11 to make $3,500. Eleven days of work.

I am not suggesting that many of my colleagues are not dedicated, hard-working and conscientious leaders. However, many of those same conscientious leaders simply dismiss the necessity of paying our people a livable wage.

Well, that belief has real effects on real people. For many of my colleagues saying no to a livable minimum wage is simply a sound bite about economic policy and job creation. But for millions of Americans who work hard every day this decision is much more important than any sound bite.

My legislation calls for Member salaries to decrease by 2.6 percent every year until the minimum wage increases to at least $5.15.

Why 2.6 percent? That is the size of the cost-of-living increase Members of Congress were scheduled to receive in 1995.

If Americans earning $4.25 an hour—less than $9,000 per year—can live where their buying power decreases every time the cost of living goes up—then certainly members of Congress can survive it.

This 2.6 percent pay cut will save the U.S. Treasury almost $2 million. This 2.6 percent decrease comes to about $3,500. The average American earning minimum wage has to work from January 1 until May 18 to earn $3,500.

How easy it is for those of us with salaries that place us in top .5 percent of wage earners in this Nation, to say to millions of Americans who can only dream of someday making our salary—''You earn enough.''

Well, I would like to take my colleagues at their word, and issue a challenge of my own.

That is why, today, I introduced legislation tying the salaries of Members of Congress to the action—or lack of action—we take on minimum wage.

If $4.25—$4.25 that in real earning power is less and less every day—is enough for millions of hard-working Americans, then certainly $133,000 is too much for a Member of Congress.

My legislation is clear.

Until we have the courage to join our President and increase the minimum wage to $5.15, then I think Members of Congress should also see their buying power deteriorate.

Even today, 5 years after the last increase in minimum wage, $4.25 is still enough.

Even though the cost of living has increased by more than 10 percent since the last time the minimum wage was increased, we still believe that $4.25 is enough.

The price of homes has increased. The price of bread and milk and eggs has increased. The price of college tuition has increased. The price of rent has increased. The price of clothes has increased.

But the minimum wage has not increased.

And yet a great many of my $65-an-hour colleagues have responded to our President's challenge by saying that $4.25 is enough.

It's just a little bit of pain—pain that will be easily forgotten. Not the pain of working 40 hours a week, and still not having enough money to support your family.

I will be calling on my colleagues in the next few days to support my bill.

I hope every person who is listening tonight who is making $4.25 will call on their Representative to support my bill, because this bill is really about the value of work. The value of the American workers' sweat and sacrifice and pain.

I value the work of my colleagues. But I don't find it 15 times more valuable than that of the people who take care of our children, who tend to our sick, who clean our homes, and build our cities.

So, if my colleagues continue to say no to a livable minimum wage, then I will work to say no to our maximum salaries.

I encourage my colleagues to join me.

I include for the RECORD a copy of my bill.

H.R. —

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

SECTION 1. SHORT TITLE.

This act may be cited as the ''No Maximum Wage for Congress without a New Minimum Wage for America Act of 1995''.

SEC. 2. REDUCTION OF PAY OF MEMBERS OF CONGRESS PENDING INCREASE IN MINIMUM WAGE.

Notwithstanding section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) or any other provision of law, the rate of pay of Members of Congress shall be reduced by 2.6 percent on the date of the enactment of this Act, and by 2.6 percent at the end of each one-year period thereafter, until the effective date of the first increase to at least $5.15 per hour in the minimum wage under section 6(a) of the Fair Labor Standards Act of 1938. On that effective date, the rate of pay of Members shall be restored to the rate in effect on the day before the date of the enactment of this Act.

COMMUNITY POLICING

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

Mr. OLVER. Mr. Speaker, on Tuesday, 40 communities in my district got good news. They can hire more cops to fight crime, they can hire these cops because of the community policing program that President Clinton championed and we passed last year.

Community policing is not some new, untried approach. It has been used in many places across the country for some years.

□ 1920

Putting cops on the street makes people safer. Despite this success, or is it because of it, next this House will debate the part of the Republican Contract on America which eliminates the community policing program. Community policing puts police on our streets who know the neighborhoods and are trained to work with residents to prevent crime. Community police work as partners with citizens to make their neighborhoods safer. Community policing takes cops out from behind their desks where they are doing record-keeping and paperwork and puts them back on the beat downtown in the neighborhood where kids gather at night, wherever there could be trouble.

In my district in the small city of Fitchburg which has just over 40,000 people, a community policing program was started 4 years ago, and it reports dramatic drop in crime. Here is what happened after 4 years of community policing in Fitchburg: 25-percent decrease in assaults, 55-percent decrease in burglary, 55-percent decrease in weapons possession, 23-percent decrease in domestic violence, 67-percent decrease in disorderly conduct.

The mayor of Fitchburg told me, and he will tell anyone, there is no substitute for a consistent police presence

in a troubled neighborhood. Community policing has helped make that neighborhood safe for families again.

Now, the Republican bill eliminates the community policing program, and that means fewer police officers catching criminals, fewer patrolling the neighborhoods, fewer building partnerships based on trust, and fewer people safe in their neighborhoods. The community policing program we passed last year ensures funding for small cities and towns.

My constituents know that violent crime is not just a city problem, and the Cops Fast Program was designed specifically to help rural communities and smaller towns. In many of my communities just one or two additional officers can make a world of difference.

In Dalton, a small town in my district, under 10,000 people, the chief of police, Dan Fillio, said that the Cops Fast grant gives him another set of eyes and ears out on the streets.

Community policing works. Now is not the time to break the promise we made to our citizens who live in fear.

Under the Republican bills, small towns in my district will have little chance of getting help.

Mr. Speaker, Republicans and Democrats agrees on one thing during last year's crime bill debate. We need more cops on the beat to help keep people safe. So why does the Republican contract cut funds for new police?

The contract combines the tried and true community policing program with a host of crime prevention programs and replaces it with a block grant, and then cuts the funding besides. Mr. Speaker, the block grant, the Republican block grant, is a shell game. Under the Republican bill, police will have to compete with other community groups, even those involved in street lighting, tree removal, and disaster preparedness.

The Republican bill makes no guarantees that money will go for additional cops.

Will American be safer if dollars are used to hire consultants? Will we be safer if the money is used to buy equipment? Will we be safer if it pays for desks? Well, the answer, obviously, Mr. Speaker, is no. People feel safe when they see a cop in their neighborhoods. We helped put them there last year, and this year the other side is taking them away.

My mayors and police and police chiefs lose in the block grant shell game. All the money for new cops will go to big cities with population numbers and crime statistics the Republican contract requires. This is not smart. This is not savings.

Wake up, America. Do not fall for the shell game.

WELFARE REFORM, THE MINIMUM WAGE IN BLOCK GRANTS

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Rhode Island [Mr. REED] is recognized for 5 minutes.

Mr. REED. Mr. Speaker, when we talk about welfare reform, work is and should be the centerpiece. During this welfare reform debate, I have heard many people declare that they find it amazing that so many individuals do not work. What I find equally amazing, however, is that so many individuals work full time, play by the rules, and find themselves below the poverty level.

Currently, there are 2.5 million hourly minimum-wage workers, and 1.5 million more workers are paid less than the minimum wage and depend upon tips. From January 1981 to April 1990, the cost of living increased 48 percent while the minimum wage remained frozen at $3.35 an hour. It is no wonder, then, that the number of working poor in this country has increased 44 percent between 1979 and 1992.

As a first step to giving value to work and to promote individual responsibility, we must increase the minimum wage.

An increase in the minimum wage is also an important component of welfare reform. Real welfare reform has the potential to move individuals and families from dependency toward lasting self-sufficiency. But meaningful welfare reform must be sensitive to both the realities of the job market and the difficulties faced by individuals when an individual is unable to work because of a disability or when dependent children require care.

If the goal of welfare reform is to move individuals from welfare to work, we need to ensure that an individual working full time will not fall below the poverty level. If we want to instill responsibility, we must ensure that the minimum wage is a livable wage.

The minimum wage is not just about our workers, it is also about our children. Some 58 percent of all poor children under six in 1992 had parents who worked full or part-time. The number of children in poverty increased from 5 to 6 million from 1987 to 1992. Some 18 percent of all poor children under 6 in 1992 lived with unmarried mothers who worked full-time.

An increase in the minimum wage is also necessary because the income gap between the wealthiest of our society and working Americans is growing. In fact, income inequality in this country is currently at its highest level since 1947.

As we move into the area of welfare reform, it is time to question old assumptions. We must ask the question: ''Can we do it better?'' I believe we can.

The majority currently advocates the block grant as a mechanism to reform our welfare system. But let us be very clear, block granting programs do not make the problems go away. It simply shifts responsibility to the States, and if a block grant is a way of simply saving money as opposed to providing adequate assistance to eligible individuals, then we are not doing the Governors any favors. If we adopt a block grant approach, these grants must be flexible to adjust to changing local economic conditions.

Currently, funding for entitlement programs increased to meet demand during economic downturns when State budgets are financially strapped. Under discretionary block grant programs in a recession, sufficient money is unlikely to be available to meet the demand. While the number of people eligible to receive benefits will grow as the economy weakens, they will not necessarily be entitled to receive any support.

Because Federal funding for assistance would no longer automatically increase in response to greater need, States would have to decide whether to cut benefits, tighten eligibility, or dedicate their own revenues to these programs. The demand for assistance to help low-income Americans would be greatest at precisely the time when State economies are in recession and tax bases are shrinking.

A second issue that must be addressed in designing block grants is the formula by which funds are allocated. A formula that is based merely on historical data would not reflect economic and demographic changes. These changes must be reflected.

Another concern I have with block grants is the phenomenon of interstate competition, which may encourage a downward spiral in benefit levels and result in a race between States to the lowest benefit level. More than two dozen States have been granted waivers from the Federal Government to experiment with their welfare programs, and already State officials are expressing concern that welfare recipients will travel to their States if the benefits are reduced in neighboring States, and while we must be careful not to be overly prescriptive when it comes to designing block grants, we have a responsibility to ensure states are moving welfare recipients from welfare to work in providing a minimum level of support for their citizens.

We have begun an important debate. The present welfare system must change, but we must continue our commitment to providing all of our citizens an opportunity to support themselves.

I welcome the challenges in the days ahead during this crucial debate.

TRIBUTE TO KATE HANLEY ON HER ELECTION AS CHAIRMAN OF FAIRFAX COUNTY BOARD OF SUPERVISORS

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

Mr. MORAN. Mr. Speaker, the first election of any consequence, maybe the only one, but there may be some that I have not heard about, but the first

election of any consequence since November 8 occurred this week, and guess what, a Democrat won.

Fairfax County is larger than any of our congressional districts. It has almost a million people. The chairman of the board of Fairfax County had been a Republican. He is now a colleague in the House of Representatives.

□ 1930

So there was a special election to fill his place. Kate Hanely, the Democrat, rose to the position of chairman of one of the largest counties in the country through the usual way. She had no bumper-strip slogans, there were no cliches in the campaign, she had been an officer of her civic association, president of her PTA, she had invested enormous amounts of time in child care, health care, transportation, she chaired the regional body which develops policy on transportation for the Washington region.

In other words, she had invested much of her adult life in serving her community.

She was not an advocate of no government or in any way suggested that government is the problem. In fact, what she would say time and again is that good government is the solution to the problems that we have in developing the kind of quality we want for ourselves and our families.

She was successful in that approach.

Mr. Speaker, this is a county that has one of the highest educational levels in the country, and people who are very much involved in civic activities. They agreed with her message, someone who has devoted themselves to the community, who believes in the spirit of community and believes in the Democratic Party's principles of opportunity, responsibility, and yes, community.

That is the kind of person they want to lead them.

So Kate Hanley was elected to chair the Fairfax County Board of Supervisors, where many of us live.

I know all of us will benefit from the good government that Kate Hanley will bring to Fairfax County.

I do not know whether this is a harbinger of things to come; I would certainly like to think so. But it certainly is a testament to the fact that if you do things right, particularly when you localize elections to the point where you are offering yourself to people who know you, who know how much you care about their community and their quality of life, you can win.

Kate Hanley did win, and I applaud her for her commitment to her community and the fact that she was proud to run as a Democrat on Democratic principles.

She was victorious. I think we are going to see more victories like Kate Hanley's in Fairfax County.

LAWSUIT CHALLENGING THREE-FIFTHS VOTE TO INCREASE INCOME TAX RATES

The SPEAKER pro tempore (Mr. CUNNINGHAM). Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 5 minutes.

Mr. SKAGGS. Mr. Speaker, yesterday 15 Members of this body, including myself, 6 private citizens, and the League of Women Voters filed a lawsuit to overturn as unconstitutional the new House rule requiring a supermajority of three-fifths to pass any legislation raising income tax rates.

Let me make this very, very clear: This lawsuit has absolutely nothing to do with taxes; it has everything to do with the Constitution of the United States.

Last month each and every one of us took an oath to uphold and defend that Constitution. That is our first and our most serious and sacred duty.

Unfortunately, the new House majority seems all too willing to treat the Constitution quite casually.

This new House rule is intended to be a political statement that they are really serious about not raising taxes. We believe that the Constitution is far too important to set aside just for the sake of a political slogan.

The new House rule violates one of the most fundamental principles of our democracy, the principle of majority rule. It sets an extremely dangerous precedent, and we simply believe that it should not be allowed to stand.

This year the supermajority requirement may apply just to income tax rates; but next year—next year it could be international agreements or trade or civil rights or clean air, and perhaps unanimous consent required if this country should have to go to war.

So it is extremely important to act now to purge the House rules of this very bad idea. To do it now, lest it serve as an invitation to some future Congress to do even more mischief with the Constitution, to yield to some temptation to an even greater level of constitutional stupidity.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia in direct response to the requirement of the Articles of Confederation for a supermajority to raise and spend money or exercise other major powers. It was the paralysis of our National Government in those days, caused by the supermajority requirement of the Articles of Confederation, more than any other single reason, that led to the creation of our Constitution.

In the convention in Philadelphia, the delegates repeatedly considered and rejected proposals to require a supermajority for action by Congress, either on all subjects or on specified ones. In only five instances did they specify something more than a regular majority vote: overriding a veto, ratifying a treaty, removing officials from office, expelling a Member, or proposing amendments to the Constitution itself.

When they wanted to require supermajorities, they knew exactly how to do it. None of these instances have anything to do with the passage of legislation.

Now, some argue that the three-fifths requirement to raise taxes would be like the two-thirds requirement to pass a bill on suspension or 60-vote requirement to end debate in the other body. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules can be brought back and passed by a simple majority later in the House.

After a debate is over in the other body, the bill still needs to gather only a majority of votes to pass.

The idea of a three-fifths vote to raise taxes was first proposed by the new majority in its so-called contract as part of the balanced budget amendment to the Constitution. For those who are serious about this idea, that is the way to do it, amending the Constitution itself. They cannot use the House rules to amend the Constitution on the cheap.

The Framers had the wisdom and foresight to grant the courts the authority to decide the constitutionality of the acts of other branches of the Government.

The Framers knew there would be times like this, times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution.

Today we have taken advantage of that foresight by asking the Federal District Court for the District of Columbia to strike down this politically motivated House rule and to preserve the integrity of the Constitution.

Filing suit against the Clerk of the House is a step which none of us takes lightly. Last month I took an oath to uphold and defend the Constitution, and it is with deep respect for my colleagues in this body and my commitment to that oath I filed this suit.

Mr. Speaker, yesterday I joined 14 other Members of Congress, 6 interested private citizens, and the League of Women Voters in filing a lawsuit to strike down a new House rule which violates the principle of majority rule. We have asked the U.S. District Court for the District of Columbia to issue a declaratory judgment that the new House rule requiring a three-fifths vote to increase income tax rates is unconstitutional. The new rule violates one of the most fundamental principles of our democracy—majority rule—and it should not be allowed to stand.

I am especially pleased that Lloyd Cutler, Partner at Wilmer, Cutler, and Pickering, and Prof. Bruce Ackerman of the Yale Law School have agreed to represent us in this suit. Their expertise and commitment have been invaluable in making this challenge possible.

Let me make this clear, this case has nothing to do with taxes and everything to do with the Constitution. To make it look like they're really serious about opposing taxes, the new Republican majority is willing to subvert the

constitutional principle of majority rule. We believe that the Constitution is too important to set aside for the sake of a political slogan. While this year the supermajority requirement might apply just to taxes, next year it could be trade or civil rights or clean air legislation or even a declaration of war. So, it's extremely important to act now to purge the House Rules of this bad idea, lest it serve as an invitation to some future Congress to do more mischief with the Constitution—to yield to some temptation to an even greater constitutional stupidity.

Filing suit against the Clerk of the House of Representatives is not a step which any of us takes lightly. Unfortunately, the new House majority seems all too willing to treat the Constitution casually. At its insistence, the House voted last month to approve this rule, a frontal assault on the principle of majority rule and one which we believe violates the Constitution. The oath of office my colleagues and I took last month requires us to support and defend the Constitution. That is our first and most serious duty. Our commitment to that oath compels us to take this action.

Our complaint asks the court to declare the new rule unconstitutional on two grounds. First, it unconstitutionally gives effective control of legislation to the minority during House consideration of tax measures. This violates the principle of majority rule embodied in the Constitution, a principle from which Congress is permitted to stray only in situations specifically stated in the Constitution.

Second, the rule's prohibition on the consideration of retroactive Federal income tax increases unconstitutionally restricts the business of the House. The Constitution specifically grants Congress the authority to lay and collect taxes. The House does not have the power to override the Constitution by adopting rules which limit its constitutionally protected authority to act on tax matters, retroactive or otherwise.

During debate on the rule last month, Republicans said this rule change made it clear that they are opposed to tax increases. What it really made clear is that for the sake of political posturing the Republicans are willing to trample on the Constitution which has guided us for 206 years.

The Framers of the Constitution were very much aware of the difference between a supermajority and a simple majority. They met in Philadelphia against the historical backdrop of the Articles of Confederation, which required a supermajority in Congress for many actions, including the raising and spending of money. It was the paralysis of national government caused by the supermajority requirement, more than any other single cause, that led to the convening of the Constitutional Convention.

In that convention in Philadelphia, the delegates repeatedly considered—and rejected—proposals to require a supermajority for action by Congress, either on all subjects or on certain subjects. In only five instances did they specify something more than a majority vote. These are for overriding a veto, ratifying a treaty, removing officials from office, expelling a Representative or Senator, and proposing amendments to the Constitution. Amendments to the Constitution later added two others: Restoring certain rights of former rebels, and determining the existence of a Presidential disability. None of these instances has to do with the passage of routine legislation.

The records of the debates in Philadelphia make it clear that in all other instances the writers of the Constitution assumed that a simple majority would suffice for passage of legislation. The text of the Constitution itself says as much. Why, otherwise, would it provide that the Vice President votes in the Senate only when ''they be equally divided?'' Because, as Hamilton explained in Federalist No. 68, it was necessary ''to secure at all times the possibility of a definitive resolution of the body.'' Certainly the Framers didn't intend the Senate to operate by the principle of majority rule, but not the House. Majority rule is such a fundamental part of a democratic legislature that the Founders saw no need to state it explicitly.

If the House could adopt its own supermajority requirements to pass unpopular legislation, that would leave a temporary majority of the House free to craft all sorts of voting schemes which would strengthen the power of minorities and make our legislature unworkable. For example, instead of simply requiring three-fifths of the whole House, the rules could say that a bill wouldn't be considered to have passed unless it has the votes of all the House committee chairmen. Or two-thirds of its 100 most senior members. Or the vote of at least one Member from each State. To be sure, these are absurd and cumbersome proposals, but each would be permitted under the Republican's interpretation of the Constitution.

The reason behind the principle of simple majority rule was stated clearly in The Federalist—one of the five books which the new Speaker has urged every Member to read. In Federalist No. 58, James Madison wrote:

> It has been said that more than a majority ought to have been required for a quorum, and in particular cases, if not in all, more than a majority of a quorum for a decision. That some advantages might have resulted from such a precaution, cannot be denied. It might have been an additional shield to some particular interests, and another obstacle generally to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed, or active measures to be pursued, the fundamental principle of free government would be reversed. *It would be no longer the majority that would rule; the power would be transferred to the minority.* Were the defensive privilege limited to particular cases, an interested minority might take advantage of it to screen themselves from equitable sacrifices to the general weal, or in particular emergencies to extort unreasonable indulgences. [Emphasis added.]

And again, remember that it was a lack of effective national government, produced by the minority-rule effects of the supermajority provisions of the Articles of Confederation, that led to the Convention that wrote the Constitution.

Supporters of the new House rule note that the Constitution says the House may write its own rules. Yes. And the supporters have also cited an 1892 Supreme Court decision United States versus Ballin which says this rulemaking power ''is absolute and beyond the challenge of any other body or tribunal'' so long as it does ''not ignore constitutional constraints or violate fundamental rights.''

But there's the rub. The rulemaking power of the House does not give us a license to steal other substantive provisions of the Constitution, especially not one so central as the principle of majority rule.

The advocates of this rule conveniently fail to point out that a unanimous Supreme Court in that very same case determined that one constitutional constraint that limits the rulemaking power is the requirement that a simple majority is sufficient to pass regular legislation in Congress. To quote the Court:

> The general rule of all parliamentary bodies is that, when a quorum is present, the act of a majority of the quorum is the act of the body. This has been the rule for all time, except so far as in any given case the terms of the organic act under which the body is assembled have prescribed specific limitations * * *. No such limitation is found in the Federal Constitution, and therefore the general law of such bodies obtains.

The Court expressed the same understanding as recently as 1983, when, in Immigration and Naturalization Service versus Chadha, it stated:

> * * * Art. II, sect. 2, requires that two-thirds of the Senators present concur in the Senate's consent to a treaty, rather than the simple majority required for passage of legislation.

So, this principle, while not written into the text of the Constitution, was explicitly adopted by the Constitutional Convention. It was explicitly defend in The Federalist, the major contemporary explanation of the Framer's intent. It was followed by the first Congress on its first day, and by every Congress for every day since then. And, this principle has been explicitly found by the Supreme Court to be part of our constitutional framework.

Some argue that a three-fifths requirement to raise taxes would be like a two-thirds vote requirement to suspend the rules and pass a bill, or the 60-vote requirement to end debate in the Senate. Wrong. Those rules address procedural steps. A bill not approved under suspension of the rules in the House can be reconsidered and passed by a simple majority. After debate is over in the Senate, only a simple majority is required to pass any bill.

So this rule is not like any rule adopted in the 206 years in which we have operated under our Constitution. As 13 distinguished professors of constitutional law recently said in urging the House to reject this rule:

> This proposal violates the explicit intentions of the Framers. It is inconsistent with the Constitution's language and structure. It departs sharply from traditional congressional practice. It may generate constitutional litigation that will encourage Supreme Court intervention in an area best left to responsible congressional decision.

So, if this rule is so clearly unconstitutional, why was it adopted? The answer is simple. This rule is a gimmick. It is an act of high posturing. And as much as the Republicans may wish to be seen as opposed to tax increases, to demonstrate their absolute hostility toward tax increases, still it is unseemly to do so at the expense of the Constitution.

Beyond that, if we start down this road of making it harder for Congress to carry out some of its responsibilities, who knows where it will end. In December, Representative SOLOMON sent out a ''Dear Colleague'' letter enclosing and endorsing a newspaper column saying that this supermajority requirement

should be broadened to apply to all taxes and fees; to any spending increase; and to any bill imposing any costs on any type of private business—for example, the Clean Air Act.

So let's be clear that if this supermajority requirement is allowed to stand for one type of legislation, in the future we'll be voting on extending that bad idea to other types of legislation, too. And with it, we slide measurably toward the empowerment of a minority against which Madison warned.

Some question whether the court will even address the merits of our claim. We are confident it will. The U.S. Court of Appeals for the District of Columbia Circuit in Michel versus Anderson reached the merits of a new rule of the House to allow delegates to vote in the Committee of the Whole. There, the court rejected various procedural arguments to dismiss the case, stating that the courts are empowered to act on those House actions which "transgress the identifiable textual limits" of the Constitution. Moreover, the court ruled that private citizens have standing in these kinds of suits because they are being harmed through a dilution of the value of their vote in Congress, but unlike Representatives, they do not have the power to persuade the House to change its rules. The plaintiffs in our case are similarly affected by House rule XXI, a rule which, we argue, clearly exceeds congressional authority under the Constitution.

The idea of a three-fifths majority to raise tax rates was first proposed in the Republican Contract With America as a part of a balanced budget amendment to the Constitution, not as a rules change. For those who are serious about this idea, that is the appropriate and lawful way to do it—through an amendment to the Constitution.

Since the House did not follow that process, my coplaintiffs and I have been forced to involve the courts in this matter. The Framers had the wisdom and foresight to grant the Federal courts the authority to decide the constitutionality of acts of other branches of the Government. The Framers knew there would be times in our history when elected officials would be unable to resist the temptation to tamper with the Constitution for short-term political gain.

Today we take advantage of that foresight by asking the court to strike down a politically motivated House rule and preserve the integrity of the Constitution. Our faith in the strength of the Constitution gives us faith in the process of judicial review, and we feel confident that the court will strike down this House rule.

Mr. Speaker, I include in the RECORD the statement of Ms. Becky Cain, president of the League of Women Voters of the United States, in connection with the lawsuit.

(The letter from Ms. Cain is as follows:)

STATEMENT BY BECKY CAIN, PRESIDENT, LEAGUE OF WOMEN VOTERS OF THE UNITED STATES, FEBRUARY 8, 1995

On the Lawsuit Challenging House Rule XXI:

Good morning. My name is Becky Cain and I'm president of the League of Women Voters of the United States. On behalf of our members and on behalf of all voters, the League is joining in this suit.

Seventy-five years after its founding, the League still believes in the concept of good government. We still believe that maintaining the integrity of our political system is a worthy goal. Call us old fashioned—we still believe that representative government should operate on the principle of majority rule. We oppose the tyranny of the minority.

Good government means representative government. According to the Constitution, majority rule is the keystone of representative democracy. House Rule 21 turns this principle on its head. By enacting a rule requiring three-fifths vote to raise taxes, the two-fifths who oppose the bill gain control. Congress has thus given up the most basic and fundamental power granted by the Constitution—the power to lay taxes—to minority rule. Good government also means responsive government. But under the three-fifths rule, Congress responds to the interests and will of only a minority of its members.

Good government means being able to make decisions—to make hard choices. As we are seeing now, making decisions that meet the needs of this diverse country is already difficult enough. This rule makes tough budget and tax decisions impossible.

In 1951 when President Eisenhower asked Congress to help him raise revenue for the Korean War effort, they did so by a vote of 233 to 160 in the House of Representatives—less than three-fifths. Under House Rule 21, Eisenhower's defense program would have been blocked or the budget busted.

Finally, good government means abiding by the Constitution. The three-fifths rule does not. The Constitution explicitly requires a supermajority in only seven cases. Requiring supermajorities to pass legislation would, according to James Madison, reverse the principle of free government. In the two centuries since he made this argument, we've seen no evidence that proves him wrong.

Don't be fooled by the term "supermajority." The day the House passed Rule 21, the majority of citizens lost power. Under this rule the votes of some representatives count less than other, and thus the votes of some voters count less than others. This is called vote dilution. We are taking this action, then, on behalf of all those voters whose votes now mean less than they used to.

The League understands the anti-tax sentiment behind this rule. Nobody likes to have their taxes raised. And certainly Congress needs to think long and hard before it enacts any increase. But good intentions do not equal good government. And in those cases where Congress has to evade the Constitution in order to legislate public sentiment, let the voters beware.

With so much at stake, maintaining majority rule is more critical than ever. The League joins this lawsuit to halt the erosion of this constitutional principle.

PERSONAL RESPONSIBILITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas, Mr. GENE GREEN, is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise again tonight and take the floor again tonight to continue the discussion of the Personal Responsibility Act.

The Personal Responsibility Act is the Republican majority's welfare reform act. I wish us to take a closer look at the Personal Responsibility Act and how it affects all of us in the United States but particularly the State of Texas.

As I have stated on several occasions before, the Personal Responsibility Act would cut Federal funding in Texas over $1 billion in fiscal year 1996 alone, representing a cut of 30 percent. There are unsubstantiated rumors running through the Capitol that the senior nutrition program has been pulled from the Personal Responsibility Act. If this is true, I congratulate the Republican majority in their recognition of the absurdity that is included in the Republicans' Contract With America, reducing funding for meals-on-wheels and other senior programs. It just does not make sense.

Under the original Personal Responsibility Act, the Houston Harris County Area Agency on Aging provided preliminary numbers last week from which we estimated how many seniors would be denied meals per day in Houston.

□ 1940

After a closer calculation, the Area Agency on Aging has provided me with a letter that says 320 seniors would be denied a meal each day, 80,000, more than 80,000 meals a year if the Personal Responsibility Act passed in its present form. I insert that letter in the RECORD at this point, Mr. Speaker, and I appreciate the opportunity to do that.

The letter referred to is as follows:

CITY OF HOUSTON, HEALTH AND HUMAN SERVICES DEPARTMENT,
Houston, TX, February 2, 1995

Mr. GENE GREEN,
House of Representatives,
Washington, D.C.

Dear Congressman Green: Per the request from your office regarding the impact of 30% reduction in our USDA Award, the following information is provided:

The 30% reduction in our USDA Award would translate to 80,357 less meals available to our nutrition participants. When further analyzed on a daily basis, this would mean 320 seniors per day would not be served a congregate or home delivered meal.

The Area Agency on Aging serves seniors who are 60 years and older. A dependent child of an eligible senior would also be eligible for our services.

If additional information is required, please contact Charlene Hunter James, MPH, Director, Houston/Harris County Area Agency on Aging at (713)794–9001.

Sincerely,

M. DESVIGNES-KENDRICK, MD, MPH,

Director.

On the front page of today's Washington Post, Mr. Speaker, I saw a headline that said, "Republican officials agree on repealing welfare entitlements." That is like two hyenas fighting over a deer with the grandparents and children seeing what is left for them. Unfortunately over a hundred thousand seniors in Harris County had no voice in that agreement, who may or may not get a hot meal, if these rumors are not correct.

The American people, they want results. How can we have the results

when 46 percent of the Members of Congress were simply left out of the process between the Republican Governors and the Republican majority?

In that article in the Washington Post, Mr. Speaker, Vermont Governor Dean describes the situation very clearly. He states the agreement is only a deal between the Republicans. Political partisanship must not take precedent over the lives for seniors or, for that matter, children or mothers.

Allow me to remind my colleagues that school breakfast and lunch programs are not included in the rumors that were talked about, removing senior citizens food programs. Thousands of school children are still under this budget ax when school nutrition programs are subject to a 30-percent cut through this personal responsibility, and tonight we still do not know if our senior citizen nutrition programs are exempt.

Congress should end the welfare as it is currently operating, but the Personal Responsibility Act should not include nutrition programs, whether they be for our seniors or for our youngest children in this country.

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

[Mr. DURBIN addressed the House. His remarks will appear hearafter in the Extensions of Remarks.]

CRIME PREVENTION PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I declare my strong opposition to H.R. 728.

This Republican proposal effectively dismantles the highly successful COPS program and the innovative prevention programs that have been praised by law enforcement agencies throughout the country.

The misguided block grant funding called for in H.R. 728 repeats the mistakes of history by returning to the ineffective use of block grants that were the subject of major abuse and scandal in our recent past.

Let us not forget the shameful instances of taxpayer money used to buy private cars, airplanes, and even an armored tank under the former block grant program L.E.A.A.

H.R. 728 opens the door once again for abuse, while doing nothing to guarantee enhanced public safety. It does not guarantee one single new police officer on our streets or the implementation of one additional prevention program.

I am particularly concerned that under H.R. 728 communities will lose $2.5 billion that would have put more community police officers on the street and would have provided for the additional implementation of crucial prevention programs.

It is significant that the National Association of Counties, whose members would receive the grants, opposes H.R. 728 and supports the President's 1994 crime bill with a balanced approach of funding for both law enforcement and prevention programs.

Those who argue that prevention programs are useless fail to understand the complex causes of crime. They fail to understand that in communities across our Nation, criminal activity occurs primarily where opportunity and hope do not exist.

Supporters of H.R. 728 argue that the prevention programs it repeals are useless fluff and a waste of public funds. They are dead wrong.

In the 1980's communities in my district received Federal and State funds specifically for crime prevention efforts aimed at reducing heavy gang activity.

Programs were initiated to provide at-risk youths with positive alternatives to gangs.

For students, after-school programs including sports, study skill clinics, and mentoring were offered.

For those out of school with no job prospects and clearly the most vulnerable to violent gang participation; programs were offered in basic education, job skills, and self esteem.

These programs not only helped lower crime, but nearly eliminated gang activity in the east Los Angeles community.

Ironically, when the gang activity dropped to such a low level the funds for prevention programs were misguidedly shifted to a different community.

Almost instantaneously, gang violence increased dramatically and has been rising steadily ever since.

Prevention programs work. They work because they give alternatives to individuals who have few options and they work because they give hope to individuals who have none.

If we are to win our struggle against violence and crime in our country, we must have more police on our streets and effective programs that give positive alternatives to crime and provide individuals with hope and opportunity for a better life.

The Republican leadership calls H.R. 728 the taking back our streets act. What this bill takes back, however, is not our streets, but our chance to create safe streets all across America.

Police, parents, and public officials nationwide have proven that community policing and prevention programs are our best hope for eliminating crime in our country.

To make this hope a reality, we must oppose H.R. 728.

COMMUNITY POLICING

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 1995, the gentleman from Massachusetts [Mr. MEEHAN] is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEHAN. Mr. Speaker, I rise to talk about the issue that we are dealing with in the Congress this week and early into next week, the issue of the crime bill.

Just last September President Clinton signed the most comprehensive, effective, tough crime bill in the history of this country. It was a crime bill that was tough on repeat offenders. It was a crime bill that made a significant contribution to building more prisons across this country, $10 billion. It was also a bill that put 100,000 new police officers on the streets of America.

But I want to talk about two parts of that bill because two important sections of that bill are in serious jeopardy over the next several days in the Congress of the United States; that is, sections of the bill that require and fund 100,000 new police officers across America, partially funded by the Federal Government, community policing.

Let me just say that as a former first assistant district attorney in Middlesex County, one of the largest counties in the country, and having had the experience of overseeing a caseload of over 13,000 criminal cases a year, and having had the experience of working with 54 cities and towns and 54 different police departments across that Middlesex County, I can tell you that community policing is a cutting edge of what works in law enforcement. It is not an accident that we have for the time an Attorney General with vast experience in the front lines of the fight against crime.

This attorney general knows what it is about to manage a case load, knows what it is about to work with police departments, and knows what fighting crime in tough areas is all about. And that is why I believe we have seen this smart, tough, effective crime bill passed into law.

□ 1950

Community policing has worked all over America, and I want to talk for a minute about my hometown, the city of Lowell, MA, where 13 additional police officers and a commitment made by the Federal Government, and a commitment, by the way, made by the Republican Governor of Massachusetts, Governor Weld, a former prosecutor who also understands that community policing works.

Because of that commitment, the city of Lowell has been able to form community partnerships using the Community Policing Program. Community partnerships are the hallmark of police and community oriented proposals. During the last year the Lowell Police Department under the leadership of Police Chief Educate Davis has opened up new community policing precincts in different sections of the city of Lowell, Lower Belvidere, Back Central Street, Lower Highlands. They have established a Team Lowell to go

out in the communities and fight crime. They have developed a van plan, getting contributions from toll booths all over the city, to help form their partnership between the school department and the police department. They have a community response team with inspection services. During the first year they have been able to close down more than 150 buildings which are identified as drug houses or identified as structures that were not rehabilitatible.

With the special units, the community response team has been responsible for over 350 arrests. We have had school visits by precinct officers into the community, visiting the schools, forming partnerships with educators and students and guidance counselors. We have established flag football leagues, where police officers donate their time, working with youths in the community. They also have a street worker program basketball league working in the city of Lowell, again forming that partnership, and a DARE summer camp has also provided leadership in the area of cutting drug use among youths.

Just this past week the police chief in Lowell came out with a report showing the city of Lowell crime trends as a result of community policing in that city. The results are very, very important.

These results show how community policing has actually worked in one particular city, Lowell, MA. These results are not the results of a political opinion poll. They are not the results of focus groups. They are not the results are putting one's finger into the political wind to determine what is popular one week or another. Because as I watched the Republican rhetoric coming on the other side of this issue, I see a lack of real understanding of what makes law enforcement ticks, about what works in law enforcement. But I see a lot of good political posturing.

What really concerns me is I see a feeling that many Republicans on the other side of the aisle who supported this crime bill 4 months ago, 5 months ago, supported it on the floor of the House, now are coming in with a new proposal that would not guarantee one community police officer. They allow communities all kinds of discretion to determine whether they want to purchase fax machines, limousines, new police vehicles, with no requirements at all that they engage in a community policing program that has worked.

What seems to be ignored is the fact that these statistics show that community policing works. And there is nothing that could be more dangerous than for us to back out of our commitments that we have made to communities all over America to participate in a 3-year plan to fund community police departments across this country.

But that is what is at risk. And I think it is really unfortunate as a person who has had some experience with crime to watch the rhetoric in the Congress. Many Members of Congress who have a lot to say on quick sound bites about crime have never been in a courtroom, have never prosecuted a case, have never put one criminal in jail, ever. But they have become so-called experts in law enforcement, so-called experts in what the future trends are in this country and what works and what does not. And that is bad news for America, because fighting crime is serious business. You do not learn how to fight crime by reading a political poll or looking at a focus group or determining shifts in the political winds. Fighting crime is serious business.

Mr. STUPAK. Would the gentleman yield?

Mr. MEEHAN. I would be glad to yield to my colleague from Michigan [Mr. STUPAK], who I might add has done tremendous work on the task force on crime and has 12 years experience as a police officer in Michigan. I would be happy to yield.

Mr. STUPAK. I thank the gentleman. I thank the gentleman for once again taking the lead in putting together another special order on crime. But you were commenting a little bit there on statistics in Lowell, MA and what you found with community policing. But through all this rhetoric, I think one part that has been lost is that if you take the last decade, take the last 10 years, crime has tripled. It has gone up, violent crime, part I crime, has tripled in this country. It has gone up 300 percent.

In that same 10-year period, do you realize how many police officers were added to help combat crime, which went up 300 percent in 10 years? A mere 10-percent increase in police officers throughout this country.

So the point that you are making about violent crime and how police officers under a community policing program can have impact, our resources are scarce, crime is soaring out of sight. Like I said, it tripled in the last decade. Yet here we have a program that works, that works, as is shown in your area, and I am from northern Michigan, in Marquette, a city in my State of 17,000 people. But yet we put a community police officer in 1990, and in the last 2 years the crime has dropped 23 percent. The first 2 years it has been in existence it dropped 23 percent.

We were just awarded another police officer because the community policing grant ran out in Marquette, but under the COPS Fast Program which was announced yesterday, they have now received money to fund this program for another 3 years to keep the solid work that is being done in community policing in a small rural community like Marquette. It works.

Mr. MEEHAN. Thank you. The 23 percent figure that you mentioned is consistent with the figures here that are up in the first year of community policing in the city of Lowell. For example, burglaries, down 34 percent; residential burglaries, down 32 percent; business burglaries, and what could be more important in terms of fostering economic development and business growth, down 41 percent; larcenies, down 23 percent. In car thefts in the city of Lowell, they are down 20 percent as a result of community policing. And these are not my figures. They do not come from a political pollster. They do not come from a political group in Washington. They come from the police chief of city of Lowell, MA, a law enforcement professional with years of experience in fighting crime, in a very, very difficult city to fight crime.

When I was a first assistant district attorney in Middlesex County, the first five homicides I attend, and we used to in our office, the first assistant would have to go to a homicide scene to determine what experts needed to come in to investigate a murder, to basically head up that investigation and make sure it was conducted properly.

The first five homicides that I attended in the first few months, three of them were in Lowell, MA. So this is an area really that has been plagued by difficulties in fighting crime. And the statistics that you mentioned are consistent right in this community, dramatic increases in crime in the eighties and into the early nineties.

These figures I think speak for themselves, and they are consistent with my colleagues' experiences as well.

The other thing that I think is important to mention is what community policing is all about. Because sometimes people hear the term and really do not understand what makes community policing work and what actually happens when a community undertakes a competent community policing program.

I know from the rhetoric I have heard on the floor of the House of Representatives, it appears to me a lot of Members of Congress do not know what community policing is all about. I was wondering if you could, given your 12 years of experience, relate what community experience is all about and your experience with it.

□ 2000

Mr. STUPAK. I would be pleased to. Back before I came to Congress, I was in the State legislature back in 1989 and 1990. We wrote the community policing law for Michigan. Community policing is really a concept where the police officer works and lives in the community in which he is policing.

It is usually a small geographic area where the police officer basically befriends the people in which he is serving. Many people refer to community policing probably in the larger cities as walking the beat. While you are walking that beat, you are learning to communicate with the people you are serving. You have built a friendship. You have built a trust. You actually have

built a partnership in the community in which you are trying to serve.

Once that partnership is cemented, then the faith, the trust and the confidence in law enforcement comes back. So when there is a crime, when you go to one of the five murders that you went to in Lowell, MA, when you go there, you go there a complete stranger and you try to do an investigation. But if you are a community police officer and a murder or a crime happens in that community, you go there, you have contact. You have seen these people. You are not strangers trying to resolve a heinous crime that may have concern, but rather, you are a community that has come together to focus on this crime, with the faith, confidence, and trust in your police. They are more open. They will assist him in solving this crime.

And once you have built that trust, that relationship, community policing can and will work. You work together as a community. It is a partnership that is formed between the geographic area.

In Michigan, one of the ways we defined the areas in which a community police officer would work would be the density of population in a given area, the crime rate and the juvenile population, since juveniles seem to be the focus of most, a lot of the crime that happens nowadays.

So when you take those three factors, you put a police officer in there. That police officer lives there. He works there. So when that police officer investigates this crime, whatever it might be, whether it is murder in Lowell, MA, or breaking and entering in northern Michigan, the police officer that took the original complaint, started the investigation, is the same police officer that stays through the whole investigation. It is the same police officer that brings the request to the district attorney or the prosecutor for the warrant. It is the same police officer that goes to court with the witnesses or the victim's family, whatever it might be.

Throughout this whole investigation, there is a trust that is being built. There is confidence in the department. Because the way it is right now, without community policing, one police officer takes the initial report. He turns it over to the investigator who goes and sees the family or victim, wherever he does his investigation. Someone else goes to the prosecutor to get the warrant. And when you go to the day of trial, the person who took the initial complaint, you do not remember anymore. You might know the investigator. You never met the prosecutor. There is not that teamwork, that partnership, that relationship, that trust that is needed.

When it is put together, it works, whether it is a rural area or in an urban area.

I know the gentlewoman from Houston, TX [Ms. JACKSON-LEE] wants to jump in here because they have a tremendous community policing program.

Mr. MEEHAN. I might add, our colleague from Texas [Ms. JACKSON-LEE] has been a leader in the Committee on the Judiciary on these issues, has been extremely active and has experience as a Houston city council member, a lawyer, and I have to say has been a very articulate, outspoken advocate on these crime prevention programs, antigang activities. And I am delighted that she could join us tonight because she certainly has made a tremendous impression as a new Member of Congress. And I wonder if she could relate some of the experiences that she has had in Houston.

Mr. Speaker, I yield to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman from Massachusetts for his leadership and certainly I thank the gentleman from Michigan [Mr. STUPAK] for really evidencing from a very personal perspective, and as you have evidenced from a very personal perspective what it means to be a police officer and what it means to balance the whole concept of prevention and preventing in law enforcement.

I think one of the things that our colleagues are missing on the other side of the aisle is there is not a conflict with law enforcement and having officers know their communities. You are not inhibited or prevented from being forceful in arresting the bad guy, if you will, and ensuring safety in the streets, if you also have the balance of being able to know the neighborhood.

Coming from the city of Houston and having served, and I thank the gentleman very much, on the city council, being part of the local community, one of the aspects of policing that they were so excited about is what we called neighborhood storefronts. That simply meant that our officers were right in the neighborhood. And believe it or not, we would have a tough time turning away communities who wanted to offer free space so that cops could be on the beat, somewhat similar to the President's programs of cops fast, cops ahead, and cops more.

What it meant is that they would come into the neighborhood, they would be next to the corner ice cream store, the corner grocery store, the neighbor who was going to the cleaner's could go into this neighborhood storefront, share information. The police could share information and there was a complete dialoging. You would be very much pleased with the fact, evidenced in your support for this program and our support for his program, of how many criminal activities were either stopped or how many arrests were made because of that neighborhood influence and because of that interaction between neighbor and police.

I think it is certainly a travesty that we would come this far, hearing the announcement that was just made for this past week where the President was able to announce some 6,600 law enforcement agencies being able to hire 7,110 community police officers under the Cops Fast Program. It is a tragedy to know that what we have on the table now is an effort to go back to the station, if you will. When I say the station, the train station, rather than pulling out and going forward, we are going back to where we started from and to turn back the clock on programs like this.

Mr. MEEHAN. The point that the gentlewoman made relative to getting police officers into the community is important for two respects. One is, you can reduce crime. But my experience has been, we have a DA up in Middlesex County, Tom Riley, who has really been on the cutting edge of priority prosecution programs. And what happens is, a police officer working with the community, the schools, the probation department, they can identify who the worst offenders are, who the gang leaders are, who the ringleaders are, identify them and make them a priority and get them out of that neighborhood. Those who cannot be rehabilitated or those who need to be removed are removed. And you get them out of the neighborhood and then you work with the vast majority of the individuals that are left. That is the type of law enforcement that works. And it is proven all over the country.

Mr STUPAK. For those who are watching us either in their office or at home, the reason why we are here, this program, community policing, was just started October 1, just over 4 months ago. And on February 7, the Republicans, our friends on the other side of the aisle, brought forth six pieces of crime legislation on February 7. We have been debating it for the last few days. We talk about 100,000 police officers we made a commitment to put on America's streets in the next 5 years. The program is 4 months old. There is overwhelming support throughout this Nation for it from the police officers.

The gentlewoman from Texas mentioned the Cops on the Beat Program, the Cops More Program, the Cops Fast Program, three of the programs that have just started will have 17,000 police officers on the street in the last 4 months.

But why are we here talking about it? Because even though the slogan is, our friends on the other side of the aisle say the slogan is taking back the streets, what they are doing is giving back the streets to the criminals, to the violent perpetrators because they want to scrap this program, this 100,000 cops on the street. I still have not heard a good reason why it should be scrapped, but they want to scrap it for nothing more than political reasons.

The would replace these 100,000 cops on the street and replace them with a massive block grant program. When you look at that massive block grant program, billions of dollars are going to be put into a block grant program. They way that is to help fight crime at

the local level; after all, the local people know what is best for them. There is not one police officer earmarked in their plan. There is not any program earmarked in their plan to put police officers on the street. And we have been seen in late 1968, with the Law Enforcement and Administration Agency, LEAA, how the money was squandered, was squandered or as someone said the other day, it reminds you of the pork of Christmas past, what they did with all that money. For every dollar that was spent in the late 1960's and early 1070's, 33 cents on every dollar went for administrative costs, overhead, bureaucrats. We did not see more police officers on the street.

What we are here trying to inform the American people is this unrestrained giving of money back without any conditions will repeat the problems we had in the late 1960's and the early 1970's, the abuses that went into the LEAA Program.

Ms. JACKSON-LEE. Let me just take you up on that point because you make a very valuable point. First of all, I think it is important to note that we come from respectively different parts of the Nation. I think it is a tragedy, again, if our colleagues on the other side of the aisle would pretend to think that this is a big-city problem or it is a big-State problem. What we are finding out is whatever the jurisdiction, the hamlet, a town, a country, the cops program that was passed in the 1994 omnibus crime bill went to seed—that's the heart of the matter.

□ 2010

It went into the places where maybe they had one officer in the town. In the city of Houston, obviously, we are constantly looking to find ways to improve the number of police-to-citizen relationship, to develop the relationship, but also to provide the protection. We needed as much as a smaller city in the State of Texas, or a county, or a hamlet, or a town, than may be in your fair State of Massachusetts.

The issue becomes how do you relate law enforcement to the 21st century; how do you prevent gang violence. What you do, as has been said by the gentleman from Massachusetts [Mr. MEEHAN], is you get those officers who are in plain clothes, who are in the neighborhoods, who are in the schools, to now who the characters are, if you will.

At the same time, and I appreciate the gentleman's response, having served as a police officer for a number of years, you even get those local police officers to participate in Boys Club and Girls Club, and the Boy Scouts.

I have an urban Scouting program, for example, in the city of Houston. Many police officers are involved in that. There is PAL. When you have the officers in the neighborhood, they are able to go into the schools and go beyond the call of city, to a certain extent, and even begin to look these youngsters in the eye and say, ''That is not the gang you want to be in,'' of either gain their confidence and get information that truly helped to, if you will, break the crime cycle.

I think that is very important. This is not an issue that is an issue for large cities, large States, it is an issue of crime prevention for this particular Nation.

Mr. Speaker, I would appreciate the gentleman's response about police involvement in those kinds of activities.

Mr. STUPAK. Mr. Speaker, it is certainly very helpful, because it humanizes police officers. It is not just whether it is a police athletic league or teaching about DARE, DARE to keep the kids off drugs, a program that was developed in L.A., and it is taught nationwide, or whether it is seeing the police officer in the school.

When you put a human being—and it ges back to the community policing concept of building trust, confidence, and respect for law enforcement.

What are we doing here, as we were talking earlier tonight? In the bills that are pending before this floor right now, the Republican crime bill of taking back the streets, there is not one program earmarked to humanize the police, to even provide us one police. instead, they want this massive block grant program.

What happened when we had it back in 1968? Did they form PAL? Did they put police officers in the schools? Here is an example of some of the things they did. The local people said, ''We know what is best. Let us do it. We can do it better. We know what works in Houston, Marquette, Michigan, or Lowell MA.''

Here is what they did. In 1968 a sheriff in Louisiana purchased a tank—a tank to combat crime. In another State, they used $84,000 to buy an airplane—an airplane. The only value they got out of the airplane, other than to buzz the Governor around the State, was it had a very secret mission.

That airplane came to Washington, DC, picked up some Moon rocks, and went back to the State from whence it had come. That was the only law enforcement function of that airplane you could consider, because that must have been top security, picking up some Moon rocks, but $84,000 went there.

Or how about one of the Southern States, which started a cadet program, a law enforcement cadet program to help out young people, as the gentlewoman suggests? Do you know what the cadet program was? Some $117,000 was spent for that sheriff's family members and friends of his to have a job at the expense of taxpayers.

Or another city, they used $200,000 in LEAA grants to buy property—to buy property. Another city used money to buy an unmarked car, so the mayor could drive around. This is the same type of program that they are telling us: ''Take about $10 billion, we will give it to the local communities. They know what is best in fighting crime.'' Not one police officer.

Thirty-three percent, we have seen, back from the 1968 and seventies program, went to administrative costs, and what for? We did this before, for all of us who were here, but it happened before in 1968 and what was it used for? Tanks, airplanes, limousines, land. It goes on and on and on.

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

Mr. STUPAK. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. I would like to point out, my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], had talked about gang violence and what the difference is when the community police officers get into that community and learn that community.

When I was assistant district attorney in Middlesex County I got a call one afternoon. It was about 2:15 one afternoon, and the State Police informed me that a 15-year-old boy from Lowell, MA, had been shot in the head, a culmination of what was gang activity in the city of Lowell during that time period.

We had had an influx of Asian immigrants into the city, many of whom had been victims of crime, Asian crime on Asian crime, where the people, immigrants from other cultures who came from a culture where they did not necessarily trust authority and did not know what the role of the police department was, whose side the police department was really on.

It was very difficult for us in the DA's office to get witnesses of crime to participate and to tell us what happened in a crime, because they did not know whether to trust us or whether to trust the police, so they did not trust anyone.

In this murder of a 15-year-old boy, it was the culmination of months of gang activity in the city. People were keeping their sons and daughters home from Lowell high school.

We sent a district attorney up to the scene of that. The DA, Tom Reilly, who is a very innovative and hardworking DA, went up to the city. We instituted a priority prosecution program there.

We brought in people from the Asian community to the table of the mayor's office; we brought in the probation department that had the probation records of all the individuals involved. We brought in the school department, which could give us a perspective of who attended school, who did not, who the bad actors were, who the people were who were trying to get headed in the right direction.

We brought the police department to the table. We also brought the DA's office to the table, and the DA met on this task force every single week, every week. We identified over a period of time the 25 ring leaders of these gangs, the individuals who could not be rehabilitated, who had long criminal records, who the school department agreed, the probation department

agreed, the police department agreed had to go off and they had to go to prison for as long as we could get them there.

We were able to remove those 25 individuals and get them the toughest sentences we could. The question is, what do you do with the remaining individuals. If you do nothing, in 8 months or 9 months, you have 25 new individuals again ready to be prosecuted and removed from society.

However, we went a step further. The DA, Tom Reilly, established a community-based prosecution team where the police officers played a role in the community, and partnerships were formed in getting the police officers to understand the culture of many of the new immigrants.

We started to get cooperation, because they realized they could trust the prosecutor's office, they could trust the police department. The soccer leagues, the police department, just as the experience in Houston, the police department played a role there.

We had basketball leagues, and they are still going on today. Crime, Asian crime, the victims of crime decreased dramatically in that city.

I know that my colleague, the gentlewoman from Connecticut [Mrs. KENNELLY], is here, the vice chairman of the Democrat Caucus, a member of the Crime Task Force, and also a Member who has had, I know from conversations in committee work, many of these types of problems where you identify a problem, go in and do the cutting edge of what works, so I yield to the gentlewoman from Connecticut, [BARBARA KENNELLY.]

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MEEHAN] and the gentleman from Michigan [Mr. STUPAK].

Mr. Speaker, I came down here this evening as I listened to this conversation and wanted to join in, and say that so many of us who are in public life, or who run for public office, and are in large legislative bodies, such as this House, work for long periods of time on legislation.

Sometimes we see the fruition of that legislation and sometimes we do not. It does not get out of committee or it comes to the floor and it does not go into law.

This year's crime bill was totally different. In this year's crime bill, we really addressed some serious needs in our community. The crime bill came forth. We had crime bills in other years, but this was a good crime bill. Many of this body get behind that crime bill.

What happened was that there was a pledge made by the President, the Attorney General, and Members of this body to put policemen on the streets of our local communities, on our city streets, on our town streets, and in our rural areas.

□ 2020

For me particularly it was an answer to a situation, and the gentlewoman from Texas has spoken about it, and the gentleman from Massachusetts did. We had a troubled city, and we had the formation of a Federal task force, and we all know they can do great good. But we all know it takes a long time to get things done. We had an awful time with the gang situation in the summer 2 years ago where the State police had to come in, and the cost of that was very high to taxpayers, and they could only stay so long. But the problems continued.

We had, like so many cities have had, a terribly, terribly unfortunate situation happen. In fact, the thing that made me know I had to do something—I had to get involved and bring some hope—was a little girl riding in the back seat of a car on the way to see her grandmother, and she was killed, and it was a gang-related shooting, she died, and the community was terribly upset. That is only one example of what happens when these situations get out of control. And in this program, this crime package we had before us it said you could apply for additional policemen for your urban area, for your town, for your city, and that is exactly what we did; we did apply. I had the police chief of Hartford, CT, come down here, I had the mayor of the city come down here and meet with Attorney General Reno. She explained the program. We looked through the legislation and we realized this was tailor made for us. So exactly 5 months from when that crime bill passed, we now have grants that have 17,000 policemen across these United States, and in my own city there were 13 new additional policemen.

I cannot tell my colleagues the hope that that gave to people, saying we understand there is a problem. We know it is going to take time to address this situation. We are continuing to do it. We have still a Federal task force in there. The whole community has rallied around so that the community works with the local police and all sorts of things have happened that have been good. But it was that hope and that understanding that people care and that you could get additional policemen out on the streets.

Then earlier this week, and I am sure my colleagues all had the same situation, in my district six small towns each got one additional policeman, and they had applied through this particular piece of legislation. They applied and got this individual that will be on the streets of these small towns. And yes, the Federal taxpayers pay by sending their taxes in for 75 percent of these additional police, and the local community pays 25 percent.

But the application was one page, just one page, and you did not have to apply. Obviously six of my towns did apply and they each got one policeman.

Maybe for somebody who comes from New York City that is nothing. For somebody in a small town that is a big deal, and as I know the gentleman from Michigan understands because he was a policeman and he knows the difference that one additional policeman can make in a small town.

Mr. STUPAK. If the gentleman will yield on that point, in the Cops Fast Program which was announced yesterday, where you mentioned you had six police officers and they said there was no need for extra police in this country, the statistics that stuck with us yesterday when we reviewed and announced these grants was Cops Fast, which for communities under 150,000, they could apply for one or two police officers or whatever their needs were on a one-page form, eight questions. They filled it out. It had to be in by January 1. They would make announcements in February. The forms were sent out in November.

Half, one-half of all cities under 150,000 people in this country applied to receive a police officer. One-half of all towns, cities, villages, townships under 150,000 applied for these police officers.

As of yesterday the announcement was made that the President and the Attorney General authorize 7,000 more police officers to go and spread out across this great Nation to help fight crime.

In my district, which is a very rural district in northern Michigan, and my largest city is 17,000, which I spoke of earlier, Marquette, they received a police officer. But in my communities throughout my massive district of 23,000 people we had 49 agencies apply and awarded police officers. So in the northern Michigan area we have 49 more police officers, thanks to this program. And whether it is a big city, and Detroit earlier with the Cops More got 96 police officers to do community policing.

So it works and the need is there. Fifty percent of all of the cities under 150,000 in this great Nation applied from Alaska, Florida, Michigan, Connecticut.

Mr. MEEHAN. When was the last time the gentleman saw a program where you could apply for a grant on one sheet, anyone could fill it out, any police department? Not only that, when is the last time the gentleman saw a Federal program produce results so quickly?

Mr. STUPAK. And what do they want to do?

Mrs. KENNELLY. They want to repeal it.

Mr. STUPAK. That is right; eight questions, one sheet. You did not have to hire a consultant or an expert in grants to write a grant. All you had to do was to fill out the form, and they want to repeal it.

Back in the 1970's with the LEAA Program, 33 cents of every dollar went for administrative costs, for the experts and the people to write the grants, and we do it on one page, and it is effective and it is efficient, it is fast and it does the job. It puts the money

in the police officers where they belong. And they want to do away with it. Why?

Ms. JACKSON-LEE. The gentleman has a very good point if he will yield for just a moment. As I listened to the discussion, and let me applaud the gentleman from Massachusetts for his creative leadership as a district attorney. I think when we get into this discussion and we move away from the bipartisan spirit, which is what I am hearing from the gentlewoman from Connecticut, that towns and hamlets, and I imagine you could not tell me whether they had a Republican voting population or a Democratic voting population, but they were the far gambit of citizens across the Nation. I think we are going up the wrong road if we begin to separate victims from law enforcement and prevention.

The gentlewoman's detailing of a tragedy that occurred in her community reminded me of a tragedy in mine, as we can all indicate, and likewise the gentleman from Masschusetts, where youngsters were having a birthday party and enjoying a 13th birthday party, and tragically, in a drive-by shooting, gang-related, we lost a teenager. But that parent was so grateful for the police they had developed a relationship with, the officers that were close to the neighborhood, and close to the youngsters, because soon after the culprits, if you will, were immediately targeted because of those officers being close.

It is somewhat similar to the story of the gentleman from Massachusetts about people becoming more comfortable with the officers that they know and being able to bring them together in order to solve crime. And we have a very diverse city, Asians, Hispanics, African-Americans, and Africans, people from east India, a very diverse community, and we have been able to use this program to expand our police department to relate to some of the diverse communities and to be as creative as you have been in Massachusetts to solve crimes.

So I think the real question is, Is the proposed bill prepared to solve crime or is it something that wants to clearly respond to campaign pledges, because if it is on track to solve crimes, and they will listen to the real Americans in these hamlets and towns, in the large urban areas, former police officers, district attorneys, myself having served as a former municipal court judge, to say that it is very important that victims are helped. We do not want them to be victims, but the one thing we sure want to have happen is that that crime be solved, because it is a tragedy. How can you do it without more police officers?

Mr. MEEHAN. The gentlewoman is absolutely right. Someone coming into a district attorney's office with a family member who has been murdered, you do not ask if they are Democrat, Republican, or Independent, and anybody who is for fighting crime, any Governor, whether it is Weld of Massachusetts, or a Republican district attorney in Suffolk, they support community policing and crime prevention because they know what crime is all about.

This should not be a partisan issue. We had bipartisan support for this bill when it passed, bipartisan support, and everyone stood up. I remember the debate on the floor of the House when I stood in the well and I challenged Members of this Congress who did not vote for this on the other side of the aisle that if they were really serious about fighting crime they ought to volunteer for 2 weeks in a district attorney's office in their districts anywhere in America, because all it takes is opening your eyes and going into one of those district attorney's offices, or a police department. And if you go in and find out what is happening with community policing programs, and what has happened in district attorneys' offices anywhere in America, you can never come back and vote to dismantle the program.

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Mrs. KENNELLY. The gentlewoman from Texas, a new Member, just been here a short time this session, but that was such a thrill to see real legislation passed that has real results that people could focus on.

What happened was we identified a problem, and we found a solution, and it was additional policemen in the communities that needed it, and that happened. The results were tangible.

And now what we are seeing, I guess, is a real push to roll this program back, to end this program that has worked, something that you can look at, that you can see, and that you can know that your streets are going to be safer. And we are going to roll it back and say OK, never mind, even though it has worked, never mind, we are going to do some block granting and you can do whatever you want with the taxpayers' money, and maybe you can help your budget to be a better budget, but the point was not that. This was a crime bill last year. We found there was a need for additional policemen in communities. That was addressed. The policemen are now in the communities.

The grant system did work. Janet Reno, our Attorney General, put her whole self behind this, I tell the gentlewoman from Texas; it has been so wonderful to see, not only some bipartisanship, but to see the branches of Government working together, the President calling for this, the Attorney General putting herself and her staff, long hours, to make this work, making the program better as it went along, because this has been round upon round.

I know I see people who want to change it. Of course, this is a legislative body. We should have new legislation. We should have new ideas. But when you just get a good idea last year, and it is working, and everybody is able to say look, this is going to help our communities, they say no, never mind.

So I just wanted to come down tonight and say it is working in my community. I really think the people of my district feel that their taxpayers' dollars are being well spent so that we can deal with the situation in our communities of crime which we wish we did not have but we have found a solution.

So I want to thank the gentleman from Massachusetts for calling this special order, because it was a fine time in this country that we could pass legislation and address the needs of the people of this country. I am just really kind of surprised that we are now going to change our minds and do something different. I just hope we do not.

Ms. JACKSON-LEE. I am listening to you and listening to the intensity of your remarks about how much the communities gravitated to be able to have this opportunity and how much they responded to it.

I had the opportunity to meet with representatives from the International Chiefs of Police and, yes, I meet with the people that are not inside the city of Houston, which is the largest city in the State, but they were from Plano, TX, and Georgetown. They were training to go and meet with all the members of the delegation to simply say that in their respective communities it was important to get that one officer, and they were certainly concerned about this whole issue of dollars going without any direction to a large entity and whether or not you would ever get to this small community to be able to help them out on some of the things they needed, particularly in Houston.

I just wanted to finish on this point about neighborhood policing and the comfort level that communities develop. Minorities, inner-city neighborhoods are in extreme need, if you will, for that kind of relationship with their law enforcement community, and it has worked, and we have done the neighborhood policing or modification thereof or had the officers go into the community or have been able to get, as what happened in Texas, 349 Texas police departments would be allotted some $20 million to fill 366 positions, when we have had those extra positions, we could then look to hiring individuals from diverse minority groups and backgrounds, women, and all of those helped to make a richly diverse and importantly contributing police department.

Because what it says is those people look like you and me and when they go into the neighborhood, it is such a difference, not only prevention and law enforcement but also in solving the crime. That is what you want to have happen, developing the trust and that is why I am flabbergasted as to why we would not continue a program like this.

Mrs. KENNELLY. Am I correct, the gentlewoman not only was a judge, but was also a city councilwoman?

Ms. JACKSON-LEE. Yes; I was.

Mrs. KENNELLY. Well, I think we have a bond here. Because where I learned about the success of the community policing, the cop on the beat, the neighborhood person being able to relate with the policeman who is protecting them, and they are paying their salaries, where all of that happened is right in our cities and our towns. I was a city councilwoman, and I always felt so good about community policing, and I am so delighted it has come into being in this crime package with the additional police. We will have to talk about our days in city hall.

But this is a program that city halls all across the United States are saying it works.

Mr. STUPAK. Not just city halls all the way across the United States, but the other day at the press conference when we announced the Cops Fast Program, you know, we were joined by representatives of the FOP, the Fraternal Order of Police, the National Association of Police Organizations, there was a member there from the International Association of Chiefs of Police, and they said this program works.

Do not go back to what we did in 1968 and the early 1970's with the law enforcement assistance agency, or administration. Let us not go back. Let us not go back. As Chief Vibrette said the other day when she was making an announcement, she said for too long from Washington, the Federal Government, in helping us fight crime was always one way, here is the way you do it, here is the way you do it, here is the way we do it; we always were told, we were always lectured, always preached.

Underneath the crime bill that currently exists, it is a two-way street. It is a partnership. You are giving us what we need, police officers to help fight crimes in our community. We have formed partnership for once, just like community policing is a partnership with the community in which it serves, and let us not go back to those days. You have provided us with the financial incentive on a one-page form. You do not even have to put down the criteria of your community policing, but just have a police officer there.

The purest form of prevention of crime is a police officer open and visible in that community.

Mr. MEEHAN. And when I hear the rhetoric back and forth and all of these theories that seem to come out of political polls, focus groups, here is the evidence that matters: This is community policing in one particular community that shows a dramatic decrease in crime. It happens to be one community, Lowell, MA, police officers in the communities cutting crime.

My colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], mentioned her own city of Houston and the various groups of minorities. Lowell, MA, was a melting pot. I mentioned the Asian community in Lowell who are the most recent immigrants to this city and how difficult it was for them as victims of crime and how important our program was of community policing and priority prosecution, but the Irish settled in Lowell when we had a high French population in Lowell that settled there, Hispanics settled there. It has been a melting pot over a period of time. It is where the industrial revolution was born in this country, and it is always very, very important and critical that when a new group comes into the United States that they all have the communities, they have gone to form the partnership with law enforcement, with the schools, with the probation department. That is the only way that you can cut crime in an area, to form partnerships, to hear the rhetoric relative to the programs with boys' clubs and girls' clubs.

You know, in Phoenix when basketball courts and other recreational facilities were kept open late, juvenile crime dropped 55 percent. It works.

We have 13 new schools in Lowell, MA. Those schools are closed when school is over, beautiful new facilities, gymnasiums. And what do their kids have to do? They are on the streets. OK, that is how crime happens, kids hanging around the street.

We have all of these new schools, and we have an opportunity to put together programs. We have a police department that is willing to volunteer. We need to open these structures up. We need to have the type of programs that involve tough prosecution.

I mentioned the priority prosecution program. I am talking about identifying in this community 20 to 25 of the worst offenders and locking them up for as long as we could get them off the street, remove them.

With the challenge of real law enforcement and really fighting crime is what you do with everyone that is left. That is what it is all about. And anyone who has ever fought crime knows that, and I cannot believe that our friends on the other side of the aisle do not know it as well, and maybe they are hoping that this will die in the other body or the President will veto it and they will not have to mention it, or they can make adjustments and call it their crime bill.

It does not matter to me whether we call it a Democratic crime bill, a Republican crime bill, Clinton's crime bill, Janet Reno's crime bill. It is America's crime bill, and it works, and we should not be getting into partisan politics determining authorship or trying to tinker with the bill so that somebody else can take credit or there is an election coming down the road, and we have got to figure out how many seats for the Democrats and Republicans. All of that is nonsense. When we opened up, I made the point, and it is a very, very important point, fighting crime is serious business. It is really serious business. It is not partisan. It requires professionalism. It requires community involvement. This works.

The last think we need to do is kill the program. Community policing, prevention programs for boys' clubs and girls' clubs and opening of facilities; the worst think we could do is kill this program because of sheer partisan politics.

It is not in the interest of the country. I believe that any law enforcement official, anywhere these programs are working, would tell you the same thing. I mentioned Republicans, prominent Republicans, who are in law enforcement who support this program. Anyone who knows anything about these programs who have been involved, it does not matter whether independents or Republicans, they support these programs.

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The last thing we need with America, frankly, looking at both political parties and saying, Please just give me programs that work, I don't want to hear that they are Democrat or Republican, I don't care if Clinton or Reno or somebody else did it. Let's get the job done and make or neighborhoods safe so we can improve our standards of living.

That is what this is all about.

Mr. Speaker, I yield to the gentlewoman from Texas.

Ms, JACKSON-LEE. I thank the gentleman.

Mr. Speaker, clearly none of us is standing here this evening sharing our thoughts because it has happened in Massachusetts or it is happening in Michigan or in Texas. But it is something that is close to our hearts and our homes. Certainly, coming from Houston, a city that has already been postured, if you will, to receive some $9 million on the Cops Ahead Program, to get 123 new officers. But what that translates to, as the gentleman has evidenced, is dealing with youngsters, where you can stop the tide of crime. We have done some of the things the gentleman has mentioned, we have kept city parks open late at night, we have had the good fortune to have police officers volunteer to do that. That has impacted those youngsters by keeping them off the streets. Now, maybe we are spending too much time looking at late-night comedy shows because there was a lot of humor around the program at midnight basketball. I am going to look the American people in the eye and I hope those who look at this politically will really tell the truth. I am not suggesting that all will adhere to the program midnight basketball, but do the know that the program had police officers' involvement, do they know that the individuals participating would have GED degrees or would get the GED's or would get parenting skills?

As the gentleman from Massachusetts said, do they know this is a business and it would be handled that way because of some of the guidelines that this particular program would put in place?

This bill was serious about crime prevention and putting police officers on the streets, the 1994 bill.

It was more serious than in H.R. 728, because what it did was it prepared smaller cities and towns and counties for keeping the police officers.

Mr. Speaker, I served on the National League of Cities board. We had all kinds of cities, 17,000 of them. The issue is, once we get them, how do you prepare so that we can continue to pay their salaries and pension? The bill that they have now our colleagues are supporting on the other side drops the money down and gives no preparation to these cities and towns on how to maintain these officers.

At least, under the program in 1994 you could hire the officers, there were creative ways, a basis upon which those jurisdictions would know how to keep them, even some creativity in using it in overtime.

So I am disappointed that we are not staying on the right path, if you will, that would take all these variables into consideration. I join you in pride of getting away from what party it is or whose President.

I am glad our President was at the forefront of this.

But to see what works for Houston, and I imagine across the country, in this direction it has worked and is working.

Mr. Speaker, I am pleased to participate in this 1-hour special order with my colleague from Massachusetts, and I commend him for bringing us together to speak on this important issue.

The COPS program as authorized in the Violent Crime Control Act of 1994, attempts to place 100,000 more cops on the street by the year 2000. The COPS program is broken down into three grant programs: Cops Fast, Cops Ahead, and Cops More. The crime bill's community policing hiring program provides $8.8 billion in competitive grants for State and local law enforcement agencies to hire community policing officers and to implement community policing. Community policing is designed to complement traditional policing by forging effective, innovative crime prevention partnerships between law enforcement and the community.

These programs are already moving to make their marks on our communities. Just yesterday, President Clinton and Attorney General Reno announced $434 million to help 6,600 law enforcement agencies hire 7,110 community police officers under the Cops Fast police hiring program. Of this, 349 Texas police departments will be allotted $20,909,886 to fill 366 officer positions. Eighty police departments in the southern district of Texas will be allotted $5,151,452 to fill 85 officer positions. Coupled with previous hiring grants, full awards under Cops Fast would bring the total number of new officers funded under President Clinton to 16, 674 in communities across America. And under the Cops Ahead Program, Houston has been awarded $9 million to fund positions for 123 new police officers. This amount will increase when applications for the Cops More Program receive consideration after the March deadline.

We cannot roll back these promises with the changes that are proposed in H.R. 728, the Law Enforcement Block Grant Act.

Mr. MEEHAN. Mr. Speaker, President Bush certainly was a supporter of midnight basketball; so during that period of time it was not so much of a partisan issue.

I think if more people had the experience, those who served had the experience of watching a community, as I did, with 10, 12, 15 home invasions, rapes, robberies, home invasions over a very brief period of time, and watched the devastation that occasioned, and then watch a community-based prosecution program by the district attorney, Tom Riley, an effective district attorney, implemented in a community, and you watch home invasions dramatically decline, there is nothing more rewarding to a prosecutor, to a police officer, than to watch those home invasions develop the strategy that works and see them stop. There is nothing that could be more rewarding to any law enforcement professional but to see the results of professional law enforcement.

I cannot help but believe if more Members in this body, whether they be Democrat or Republican, had that experience and saw the devastation that crime causes firsthand when you are called to a home to see that devastation and to see the difference when you implement a community policing program that works, we would not be having this discussion here tonight.

I think we would all be better off, the country would be better off.

Mr. Speaker, I yield to the gentleman.

Mr. STUPAK. The reason why we are here tonight is because probably on Monday we will have a very critical vote, and it is a vote not just which side is going to win or prevail but whether America wins in keeping police officers on the street, where we need them, to keep community policing viable and working throughout this great Nation.

It is not who wins the most votes at the end of that vote on Monday, whether Democrats carry the day or Republicans carry the day; we want this country to carry the day by being safe in our homes, having more police officers available to them, and a crime bill that the taxpayers, really, are paying for, and then not going back to what happened in 1968. The whole issue here and the reason why we have been here throughout this week is not to allow the current crime bill that is proceeding on this floor, to be debated again tomorrow and again on Monday, to take the money we have available for community policing with 17,000 police officers authorized and we have 83,000 more, and we found a way to pay for it by cutting Federal employees.

So it is paid for in the crime trust fund, not to devastate that program, not to replace it with a program that has block grant after block grant with no guidelines and all the waste we saw in 1968 and in the 1970's. Let us keep the program alive. We need the American people to help us get the message to their Representatives, whoever he or she may be, whether Democrat or Republican. I hope they call them tonight, tomorrow, and over the weekend and tell them to keep the cops program where it does the most good, on the streets, in our communities, whether you are a town of 17,000 or you are the size of Detroit or Houston or Lowell, whatever it is, that you have police officers.

We have responded, the need is there. As the cops fast program proceeded, half of the towns in this great Nation under 150,000 applied for police officers and were helped out.

Mr. Speaker, in summary, we are here because we need the help of the American people to keep cops on the street and not allow it to be devastated by the proposal that our friends on the other side of the aisle will bring to this body either tomorrow or Monday morning—Monday is when I believe the vote will take place. I believe the vote will take place on Monday.

Mr. MEEHAN. Mr. Speaker, I echo my colleague's remarks because this is important. As a freshman Member, having arrived here 2 years ago, oftentimes i voted away from my party leadership. In looking at the vote tallies since we have been here, I see more party discipline than I do looking at issues. I hope Members on the other side of the aisle will vote the issue and not party leadership because that is the only way we are going to save this bill.

I want to thank my colleague from Texas, Ms. JACKSON-LEE, for her eloquent and competent work in the Committee on the Judiciary on this bill and also her input tonight and throughout the session. As I said earlier, she is clearly one of the shining stars of this new Congress, and I appreciate her involvement as well as that of my colleague from Michigan, Mr. STUPAK.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FROST (at the request of Mr. GEPHARDT) for after 2 p.m. on Thursday, February 9 and the balance of the week, on account of illness in the family.

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. WATT of North Carolina) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Mrs. CLAYTON, for 5 minutes, today.

Mr. ENGEL for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.
Mr. GUTIERREZ, for 5 minutes, today.
Mr. OLVER, for 5 minutes, today.
Mr. REED, for 5 minutes, today.
Mr. MORAN, for 5 minutes, today.
Mr. FROST, for 5 minutes, today.
Mr. SKAGGS, for 5 minutes, today.
Mr. GENE GREEN OF Texas, for 5 minutes, today.
Mr. OWENS, for 5 minutes, today.
Mr. DURBIN, for 5 minutes, today.
(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)
Ms. ROYBAL-ALLARD, for 5 minutes, today.
(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)
Mr. MCINNIS, for 5 minutes, today.
Mrs. SEASTRAND, for 5 minutes, on February 10.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:
(The following Members (at the request of Mr. HASTINGS of Florida) and to include extraneous matter:)
Mr. RICHARDSON.
Mr. HAMILTON.
Mr. STARK in two instances.
Mr. KANJORSKI in two instances.
Ms. KAPTUR.
Mrs. KENNELLY.
Mr. JOHNSON of South Dakota.
(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)
Mr. LIGHTFOOT.
Mr. SMITH of New Jersey.
Mr. PACKARD.
Mr. HILLEARY.
Mr. SHAW.
(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)
Mrs. COLLINS of Illinois.
Mr. FILNER.
Mr. FAZIO of California.
Mr. STUPAK.

□ 2050

ADJOURNMENT

Mr. MEEHAN. Mr. Speaker, I move that the House do now adjourn.
The motion was agreed to; accordingly (at 8 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, February 10, 1995, at 9 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JULY 1 AND SEPT. 30, 1994

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Bill Richardson	7/16	7/19	Caribbean								
Calvin Humphrey, staff	7/16	7/19	Caribbean								
Total							160.00		462.00		622.00

LARRY COMBEST,
Chairman, Jan. 30, 1995.

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Visit to Germany and Spain, Oct. 12–26, 1994:											
Michael R. Higgins	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain		650.00						650.00
Commercial airfare							2,175.95				2,175.95
Carey D. Ruppert	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain		650.00						650.00
Commercial airfare							2,175.95				2,175.95
Roland E. Wilson	10/12	10/21	Germany		1,416.00						1,416.00
	10/21	10/26	Spain								650.00
Commercial airfare							2,175.95				2,175.95
Visit to Italy, Austria, and Germany, Oct. 15–21, 1994:											
Hon. Floyd D. Spence	10/15	10/17	Italy		710.00						710.00
	10/17	10/19	Austria		480.00						480.00
	10/15	10/21	Germany		490.00						490.00
Commercial airfare							3,798.05				3,798.05
Andrew K. Ellis	10/15	10/17	Italy		710.00						710.00
	10/17	10/19	Austria		480.00						480.00
	10/15	10/21	Germany		490.00						490.00
Commercial airfare							3,798.05				3,798.05
Delegation expenses	10/17	10/19	Austria						17.09		17.09
Visit to Korea and Japan, Oct. 15–29, 1994:											
Charles L. Tompkins	10/15	10/19	Korea		1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial airfare							4,702.75				4,702.75
Cathleen D. Garman	10/15	10/19	Korea		1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial airfare							4,702.75				4,702.75

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN OCTOBER 1, 1994 AND DECEMBER 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Deanna M. Kirtman	10/15	10/19	Korea		$1,212.00						1,212.00
	10/19	10/29	Japan		928.00						928.00
Commercial air fare							4,702.75				4,702.75
Betty J. Wheeler	10/15	10/19	Korea		709.55						709.55
	10/19	10/29	Japan		596.00						596.00
Commericial air fare							4,702.75				4,702.75
Visit to Turkey, Germany, and Pakistan, Oct. 17–26, 1994:											
Warren L. Nelson	10/17	10/19	Turkey		262.00						262.00
	10/19	10/29	Germany		647.00						647.00
	10/22	10/25	Pakistan		334.00						334.00
	10/25	10/26	Germany		237.00						237.00
Commerical air fare							4,143.65				4,143.65
Robert S. Rangel	10/17	10/19	Turkey		262.00						262.00
	10/19	10/22	Germany		647.00						647.00
	10/22	10/25	Pakistan		334.00						334.00
	10/25	10/26	Germany		237.00						237.00
Commercial air fare							4,143.65				4,143.65
Delegation expenses	10/22	10/25	Pakistan				34.83		19.03		53.86
Visit to Russia and United Kingdom, Nov. 11–19, 1994:											
Hon. Glen Browder	11/11	11/18	Russia		1,950.00						1,950.00
	11/18	11/19	Germany		283.00						283.00
Commerical air fare							4,630.82				4,630.82
Hon. Steve Buyer	11/11	11/16	Russia		1,650.00						1,650.00
Commerical air fare							3,424.95				3,424.95
Stephen O. Rossetti	11/11	11/18	Russia		1,950.00						1,950.00
Commercial air fare							3,424.95				3,424.95
Visit to United Kingdom, Belgium, Germany, Italy, Croatia, and Ireland, Nov. 16–28, 1994:											

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN OCTOBER 1, 1994 AND DECEMBER 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Ike Skelton	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Hon. Chet Edwards	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Michael R. Higgins	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Leonard P. Hawley	11/16	11/19	United Kingdom		849.00						849.00
	11/19	11/21	Belgium		624.00						624.00
	11/21	11/24	Germany		558.00						558.00
	11/24	11/27	Italy		1,068.00						1,068.00
	11/27	11/27	Croatia		0.00						0.00
	11/27	11/28	Ireland		231.00						231.00
Visit to Luxembourg, Dec. 14–17, 1994:											
Hon. Robert K. Dornan	12/14	12/17	Luxembourg		186.68						186.68
Visit to Haiti, Dec. 20, 1994:											
Hon. John M. Spratt, Jr	12/20	12/20	Haiti		11.65						11.65
Committee total					39,594.88		52,737.80		36.12		92,368.80

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

RONALD V. DELLUMS,
Chairman, Jan. 31, 1995.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. Jim Chapman	11/16	11/18	England		849.00		(3)				849.00
	11/19	11/20	Belgium		624.00		(3)				624.00
	11/21	11/23	Germany		558.00		(3)				558.00
	11/24	11/26	Italy		1,068.00		(3)				1,068.00
	11/27	11/28	Ireland		231.00		(3)				231.00
Hon. Norman Dicks	10/1	10/1	Haiti				998.00				998.00
Hon. Julian Dixon	10/1	10/1	Haiti				998.00				998.00
Hon. Jim Kolbe	11/30	12/2	Mexico		552.00						552.000
Commercial airfare							436.45				436.45
Hon. Jerry Lewis	10/1	10/1	Haiti				998.00				998.00
Hon. John Murtha	10/1	10/1	Haiti				998.00				998.00
Hon. Joe Skeen	10/1	10/1	Haiti				998.00				998.00
Hon. Bill Young	10/1	10/1	Haiti				998.00				998.00
Hon. Gregory Dahlberg	10/1	10/1	Haiti				998.00				998.00
Aaron Edmondson	11/8	11/12	England		729.00						729.00
Commerical airfare							4,265.35				4,265.35
Juliet Pacquing	10/1	10/1	Haiti				998.00				998.00
John Plashal	10/1	10/1	Haiti				998.00				998.00

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCTOBER 1, AND DECEMBER 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Donald Richbourg	10/1	10/1	Haiti				998.00				998.00
Kevin Roper	10/1	10/1	Haiti				998.00				998.00
William Schuerch	9/27	9/28	England		349.00						349.00
	9/28	10/16	Spain		2,807.00						2,807.00
Commerical airfare							4,039.95				4,039.95
Committee total					7,767.00		19,719.75				27,486.75
Survery and investigation staff:											
Benjamin M. Cass	12/3	12/7	Germany		440.00		3,552.51		76.60		4,069.11
	12/7	12/10	Italy		470.75						470.75
Walter C. Hersman	12/3	12/7	Germany		440.00		3,552.51		28.40		4,020.91
	12/7	12/10	Italy		458.25						458.25
Karen L. Kemper	12/3	12/7	Germany		440.00		3,552.51		97.00		4,089.51
	12/7	12/10	Italy		458.25						458.25
Committee total					2,707.25		10,657.53		202.00		13,566.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currently is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military air transportation.

BOB LIVINGSTON,
Chairman, Jan. 30, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Gary L. Ackerman	11/12	11/19	India		1,418.00						1,418.00
Commercial airfare							8,263.25				8,263.25
Doug Bereuter	12/2	12/4	United Kingdom								
Commercial airfare							4,207.05				4,207.05
Graham Cannon	10/24	10/28	Venezuela		848.00						848.00
Commercial airfare							612.95				612.95
Marian Chambers	10/26	11/8	Estonia/Russia/Georgia		3,900.00						3,900.00
	11/9	11/11	Czech Republic		560.00						560.00
Commercial airfare							2,494.65				2,494.65
Ray Copson	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							1,397.25				1,397.25
Ted Dagne	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							6,483.45				6,483.45
Eliot Engel	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							5,457.25				5,457.25

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCTOBER 1, 1994 AND DECEMBER 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Beth A. Ford	10/26	11/8	Estonia/Russia/Georgia		3,900.00		240.00				4,140,000
	11/9	11/11	Czech Republic		[3] 460.00						460.00
Commercial airfare							2,494.65				2,494.65
David Feltman	11/12	11/19	India		[3] 1,383.00						1,383.00
Commercial airfare							8,206.25				8,206.25
Alan Fleischmann	11/12	11/17	Ireland		1,199.00						1,199.00
Commercial airfare							6,218.25				6,218.25
David Gordon	11/12	11/21	Germany/Africa/France		1,850.00						1,850.00
Commercial airfare							1,395.25				1,395.25
Kate Grant	10/22	10/26	France		[3] 757.40						757.40
	10/26	10/28	Poland		750.00						750.00
Commercial airfare							1,460.00				1,460.00
Bert Hammond	10/1	10/9	Japan		2,600.00						2,600.00
Commercial airfare							4,184.95				4,184.95
Alcee Hastings	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS FOR TRAVEL AUTHORIZED BY THE SPEAKER, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN October 1, 1994, AND December 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Commerical airfare							5,826.25				5,826.25
Robert Hathaway	11/12	11/19	India		1,418.00						1,418.00
Commerical airfare							8,263.25				8,263.25
Deborah Hickey	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Comericial airfare							1,392.25				1,392.25
Harry Johnston	11/12	11/21	Germany/Africa/Franc		2,100.00						2,100.00
Commercial airfare							5,826.25				5,826.25
George Ingram	10/22	10/26	Franch		1,009.00						1,009.00
	10/26	10/29	Poland		705.00						705.00
Commerical airfare							1,460.55				1,460.55
Cliff Kupchan	11/13	11/21	Africa/France		2,100.00						2,100.00
			Sudan		816.00						816.00
Commerical airfare							3,462.50				3,462.50
Anne Marea-Griffin	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commerical airfare							1,392.25				1,392.25
					12,348.00		27,623.30				39,971.30

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON FOREIGN AFFAIRS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCTOBER 1, 1994 AND DECEMBER 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sally Newman	10/30	11/4	Russia		[3] 1,170.00						1,170.00
Commercial airfare							2,784.95				2,784.95
Donald Payne	11/12	11/21	Germany/Africa/France		2,100.00						2,100.00
Commercial airfare							2,937.25				2,937.25
Mara Rudman	11/1	11/7	Israel		[3] 1,338.00						1,338.00
Commercial airfare							3,282.75				3,282.75
Daniel Shapiro	11/1	11/7	Israel		[3] 1,638.00						1,638.00
Commercial airfare							3,282.75				3,282.75
Robert Torricelli	11/12	11/17	Ireland		1,015.00						1,015.00
Commercial airfare							6,124.24				6,124.24
David Weiner	10/2	10/12	Japan		3,204.00						3,204.00
Commercial airfare							3,515.95				3,515.95
David Weiner	10/2	10/28	Venezuela		848.00						848.00
Commercial airfare							612.95				612.95
Tom Lantos	12/19	12/29	Israel/Hungary/Turkey		1,053.25						1,053.25
Grand total for the 4th quarter											156,018.99

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Represents refunds of unused per diem.

LEE H. HAMILTON,
Chairman, January 27, 1995.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the third and fourth quarters of 1994 in connection with official foreign travel, pursuant to Public Law 95–384, is as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per diem		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Hon. William Jefferson	11/12	11/13	Germany		[3] 2,100.00		([4])				2,100.00
	11/13	11/20	Africa								
	11/20	11/21	France								
Commercial airfare							753.25				753.25
Committee total					2,100.00		753.25				2,853.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Total per diem given in advance (Travellers checks—$2,100.00).
[4] Military air transportation.

BILL ARCHER,
Chairman, Jan. 25, 1995.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1994

Name of Member or employee	Date		Country	Per		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Calvin Humphrey, staff	10/1	10/1	Caribbean				([4])				
John Millis, staff	10/23	11/1	Europe		2,324.00		83.53				2,407.53
Commercial airfare							2,590.65				2,590.65
Kenneth Kodama, staff	10/24	11/1	Europe		1,682.00						1,682.00
Commercial airfare							3,331.95				3,331.95
Larry Cox, staff	11/14	11/22	Europe		2,100.00		350.00				2,450.00
Commercial airfare							2,825.05				2,825.05
Terry Ryan, staff	11/14	11/19	Europe		1,200.00						1,200.00
Commercial airfare							4,576.55				4,576.55
Caryn Wagner, staff	12/5	12/8	Europe		610.00						610.00
	12/8	12/11	Africa		600.00						600.00
	12/11	12/15	Asia		800.00						800.00
Commercial airfare							4,523.25				4,523.25
Hon. Bill Richardson	12/17	12/23	Asia		([3])						
Commercial airfare							([3])				
Total					9,316.00		18,280.98				27,596.98

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Figures not available at time of filing.
[4] Military air transportation.

LARRY COMBEST,
Chairman, Jan. 31, 1995.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

354. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to the United Nations for use in Rwanda (Transmittal No. 12–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

355. A communication from the President of the United States, transmitting the fourth monthly report on the situation in Haiti, pursuant to section 3 of Public Law 103–423; to the Committee on International Relations.

356. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting the Agency's report entitled, ''Arms Control Negotiating and Implementation Records,'' pursuant to section 713(b) of Public Law 103–236; to the Committee on International Relations.

357. A letter from the Executive Director, Pennsylvania Avenue Development Corporation, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

358. A letter from the Director, U.S. Office of Personnel Management, transmitting the Biennial Report to the Congress on the Senior Executive Service, pursuant to 5 U.S.C. 3135 and 5 U.S.C. 4314(d); to the Committee on Government Reform and Oversight.

359. A letter from the Secretary, Department of Commerce, transmitting the 1994 annual report of the Visiting Committee on Advanced Technology of the National Institute of Standards and Technology [NIST], U.S. Department of Commerce, pursuant to Public Law 100–418, section 5131(b) (102 Stat. 1443); to the Committee on Science.

360. A letter from the Director, U.S. Office of Personnel Management, transmitting the Office's report to Congress on locality pay for officers of the Secret Service Uniformed Division and the Bureau of Engraving and Printing Police Force; jointly, to the Committees on Appropriations and Government Reform and Oversight.

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. SOLOMON: Committee on Rules. House Resolution 69. Resolution providing for the consideration of the bill (H.R. 668) to control crime by further streamlining deportation of criminal aliens (Rept. 104–26). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SPENCE (for himself, Mr. GILMAN, Mr. BRYANT of Tennessee, and Mr. HAYES):

H.R. 872. A bill to revitalize the National security of the United States; to the Committee on International Relations, and in addition to the Committees on National Security, and Intelligence (Permanent Select), 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. COX (for himself, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BLUTE, Mr. BONO, Mr. CUNNINGHAM, Mr. DEUTSCH, Mr. DORNAN, Ms. DUNN of

Washington, Mr. FOLEY, Mrs. FOWLER, Mr. GOSS, Mr. GUTKNECHT, Mr. HASTINGS of Washington, Mr. HEFLEY, Mr. HEINEMAN, Mr. HOLDEN, Mr. HORN, Mr. INGLIS of South Carolina, Mr. JACOBS, Mrs. KELLY, Mr. KING, Mr. KLUG, Mr. KNOLLENBERG, Mr. LEVIN, Mr. LINDER, Ms. LOFGREN, Ms. MOLINARI, Mr. NORWOOD, Mr. QUINN, Mr. PACKARD, Mr. PAXON, Mr. PORTMAN, Mr. ROEMER, Mr. ROHRABACHER, Ms. ROS-LEHTINEN, Mr. ROYCE, Mr. SANDERS, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SPRATT, Mr. STARK, Mr. VISCLOSKY, Mrs. WALDHOLTZ, Mr. WALSH, and Mr. ZIMMER):

H.R. 873. A bill to amend the Helium Act to require the Secretary of the Interior to sell Federal real and personal property held in connection with activities carried out under the Helium Act, and for other purposes; to the Committee on Resources.

By Ms. DANNER:

H.R. 874. A bill to amend the Internal Revenue Code of 1986 to repeal the increase in tax on commercial aviation fuel which is scheduled to take effect on October 1, 1995; to the Committee on Ways and Means.

By Mr. PETE GEREN of Texas:

H.R. 875. A bill to amend title XVIII of the Social Security Act to provide for waiver of the Medicare part B late enrollment penalty for certain military retirees and dependents who live near closed military bases and to establish a special enrollment period for such persons under Medicare part B; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTIERREZ:

H.R. 876. A bill to provide that the pay of members of Congress shall be reduced until the minimum wage is raised to at least $5.15 an hour, and that such a reduction shall be equal to an adjustment in the Employment Cost Index; to the Committee on House Oversight, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. JOHNSON of South Dakota (for himself, Mr. WILLIAMS, Mr. UNDERWOOD, Mr. RICHARDSON, Mr. FALEOMAVAEGA, and Mr. MILLER of California):

H.R. 877. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Resources.

By Mr. LIGHTFOOT (for himself and Mr. STUPAK):

H.R. 878. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage States to enact a Law Enforcement Officers' Bill of Rights, to provide standards and protection for the conduct of internal police investigations, and for other purposes; to the Committee on the Judiciary.

By Mr. OLVER (for himself and Mr. NEAL of Massachusetts):

H.R. 879. A bill to amend the Federal Water Pollution Control Act to provide grants for projects that demonstrate technologies and methods for reducing discharges from combined sewer overflows into navigable waters of interstate significance; to the Committee on Transportation and Infrastructure.

By Mr. PARKER:

H.R. 880. A bill to require the Secretary of the Army to carry out such activities as are necessary to stabilize the bluffs along the Mississippi River in the vicinity of Natchez, MS, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. PRYCE (for herself, Mr. ROEMER, Mr. ACKERMAN, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BILIRAKIS, Mr. DIAZ-BALART, Mr. DOGGETT, Mr. EMERSON, Mr. FILNER, Mr. FOGLIETTA, Mrs. FOWLER, Mr. FROST, Mr. GREENWOOD, Mr. HINCHEY, Mr. JOHNSTON of Florida, Mr. KING, Mr. KNOLLENBERG, Mr. MCHALE, Mr. MCHUGH, Mrs. MALONEY, Ms. MOLINARI, Mr. MORAN, Mr. QUINN, Ms. RIVERS, Mr. SCHIFF, Mr. SOLOMON, Mr. TRAFICANT, Mr. UNDERWOOD, and Mr. DEUTSCH):

H.R. 881. A bill to amend the Internal Revenue Code of 1986 to allow employers a credit for a portion of the expenses of providing dependent care services to employees; to the Committee on Ways and Means.

By Mr. QUINN:

H.R. 882. A bill to amend title 38, United States Code, to require the establishment of mammography quality standards to be applicable to the performance of mammograms by the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 883. A bill to lift the trade embargo on Cuba, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Ways and Means, Commerce, and Government Reform and Oversight, 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. RICHARDSON:

H.R. 884. A bill to authorize appropriations for a retirement incentive for certain employees of National Laboratories; to the Committee on National Security, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SERRANO (for himself and Mr. RANGEL):

H.R. 885. A bill to designate the U.S. Post Office building located at 153 East 110th Street, New York, NY, as the ''Oscar Garcia Rivera Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. WISE:

H.R. 886. A bill to reform the program of aid to families with dependent children; to the Committee on Ways and Means, and in addition to the Committees on Economic and Educational Opportunities, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ZIMMER (for himself and Mr. KLUG):

H.R. 887. A bill to amend title 10, United States Code, to require the Secretary of Energy to sell the naval petroleum reserves since such reserves are no longer necessary for the national security of the United States; to the Committee on National Security, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARCHER:

H. Res. 67. Resolution providing amounts for the expenses of the Committee on Ways and Means in the 104th Congress; to the Committee on House Oversight.

By Mr. ROBERTS:

H. Res. 68. Resolution providing amounts for the expenses of the Committee on Agriculture in the 104th Congress; to the Committee on House Oversight.

By Mr. BLILEY:

H. Res. 70. Resolution providing amounts for the expenses of the Committee on Commerce in the 104th Congress; to the Committee on House Oversight.

By Mr. GOODLING:

H. Res. 71. Resolution providing amounts for the expenses of the Committee on Economic and Educational Opportunities in the 104th Congress; to the Committee on House Oversight.

By Mr. HYDE:

H. Res. 72. Resolution providing amounts for the expenses of the Committee on the Judiciary in the 104th Congress; to the Committee on House Oversight.

By Mrs. JOHNSON of Connecticut (for herself and Mr. MCDERMOTT):

H. Res. 73. Resolution providing amounts for the expenses of the Committee on Standards of Official Conduct in the 104th Congress; to the Committee on House Oversight.

By Mrs. MEYERS of Kansas:

H. Res. 74. Resolution providing amounts for the expenses of the Committee on Small Business in the 104th Congress; to the Committee on House Oversight.

By Mr. SHUSTER:

H. Res. 75. Resolution providing amounts for the expenses of the Committee on Transportation and Infrastructure in the 104th Congress; to the Committee on House Oversight.

By Mr. SOLOMON (for himself and Mr. MOAKLEY):

H. Res. 76. Resolution providing amounts for the expenses of the Committee on Rules in the 104th Congress; to the Committee on House Oversight.

By Mr. SPENCE:

H. Res. 77. Resolution providing amounts for the expenses of the Committee on National Security in the 104th Congress; to the Committee on House Oversight.

By Mr. STUMP:

H. Res. 78. Resolution providing amounts for the expenses of the Committee on Veterans' Affairs in the 104th Congress; to the Committee on House Oversight.

MEMORIALS

Under clause 4 of rule XXII,

15. The SPEAKER presented a memorial of the Legislature of the State of Minnesota, relative to memorializing the Congress of the United States to continue its progress at reducing the Federal deficit and provide to the State of Minnesota information on the impact that a balanced Federal budget will have on Minnesota; jointly, to the Committees on the Judiciary and Government Reform and Oversight.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 7: Mr. BURTON of Indiana, Mr. MOORHEAD, Mr. CHAMBLISS, Mr. SCARBOROUGH, Mr. NORWOOD, Mr. WALKER, Mr. HUNTER, Mr. LIVINGSTON, Mr. SAM JOHNSON, Mr. COLLINS of Georgia, Mrs. SEASTRAND, Mr. ROBERTS, Mr. WATTS of Oklahoma, Mr. MCKEON, Mr. HEFLEY, and Mr. SCHAEFER.

H.R. 44: Mr. CUNNINGHAM and Mr. DELLUMS.

H.R. 65: Mr. RAHALL, Mr. FAZIO of California, Mr. WYNN, Ms. LOWEY, Mr. BOUCHER, Mr. YOUNG of Alaska, Mr. COLEMAN, Mr. FIELDS of Texas, and Mr. JEFFERSON.

H.R. 76: Mr. MORAN.

H.R. 96: Mr. GEJDENSON, Ms. LOWEY, Mr. SERRANO, Mrs. MINK of Hawaii, Mr. OWENS, Mr. FROST, Mr. FILNER, Mr. GONZALEZ, Mr. FATTAH, Mr. EVANS, Mr. HINCHEY, Ms. NORTON, Mr. ENGEL, Mr. FOGLIETTA, and Mr. NADLER.

H.R. 103: Mr. DEUTSCH, Mr. DAVIS, and Mr. FLAKE.

H.R. 104: Mr. UNDERWOOD.

H.R. 107: Mr. GILLMOR.

H.R. 109: Mr. LEACH.

H.R. 139: Mr. SANDERS.

H.R. 215: Mr. MCHUGH, Mr. SHAW, Mr. SMITH of Texas, Mr. BARTLETT of Maryland, Mr. PAXON, Mr. ZIMMER, and Mr. LINDER.

H.R. 218: Mr. RAMSTAD and Mr. ENSIGN.

H.R. 303: Mr. FLANAGAN, Mr. RAHALL, Mr. FAZIO of California, Mr. WYNN, Ms. LOWEY, Mr. BOUCHER, Mr. YOUNG of Alaska, Mr. COLEMAN, Mr. FIELDS of Texas, and Mr. TAYLOR of North Carolina.

H.R. 305: Mr. ENGEL, Ms. MCKINNEY, Mr. KLECZKA, Ms. FURSE, Mr. SISISKY, and Mr. SHAYS.

H.R. 359: Mr. LAUGHLIN, Mr. SANFORD, Mr. BACHUS, Mr. STOCKMAN, Mr. SANDERS, and Mr. SHAYS.

H.R. 426: Mr. SKEEN, Mr. BISHOP, and Ms. DANNER.

H.R. 450: Mr. CRAMER, Mr. HALL of Texas, Mr. HAYES, Mr. MINGE, Mr. PICKETT, Mr. ROSE, Mr. SKELTON, Mr. STENHOLM, Mr. TANNER, Mr. TAUZIN, Mrs. THURMAN, and Mr. SISISKY.

H.R. 469: Mr. HALL of Texas.

H.R. 490: Mr. HUTCHINSON, Mr. FIELDS of Texas, and Mr. SKEEN.

H.R. 512: Mr. ACKERMAN.

H.R. 571: Ms. DUNN of Washington, Mr. DOOLITTLE, and Mr. SCHUMER.

H.R. 587: Mr. FOX, Mr. ROYCE, and Mr. FORBES.

H.R. 592: Mrs. MEYERS of Kansas.

H.R. 656: Mr. FORBES.

H.R. 698: Mr. HILLEARY, Mr. THORNBERRY, Mr. HOSTETTLER, and Mr. SCHIFF.

H.R. 753: Mr. HORN, Mr. HAYWORTH, Mr. ENGLISH of Pennsylvania, Mr. CALVERT, Mr. UPTON, and Mr. LINDER.

H.R. 768: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 788: Mr. BARTLETT of Maryland, Mr. ANDREWS, Mr. MCKEON, Mr. BAKER of California, and Mr. LIVINGSTON.

H.R. 789: Ms. PRYCE, Mr. LIGHTFOOT, Mr. CALVERT, and Mr. DURBIN.

H.J. Res. 48: Mr. ANDREWS and Mrs. WALDHOLTZ.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of February 7, 1995]

H.J. Res. 2: Mr. ALLARD.

[Submitted February 9, 1995]

H.R. 3: Mr. GORDON.

H.R. 76: Mr. BEREUTER.

H.J. Res. 3: Mr. RIGGS and Mr. COBURN.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 667

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 31: Page 7, line 18, after ''general'' insert ''including a requirement that any funds used to carry out the programs under section 501(a) shall represent the best value for the state governments at the lowest possible cost and employ the best available technology.

H.R. 667

OFFERED BY: MR. LATOURETTE

AMENDMENT NO. 32: Page 2, line 20, after ''aliens'' insert ''and for the establishment of community-based correction programs''.

Page 10, after line 10, insert the following (and redesignate any subsequent paragraphs accordingly):

''(3) community-based correction programs means electronic monitoring of nonviolent misdemeanants and intensive or enhanced probation supervision for nonviolent felons.''

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 33: Add at the end the following:

TITLE V—REPORTING OF DEATHS OF PERSONS IN CUSTODY IN JAILS

SEC. 501. REPORTING OF DEATHS OF PERSONS IN CUSTODY IN JAILS.

(A) IN GENERAL.—In order to provide information needed to determine whether possible Federal civil rights violations have occurred, the Attorney General shall, in such form and manner as the Attorney General determines, and under such regulations as the Attorney General shall prescribe, require that the appropriate public authorities report promptly to the Attorney General the death of each individual who dies in custody while in a municipal or county jail, State prison, or other similar place of confinement. Each such report shall include the cause of death and all other facts relevant to the death reported, which the person so reporting shall have the duty to make a good faith effort to ascertain.

(b) ANNUAL REPORT.—The Attorney General shall annually publish a report containing—

(1) the number of deaths in each institution for which a report was filed during the relevant reporting period;

(2) the cause of death and time of death for each death so reported; and

(3) such other information about the death as the Attorney General deems relevant.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 34: Page 2, strike line 4 and all that follows through the matter preceding line 1, page 12 and insert the following:

TITLE I—PRISON GRANT PROGRAM

SEC. 1. GRANT PROGRAM.

Title V of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

''TITLE V—PRISON GRANTS

''SEC. 501. AUTHORIZATION OF GRANTS.

''The Attorney General is authorized to provide grants to eligible States and to eligible States organized as a regional compact to build, expand, and operate space in correctional facilities in order to increase the prison bed capacity in such facilities for the confinement of persons convicted of a serious violent felony and to build, expand, and operate temporary or permanent correctional facilities, including facilities on military bases, for the confinement of convicted nonviolent offenders and criminal aliens for the purpose of freeing suitable existing prison space for the confinement of persons convicted of a serious violent felony.

''SEC. 502. GENERAL GRANTS.

''In order to be eligible to receive funds under this title, a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

''(1) increased the percentage of convicted violent offenders sentenced to prison.

''(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison.

''SEC. 503. SPECIAL RULES.

''Notwithstanding the provisions of paragraphs (1) through (2) of section 502, a State shall be eligible for grants under this title, if the State, not later than the date of the enactment of this title—

''(1) practices indeterminant sentencing; and

''(2) the average times served in such State for the offenses of murder, rape, robbery, and assault exceed, by 10 percent or greater, the national average of times served for such offenses.

''SEC. 504. FORMULA FOR GRANTS.

''To determine the amount of funds that each eligible State or eligible States organized as a regional compact may receive to carry out programs under section 502, the Attorney General shall apply the following formula:

''(1) $500,000 or 0.40 percent, whichever is greater shall be allocated to each participating State or compact, as the case may be; and

''(2) of the total amount of funds remaining after the allocation under paragraph (1), there shall be allocated to each State or compact, as the case may be, an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State or compact, as the case may be, bears to the population of all the States.

''SEC. 505. ACCOUNTABILITY.

''(a) FISCAL REQUIREMENTS.—A State or States organzied as a regional compact that receives funds under this title shall use accounting, audit, and fiscal procedures that conform to guidelines which shall be prescribed by the Attorney General.

''(b) REPORTING.—Each State that receives funds under this title shall submit an annual report, beginning on January 1, 1996, and each January 1 thereafter, to the Congress regarding compliance with the requirements of this title.

''(c) ADMINISTRATIVE PROVISIONS.—The administrative provisions of sections 801 and 802 of the Omnibus Crime Control and Safe Streets Act of 1968 shall apply to the Attorney General in the same manner as such provisions apply to the officials listed in such sections.

''SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this title—

''(1) $497,500,000 for fiscal year 1996;

''(2) $830,000,000 for fiscal year 1997;

''(3) $2,027,000,000 for fiscal year 1998;

''(4) $2,160,000,000 for fiscal year 1999; and

''(5) $2,253,100,000 for fiscal year 2000.

''(b) LIMITATIONS ON FUNDS.—

''(1) USES OF FUNDS.—Funds made available under this title may be used to carry out the purposes described in section 501(a).

''(2) NONSUPPLANTING REQUIREMENT.—Funds made available under this section shall not be used to supplant State funds, but shall be used to increase the amount of funds that would, in the absence of Federal funds, be made available from State sources.

''(3) ADMINISTRATIVE COSTS.—Not more than three percent of the funds available under this section may be used for administrative costs.

''(4) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of a proposal as described in an application approved under this title.

''(5) CARRY OVER OF APPROPRIATIONS.—Any funds appropriated but not expended as provided by this section during any fiscal year shall remain available until expended.

''(c) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1 percent for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title by units of local government and the benefits of such programs in relation to the cost of such programs.

''SEC. 507. DEFINITIONS.

''As used in this title—

''(1) the term 'indeterminate sentencing' means a system by which—

''(A) the court has discretion on imposing the actual length of the sentence imposed, up to the statutory maximum; and

''(B) an administrative agency, generally the parole board, controls release between court-ordered minimum and maximum sentence;

''(2) the term 'serious violent felony' means—

''(A) an offense that is a felony and has as an element the use, attempted use, or threatened use of physical force against the person or property of another and has a maximum term of imprisonment of 10 years or more,

''(B) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense and has a maximum term of imprisonment of 10 years or more, or

''(C) such crimes include murder, assault with intent to commit murder, arson, armed burglary, rape, assault with intent to commit rape, kidnapping, and armed robbery; and

''(3) the term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.''.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 35: Page 2, line 11, strike all before ''The''.

Page 2, strike line 23 and all that follows through page 5, line 2, and insert the following (redesignate any subsequent sections accordingly):

SEC. 502. GENERAL GRANTS.

''In order to be eligible to receive funds under this title, a State or States organized as a regional compact shall submit an application to the Attorney General that provides assurances that such State since 1993 has—

''(1) increased the percentage of convicted violent offenders sentenced to prison.

''(2) increased the average prison time actually to be served in prison by convicted violent offenders sentenced to prison.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 36: Page 8, strike lines 7 through 11 and insert the following:

''(1) $497,500,000 for fiscal year 1996;

''(2) $830,000,000 for fiscal year 1997;

''(3) $2,027,000,000 for fiscal year 1998;

''(4) $2,160,000,000 for fiscal year 1999; and

''(5) $2,253,100,000 for fiscal year 2000.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 37: Page 8, after line 3 insert the following:

''(d) EVALUATION.—From the amounts authorized to be appropriated under subsection (a) for each fiscal year, the Attorney General shall reserve 1 percent for use by the National Institute of Justice to evaluate the effectiveness of programs established under this title by units of local government and the benefits of such programs in relation to the cost of such programs.''.

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 38: Page 14, strike line 6 and all that follows through page 18, line 25 (and redesignate any subsequent titles accordingly):

H.R. 667

OFFERED BY: MR. SCOTT

AMENDMENT NO. 39: Page 15, strike lines 12 through 21.

Page 15, line 22, strike ''(2)''.

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PROCEEDINGS AND DEBATES OF THE 104th CONGRESS, FIRST SESSION

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Senate

(Legislative day of Monday, January 30, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Rabbi Joshua O. Haberman, of the Washington Hebrew Congregation.

PRAYER

The guest Chaplain, Rabbi Joshua O. Haberman, offered the following prayer:

Dear God, we pause in this assembly of lawmakers to acknowledge Thee as the fountainhead of all law. Thine are the laws that govern physical reality; even so, Thou hast ordained the principles by which human beings must interact in order to prosper and live securely with one another.

Enlighten our minds so that our manmade laws conform to the God-given designs for humanity. Give us the sensitivity to detect and remove injustice and the good sense to temper legislative zeal with humility to listen to colleagues of either party, to those who agree as well as those who disagree with us. Let mercy and kindness neither blind us nor altogether forsake us as we counsel and act together for the good of our country. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, the time for the two leaders has been reserved and there will now be a period for the transaction of morning business until the hour of 10 a.m., with Senators permitted to speak for up to 5 minutes each, with Senator HATFIELD to speak for up to 10 minutes and Senator BIDEN for up to 30 minutes.

At the hour of 10 a.m., the Senate will resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment.

I yield the floor, Mr. President.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The distinguished senior Senator from Oregon.

Mr. HATFIELD. Mr. President, I thank the Chair.

(Mr. ASHCROFT assumed the chair.)

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. HATFIELD. Mr. President, the American people elected the Republican Congress with the expectation that we show leadership and a willingness to make difficult decisions. In my view, the public shares the point of view that Government has grown too expensive. It has become bloated and ponderous. I believe that the programs of the New Deal and the Great Society put safety nets in place for those who are in greatest need, but those nets now strangle the Federal Government by tying up precious funding in a knot of regulations and poor management.

As I explain my thoughts on the balanced budget amendment, I want to make it very clear that I believe the deficit must be reduced and that a balanced budget is worth achieving. It is possible that I will be the lone Republican to vote against the balanced budget amendment, but I say now to my colleagues that I share my party's goals, but happen to disagree on the means.

The debate on the balanced budget amendment is not about reducing the budget deficit, it is about amending the Constitution of the United States with a procedural gimmick. This amendment that is before Members now puts new Senate and House rules regarding voting procedures into the Constitution. It does not balance the budget and gives no indication of how this might be done. Furthermore, it will not force Congress to budget responsibly. If indeed this is an amendment requiring a balanced budget, then how can we allow Congress to essentially suspend the Constitution with a three-fifths vote? This was a dangerous idea last year, and it is a dangerous idea this year as well. What other constitutional requirements would we like to waive with a three-fifths vote? Freedom of religion? Free speech? What other civil liberties shall we waive? A balanced budget amendment would allow the Congress to ignore the requirement for a balanced budget and to ignore the Constitution. This idea of Congress suspending a constitutional requirement cuts against the separation of powers principle so crucial to the foundation of the Constitution.

Given the make-up of the 104th Congress, passage of the balanced budget amendment may seem inevitable to some. Many people attribute this increased likelihood to the elections which occurred in November of last year. The election has been interpreted by some as proving that the American people are demanding that Congress balance our Federal budget. Or it may be interpreted by some who say that the Congress now has the political will to make the hard choices to make Federal revenues match Federal outlays. This is an important point, because

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Congress does not have the political will to tackle the budget deficit, a balanced budget amendment to the Constitution is nothing more than an empty promise.

As optimistic as I am about the opportunities this Republican Congress has before it, I am sobered by a recent event. I want to underscore this because I believe many have lost sight of it; that is, the demise of the Bipartisan Commission on Entitlements and Tax Reform. The Commission set out to tackle an enormous task. That task was to address the Federal Government's long-term spending commitments and to determine what the fiscal impact would be if this spending were left unchecked.

According to the Commission's report, the Commission was created,

> * * * to frame the long-term issue, educate the American people and policy leaders about the problem and potential choices, and to make specific recommendations on how to bring our future entitlement commitments and revenues into balance.

Now, Mr. President, the Commission, despite the dedication of all of its participants, was unable to agree on a specific set of recommendations on how to address these issues. In explaining the inability of the Commission to come to a consensus on this issue, a letter signed by the chairman, Senator KERREY, and the vice-chairman, Senator DANFORTH, states,

> * * * this result should not be surprising in an environment where political leaders in both parties are focusing more on short-term initiatives than on long-term, politically sensitive economic and social issues that sit on the horizon.

I submit that the inability of the Commission to reach a consensus on these very important issues is proof that the Congress still does not yet have the political will to tackle the tough issues which it will need to balance the budget.

Mr. President, that statement attributed to the Commission was made after the November elections.

It is also important to note some statistics which are contained in the budget just submitted by the President which relate to the proposal to exempt certain Federal programs from being covered by this amendment. According to the President's budget, interest on the debt, defense, and mandatory spending combined make up 82 percent of the Federal budget in 1995, and this percentage will grow to 85 percent of the budget by the year 2000. Unless reform of all aspects of Federal expenditures occurs, projected outlays for entitlements and interest on the debt will consume all revenues of the Federal Government by the year 2012. That is only 17 years away. With those facts looming before us, how can the Congress decide today what should and should not be taken off the table during the debate on balancing the budget. The Congress must look at every aspect of the budget, politically sensitive items included.

A balanced budget can come only through leadership and compromise. This compromise must come from each one of us. But, more importantly, it must come from those we represent—those who do not want their taxes raised any more than we want to raise them—those who do not want their benefits cut any more than we want to cut them. In the end there is no easy answer, and there never will be. Regardless of the procedural restraint in place, where there is political will to create a balanced budget we will create one, where there is will to avoid one, we will avoid it. The finding of the Bipartisan Commission I mentioned earlier indicates that the Congress still does not have the will to address the tough issues. As I stated during the debate on a balanced budget amendment last year, a vote for this balanced budget constitutional amendment is not a vote for a balanced budget, it is a vote for a fig leaf.

If I am skeptical about the ability of a gimmick to fix our budget, I am not skeptical about the ability of the people to demand and keep demanding that we respond to the budget challenge with real action. Real action is not a vote for an amendment to the Constitution which calls for a balanced budget by the year 2002. Real action is rolling up our sleeves and getting our fiscal house in order. Real action is working together, in a bipartisan fashion, to create a balanced budget, not to simply promise one. Real action means ending some programs—programs with popular appeal and vocal constituencies. Balancing the budget will result in an impact on each and every one of us—do we have the will to do that?

Bipartisan negotiation, leadership, and compromise have been the cornerstones upon which we have built all effective decisions on tough issues since the formation of our Government. Compromises are difficult to reach, but they are not impossible to reach. We have all just received the President's budget. The ensuing debate on the budget will provide the chance for the Congress to work together to balance the Federal programs of this budget. I hope the Congress does not miss this opportunity to debate the real issue of balancing the budget. Voting for a balanced budget amendment is easy, working to balance the budget will not be.

Although I will not support the legislation put before the Senate promoting a balanced budget amendment, I stand ready to get to the necessary work of crafting a long-term, sound fiscal policy which addresses the need to balance the budget. As chairman of the Senate Appropriations Committee I am committed to a thorough review of Federal programs to determine if they are wisely spending the taxpayers' money and whether or not programs have outlived their usefulness. Some programs are undoubtedly in need of reduction, and a few should be abolished.

But successful, long-term fiscal responsibility will not only depend upon program cuts. It demands a radical transformation in the way we do business as a government. My home State of Oregon has embarked upon a truly exciting effort to end the obsession with program compliance—and all the paperwork and bureaucracy which comes with that obsession—and instead making success government's goal. Success in training workers for new jobs. Success in getting families off public assistance. Success in reducing teen pregnancies. Government can and should do more with less. It is my hope that Congress will lead the way in making this a reality.

The Congress should not promise to the people that it will balance the Federal budget through a procedural gimmick. If the Congress has the political will to balance the budget, it should simply use the power that it already has and do so. There is no substitute for political will and there never will be. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. PRYOR. I thank the Chair for recognizing me this morning.

Mr. President, we, in the U.S. Senate, are often very fortunate to be witnesses to history as it is being made, and we often talk of the need to have a vision for America, for the country, for our Government, for our world and for our people. But very few of us ever, in and among ourselves, make history—very few of us. We often fall short of articulating a true vision, settling instead to seize upon symbols as a substitute.

With that in mind, Mr. President, this morning I rise to pay tribute today to a former Member of this body who has repeatedly made history in his lifetime and who dare to articulate a vision throughout his lifetime. That man is J. William Fulbright, a native son of Arkansas, who served with the with distinction in the Congress for 32 years, 30 of those years as a Member of this body, the U.S. Senate.

He loved this body. Senator Fulbright died early this morning, and I would like to take a few moments of the Senate's time to remind the people of this body and the people of this Capitol and certainly the people of this land of the significant impact this remarkable human being had on the lives of Americans.

J. William Fulbright was born in the year 1905 to a family that became quite prominent in northwestern Arkansas. His father was a banker, a successful businessman, while his mother ran the Northwest Arkansas Times, the newspaper in Fayetteville. In fact, Mr. President, the public library in Fayetteville, AR, bears the name of Roberta Fulbright Library.

After graduating from the University of Arkansas at Fayetteville, Bill Fulbright attended Oxford University on a Rhodes scholarship, an experience that we will see later having a profound effect upon his life and his philosophy and, yes, upon his vision.

After earning his law degree from George Washington University, he joined the antitrust division in the Justice Department where Senator Fulbright, or Bill Fulbright at that time, helped to prosecute the landmark Schechter case, the ''chicken case,'' as we call it, which helped establish the boundaries of Federal authority to regulate interstate versus intrastate commerce. It was a landmark case.

In 1936, Bill Fulbright returned to his native State of Arkansas to teach law at Fayetteville and there, 3 years later, he was appointed president of the University of Arkansas. At age 34, he was the youngest university president in America, and he gained national attention at that time for his efforts to raise the educational standards of not only the University of Arkansas but all educational institutions in America.

In 1943, Bill Fulbright won a seat in the U.S. House of Representatives, and he was appointed to the House Foreign Affairs Committee. He wasted little time making history.

In the spring of that year, he introduced a resolution that, even by today's standards, was remarkable for its brevity and its directness. Yet, it was powerful as a vision of young Bill Fulbright. The resolution read as follows, and it is one sentence:

> *Resolved*, That the House of Representatives expresses itself as favoring the creation of an appropriate machinery with power adequate to prevent future aggression and to maintain lasting peace, and as favoring participation of the United States therein.

Mr. President, this was the Fulbright resolution. It became known as that and soon it passed overwhelmingly by both Houses of the Congress.

This Fulbright resolution is credited as being one of the very major stepping stones that led to the creation of the United Nations. And with this resolution, a very young Bill Fulbright brought an official end to longstanding American policies of isolationism and made our country formally commit to becoming a willing, ongoing partner in global affairs.

Bill Fulbright did not stop there. The very next year, he served as a delegate to an international conference, at which officials from 17 nations sought to find a way to reconstruct the educational institutions of the world in the wake of the ravages of World War II. Congressman Fulbright then was unanimously named as chairman of this Congress, and he presented a four-point proposal that became the foundations for the U.N. Economic and Social Council.

In April 1945, Mr. President, delegates of 50 nations gathered in San Francisco to draft a charter of the United Nations Approval by the U.S. Senate became critical at that point, so critical that President Harry Truman came to this body and stood in the well of the U.S. Senate and pled with his former colleagues in the Senate on July 2, 1945, to persuade this body to adopt this charter. President Truman briefly sketched the history of the U.N. effort, and he mentioned the passage of the Fulbright resolution.

President Truman said that this resolution had played a major part in shaping certain proposals, and the Senate approved the charter by an 89 to 2 vote. It took effect October 24, 1945.

I might add, Mr. President, that this year in June in San Francisco, 50 years later, there will be a commemoration, or a birthday, an anniversary of the founding of the United Nations.

By this time, Congressman Fulbright had become Senator Fulbright, after winning a Senate seat in the 1944 elections. He did not rest upon his laurels, and despite being named to the Banking and Currency Committee instead of the Foreign Relations Committee, he did not abandon his interest in global relations.

During his very first year in the Senate, Senator Fulbright sponsored legislation that became one of the major accomplishments of his distinguished legislative career. This bill established a program that exchanged scholars, students, and educators between the United States and other countries, and the program eventually was called the Fulbright Scholarship Program. It drew heavily from Senator Fulbright's experiences as a Rhodes scholar and from his belief and deep feeling that academic exchange would contribute to better understanding among all countries.

Foreign students coming to the United States received money for travel and sometimes received an allowance, modest as it might be, while tuition and books were provided through scholarships from American colleges and universities.

While he fervently believed in the value of such exchange programs, Senator Fulbright also knew full well that his plan had a number of hurdles to overcome—financial, governmental, partisan. The U.S. Treasury was not in a position to directly finance such a venture at a time of massive war debts.

Meanwhile, the State Department voiced its reservations, as had Senate Republicans. But Senator Fulbright was undaunted, and he persevered. He came up with a very novel way of financing this venture by combining the need to fund it with the problem of disposing of surplus U.S. equipment overseas that had been left behind.

Under Senator Fulbright's plan, any country that purchased part of the U.S. surplus would then be eligible to participate in the exchange program. He won the support of the State Department by giving the State Department greater control over the program disbursements. He won the support of the Congress by getting an endorsement from former President Herbert Hoover. President Truman signed the Fulbright Scholarship Program into being August 1, 1946. It was another tribute to the vision and to the brilliance and to the perseverance of J. William Fulbright and his fervent belief that education and communication hold the power to save man from himself.

Bill Fulbright's career was not without controversy, Mr. President. He certainly did not shrink from it. He once suggested that President Truman resign from office, but soon he suggested that President Truman was absolutely correct, even a year later, and he defended Harry Truman in the wake of President Truman's firing of Gen. Douglas MacArthur and bringing him back from the Far East. He sparred repeatedly with Joseph McCarthy, a former Member of this body, defending against McCarthy's attacks on the Fulbright Scholarship Program and then defending himself from McCarthy's attacks and charges that he, Senator Fulbright, might be subversive because Senator Fulbright's first wife belonged to and was active in, of all things, the Red Cross.

Ultimately, Senator Fulbright led the way in getting the Senate to condemn Senator McCarthy in 1954 for his red-baiting tactics. In doing so, he helped deliver this body out of one of its sadder chapters in history.

In 1959, Mr. President, Senator Fulbright became chairman of the Senate Foreign Relations Committee, and by the time he left the Senate in 1974, he had held the title of chairman of the Senate Foreign Relations Committee longer than any previous Senator.

Yes, he was controversial. He was a controversial chairman, and he dared to insist that cold war relations should not be dictated solely by militarism. He warned all of us in 1961 that our efforts in Vietnam were doomed to failure as long as we placed our stress on military rather than long-term economic and educational assistance, a warning that now seems prophetic. He placed his reservations aside to support the Gulf of Tonkin resolution when he felt that American soldiers were threatened and then had the courage to publicly call that action his most humiliating experience. He became one of the country's most vocal critics of that war even though it cost him his long-time friendship with Lyndon B. Johnson, and many believe it ultimately might have cost him his seat in the Senate.

J. William Fulbright did not believe that his return to private life meant the end of his need to articulate a vision for his beloved America. He continued to write books and to give lectures about how he felt government could be run more effectively, how countries could better deal with one another, and about the arrogance of power.

Those of us who were fortunate to know him and even to be close to him

during some of his life during those years knew him as a man of continued brilliance, of foresight and wisdom, and he continued to command our respect.

Mr. President, when the Fulbright Program was threatened, when it was endangered by cuts, he took to the phones in recent years to galvanize support. He roamed the Halls of the House of Representatives and the Senate for his beloved Fulbright Program. After all, all over the world, many leaders of the free world had been called Fulbright scholars.

We will miss this great man, Mr. President. I first met him when he was speaking at the Ouachita County Courthouse in Camden, AR. The year was 1944, and he was seeking his seat in the Senate. I was 10 years old at that time, but I could still take you to that corner in Camden, AR, where I first had the opportunity and the privilege of meeting J. William Fulbright. I just knew that I had met a great person. And through these many years, I was never quite able to ever bring myself to call him ''Bill.'' To me, he was and he will always be Senator Bill Fulbright.

He spent his life attempting to end the obsession with war. He spent his life attempting to educate us that using war as the solution for our conflicts was a course of action that would bring us nothing in the end but sorrow. We will miss this great man, this great Senator, and this great person who has contributed so much to peace in the world and understanding among all men.

Mr. President, I thank the Chair. I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware, under the previous order, is recognized to speak for up to 30 minutes.

Mr. BIDEN. I thank the Chair.

Before I begin what I wish to speak to, let me compliment my friend from Arkansas. I had the great privilege of being a young Senator serving with Chairman Fulbright. I did not know him nearly as well, nor was I as close to him, by any stretch of the imagination, as my friend from Arkansas, but it was a real honor and privilege and, let me say, something that I tell my children and will tell my grandchildren and I am sure they will tell their children, that their father and grandfather had a chance to serve with such a great man.

I will tell you one anecdote in my relationship with him. I remember him as a young man. I had just been elected. I was 29 years old. I had not turned 30 yet. I came down here to meet with what was then referred to as the old bulls of the Senate. I went around and made my obligatory stops at the offices. Senator Fulbright asked me what I wanted to do, and I said how very much I would like to be on the Foreign Relations Committee.

I say to my friend from Arkansas, back in those days I do not think there was anybody on the committee under the age of 55 and it was only senior Senators, very senior Senators who were on the committee, made up of great men like Jack Javits and Mike Mansfield, Bill Fulbright, Stuart Symington, Hubert Humphrey, et cetera. And I realized it was a reach, and I did not expect to get on as soon as I did. But I just wanted to let him know.

He said, ''Why do you want to be on the Foreign Relations Committee?'' I said, ''Mr. Chairman, one of the great concerns I have is our foreign policy, American foreign policy. It is my avocation, my interest. Quite frankly,'' I said, ''Mr. Chairman, if as a Senator I would not be able to deal with foreign policy, there would be no reason to run for the U.S. Senate; I might as well run for Governor. But the reason I am here is because I care about that.''

He looked at me, and he said, ''Well, I understand your sincerity. Let me think about it.'' So I saw him coming over on the subway a little while later, a week later, and he said, ''I thought about it.'' He said, ''You really want to affect foreign policy?'' I said, ''Yes, I would like to eventually, Mr. Chairman.'' He said, ''Why don't you go see my colleague, Senator McClellan.'' I said, ''I beg your pardon, Mr. Chairman. He is the No. 2 man''—then was about to be the chairman—''of the Appropriations Committee.'' And I said, ''That's appropriations.'' He said, ''Yes, but that's where foreign policy is made.''

I will never forget that.

Mr. PRYOR. A good story.

Mr. BIDEN. And he did support me, I might add, to go on Foreign Relations. But he told me if I really wanted to affect foreign policy, I should go with the other Senator from Arkansas, the chairman of the Appropriations Committee.

TRIBUTE TO J. WILLIAM FULBRIGHT

Mr. BUMPERS. Mr. President, I come this morning sadly to eulogize one of the truly great political and intellectual giants of my home State of Arkansas. In a way, it is especially difficult for me because in 1974 I ran against him for the Senate.

J.W. ''Bill'' Fulbright had been a Congressman, president of the University of Arkansas, U.S. Senator, chairman of the Foreign Relations Committee, and an icon to millions of people, not just in Arkansas, but all over the world.

In 1974 Senator Fulbright had served in the Senate for 30 years and was prepared to run for his sixth term. I was Governor of my State, completing my second term, and I can tell my colleagues that being a Senator is infinitely more enjoyable and less stressful than being Governor. I was not interested in running for the House of Representatives, nor was I particularly interested in returning to the practice of law.

While I had been a great fan of Bill Fulbright's, I was late in opposing the war in Vietnam, long after he opposed it. I had admired his courage in speaking out against that war almost from its inception. I suppose now would be a good time to say that he once told me that his vote on the Gulf of Tonkin resolution was the worst vote he ever cast, and that he regretted it.

But I had to make a decision about the Senate race, and I had to make it by March 1974. So I made what was one of the most difficult decisions of my life—to run against him in the Democratic primary. There are people, needless to say, who never forgave me for it, and I understand that.

I do not mean this to sound self-serving, but it is not terribly uncommon for people to come up to me and say, ''How does Arkansas elect the quality of people that it does?'' And they always include Bill Fulbright's name. We have a saying in Arkansas that we defeat better men than most States have a chance to vote for.

So while our relationship was not close even before that primary election, it was certainly not close afterward. Happily, about 5 years ago, we had a 2-hour luncheon, which I would have to say was one of the highlights of my life. It was not spectacular from a content standpoint, but we obviously liked each other and regretted that we had not been closer the first 15 years I was here.

Out of that luncheon grew a very, very warm friendship, not only with him, but with his beloved wife Harriet, who is one of the truly superior people I have ever known.

I might say at this point that Harriet has been as loyal, faithful, caring, and compassionate during Senator Fulbright's illness as anybody could possibly be.

Mr. President, I will introduce more formal remarks into the RECORD sometime in the near future, but I hastened here this morning after his death last night to say that I know I speak for all of the people of my State in expressing our genuine sadness at the loss of this truly great man.

Bill Fulbright believed in public service. I was just a youngster when he was first elected to the Senate, but in the time I did know him, while I was Governor and in the past few years, I never heard him express any idea that was not noble, an idea that was not motivated by his commitment to his country, or an idea that would not inspire our young people to choose politics as a career. Though he did not suffer fools gladly, he was not a cynical man.

I came here to say he was a great icon, a great public servant, and a brilliant man who loved his country beyond the love of anything else. I will personally miss him and the warm relationship we had been enjoying.

I yield the floor, Mr. President.

CRIME AND JUSTICE IN AMERICA

Mr. BIDEN. Mr. President, I rise this morning to begin speaking on the issue of crime and justice in America and the Democratic crime bill, the Clinton

crime bill that was passed last year, and the proposals to change that crime bill. I realize there is sort of a frenzy underway here where, to use the old expression, the freight train is rolling down the tracks, the contract is underway, and we are in a great hurry to change everything here.

I am going to spend a half hour or so this morning, and then future mornings, as we approach the debate on the Senate floor on the changes in the Biden crime—in the crime bill, and try to lay out some of at least what I see to be the facts.

Last year, Congress completed a 6-year effort and enacted a major anticrime law in which the Federal Government launched a bold and multifaceted attack on violent crime and its roots back in our communities, not here at the national level. For the first time, the Federal Government made major commitments to help States and localities, the places where 95 percent of all the crimes are committed and all the crimes are prosecuted. We got involved, to help them redress the greatest shortcomings in our system. And after years of study and overwhelming consensus, it was agreed what those shortcomings in our criminal justice system were and are.

No. 1, first and foremost, there is a shortage of police out on the streets of our communities. That is number one.

No. 2, the shortage of prison space and the need for sentencing reform at the State level.

No. 3, the shortage of effective responses to drug offenders.

No. 4, the lack of serious response to rape and family violence.

No. 5, the lack of safe places and positive activities for those children referred to as at-risk children, who grow up surrounded by illegal drugs, crime, and violence.

Everybody I am aware of agrees these were the problems we had to speak to. I might point out we pretty well have taken care of—which is a much easier problem to take care—the Federal side of that equation. We have enough Federal prison space in the Federal prison system. When you get sentenced, you go to jail for the totality of that term. I was the coauthor of that bill. In the Federal courts, if a judge says you are going to go to prison for 10 years, you know you are going to go to prison for at least 85 percent of that time—8.5 years, which is what the law mandates. You can get up to 1.5 years in good time credits, but that is all. And we abolished parole. So you know you'll be in prison for at least 8.5 years.

But in the States, the average amount of time people serve once sentenced in the State court is 43 percent of the time. So on average, in the States—my State being one of the exceptions, the State of Delaware, which essentially has the same records as the Federal Government; they keep people, on average, 85 percent of the time—but most States keep people in jail, if they get sentenced to 10 years in the State court, they only serve 4 years 2 months in a State prison.

So we fixed it at the Federal level. This was to help begin to not send rules or regulations or mandates to the States, but to send them money to fix the problems. It was to help them fix the problems I have stated, which everyone agreed on: Lack of police, lack of serious response to rape, et cetera.

Now, in its breadth, the crime bill we passed reflects the lessons learned over the past decade as we studied crime and law enforcement and worked on passing this law; namely, that all of the shortcomings have to be addressed at one time. Correcting one without the other is futile because crime knows no easy single answer. What we found out in the States and what we found out in our earlier experience in the Federal Government is when you increase penalties and you do not increase the number of prison spaces, you do not do much. If you put more cops on the street, they make more arrests, you increase the penalties, and you do not have places to put the felons, then the people just walk. So now you have convicted felons who are out on the street, not having served their time. So we learned we cannot just deal with one piece of it.

The anticrime law we passed last year addressed each of these shortcomings, as I will detail in a moment. In its approach, as well as in many specifics, the law was a result of bipartisan efforts—at least at the outset.

The law is already at work; $1 billion has already been awarded to the States and localities to put almost 15,000 new police officers on the streets in the community policing program. That is already done. The law only passed last fall and already almost 15,000 cops, new cops, brand new—not supplanting cops that were on local forces, almost 15,000 new local cops that were not there before—within the next several months, after they finish their training, are going to be on the streets in the United States of America because of this crime bill. Dollars, under the drug court program, the Violence Against Women Act, are going to be awarded over the next few months.

I hoped I could spend the next several months watching over the smooth and speedy implementation of this law, as well as turning my focus to the substantial issues that still lie before us. Just to name two priorities, we must turn all our talk about our war on drugs into a real battle, and we have to reform our juvenile justice system as it struggles to deal with violent, youthful offenders unlike any the current system was designed to handle.

That is work still to be done. I thought we would be on the floor here this next year and the following year, dealing with finally doing something real about the drug problem and doing something more about juvenile justice because when I wrote the crime bill, I never advertised it as—as my grandfather would say, this is not a horse to carry the sleigh. The whole sleigh on crime is more than what the crime bill was about, and we have said that, frankly, from the beginning. What we did, we thought we were going to have in place; we thought we were going to be just implementing.

Very soon, the Senate will embark on a debate, not about new challenges, but of the anticrime law we just enacted last fall. The House is already taking apart this law piecemeal.

What is motivating a retreat on the bill that contained so many provisions drafted and once supported by Republicans, as well as Democrats, quite frankly, escapes me. I will let you draw your own conclusions. But I ask you walk with me through the changes the Republican leadership seeks to make in the anticrime law. I suspect the merits will speak for themselves.

At the same time, I want to make clear what I will fight for and what I will fight against, as we revisit the issues debated in the crime bill last year so thoroughly. Let me turn first to the central provision of the present new crime law, a program designed to address the first major law enforcement shortcoming I mentioned, a program that deserves, in my view, to be preserved and one I will fight to save from the Republican chopping block. Let me speak first about that program.

That program puts 100,000 new police on the street. I do not know a responsible police leader, an academic expert, a public official who does not agree that putting more police officers on our streets back home and in our neighborhoods is a good idea, a good idea that goes by the name of community policing. The true innovation of community policing is that it enables police officers to pursue dual goals. They are better positioned to respond to and apprehend suspects when crime occurs. But they are also better positioned to keep crime from occurring in the first place.

Today, too many police officers are strangers in their own communities. From headquarters or cruisers, they respond to radio calls only after crime has occurred, forever behind the curve. Police officers are a part of their community. Community police officers will be a part of their community. They know their community—the hot spots, the troublemakers, the gang members—and they can work to prevent crime in the first place.

I do not want to go back to a nostalgic and romantic view of what used to be the case. But most of us who grew up in anything that remotely resembles a city or a town that had an identity when we were kids, those of us in this Chamber, when we were kids, we knew the local cop. He walked down the street. He knew everybody. He knew who owned what store. He knew the kids who were troublemakers and those who were not. We knew if we got into trouble, he would call our mothers or call our fathers.

Things have not been working too well is for a whole range of reasons—mainly the shortage of bodies—but one of the reasons is that we have moved away from community policing. In my own State, community policing took the form of foot patrols with a particular focus on breaking up street-level drug dealing that had turned one of Wilmington's neighborhoods into a crime zone. These efforts successfully suppressed drug activity without displacing it to another part of the city. The Wilmington example fits the shorthand description often used for community policing; that is, putting cops on the streets to walk the beat. But in practice, community policing takes on many forms, depending on the needs of any particular community.

The form of community policing takes various forms. From community to community, the results coming in from the field are all the same. Community policing works. In New York City, a place where crime can seem insurmountable, the police commissioner began an aggressive community policing program that contributed to a significant decrease in serious offenses last year.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). The time for morning business has expired.

Mr. BIDEN. Mr. President, I do not want to ask unanimous consent to continue morning business if my friends are ready to go on the bill. I do not want to do that. But, if they are in no hurry, I would ask unanimous consent to continue for another 15 minutes.

Mr. CRAIG. Mr. President, there others who are seeking time for morning business, including myself.

How much more time does the Senator feel he needs?

Mr. BIDEN. About 15 minutes.

Mr. CRAIG. All right. Mr. President, I ask unanimous consent that we be in morning business until 10:45 with 15 minutes allotted to the Senator from Delaware and 15 minutes allotted to the Senator from North Dakota, and the balance of the time for this side, until the hour of 10:45.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Delaware.

Mr. BIDEN. I thank my colleague from Idaho.

Mr. President, with the New York City community policing, since they instituted community policing, murders have dropped 19 percent, robberies have dropped 16 percent, burglaries went down 11 percent, and auto thefts were reduced to 15 percent.

In Tampa, FL, police committed themselves to moving crack dealers off the street corners and forged an unprecedented alliance with the citizens of the community to achieve that. Through a combination of standard buy-bust operations, new outreach to the community involvement of other city agencies and local media, the dealers have been driven off within a year and the streets within the targeted area returned to normal.

In New Haven, CT, one of the most innovative police chiefs in the Nation, Nick Pastore, with his aggressive community policing effort, led to a 10-percent drop in serious crime in the year 1992, the last time we have the figures.

Policing community techniques were introduced in the New York subway system 4 years ago, and the results have been phenomenal. Robberies have fallen by 52 percent. In the Inglewood section of Chicago, community policing is credited with a 6-percent decrease in violent crime last year.

The new anticrime law enacted last year targets $8.8 billion in funds to State and local law enforcement to be used specifically to train and hire 100,000 community police officers across the Nation. Like community policing itself, this program works. Already, the Justice Department has awarded almost 15,000 new officers to State and local communities.

All of these are local officers with no Federal control, no Federal mandate. These are local cops for which the Federal Government is kicking in $70,000 per cop.

In short, in only the first 6 months following the passage of the new crime law, almost 15,000 new police officers will be on the street. So much for the critics who claim that the new crime bill would fund only 22,000 police officers in 6 years. We have almost 15,000 that will be on the streets, new ones, in 6 months; not 22,000 in 6 years as our critics say. In fact, the law will fund 15,000, as I said, in the first 6 months alone, and we will be well on the way by the time the first year is over to surpassing the 20,000 mark.

The effectiveness of the cops program derives from its design. The cops program is a result of setting a precise goal, and enacting in a responsible program to achieve a precise goal. When he took office, President Clinton called on us to put 100,000 more police on the streets over the next 6 years.

To put it another way, we have roughly 530,000 local police officers in all of America, State cops to town cops to county cops. At the end of the process, there will be 630,000 cops on the streets of America. Already, that number will be up by 15,000 at the end of the first 6 months.

So he asked us to put 100,000 cops on the street. We then designed a program that funds that effort and that effort alone. The Federal dollars were awarded for the sole purpose of hiring new police officers so that in 6 year's time America will have 635,000 police doing community policing.

The position of this program stands in stark contrast to the Republicans' new law enforcement block grant which would spend roughly the same amount of Federal funds—to be specific, $8.5 billion—without guaranteeing a single, solitary additional cop back home. Read their proposal. Money is sent, not like it is now directly to a police department to hire a cop locally. Money will be sent to Governors back in our home States. With that money the Governor, out of that $8.5 billion we are going to send to the Governors now—not to the police—they will be able to hire or pay overtime to undefined law enforcement officers, or to procure equipment, technology or other material that is directly related to basic law enforcement functions, such as the detection or investigation of crime or the prosecution of criminals.

That may sound fine on the surface. But let us look at it a little bit closer. Let us call this what I call the first weakness of the Republican change. I call it the officer loophole because the Republicans do not define law enforcement officers as career officers dedicated to enforcing the criminal laws, as it is defined in the Biden crime bill. Indeed, the Republicans do not define law enforcement officer at all in their new crime bill.

Let us call the second weakness what I call the equipment loophole. The Republican proposal would fund any equipment or technology related to law enforcement functions, and those functions are specifically defined to include prosecution.

These two loopholes mean that the Governor of a State who will get the money now—it will not go to your local police department. It is the same old bureaucracy that is going to be set up. Right now all the police department has to do, they do not have to go to get anybody's permission. They can make an application. Once they check with their local government, their local civilian officials and send an application directly to the Attorney General of the United States, and the Attorney General of the United States can send back directly the money to hire those new local cops. But now we are going back to the bad old days, which is the Governors sit there and say, This is what I want to do with the money. Send me the money. I will take care of it. The two loopholes I mentioned means that the State can spend all of their money to hire prosecutors, all their money to improve the court systems or anything related to law enforcement. Arguably, the money could even be used to hire officers to enforce the civil laws as well as the criminal laws in the State. For example, the Governor could use the money to hire public health officers; they could use the money to hire the public health officers to inspect restaurants and businesses.

Equipment as defined by the Republicans could include not merely police equipment, which the new anticrime law already grants a portion of funds to provide for new equipment, but it could—in this case, they could use this money, which was heretofore only to

be used to hire a cop, to buy computers for prosecutors or judges or telephone booths or lighting or whatever the Governor decided would relate to law enforcement functions. And 100 percent of the Federal funds could be used for this equipment, or to fund prosecutors, or to pay judge's salaries, without one single penny having to go to hire an additional cop.

I support many of these functions. In the crime bill, for example, we provide for a significant amount of money to the States to hire State judges. We put in money for new equipment. But we segregate, in the present crime law, almost $9 billion. It says you must hire a sworn officer, that is somebody who is a criminal law enforcement officer. That is all you can do with the money now.

This new law proposed by the Republicans will, in fact, guarantee that we will not get 100,000 cops on the street. I am opposed to replacing the program that guarantees 100,000 new cops on our streets with the proposal that could spend over $8 billion in Federal funds, without putting any new cops anywhere.

The Republican proposal suffers from an additional fatal flaw. It requires no fiscal accountability or responsibility. I find this fascinating. They are talking about tightening the budget, tightening spending. Here they are going to take over $8 billion, with no accountability, and send it back to the States. Why do we not just have plain old revenue sharing? Why call this a crime bill? The bill uses a formula to simply hand out Federal funds to officials, with no strings attached and no accountability. That sounds great, does it not?

Well, the anticrime law requires that States and localities match Federal grants with their own money. And this match requirement is not born out of a lack of generosity on the part of the author of the bill, me or anybody else who voted for it. The offer of $8.8 billion in Federal funds to assist what is purely a State and local function can hardly be characterized as not being generous. No, the reason I wrote in a match was to require accountability, a match required born out of experience.

I started my career as a county councilman, and I know how local officials work. God bless them, they have a tough job. We would sit there in budget meetings when I was a county official, councilperson, and somebody would say, well we are going to buy a new park, or do this in the park, or we are going to add two more police, and I or somebody else would say, how much is that going to cost? I am not exaggerating when I say the answer would come back that it will not cost anything. Wait a minute, you just said we are going to hire two new cops. They said, that is Federal money. That is Federal money, and it is not going to cost anything. Well, it is my tax dollars.

So I found when a county or city has to put up some money for a program, they think twice about whether or not they really want it. Remember the allegations in the old LEAA Program, where police departments are out buying Dick Tracy wristwatches, purchasing riot control gear in small towns that never even thought about a riot? In the LEAA Program, we went a long way to begin to work toward using our money wisely. We built in three key concepts. We targeted law enforcement to aid specific programs; required a match of one State or local dollar for every three Federal dollars that we spend, and required extensive State plans to explain what they are going to use the Federal dollars for. We do not demand that they do anything, except tell us what they are going to use them for.

The resulting law was what we called the Byrne Grant Program, which is a predecessor to this crime bill, a fiscally responsible, well-run program that continues today. The same concept marks the essential elements of the anticrime law for 100,000 cops. In fact, we even improve the Byrne concept in one respect. We permit localities, not just Governors, to apply directly for the funds to ensure that the money gets where it is most needed.

I think my Republican colleagues should go back and look at the experience of LEAA before they pursue their proposal of block grants for police and any other purpose. Their proposal is an $8.5 billion giveaway of Federal dollars with no specific goals, with loopholes, and loose language that would permit every cent to be spent without any increase in police on the streets to show for our investment at the end of the 5 years.

In contrast, the anti-crime law enacted last year, which was bipartisanly constructed in the first instance, builds on the LEAA lessons. It sets specific goals, provides a simplified application, requires accountability for evaluation and matching requirements. In addition, the matching requirement is set up so the local share increases from year to year. In this way, we ensure that local dollars are to be used responsibly.

I see my time is coming to a close. Those who say, wait a minute now, BIDEN, under your bill that is now law, you required the States to kick in money. I say, yes, that is right. They say, well, in our bill we do not. Well, I ask a rhetorical question. This bill they are going to offer is a block grant for 5 years. Say they go out and hire cops for the local communities with block grant money and we pay for all of it for 5 years; what happens at the end of 5 years? The Federal Government is guaranteeing that we are going to take over local law enforcement costs for the rest of eternity? Is that what we are saying? No. In 5 years, the mayor has to go back to the taxpayers and say, hey, now we have 50 cops on the street, 10 are being paid for by Federal dollars. We no longer have those Federal dollars. Now I have to raise your taxes or cut the 10 cops.

Is it not wiser to make that decision at the front end, where you have to go to the voters or your community and ask, do we want more cops? The Federal Government will give us $70,000 to start off here, to keep this cop for 5 years, and we are going to have to kick in probably $50,000 over that 5-year period. At the end of the process, we have to pick it up. What do you want to do? I think it is time we asked citizens to be as responsible as legislators should be and are not. That is, if you want to have more cops, it costs money, flat out. It costs money.

The local officials should have the guts to go to their constituency and stop talking about how tough they are.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. CRAIG] is recognized.

FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. CRAIG. Mr. President, along with Senators HEFLIN, MURKOWSKI, GORTON, DOMENICI, BURNS, PACKWOOD, KEMPTHORNE, and a statement of support from the minority leader, Senator DASCHLE, I will, in the near future, introduce the Federal Lands Act Forest Health Amendments of 1995.

Mr. President, for some time I have attempted, along with others, to bring to the attention of this Senate the serious deterioration of this country's forest lands from a variety of ills, including drought, insect and disease attacks, and natural wildfires. We have come to understand that these problems, in combination, affect millions of acres of Federal, State, and private forest lands, and they have advanced to a point that they simply demand the attention of this Congress.

It should be no surprise to any of us. Numerous recent reports from the scientific community, one of them called ''Assessing Forest Ecosystem Health in the Inland West'' and the ''Report of the National Commission on Wildfires,'' predicted intense wildfire events as a consequence of the forest health problems that this legislation will speak to. Many believe these costly fires will continue, unless there is an aggressive action by man to work with Mother Nature in attempting to deal with this situation. Scientists and forest managers met in Sun Valley in my State in 1993, and warned us with a very terse message, that we had ''A brief window of opportunity, perhaps 15–30 years in length''—and in the life of a forest, that is but the blink of an eye—to reverse this very unnatural cycle of fire that we were moving into.

And, of course, last summer, it was so vividly dramatized in the inland West, as 4 million acres of unhealthy timber burst into fire, killing people, destroying homes, destroying ecosystems and wildlife and damaging riparian areas, and at a cost of $1 billion to the Federal Government in its attempt to suppress these fires, when,

in many instances, they simply had to back away and watch the violence of the fires and the destruction that occurred.

Do not be misled by those who proclaim that wildfire is beneficial to the environment because of a natural mosaic of vegetation that would be created. The 1994 fires were way outside the normal and the historic range. Damage to every component of the environment was so extensive that it will really cost us hundreds of years to begin to repair that kind of damage. A draft environmental impact statement just released by the Boise National Forest in my State documents long-term, severe damages to watersheds, soils, fisheries, and wildlife from last summer's fires that will be, as I mentioned, decades and decades and decades in repair.

The only way we can deal with this serious problem is to develop and implement equally serious management strategies and allow our national forests our foresters in the scientific community to break the cycle of the forests that are in decline with this kind of mortality as a result of the disease, the insects, and the drought.

My bill, titled the ''Federal Lands Act Forest Health Amendments of 1995,'' is an attempt to do just that. It is now gaining bipartisan support. We will want to move it very rapidly through the two committees of jurisdiction and bring it to the floor of this Senate for debate, while a similar bill will move in the House.

This bill will set the management procedures in place to identify the highest priority forest health problem areas on the national forests, the public lands managed by the Bureau of Land Management and the public domain wildlife refuges. Once the areas are identified, this bill requires the agencies to take aggressive action to restore forest health. Most notably, the legislation would relieve some of the procedural impediments which have tied the agencies' hands. Our aim will be to alter unhealthy forest vegetation through thinnings and other cultural practices so the forest more nearly conforms to the historic patterns which once prevailed. Once there, the forest ecosystem can be maintained through scientific management.

I see this forest health legislation as a long-term solution to the problem at hand. Years of concentrated effort will be needed to treat millions of acres now in trouble and restore them to conditions which are within the expected natural patterns and cycles. Though our western forests are in particular crisis now, forest health problems have surfaced in southern forests as well as in the northeastern and Lakes States, and this legislation would be very useful in those circumstances.

As with most difficult situations, there is an opportunity here. As forest health activities are implemented, benefits will be gained for fish and wildlife habitat, water quality, scenic values and for all components of the ecosystem. That is the end result we want. At the same time, the activities needed to accomplish that end will generate forest products, jobs, and economic returns to the local economies which have been badly hurt by the shrunken timber supply.

We do not need to be risking lives and property fighting these unnatural wildfires. We don't need to be spending a billion dollars on fire suppression when we could be taking effective preventive action to reduce risk. We do not need to watch our natural resources go up in smoke when there is a critical need for wood fiber to sustain our industry and communities. Forest health crises are preventable, and I am committed to bringing solutions before the Congress. That is why I will introduce this legislation.

Our time, our window of opportunity, as I mentioned, is very narrow. I hope that my colleagues will join with me in a serious effort at working with the Forest Service to resolve the crisis that our forests are now in.

Yes, for the time being, we are receiving abnormally high moisture levels in the inland West. But still, over the long period of drought, the accumulated moisture continues to decline, and along with that is the direct decline of the forests' health. Clearly next year, we would set ourselves up for another summer of fire and destruction and, tragically, the possibility of life lost, the kind that we saw in Colorado, in my State of Idaho, in Oregon, in Montana, and certainly in Washington and California this past year.

Something has to be done. I believe my legislation will start us in that direction. And it would be foolish for this Senate, this Congress, this administration to simply set idly by and say, ''Oh, but it is Mother Nature at her finest.'' It is Mother Nature at her worst, because part of the problem that we are dealing with is the result of our inability to manage fires over the years and our failure to recognize that there was a national ebb and flow of the ecosystem that we have severely damaged and it will take our work, our efforts, and our cooperation with Mother Nature to begin to right this process.

So I hope my colleagues will join with me in this effort and become cosponsors of the legislation that we will be introducing.

Mr. GORTON. Mr. President, legislation will be introduced soon that takes our Nation an important step closer to avoiding devastating wildfires in our national forests. I am proud to be an original cosponsor of the legislation to be introduced by the senior Senator from Idaho—the Forest Health Amendments of 1995.

Last year, wildfires raged across the Western United States. The fire season started in early summer and by the time the smoke had cleared nearly 3 million acres of land in the Western United States had burned—double the amount of 1993. In the States of Washington and Oregon alone, nearly 1.4 billion board feet of Federal timber burned.

Last summer, after listening closely to the concerns of Washington State residents, I offered an amendment during the House-Senate Interior Appropriations conference to provide the Forest Service with the authority to expedite these salvage sales. Unfortunately, I could not convince the members of the conference committee to include my amendment in the report. And, unfortunately, the burned timber is still sitting on the ground.

Today, most, if not all, of the 1.4 billion board feet remains on the ground in Oregon and Washington. Obviously not all of the 1.4 billion board feet of timber that burned last summer would be eligible for harvest. According to the Forest Service calculations, usually 50 percent of the total volume burned in a wildfire can be salvaged. Consequently, roughly 700 million board feet is eligible for some type of salvaging activity. But, once again, the Forest Service has made only token efforts to prepare the sales necessary to get in and get up this valuable timber. The urgency is based upon the fact that burnt, dead, or dying timber loses its value rapidly.

The ramifications of inaction by the Forest Service in preparing these sales is twofold: These sales will provide small sawmills and logging companies in the Northwest—literally on verge of going out of business—some much needed wood supply. Beyond this, it is critical to remember that if the timber is left to rot on the forest floor it will be setting the stage for yet another devastating fire season this coming summer. Mr. President, inaction on the part of the Forest Service not only hurts working people, but it also hurts the environment.

Regrettably, inaction is exactly what we are getting from the Forest Service. In response to the wildfires from last summer the Forest Service began to study the forest health issue. Last December the Service issued a report on its study entitled the ''Western Forest Health Initiative.'' The report highlighted 330 forest health-related projects in the Western United States. The majority of these projects, however, were not developed in response to the wildfires of the summer. For instance, in Washington and Oregon, only 40 projects were identified in response to the summer fires. Of the 40 projects, only a few were actual salvaging operations.

Mr. President, the people in my State are asking themselves ''why?'' Why isn't the Forest Service going into the burned out areas and getting up the timber? Why isn't the Forest Service restoring the health of our forests, and putting people back to work? The answer is, of course, in large part driven by the fact that the Forest Service will most likely go to court if it begins

even a modest effort to conduct salvage operations.

Mr. President, the people in my State are frustrated. They are frustrated with a Federal Government that is so petrified by the potential filing of law suits that it will not undertake even the most limited of management activities in our Nation's forests.

The legislation to be introduced by the Senator from Idaho would ease some of this frustration. The Forest Health Amendments of 1995 would require the Secretaries of Interior and Agriculture to conduct a yearly review on the status of the health of our Nation's forests. The bill would continue to grant the right to appeal a project, but would limit the timeframe for such an appeal. The bill grants the authority to allow for an environmental assessment on an individual project versus the more costly and time consuming environmental impact statement. The bill would also allow for the Forest Service to prioritize forest health needs as an emergency or high-risk area.

The legislation to be introduced will not be enacted soon enough to conduct salvage operations in response to last year's wildfires. This Senator has already begun to work with his colleagues in the Northwest congressional delegation to put together an amendment that will address the salvage sitting on the ground from last year's fires, and other short-term timber supply issues for the region.

Mr. President, this legislation will provide the Forest Service with some much needed direction. We cannot, and should not, stop managing our forests because of the obstructionists tactics of a few groups and individuals. If we do, we will be confronted with devastating wildfires—like last year—on an annual basis. I encourage my colleagues to work with this Senator and the Senator from Idaho to enact this legislation, and bring some common sense back to the management of our Nation's forests.

Mr. DOMENICI. Mr. President, my colleagues should be well aware of my sentiments toward a runaway train, known as the Federal bureaucracy, and its effect on individuals and small businesses in this country through the regulatory process. I have spoken of this situation, here on the floor of the Senate, in the past. My colleagues should also be well aware of my commitment to the principle of multiple-use regarding Federal lands. This principle was established in the Federal Lands Policy and Management Act of 1976, known as FLPMA.

Today, I am here to support an effort to streamline a part of the regulatory and decisionmaking process regarding the management of federally controlled forest lands. In the course of this section, I am also hopeful that we will aid individuals and small businesses whose livelihoods depend on the sustainable development of our forest resources.

Mr. President, I am here today as a cosponsor of the Federal Lands Act Forest Health Amendments of 1995, to be introduced by Senator CRAIG. These amendments are, indeed, needed, as we all witnessed the tragic losses of life and property to fires that devastated many areas in the Western United States this last year, including parts of New Mexico.

In regard to the issue of forest health addressed by these amendments, I have read report after report, each describing how the state of affairs in the forests administered by the U.S. Forest Service and the Bureau of Land Management are in decline. At the same time, I have heard over and over how every step that he professional land managers we have entrusted with the care of these treasured lands is challenged through either administrative appeals or in the courts. These endless challenges, no matter how well intentioned, have tied the hands of the land management agencies to the point that almost every activity related to scientifically supported treatment of even the most devastated areas is effectively halted.

Mr. President, this must stop. I believe that this legislation will be a significant benefit to our forests, and the people who live and work in and around them. It will establish criteria that will allow the responsible agencies to place areas most in need of corrective management in a high priority designation of either emergency or high-risk forest health areas. Further, when we say emergency, we mean emergency. One of the criteria for designation as an emergency area is that 50 percent of the trees are either dead or will likely die within 2 years. Let me repeat that standard for emergency designation: half of the trees are either dead or will soon die.

Included in the decision to designate an area as a forest health emergency or high-risk area will be a listing of the authorized corrective activities that will be undertaken to improve conditions in the affected areas. None of these management activities will be beyond the scope of actions already approved in the appropriate land management plan.

This is an innovative approach to expedite the bureaucratic process, and one that will create a finite time from proposal to actual on-the-ground activities. This should, by no means, indicate that we here in Congress are trying to keep the public from participating in the process. We provide for a public comment period following the publication of the proposal in the Federal Register. We are also not attempting to cut off the opportunity for appeals. A period during which appeals can be filed is also required. We are quite simply providing a process by which constructive and corrective actions can be applied in the most dire of circumstances, where the continued inaction that occurs under the current system can only result in further degradation of our treasured forest resources.

Finally, Mr. President, this legislation will require the Secretaries of Agriculture and the Interior to report annually to the Congress on activities carried out under this provision. In this report, the Secretaries will also inform the Congress of the current status of forest health on Federal lands, describe problems that have been encountered over the previous year, and indicate initiatives expected for the next year.

In closing, I want to commend Senator CRAIG for his commitment to resolving the problems faced by the Federal land management agencies, and for his leadership in bringing the issue of forest health to the forefront here in the Senate.

Mr. KEMPTHORNE. Mr. President, first, I would like to commend my colleague, Senator CRAIG, for bringing this issue to the floor of the Senate for debate.

As some of you will remember, last summer catastrophic forest fires swept across the west. Governors were forced to declare states of emergency. We saw devastating loss of life—and I ask you to recall for a moment the 14 firefighters who lost their lives in Colorado, there were other as well—of property, of habitat, and of economic resources that rural communities in States like Idaho depend on.

Some of these fires burned so wild and so hot that we could only wait for winter snows to put them out. But when the final fires were controlled, and the tallies taken, the numbers showed that my State of Idaho suffered the most timber lost of any State—over 1.5 billion board feet—enough timber to build over 137,000 homes, and to provide jobs for up to 35,000 people.

Idaho was not alone. Our neighboring States suffered as well. The Forest Service alone spent $757 million fighting fires across the west. That does not include the expenses by BLM, the States, and other agencies.

I would like to be able to tell you that this past summer was a fluke and that it hadn't happened before, and won't happen again. But that is not the case. These forest fires will come again. High fuel loads, long-term drought that made our forests susceptible to disease and insect infestations are all still threatening our forests. Huge stands of dead and dying timber are ready and waiting to go up like a tinderbox again next summer or the summer after that.

We cannot bring the rain to end the drought—that talent is in higher hands than ours. But we can take action with the tools that were given to us. We can manage those forests so that they provide the timber, the habitat, and the recreation opportunities that we depend on. This bill will give the Forest Service the flexibility to manage forests in a timely manner to get salvage sales out within the window of opportunity.

Keep in mind that not all of that 1.5 billion board feet of timber damaged in the fires had been approved for timber harvest. Far from it. The local forest supervisors have taken into consideration habitat and other environmental requirements, and have set aside possibly as much as 90 percent of the timber that was burned to meet other needs besides economic ones. But the remaining timber is harvestable, and if we do not expedite the handling of that timber, and harvest it within the limited 2-year window of opportunity, then the value of that wood is lost.

Rural communities of Idaho and other western States depend on the income from these Federal sales, for direct revenue and income for schools and county roads. This letter from the Cambridge School District explains the need of Idaho schools for a dependable, steady timber supply. I ask unanimous consent that the letter be made part of the RECORD.

It is Congress' responsibility to ensure that Federal agencies are serving the public efficiently and effectively. The timeclock is ticking. Let's serve the public we were sent here to work for, and pass this bill.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CAMBRIDGE SCHOOL DISTRICT #432–J,
November 15, 1994.

DIRK KEMPTHORNE,
Senate Office Building,
Washington, DC.

DEAR MR. KEMPTHORNE: The summer of 1994 saw catastrophic fires in many of our forests and a great deal of salvageable timber remains in areas burnt over. That salvage timber deteriorates rapidly if not recovered and it is in the best interests of our society to avoid waste of natural resources. Many of Idaho School Districts receive significant revenues from the sale of timber resources from the federal forests in Idaho to fund educational programs.

The Cambridge School Board would like to join and support a position calling for the salvage of recoverable timber in a manner consistent with sound environmental practice and to encourage the Forest Service and the Idaho Department of Lands to expedite that salvage to maximize local government revenues and to provide citizens of Idaho with expanded job opportunities.

Education funding in Idaho is greatly influenced by the use of natural resources in our state.

Sincerely,

CYNTHIA K. JONES,
Chairman.
SHARON M. STIPPICH,
Vice Chairman.
KATHRYN WERT,
Trustee.
DOUGLAS HANSEN,
Trustee.
ELLIS E. PEARSON,
Trustee.

Mrs. MURRAY. Mr. President, I rise today to speak about a very important issue in the Pacific Northwest: inland forest health. Earlier today, my colleague form Idaho, Senator CRAIG, spoke about legislation to address a serious forest health problem plaguing forests throughout the inland west. He very accurately described the problems of disease, insect infestations, and drought that are prevalent in many such forests, and which can lead to serious forest fires.

I commend Senator CRAIG for his work on this issue. He is correct that serious forest health problems exist in many areas, and he is correct that we should try to do something about it. The reasons are very simple. Healthy forests are essential to ensuring long-term economic sustainability in rural communities; they are essential to our standard of living; and they are essential to maintaining a healthy environment.

Growing trees provide many benefits. They shade spawning streams, they stabilize soil and prevent erosion, they provide wildlife habitat, they consume carbon dioxide and produce oxygen. They also provide wood for our home, paper for our schools, shelter for our communities, and recreation for the people. In short, they are many things to many people. If we strengthen our forests, we strengthen our communities. Of course, the reverse is also true. If we weaken our forests, we weaken our society in many ways.

So it is important that we do what we can to keep our forests as healthy as possible.

I would like to support a forest health bill. Given the passions inflamed when Congress starts legislating forest policy, I believe it is incumbent on us to proceed cautiously if we hope to achieve any results. Above all, we must not go too far. We need a forest health bill that addresses legitimate problems and reflects the public's view regarding management of our public lands.

I have already talked about some of these problems. What about the public view? We know the public enjoys its parks and wilderness areas. We know the public appreciates aesthetic, wildlife, roadless, and old growth values. But we also know the public has a voracious appetite for wood products. So, as is so often the case, our challenge and our responsibility as legislators is to strike the right balance.

I have a few concerns I hope can be addressed as we enter the forest health debate. I have touched on a few already: We need to make sure we are taking steps to address legitimate, serious problems. We need to avoid costly, catastrophic fires. The fires we saw last summer ravaged thousands of acres, cost a billion dollars to fight, and did no one any good. We need to avoid diseases and inspect problems as well.

We also need to keep in mind what's going on downstream. People in the Pacific Northwest have spent the last few years trying to refine the concept of watershed-based management. In Tacoma last year, Representative NORM DICKS any myself convened a conference of nearly a thousand people to discuss watershed issue. Agency managers, fishers, private land owners, wildlife specialists, water users, conservationists, and citizens of all types came together to recognize the importance of watersheds as a resource management unit.

We are finding more often than not many land-use questions are becoming aquatic questions. In other words, what happens downstream is quite often affected by what happens upstream. Our entire resource-based economy is connected one way or another by the streams and rivers that criss-cross the region.

I believe there is ample room for proactive management of forest health problems and consideration of aquatic issues. The connection between these two issue sets is a concept I would like to introduce in the debate over Senator CRAIG's upcoming legislation.

We also need to make sure management actions are science-based. The good news is that very few people in the scientific community disagree over management prescriptions that can help improve forest health. Just the same, I think it is important to make it clear that the goal of achieving good forest health, and the steps taken to reach it, are based in sound science.

Finally, I want to say a few words about the broader issue of ecosystem management. This is a concept that has been very popular in recent years. It suggests that active resource management and usage can be reconciled with strong conservation goals. It suggests we can make decisions on a broad basis so we can avoid stumbling into problems on a case-by-case basis. These are goals that I strongly support.

But the problem remains that ecosystem management is still just loosely defined. And of course, the devil is always in the detail. Last year, Senator HATFIELD introduced legislation that I cosponsored to define the concept of ecosystem management more clearly. The goal is to arrive at a set of principles or standards that can guide long-term resource management decisions.

I believe this is still the proper course of action. Until we have a clear goal in sight, it is not necessarily wise to proceed quickly with rifle-shot solutions to short- or intermediate-term problems that may not repeat themselves. So I encourage my colleagues, and people from the region, to consider some of the threshold questions that remain unanswered.

Mr. President, there are other issues that I have not touched on but which I hope can be discussed in the context of forest health. Again, I commend the Senator from Idaho for his work. I hope to work with him and other Senators from the region in a bipartisan way to come up with solutions that work for the people.

FEDERAL LANDS ACT FOREST HEALTH AMENDMENTS OF 1995

Mr. DASCHLE. Mr. President, Americans rely on the national forests for a wide variety of activities, ranging from timber harvesting to recreation and

the conservation of wildlife. It is incumbent upon us to maintain those forests in the healthiest condition possible.

Unfortunately, throughout the country, and particularly in the intermountain west, forests are in poor shape. Persistent drought, disease, and insect infestation have created stands of dead and dying trees that pose a serious risk of fire. The forest fires that last summer burned thousands of acres of forest throughout the West and claimed the lives of men and women of the Forest Service provide bleak evidence of the problem. If we are to manage national forest ecosystems in ways that provide the services that Americans have come to expect, supply them in a sustainable manner and support the diversity of habitat needed to maintain fish and wildlife, then we must confront the forest health issue squarely.

Senator CRAIG will soon introduce the Federal Lands Act Health Amendments of 1995, which is intended to establish a more deliberate and timely process for dealing with forest health problems. I commend Senator CRAIG for focusing attention on forest health and look forward to continuing our collaborative effort on this issue and on the broader issue of ecosystem management. As a result of the Craig bill and the forthcoming discussions that it will generate, I expect Congress to develop a reasonable and effective response to this problem.

Over the last 2 years, as chairman and ranking member of the Senate Subcommittee on Agricultural Research, Conservation, Forestry, and General Legislation, Senator CRAIG and I held hearings on the management of the Federal lands. The subcommittee held two hearings on ecosystem management, a third on the new appeal process, and a fourth on the issue of forest health.

From those hearings, and through my experiences in working with wildlife managers, members of the timber industry and environmentalists, it has become clear that federally managed forests in some areas of the country suffer from problems related to drought, past mismanagement, and insect infestation and disease. The high incidence of tree mortality and fires in some national forests suggest that we still have much to learn about the causes of these problems and how to manage these complex systems.

The Forest Service and Bureau of Land Management should place a higher priority on dealing with forest health problems before they become worse. To do so effectively, several important steps should be undertaken.

First, forest health problems need to be better defined. We must develop a shared vocabulary so that all those interested in maintaining healthy forests can work together in common cause.

Second, scientific research should be conducted to identify problems and evaluate options. Only by relying on sound scientific data can we hope to proceed in an effective and defensible manner.

Third, and perhaps most importantly, we must set priorities. We must focus our attention on areas of greatest need, while ensuring that other issues are managed to prevent future problems.

And fourth, solutions must be developed and implemented in a timely manner.

Again, I appreciate Senator CRAIG's foresight and diligence in bringing to the attention of Congress the issue of forest health. This is a complicated issue that involves important objectives such as maintaining species habitat, ensuring that insect infestations and diseases are within a natural and healthy range, preventing soil erosion, and safeguarding the overall long-term sustainability of forest ecosystems.

The bill to be introduced by Senator CRAIG provides a valuable framework for addressing these critical issues. It will force Federal agencies to identify lands at risk and take concrete steps to improve forest health on those lands. In the long-run, the public should benefit by management activities taken as a result of this bill.

Senator CRAIG has expressed a desire to move this legislation through the necessary committees as expeditiously as possible. I support this goal, and look forward to participating in Agriculture Committee hearings on the bill. Concern has been raised that the legislation as currently written may provide overly broad discretion to the Federal agencies and that it may in some cases overburden those agencies with new responsibilities at a time when budget cuts hinder their ability to accomplish existing responsibilities. These issues merit further attention. Also, it is my hope that the Senate will examine the question of whether the bill assures sufficient opportunity for deliberation and analysis by the agencies and input by the public.

I look forward to working with Senator CRAIG to examine these questions and to move this bill through the appropriate committees and to the floor this year, so that we can begin to address forest health in a systematic, deliberate, thorough, and effective manner.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

REID AMENDMENT TO THE BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

Mr. CONRAD. Mr. President, I rise today in strong support of the amendment to the balanced budget amendment to the Constitution that has been offered by the senior Senator from Nevada, Senator REID, and others of us. The purpose of the amendment is to protect the Social Security trust fund from being looted as part of an effort to balance the budget.

Mr. President, I think it is important for people to ask when we are considering a balanced budget amendment to the Constitution: What budget is being balanced? That is what this first chart asks. What budget is being balanced?

In order to answer that question, I think it is helpful to go to the actual language of the balanced budget amendment that is before us. And if you look at the language, it says very clearly:

> Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

So, Mr. President, it is very clear that what we are dealing with with respect to the balanced budget amendment to the Constitution is that all of the moneys coming into Federal coffers are being jackpotted. They are all being put in the same pot. Whether they are trust funds or not trust funds, it is all being put in the same pot. And then we are going to look at those total receipts and compare it to total outlays.

I prepared this chart. This is kind of the teapot of the Federal Government budget. It shows the revenue that goes into the pot, and the revenues are the individual income taxes that are raised. That provides about 45 percent of the revenue of the Federal Government. All social insurance taxes go into this pot, including the revenue that is taken out of people's paychecks every month that is supposed to be for Social Security. All of that money is going into the pot. Social insurance taxes are about 37 percent of the revenue of the Federal Government. Corporate income taxes go into the pot. That is about 10 percent of the revenue of our Government. All other taxes are 8 percent.

And then we look on the other end of the ledger. We look at what comes out of the spending spout of the Federal Government. And here is the spending breakdown. About 22 percent of the outlays of the Federal Government go for Social Security, 16 percent is interest on the debt, 16 percent for defense, 14 percent for Medicare, 7 percent for Medicaid, and other, 25 percent.

So one can see in the balanced budget amendment that is before us what goes into the pot is all of the revenue and what goes out the spending spout are all of the outlays.

The problem with this balanced budget amendment is that in using all of the Social Security income in counting whether or not you are balancing the budget, Social Security is not contributing to the deficit. Social Security is in surplus. And Social Security is in surplus for a reason. The reason is to prepare for the time when the baby boom generation retires. Because then these Social Security surpluses are going to turn to massive deficits. And

so the reason for accumulating surpluses is to prepare for the time when the baby boomers retire.

The problem is, the money is not being saved. The problem is, under the balanced budget amendment that is before us, we are going to put into the Constitution of the United States that those Social Security surpluses, instead of being saved, will be looted in order to give us a balanced budget or contribute to balancing the budget.

Mr. President, this chart shows, just over the 7 years that the balanced budget amendment is to lead us to a balanced budget, how much of the Social Security surplus will be taken each and every year.

This is the amount of Social Security trust fund money that will be looted in order to balance the budget.

In 1996, $73 billion of Social Security surplus will be taken. We can see each and every year those surpluses are mounting. They are increasing. Under the terms of the balanced budget amendment that is before this body today, unless it is altered by the Reid amendment, every one of these dollars is going to be taken. Every one of these dollars will be looted in order to contribute to balancing the budget. That is profoundly wrong, Mr. President.

We can see, as I said, $73 billion of surplus from Social Security in 1996, $78 billion in 1997, $84 billion in 1998, $90 billion in 1999, $96 billion surplus in the year 2000, $104 billion of Social Security surplus in the year 2001, and $111 billion of surplus in the year 2002.

Every nickel of that surplus taken, not to have a fund that is available when the baby boomers retire; but no, every penny taken in order to contribute to balancing the budget.

Mr. President, let me just say that if any chief executive in this country stood up before his board of directors and announced that in order to balance the operating budget of the company, he was intending to loot the retirement funds that were held in trust for his employees, he would be headed for a Federal facility, and it would not be the Congress of the United States.

I said the other day that this amendment, as drafted, the balanced budget amendment before Members, as drafted, would make the Rev. Jim Bakker proud. Remember Rev. Jim Bakker? He went to a Federal facility, the Federal prison. He went to Federal prison for fraud. The fraud he was conducting was to raise money for one purpose and to use it for another. That is precisely what is being contemplated in the balanced budget amendment to the Constitution that is before Members today. That is fraud. It is fraudulent to tell people you are raising money for one reason, namely, to build a trust fund surplus that is available for them when they retire, but on the other hand not to create the surplus at all but to loot the fund and to use it for other spending.

We would be putting in the Constitution of the United States that that is what would be done. Mr. President, that is so profoundly wrong I cannot even fathom how those who have written this amendment think it ought to be included.

There is not any financial institution in this country that would accept for one moment the notion that we should take trust fund moneys and use them to balance an operating budget.

Mr. President, I showed the surpluses, $636 billion, that are contemplated under the balanced budget amendment that is before Members today to be used to help balance the budget over the next 7 years. That is a small part of the story. That is just the next 7 years. The real larceny, the real theft, the real fraud, is far in excess of $636 billion. That is just what will be taken in the next 7 years.

We know Social Security is going to be running surpluses for much longer than the next 7 years. In fact, it will be running surpluses out past the year 2020. When we look at the projected size of the Social Security trust funds out until the time the baby boomers have retired and start to draw down those surpluses, what one sees is simply staggering.

These bars on this chart show the Social Security surplus as it accumulates. It shows by the year 2000, there will be almost $1 trillion of surplus. By the year 2010, $2.1 trillion—not million, not billion—trillion. This is real money, 2.1 trillion of surplus; $2.8 trillion by 2015; $3 trillion of surplus by the year 2020.

Mr. President, when the baby boomers go to the cupboard to get their surplus, their retirement, they will find the money is all gone. It has all been used. It has all been looted to help balance the rest of the budget of the United States.

This will create a financial catastrophe for the future. That financial catastrophe will be when the baby boomers retire. Having been made a promise, they will find no one can keep the promise, because in order to pay back this money, the tax increases would have to be so draconian, or the cuts in benefits so draconian, that the people of the United States would simply revolt.

Mr. President, this chart shows what has happened in terms of the growth of payroll taxes both for Social Security and Medicare from 1940 out until the present. What one can see is that these regressive taxes have been increased very dramatically over this period of time in order to make these funds supposedly add up.

The problem again, of course, is that these increases, these increased taxes that have been levied on the American people, have been used. And they have been used to balance other parts of the Federal budget. Or at least to reduce the deficit of other parts of the Federal budget.

One reason that this is profoundly unfair is because, in essence, what has happened is people are being taxed on their payroll, on the amount of their wage earnings, and they are having an increasing amount taken out. They are being told, ''We are taking this increasing amount because we have to run a surplus; we have to get ready for the time when those of you who are in the baby boom generation retire.'' That makes sense.

Unfortunately, what we say and what we do are two completely different things. We are not running surpluses in order to prepare for the time when the baby boomers retire. Instead, we are taking that money, we are taking those surpluses, and we are using it to offset other spending. So, in effect, what we are doing is levying a regressive payroll tax and using part of it, the part that makes up the surplus, to fund the other operations of Government.

In fact, 73 percent of all taxpayers today are paying more in payroll taxes than they are paying in income taxes. I think this may come as a shock to many people. It is true: 73 percent of all taxpayers are paying more Social Security payroll taxes than they are paying in income taxes. They are doing it because we have told them the money is needed to create surpluses to prepare for the time when the baby boomers retire. The fact is that that is not what we are doing. We are taking the Social Security surpluses, we are looting them, in order to reduce the deficit.

Now we have a proposal before Members in the balanced budget amendment to the Constitution of the United States, the organic law of this country, that would take this practice and enshrine it in the Constitution of our country. I cannot think of anything more inappropriate than to put into the Constitution of the United States that we are going to take trust fund surpluses and use them to help balance the operating budget of this country.

Mr. President, I come from a financial background. If anyone, as I was being schooled and taught how to properly manage finances, had told me, ''You take trust fund money and you use that to balance other parts of a budget,'' that person would have been run out of the financial institution because everyone understands that that is absolutely inappropriate.

For Members to put into the Constitution of the United States that we will take trust fund surpluses and use them to balance the other parts of the budget is profoundly wrong. That is the reason the Reid amendment is so important, because it gives Members the chance to protect Social Security trust funds from being looted for other purposes.

Mr. President, I do not know of anything more basic than this concept. I do not know of anything that is more important when we are considering a balanced budget amendment to the Constitution than to make certain the trust fund moneys, Social Security trust fund surpluses, are not looted in

order to balance other parts of the budget.

So, Mr. President, let me just conclude by thanking my colleague, Senator REID from Nevada, for offering this amendment. There are others of us who have joined with him in offering this amendment, and I urge my colleagues to support it. I thank the Chair and yield the floor.

Mr. CRAIG. Mr. President, I yield the remainder of my time to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I thank the Senator from Idaho for yielding this time. What is the order of business?

The PRESIDING OFFICER. Morning business under the current order is until 10:45.

FOREST HEALTH PROTECTION AND RESTORATION ACT

Mr. BURNS. Mr. President, I rise today in support of the Forest Health Protection and Restoration Act, to be introduced by Senator CRAIG, myself, and others. This is a bill that is very important to my State of Montana and whose time has come. Forest health and management is paramount to the economic stability and future of Montana and, of course, our neighbors who depend on these renewable resources which support our smaller communities in Idaho and Montana.

For too long, the various land managing agencies in the Federal Government have been telling us that there is not a problem with the health and vitality of our national forests and Federal lands. On January 20, I had a report placed in the CONGRESSIONAL RECORD regarding this very topic. It appears that the Forest Service had requested a report on the state of the health of western forests, and after review decided that the report did not meet the standards that they had desired, changing the report before its publication could reach Congress and the public. It is the intent of this legislation to make the Forest Service, the Bureau of Land Management, and all organizations more responsive to the oversight of Congress. I do not think that was the intent of the legislation. I am sure it was not.

This act, the Forest Health Protection and Restoration Act, recognizes the removal of the problems that crept into our forests as essential to the future of our Federal lands. This act acknowledges the plain and simple truth that overgrowth in our forests is a problem that must be faced in our lifetime. The removal of old and heavy undergrowth is essential to sustaining and developing a healthy forest for the future. The purpose of this legislation is to provide for the future through proper management and the authority to adapt a flexible decisionmaking process to our Federal lands for forest health.

We looked at our forests in the northern part of Idaho and the northwestern corner of Montana and advised the Forest Service and land managers years ago that if we did not do something with the biomass that was created by some dead and dying trees—we had a moth up there that killed a lot of trees—if those diseased trees could not be removed from our Federal lands, all we need is a dry year and a high lighting year, and we are going to experience the biggest fire season that we have ever had.

I am here to tell the American people, last summer we had that fire season. There were millions and millions of dollars in fire suppression spent, lives were lost and there was an estimate that there was enough timber lost to build thousands and thousands of homes in this great country, of which we still have a housing shortage.

I joined in sponsorship of this measure so that the citizens of Montana can have an opportunity to address their future. This bill when enacted will provide this chance. No longer will Montanans be at the mercy of the actions and whims of people many miles away, with no vested interest in the forests, lands that they tie up with numerous nuisance lawsuits. Under the powers granted within this measure, we will provide safety to those people under emergency designations that will allow forest management the ability to open, for health reasons, forests to treatments. This legislation will expedite the manner in which resource managers will be allowed to assist in therapy for the forests, which for years, have been left to their own devices, namely fire and disease, for treatment.

Last summer I saw in Montana the results laying in waste and ash, of the disregard that many have for proper forest health. Earlier in the year, during an Appropriations Committee hearing, I warned the leadership of the National Forest Service of the pending disaster waiting to occur in the forests of northwestern Montana. A disaster, which highlighted the occurrences if proper forest health issues were not addressed immediately. During one of the most costly fire seasons in history millions of dollars of taxpayer money was expended, and millions of feet of timber, to were lost to the fires that ravaged our national forests last summer. Lives were lost, private property destroyed or damaged; all because we did not address the need to maintain the health of our national forests.

We cannot return the forests to what they once were, hundreds of years ago before man set foot among the trees. The time has come when we can no longer allow fires to cure the needs of the forests of this country. There are many ills that can attack and destroy the trees and the beauty and health of our publicly owned lands. Nature can and will work to care and clean up the messes that we create, either through our own ignorance or neglect. The implementation of this legislation will provide us the working tools to begin to look after the future health and welfare of our public lands. The work we are seeking to develop here is not to promote the wholesale depletion of the land, but to allow the country to use and develop a healthy forest using the renewable resources that are at hand.

This piece of legislation is very important to Montana, to the West and the Nation. For under this act we can, and will provide for the future of our national forests and Federal lands. By opening our eyes to the problems that lay among our forests we will see a cleaner, more vibrant and stable forest than we have for years. I ask my fellow Senators to act quickly on this measure and let us repair and rehabilitate the great forests of our country.

I congratulate my friend from Idaho for his work in drafting this piece of legislation because the time has come when we have to look at the way Mother Nature takes care of our forest and the way the forest has to be managed so that those resources can be enjoyed by all of America. We cannot afford another 1988, nor can we afford another 1994 when it comes to saving that great renewable resource that it takes to supply the vast majority of shelter in this country.

So I congratulate my friend from Idaho who has introduced this legislation. I hope that it will be considered in the committee very quickly and brought to this floor and passed out of the Senate for House consideration.

I would like to see this legislation become law this year because we still have diseased forests that are in danger to, yes, yet another year of drought and maybe disease that should be worked on right now. This is a renewable resource. It is a resource that is America's, and we cannot let it just to be wasted away.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. I thank the Chair. I yield the floor.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let's do that little pop quiz again: How many million dollars are in $1 trillion? When you arrive at an answer, bear in mind that it was Congress that ran up a debt now exceeding $4.8 trillion.

To be exact, as of the close of business yesterday, Wednesday, February 8, the total Federal debt—down to the penny—stood at $4,805,605,149,692.51—meaning that every man, woman, and child in America now owes $18,242.16 computed on a per capita basis.

Mr. President, again to answer the pop quiz question, How many million in a trillion? there are a million million in a trillion; and you can thank the U.S. Congress for the existing Federal debt exceeding $4.8 trillion.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Reid amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations.

AMENDMENT NO. 236

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, what is the status of the Senate? Are we on the Reid amendment at this point?

The PRESIDING OFFICER. The Chair did not hear the Senator.

Mr. DORGAN. Is the Senate now considering the Reid amendment?

The PRESIDING OFFICER. Yes, we are under consideration of the amendment. There is no time controlled.

Mr. DORGAN. Mr. President, I come to the floor today to offer words of support for the Reid amendment. I intend to vote for it, and I hope the Senate will vote for it in sufficient numbers to add this to the constitutional amendment to balance the budget.

(Mr. KYL assumed the chair.)

Mr. DORGAN. Let me this morning begin by talking about a woman who many of you know; the story, of course, is legend. On December 1, 1955, in an Alabama city, a woman had just finished her work for the day. She was a seamstress. She was about 40 years old. She was tired, her feet hurt; she had worked a long day, and she was on the way home.

She went back and forth to her job by bus. And on this day, at the end of the workday, with tired feet, this woman boarded a bus and took the first available seat. And as the bus traveled down the avenue, the bus began to fill up. And on this day, December 1, 1955, as the last seat was taken on the bus, a white male passenger boarded the bus and looked at this woman, Rosa Parks, and said, ''You must leave your seat and move to the back.''

She refused to do so. At that point in the life of this country, she was required to ride in the back of the bus. Her dignity that day, as well as the fact that she had worked a long day and was tired, but her dignity especially, persuaded her to say, ''I'm not moving,'' and she remained in her seat. Others around her began to curse her, as the story is told. The bus driver stopped and refused to move the bus because this woman would not move to the back of the bus and give her seat to a white passenger.

The police were called, and Rosa Parks was arrested and thrown in jail. Her indiscretion? She refused to give up her seat and refused to move to the back of the bus.

Well, it is some 40 years later now, and I guess all of us would say we are proud to understand that the quiet dignity and strength of Rosa Parks lit a fuse that caused an explosion of understanding and, yes, tension—but most especially understanding—that has changed things in this country for the better. The avenue where that bus traveled on that December day in 1955, and where that arrest was made, is now named Rosa Parks Avenue.

Sometimes one can force change by simply refusing to move. Some say, ''Well, don't just sit there.'' Rosa Parks just sat there because she felt she was entitled to do that, and that single act by that courageous woman, who will live in our history, has caused substantial change in our country.

So when they say, ''Don't just sit there,'' I think sometimes on some issues some of us say, ''Well, wait a second; where we sit is important.''

On this issue today of Social Security, some of us believe that where we are in this country, with a program that is, I think, the most significant and the most remarkable program of its kind anywhere in the world, it is one that ought not be trifled with. It ought not be threatened. It ought not, in our judgment, be in any way changed so that the American people will not have confidence that Social Security will be there when they need it.

That is why many of us feel at this point in this debate on the constitutional amendment to balance the budget we ought not move forward on this issue without the Reid amendment. We should add the Reid amendment to the constitutional balanced budget amendment so that we do not jeopardize the Social Security trust fund.

Why is it important to us? Too many Americans do not even understand the consequences of the Social Security system or what makes it unique. We just take it for granted.

I told my colleagues before about an experience I had one day that I shall never forget. Some years ago, I ran out of gas in a helicopter. I quickly learned one of the immutable laws of flying: If you are in the air and you run out of fuel, you will land very quickly.

I, with a colleague of mine, landed in a helicopter in the jungle terrain between Nicaragua and Honduras. Congressman GEJDENSON, from Connecticut, and I were actually down in a Contra camp, and touring refugee camps in Central America.

We were traveling by helicopter one day. It was in August, and there were big thunderstorms. We were over mountains and jungles, and we were going down mountain passes, and then a big thunderstorm cell would loom up in front of us and we would backtrack and go down another valley, and we would backtrack again. We had been flying a long while, and the pilot had some lights go on and some bells go off and we were running out of fuel. They had to put the helicopter down, right now. There we were, out of radio contact, somewhere in the mountains and jungles of Honduras, right by the Nicaraguan border.

We were unhurt, but for a number of hours we did not know where we were. Nor did anyone else. Other Army helicopters eventually searched for us and found us. We were pulled out of there by other helicopters.

The point of the story is this. As we sat there on the ground, some of the campesino families and others began walking toward us. A group gathered to try to figure out who on Earth had come down here in this rural stretch, in the mountains of Honduras. We had an interpreter with us who spoke fluent Spanish. And as we were there—because no one knew where we were, we were going to be there for awhile, and we did not know exactly what was going to happen—we began, through the interpreter, to talk with these people who came around to figure out who had come down there. People I talked to—and this is something I discussed with the interpreter during this conversation—told me something I had never even thought about before.

I was visiting with a young woman, I guess probably 23 or 24 years old, who had come walking through the underbrush there with some children with her. We were just talking through an interpreter. There was kind of a little crowd, maybe six or eight people.

I said, ''How many children do you have?''

And this very young woman said, I believe, ''Only three. Only three.''

I said to the interpreter, ''Gee, she sounds disappointed. Lord, she cannot be over 22 or 23 years old, and she sounds disappointed she has only three children.''

The interpreter said, ''You do not understand. You come from a country that has all these things—Social Security. Down here, there is none of that. Down here there is no Social Security program. If you grow old in some of these countries, you want to have had as many children as you could have, so maybe enough of them will live so when you become old, if you are lucky enough to grow old, you will have some children surviving you who can help you in your old age. That is Social Security.''

It was the first time I had ever thought about it. I never thought about that before because I grew up in a country where Social Security was just there. It was a part of our lives. We understood: When you work, you pay in. The person who employs you pays in. And when you retire, it is

there. It is just taken for granted. We do not even think much about the connection. Who made it, who created it, who caused it, how it works—we do not think much about that. It is just part of American life.

I mention the story today simply because there are other parts of the world where this is a totally foreign notion. That you would have some basic device at the end of your working life that allows you to have a decent retirement is a novel idea in some places. That is what Social Security is. The Social Security system is the fabric of that guarantee.

How did we get it? How did we create it? Through a massive public debate, during which many people said: This is socialism, this is pure socialism. This is the worst instincts of the Democratic Party, this Social Security nonsense.

Of course, it was not. And it has always been there. It was a useful, necessary, important program for America's elderly that has, I think, grown in the right way. It is now a compact between those who work and those who retire, and it has made life in this country better for tens of millions of Americans, year in and year out. We ought to be proud of this program. This program works. This program worked in the past, and it will work in the future for this country. We always ought to understand that.

We come to this point in America's history after a couple of hundred years of self-government—and incidentally, a couple of hundred of the most successful years of any similar attempt at government known to humankind. There is no other reasonably similar approach to government that has been tried as successfully as this anywhere in human history.

In a couple of hundred years, we have had fights about public policy back and forth, and during this time we created some things, one of which was Social Security. During the last 15 or 20 years or so, this country's fiscal policy, that is the spending and taxing decisions and the system by which we decide how much to spend and how much to tax, has gotten off track and out of balance. And this country has begun to run up very large budget deficits. The budget deficits are not accidental. They are a function of the Congress and the President proposing to spend what the people largely want spent, and the Congress and the President being reluctant to tax what the people largely don't want taxed. So what has been the result?

The result has been that the Congress and the Presidents in about the first 200 years or so, up until 1980, had spent $900 billion more, over all of the years in this country's existence, $900 billion more than it had taken in. In other words, it charged to a charge account $900 billion, because it spent money that it did not have, starting with the beginning of the United States of America to the year 1980.

From the year 1980 to the year 1995, in the month of February, this country added to that charge account. It is not any longer $900 billion. It is now nearly $4.8 trillion. So in nearly 200 years, the country spent $900 billion it did not have and charged it to future generations. And then, in 15 years, it added somewhere around $3.9 trillion and said: By the way, charge this, too. Put it on the same account.

What do we face in the future? If you look at what the Government does—Medicare, Medicaid, and a whole series of spending decisions and revenues—and take a look at what the Congressional Budget Office says will be the consequence of the current system and the current spending levels, you will find that we will add, if nothing is done, about $4.4 trillion to the same charge account in the next 10 years. Except it will be more than $4.4 trillion, because we have some in this Chamber who say let us do two additional things. Let us increase defense spending and build star wars—which is one of the goofiest ideas I have ever heard in my entire life; that is now resurrected—let us resurrect the strategic defense initiative or star wars at a time when there is no Soviet Union. But leaving that aside, increase spending or cut revenue.

So it will not be $4.4 trillion added to this charge account, added to the already $4.8 or $4.9 trillion, so you are talking close to $10 trillion. It will be more than that. Does anybody think that represents the right future for this country? I do not. Most of the constituents I know do not believe it does.

So the question is, What will intervene to change it? Will it be six people of good will finding a vacant room back here with a clean sheet of paper and making plans, scurrying around making little plans on how to balance the budget? I do not think so. It has not happened in the past.

It will be people representing what their constituents are saying: Make sure you keep these programs, now. We do not want to lose programs. But we do not want to pay taxes, either. We do not want you to increase them. In fact, we would like you to cut taxes.

So we have the Republican Contract With America saying let us cut taxes. In fact, let us do it a little better; let us cut taxes mostly for the well-to-do. Then we have some Democrats saying, let us also have a middle-income tax cut, slightly less and differently targeted, but the same approach, basically. It is the same approach basically.

In the midst of all of this comes the notion that we should amend the U.S. Constitution to require a balanced budget. I did not come here thinking that was the necessary thing to do. I think it is pretty hard for us to improve on the work of Washington, Mason, Franklin, Jefferson, and others. So I did not think we should amend the Constitution for the first few years I came to Washington. But I have changed my mind about that. I do not think for a moment that it will cause one penny's difference in our future budgets by itself. It is a bunch of words that someone is going to write into the Constitution. Everybody here who will vote for this understands it will not cause one penny's difference in the budget deficit. It may ratchet up slightly more pressure for decision making in both the House and the Senate that will lead we hope toward a balanced budget. That may be what happens. If that happens, then I am for anything that turns up the heat, anything that ratchets up the pressure, because frankly, we cannot continue going down this road.

There must be a reconciliation in this country between what we spend and who we spend it for, and what this country is willing to pay for. You just cannot keep having Government that we are not willing to finance.

I know polls show the American people think half of the money spent by the Federal Government is wasted. It is not. This is not money someone buries in their backyard or puts in a sock under a mattress. Most of this money goes out in the form of entitlement programs one way or the other or goes to pay for defense. If you take Medicaid, Medicare, interest on the national debt, defense, and Social Security, you have three-fourths of every dollar the Federal Government spends. So we have to force a reconciliation of what we spend and what kind of resources we have so that we get back some notion of fiscal policy balance to assure this country's economic future.

Why is it important to put an amendment in this that says let us not raid the Social Security trust funds as we do that? For this simple reason: Not one penny of the Federal deficit has been caused by the Social Security system; not one. This year the Federal budget is going to have a significant deficit but the Social Security system is going to collect nearly $70 billion more than it spends. Why?

I was a part of the group that in 1983 wrote the plan that required this surplus. I helped write the Social Security reform plan. We wanted to enforce national savings so that when the baby boomers retire after the turn of the century we would have savings accumulated to deal with that. After the folks came home in the Second World War, not surprisingly, I guess, we had the biggest baby crop in the history of this country called the war babies. When that generation begins to retire, we will have maximum strain on the Social Security system.

The point of the 1983 reform bill was to force some national savings to be available for the baby boomers' retirement. If we do not put the Reid amendment in this constitutional amendment, the potential will exist that those who want to balance the budget by using the Social Security trust fund will simply raid the fund to balance the budget.

The problem about that is it breaks the fundamental promise, that we take the money from paychecks of the people who work, we put it in a trust fund dedicated for only one purpose. The tax is dedicated. The trust fund is dedicated, and that is to pay for the Social Security system. If we have to at some point adjust the Social Security system, it ought to be adjusted based on the internal mechanics of the system. Is it well financed or not? If not, let us deal with it based on the actuarial notion of the system. But let us not decide to raid this enormously successful program, which needs all these savings for the time when the baby boomers retire, and decide to use that money to balance the budget. That breaks the promise it seems to me that we have with the American people.

Let me mention one other thing because we talk about this always in such an antiseptic way. It is always policy and numbers. I mean, it sounds like it is all sterilized. This is about people. It is about how people live. Every single one of us have constituents who tell us stories that bring tears to our eyes as we leave a meeting or leave a discussion with someone.

I once spoke with a woman who is 82 years old, who has diabetes and heart trouble, and whose only revenue and only resource in life is the Social Security check she gets. The Social Security check is somewhere around $380, I think she told me. Then she has to buy a medicine to deal with her heart problem and her diabetes, pay rent, and buy groceries. She said to me, ''I cannot afford to buy the medicine for my diabetes and the heart trouble.'' So the doctor prescribed it. And she said, ''I have to take it. So I buy the medicine. Then I cut the pills in half and take half as much as he recommends so the medicine will last twice as long. It is the only way I can afford my medicine. Otherwise, I cannot eat.''

Your heart bleeds for someone who is 82 and finds herself in that circumstance. Think of how important that Social Security check is. It is her lifeline. It is the only thing she has. Before Social Security, people like her were just desperately poor, consigned to poorhouses or consigned to begging for food or shelter.

The Social Security system, as inadequate as it might be to deal with all the problems, is something that is enormously important in this country. And we must, all of us, make certain that system is protected and available with its resources for the future. I have heard dozens of times people say, ''The Social Security system will not be there when I retire.'' They have said that every decade since the 1930's. It has been there in every decade, and it will be there in every decade in the future. That is a plain fact.

I hope that, as we consider this amendment, we will have an up-or-down vote on the merits of this amendment. I am not asking for five reasons someone would want to vote against it. Just give me one good reason. There could only be one good reason that one would not want to support the Reid amendment, and that is because someone does not want to use those massive amounts of dollars we are accumulating to be available for the baby boomers. They want to use them for some other purpose. That is the reason this is a critically important amendment.

I know others want to speak. I have gone on at some length. I hope that we will have an up-or-down vote on this amendment, and I hope Members of the Senate will come to this Chamber and register yes or no. This is not rocket science. This question does not require a great deal of understanding to understand the implications.

Do you want to use the revenue that is in the Social Security trust funds to balance the budget? Do you want to break the promise? Do you want to raid the trust funds, or do you not? If you do not, then vote for the Reid amendment. If you do, then find devices to try to defeat this thing. But then understand what the purpose of trying to defeat it really is.

If you decide you want to keep a promise—and we should in this country—then let us pass the Reid amendment. Then let us pass this Constitutional amendment to balance the budget. I know it is not going to balance the budget. It will require more than that. But it if turns up the pressure some, I am for it. But let us do it the right way, and let us do it soon.

I hope when the vote is complete we will find in a bipartisan way Members who will answer this simple question with a simple answer. No. We do not intend to raid the Social Security trust funds to deal with this budget deficit because it will not be fair, and it will not be the right thing to do for this country's future.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am moved by the eloquence of our colleague from North Dakota. He is talking about the way in which our elderly were treated prior to the establishment of programs such as Social Security and Medicare, programs that gave the elderly dignity and respect.

I was born in November 1936. My father was elected to the Florida State Senate in November 1936. The reason that he ran in that year was in large part because he had the occasion to visit some of the Florida State mental hospitals. The term mental hospital was a misnomer for those Florida institutions in the mid-1930's. They were really places where people put their aged, those who they could not afford to maintain, those who needed special help more than mental health concerns. They were warehoused in our State's mental institutions. The words ''snake pit'' were appropriately applied to those institutions.

One of his goals in running for the State Senate was to bring some greater degree of dignity to indigent older Floridians by providing them a somewhat adequate monthly stipend in their old age.

That limited effort was then subsumed in the national effort to create social security, which has, in a period of now almost three generations, given what had been the poorest group of Americans, older Americans, the ability to live the balance of their lives with some degree of dignity and respect.

We should be proud with what we have accomplished since 1935 in terms of making that kind of opportunity available for millions of Americans, and the prospect of it being available for millions of Americans in the future.

But before turning to the specific issues that I think are raised in this constitutional amendment as it relates to Social Security, I would like to make a few comments on the underlying amendment itself. I have in the past spoken and voted in favor of propositions which would provide for a constitutional requirement that there be a balanced Federal budget. I shall do so again with the same degree of disappointment that I have done in the past.

Passing a constitutional amendment to require us to balance the Federal budget is a blatant statement of failure. We are admitting our inability, without this type of discipline, without this constitutional shackle, to do what we should have done and what, frankly, most generations of Americans have done, and that is, to exercise fiscal responsibility.

Up until 1980, the U.S. Government had accumulated a national debt of slightly over $900 billion. We fought World War II, World War I, we lived through the Great Depression, just to mention three events of this century. We lived through all of these events and accumulated a national debt of $900 billion. Since 1980, we have added to the national debt approximately $4 trillion. We will soon be asked to vote on a national debt limit that would allow us to exceed the $5 trillion level in terms of national indebtedness. We have had a free-fall of excess in terms of our national fiscal policy. I wish I could say that I saw something on the horizon that indicated we were about to reverse that pattern, and that we would not need a constitutional amendment to require us to do what our forefathers had been able to do without a constitutional amendment. I am afraid, however, Mr. President, that I do not see any indication that we are about to reverse this policy of the last 15 years.

In fact, to the contrary, I see new evidences of irresponsibility. To mention one, the Contract With America contains provisions for a series of tax

reductions; each one of which is popular. Everyone would like to pay less toward the cost of Government. It has, however, been a pleasant period in the United States, in which Americans have experienced high levels of services, relatively moderate levels of taxation, and a series of tax cuts over the past 15 years, all while letting our grandchildren pay the bills. The Contract With America would continue that. It calls for over $700 billion of additional tax cuts in the next 10 years; $700 billion would be added to our already staggering estimated deficits for the next 10 years. To me, that is just one indication of the fact that we do not have any reason to believe that we are about to exercise voluntary discipline. Therefore, it will be necessary for us to impose upon ourselves and the future of America a constitutional requirement to do what we ought to be doing. It is a matter of our generation's responsibility.

I believe that there are several important objectives to be accomplished by this constitutional amendment. One of those is to reestablish the principle of generational responsibility. When I was born, we were not leaving to our future generations massive debts. Our parents and grandparents and great-grandparents had paid their own bills. They believed in the principle of generational responsibility. That will be reestablished with this constitutional amendment. We will also heighten our sense of accountability, that it is our responsibility to be accountable for how we handle the Nation's fiscal affairs.

How do these principles, these goals, relate to the issue of how Social Security should be treated in a balanced budget amendment? As previous speakers have so appropriately and eloquently stated, Social Security is a contract, a contract between the Government of the United States and the people of the United States. It is a very solemn trust that we hold. The lives of millions of Americans are affected very directly by their belief in our trusteeship and how, in fact, we carry out that trusteeship.

Giving Social Security special treatment within this constitutional amendment would be a statement to the American people of our understanding of that trusteeship.

Mr. President, there is also another factor—I apologize if what I am about to say is a little bit tedious and technical, but I think it bears repeating—and that is the special financial structure that we have created for Social Security and how that financial structure relates to the issue of the appropriateness of having Social Security excluded, treated separately, for the purposes of the balanced budget amendment.

Prior to 1983, Social Security was like most other trust funds in the United States. It was a pay-as-you-go system. As, for example, with the highway trust fund, dollars are collected each year based on the amount that is paid in gasoline tax. That money goes into a trust fund. Those trust funds are then appropriated to States or to specific transportation projects. There is an in-go and out-go that is balanced almost on an annual basis. That was the way Social Security was treated up until 1983.

In the years prior to 1983, there was a recognition that Social Security was facing some very serious financial problems. One of those problems was that the Social Security system was very much the captive of the change in the U.S. birthrate. I happen to have been born in 1936, a period of relatively low births in the United States. Not very many babies were born proportionately during the Depression. Therefore, as my generation enters the time when it will become eligible for Social Security benefits, we are not going to impose a very heavy burden on the Social Security system. Conversely, when my children, who were born in the 1960's, a time with a relatively high birthrate, enter Social Security, there will be a very heavy demand imposed on the system. And so the fundamental change made in 1983 was to move Social Security from a pay-as-you-go system to what is referred to as a surplus system, much like other forms of life insurance or annuities. That is, dollars were to be built up during the period of low demand on Social Security, so that when we reach the point that there would be heavy demand, there would be the resources available to pay those benefits.

This chart, Mr. President, illustrates how that Social Security surplus system is intended to work. Beginning with this year, 1995, we will have a surplus of something in the range of $70 to $80 billion. We have had a surplus built up since 1983 of approximately $400 billion. We are going to be adding substantially to that amount over the next 20 or so years, reaching a peak of having a surplus of approximately $3 trillion.

Then, in about the year 2019, we will start a rapid draw-down. In a period of a decade, we will deplete that $3 trillion of surplus and zero out the account to meet the demands of that large group of Americans who will reach retirement age in approximately 2019 forward.

Now what is the significance of this structure of Social Security financing, which represents approximately 25 percent of the expenditures of the Federal Government? What are the implications of this financing structure to the balanced budget amendment?

I describe the implication as being the mask and then the hammer. From now until the year 2019, because the way our deficit is reported, where annual surpluses constitute a subtraction from our stated deficit, the surpluses will mask the Federal deficit.

We talk about the deficit in the current budget as submitted by the President as being approximately $190 billion. That is not totally correct. Actually, the deficit for the Federal Government in 1995–96 will be $190 billion plus $80 billion, the Social Security surplus. Because the way we report under our accounting system, that $80 billion of surplus in the Social Security trust fund is subtracted from the overall deficit.

It would be somewhat like a family which had an income of, let us say $40,000, but had expenditures of $50,000. It would appear as if they were running every year $10,000 in the red. But they had a rich uncle who had died and left them a trust fund which each year gave them for the next 10 years $20,000 out of that trust. If they reported in their accounting that they made $40,000, spent $50,000, but had $20,000 in the trust fund, it would appear as if they actually had a $10,000 positive each year. Of course, the problem is, when the trust fund runs out in 10 years, they are going to be back to where they were initially, except probably worse off because they had become accustomed to having this $20,000 trust fund.

We are somewhat in that same situation. We are masking the real extent of our fiscal problem by every year pumping in the novocaine of a substantial Social Security surplus.

And what is the hammer? The hammer is what happens after the year 2019 when every year we are going to start our Federal accounts with a deficit of, in some years, in the range of $350 to $400 billion.

How would you like to be sitting here in the year 2023 with a constitutional amendment that says you have to balance your books every year and you begin the process with a deficit of $350 to $400 billion because of the enormous outflows from the Social Security trust fund?

I believe, Mr. President, that if we write into the Constitution that we must have a budget system that consolidates Social Security, representing 25 percent of our expenditures, into all the rest of the financial activities of the Federal Government, that under this structure, we are going to be leaving our future generations with an enormous, impossible task, particularly in these outyears.

And let me point out, this is not an aberration. This outline of surpluses and then deficits of Social Security is not a mistake. This is the way the system was planned to operate. It mirrors the demographics of the country—relatively low numbers of persons in retirement age at the beginning of the 21st century and large numbers of persons in retirement age in the second quarter of the 21st century. This is the way the system is supposed to work.

When you apply that against the mandate of a balanced budget, if Social Security is consolidated into every other account in the Federal Government, you will create a fiscal impossibility.

Next, if Social Security is on budget, it is going to create a temptation to

manipulate Social Security for the purpose of further masking the extent of our financial problems.

To use one example. It was only a couple of years ago that there was serious discussion in this Chamber of eliminating the cost-of-living adjustment for Social Security beneficiaries. I think, wisely, that proposal was rejected. But why was it being proposed? It was being proposed because, if you eliminated the cost-of-living adjustment, which amounts to approximately $20 to $30 billion a year in terms of Social Security expenditures, if you eliminated that cost-of-living adjustment, you would have artificially made the surplus appear that much larger.

If we did not pay a COLA out in 1995, we would not be talking about a surplus of $80 billion. We would be talking about a surplus of close to $100 billion. That would mean that our stated deficit would be $20 billion less.

So with that one action, we would have cut the reported Federal deficit, the deficit for purposes of meeting this constitutional requirement, by $20 billion.

That is the temptation that we are going to have because it is will be such an easy, disguised way, in which to meet the standard that we are setting for ourselves of a balanced Federal budget.

Next, I think that the consequence of what I just described—the temptation to use Social Security with this kind of a financing system to artificially reduce the stated Federal deficits—the consequence of that is to increasingly shift the cost of other areas of Federal responsibility to the Social Security financing system, which means shifting it to one of the most regressive sources of Federal revenue—the payroll tax.

The payroll tax is a straight tax on the payroll of most Americans, without regard to their ability to pay or other considerations. There are no deductions, there are no credits, there are no other recognition of special circumstances with the payroll tax. And as we give into the temptation to use Social Security as a means of meeting our other responsibilities, we continue to add to the extent by which Government is being financed by its most regressive form of revenue.

Next, I believe that one of the positive benefits of taking Social Security out of the general revenue budget of the United States—doing as Senator REID proposes—is that we will have the happy prospect of actually running a surplus in terms of our overall Federal condition once we are able to balance our general revenue books. Once we are able to get the rest of the Federal Government into a balance situation, with Social Security operating at a surplus, then we will be able to begin to reduce the amount of the national debt which is held by the general public.

We will begin to get some of those benefits that a positive surplus in our fiscal accounts will bring, such as lower interest rates, or stable interest rates, the benefits that will come in terms of stronger economic growth.

Finally, Mr. President, I believe it is important that we separate Social Security from the general revenue because we have a lot of work to do on Social Security. I have outlined briefly what the structure is.

There is an implicit assumption in that structure; that is, that the surplus funds that we are accumulating, what will eventually amount to $3 trillion of surplus, is being invested in an area that will be available for liquidation and used to pay these benefits that are going to be due after the year 2019, just as a private pension fund takes the money that it collects every year from employers and employees, however it is structured, and invests it in stocks, bonds, public instruments, or private funds so that when people retire there will be some real money there to pay their pension. The assumption is that something like that has happened with Social Security. Wrong. What is happening with the Social Security surplus is it is being used to finance the very deficits that we are trying to eliminate.

One of the benefits of having Social Security and the rest of the Federal Government's financial problems separated is it allows the Senate to focus attention on dealing with Social Security, making it the kind of solid, predictable, reliable, sustainable source of economic security for older Americans that we have represented it to be.

As long as the two are melded together, I think we will be constantly under the microscope of suspicion that we are doing it not to help Social Security but to raid Social Security.

We, as good physicians who need to make accurate diagnoses and prescriptions for Social Security, need to be in a surgery ward where we are not subject to the attack or criticism or suspicion that we are not doing this out of the desire to raid Social Security, that we clearly are doing it for only the purpose of making Social Security strong, healthy, vigorous, and able to carry out its contractual responsibilities.

Mr. President, I believe this is an extremely important issue that we are discussing and that it is imperative that we adopt the amendment as offered by the Senator from Nevada if we are to carry out our responsibilities not just for today, but particularly for the long future.

We have only amended the U.S. Constitution a few times in our 200-plus year history. It is interesting that only one of those amendments, once adopted, was repealed. That was the amendment on prohibition. Every other amendment, once adopted, has stayed in the Constitution and stayed in the original form. We are not doing this just for 1996 or 1997; we are doing this for the years 2096, 2097.

What is in the best interest of Americans over that long, indefinite future? I believe it is in the best interest of Americans to adopt the discipline of a balanced budget amendment, but to exclude the one-fourth of our Federal expenditures that represent Social Security, for the reasons that I have outlined, but particularly for the mask and the hammer we are about to leave for future generations if we require, constitutionally, that Social Security be consolidated with the rest of the Federal Government.

Let me conclude with a few recommendations. One, if we exclude Social Security from the consolidated budget, I think that we need to look at the question of whether the year 2002 is still an appropriate year for a mandated balanced budget. I believe that we should stretch that period out probably an additional 2 to 4 years, recognizing the fact that we are not going to have the Social Security surpluses as a means of offsetting deficits, and that we do not want to create an undue shock to our economic system and create the possibility of unintentionally putting the United States into a recessionary period.

If we do not adopt Senator Reid's amendment, I think we will need to think seriously about going back to the pay-as-you-go approach to Social Security that we had prior to 1983. I do not believe that the current system is sustainable within a consolidated Federal budget and a constitutional mandate that budget be balanced beginning in the year 2002.

Mr. President, I appreciate the opportunity to make these remarks. I commend the Senator from Nevada and also the Senator from California and others who have brought this matter so appropriately and so vigorously to our attention. It is an extremely important matter. It is not one that needs to be treated as if it can be dealt with by a cosmetic or other surface resolution.

This is a fundamental issue of our future ability to treat Americans who have relied upon the ''contract with America''—that is, Social Security—and to be able to give to our future generations a financial plan for which they will be able to achieve the objectives, including balancing the general revenue budget of the Federal Government, the benefits of having the surplus from the Social Security fund to be used to invigorate our economy rather than to mask our profligate spending, and to give Members an environment in which we can do those things which will be necessary to assure the long-term strength of Social Security.

Mr. President, I urge my colleagues to adopt the amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this constitutional balanced budget amendment is a very big issue. Its impacts are enormous. Its results, if passed and enacted, will be large and long remembered.

SUPPORT FOR A BALANCED BUDGET AMENDMENT

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. I shared this once before and I will do it once again. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born. It was nearly $4 trillion at that time.

So my life experience shows me that with business as usual, the Congress is not going to be able to deal with the deficit unless it is forced to.

The second reason is my Senate experience. In 2 years in the Senate, through my observation of the budget's authorization and appropriation processes, I have become convinced that a balanced budget amendment is in order. In short, current operating procedures will not, in my view, produce a balanced budget. The amendment, therefore, is necessary to face reality and make the difficult decisions.

In a nutshell, those are the reasons I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment. And I have a hard time agreeing with those who have deemed it must have exactly only certain words in it; and only those words.

Last year, I supported the Reid balanced budget amendment on Social Security, as I am today.

Mr. REID. Mr. President, will the Senator from California yield for a brief question?

Mrs. FEINSTEIN. Yes, I will.

Mr. REID. Mr. President, I want to make sure that the RECORD is complete and my words are on the RECORD while the Senator from California is speaking.

The Senator has done a remarkably good job keeping this issue before the public. The Senator, as a member of the Judiciary Committee, singlehandedly brought this to the Senate a few weeks ago, where it was fully debated in the Judiciary Committee.

As a result of the work the Senator has done, my work here, and that of those other cosponsors, including the Senator from California, has been made a lot easier.

I wanted to publicly commend and applaud the Senator from California for her yeoman's work in regard to excluding Social Security from the balanced budget amendment.

Mrs. FEINSTEIN. I thank the Senator from Nevada for those very generous words. I appreciate them very much.

Mr. President, last year I supported both these amendments. In the ensuing year, I have come to think a lot about it. It is a long time before ratification, even if a balanced budget amendment is passed. And when people, beginning with 40 million and then 60 million, then 70 million, then 80 million Americans on Social Security understand what the impact of this amendment is, it is my very deep belief that it will not be ratified. I view the use of Social Security surplus revenues as a major flaw in the balanced budget amendment, but it is a flaw that can be corrected by this amendment.

In 1990, this very body, by a vote of 98–2, voted to take it off budget. They said:

> Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of
>
> (1) the budget of the United States,
>
> (2) the congressional budget, or,
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

This body voted for it 98–2. And in the ensuing days, this body is going to reverse their opinion. One must ask why? Why are we doing this?

FICA TAXES

Let me talk for a moment about FICA taxes and what they are.

By the year 2017, $3 trillion of FICA tax reserves meant to pay for the retirements of American workers will be used instead to balance the budget. This is unconscionable.

If Congress is going to use FICA taxes that are meant for retirements for another purpose other than retirements, we should cut the FICA tax to eliminate the surplus so people do not see their FICA taxes misused.

FICA taxes were raised in 1977 and 1983 so the Social Security system would run surpluses. It was changed at that point from a pay-as-you-go system to a system that would bank surpluses for the future.

Why was that done? It was done because the actuarial tables showed there was going to be a major baby boomer generation retiring in the not to distant future and the revenues, as projected, would not be adequate to meet their retirements. Therefore, it was thought by this esteemed body that we should increase retirement taxes so that moneys could accrue and there would, therefore, be enough money to meet the retirement needs of the baby boomer generation.

What has changed is we found that even without this amendment, downstream, after the year 2018, the Social Security system will run into trouble. There still will not be enough money. But, if these dollars are used to balance the budget, the system is going to run into trouble much more rapidly. By 2002 nearly $1 trillion will be used and by 2017, nearly $3 trillion if we don't start saving these Social Security surpluses.

There are those who say, ''That's OK, we'll use the revenues. It will force us to make necessary changes in the system.'' I agree we have to make some changes in the system. If you raise FICA tax, if you means test it, whatever you do with it, some changes are going to happen.

But to use the reserves to fund health, to use FICA taxes to fund the Interior Department, the Agriculture Department, defense, and interest on the debt and other Government programs, is just plain wrong.

Over 58 percent of working Americans today pay more in FICA taxes if you put in the employer share than they do in Federal taxes. This is not a small amount. This tax is not adjusted by salary. Everyone pays a flat tax of 6.2 percent up to $61,200 of income and the employer matches it with 6.2 percent. For a worker who makes $25,000, his share is $1,550. Combined with the employer tax, it is $3,100. For a worker who makes $35,000, when you combine it with the employer's share, it is $4,340. Go up another $10,000 to $45,000 and combine it, it is $5,580. Go up another $10,000 to $55,000 and combine it and it begins to grow, it is $6,000 a year. And for every worker who makes more than $61,200, combined it is $7,588.

That is a lot of money at any income level. If it is being saved for retirement, then it is like an annuity: That's fine. You pay in funds and you get them out when you retire. But if it is being spent on Government, then it is just another expensive tax on working Americans, and then we ought to do the right thing and reduce the FICA tax if we are going to do this.

SOCIAL SECURITY AMENDMENT

The debate over this amendment to exclude Social Security from the constitutional balanced budget amendment is not complicated. It is very simple. The issue is: Does Congress want to take the funds generated by the FICA tax for Social Security, meant for a worker's future retirement, and use it to balance the budget? Or does Congress want to balance the budget honestly?

I hope that whatever else our disagreements are, we can all agree that Social Security revenues from the FICA tax should not be misused to balance the budget.

My problem with this constitutional amendment is that by including Social Security in the amendment, it does not only permit the use of the Social Security trust funds to balance the budget, but it mandates it by including those funds in the budget calculations. The amendment before us, in effect, enshrines the use of Social Security to balance the budget in the Constitution of the United States. Do we really want to do that? I think not.

So the debate really is not over who wants to protect Social Security and who does not. It is about who wants to be honest with the American people in our budgeting and our fiscal policy and who does not. Because to be honest, Social Security should remain off budget.

Ninety-eight Members of this very body voted to do that in 1990. Including it in the budget would be an enormous loophole. It is not the Federal Government's money, and it should not be used as if it were.

REBUTTALS

Let me respond to four arguments raised against this Social Security amendment.

CHARGE ONE

Excluding Social Security would make it harder to balance the budget.

That is true. Taking Social Security off budget does require more spending cuts, about $3 trillion of them by the year 2017, because all of this money will be used to balance the budget. But the alternative of leaving it on budget is basically stealing from Social Security to avoid spending cuts.

There is nothing magical, as the distinguished Senator from Florida pointed out, about the year 2002. Somebody just sat down and decided we have to do this by the year 2002. The Sun is not going to refuse to come up in the year 2003 or 2004 or 2005 or 2006 or 2007. If people are really concerned that we need to use Social Security revenues or you cannot balance the budget, then it is simple: Extend the time line out to 2005 or 2007 rather than loot Social Security.

If a man runs short on money one month, the law does not allow him to steal from his neighbor to make ends meet. But this amendment allows the Federal Government to steal from Social Security to meet its obligations. How is that right?

CHARGE TWO

It is unprecedented to put a statute in the Constitution of the United States.

I have heard that mentioned time and time again on this very floor.

Now, of course, it is true, it is unprecedented. It is also true that it is unprecedented to put the Nation's fiscal policy into the Constitution. And if we decide that this Nation needs the strong medicine of a balanced budget amendment, then we better be sure that the amendment is drawn deeply enough and widely enough to represent some of these concerns.

The legislation before you is narrowly drawn, and it specifies that only those funds used to provide old age and survivors and disabilities benefits are involved. So it is not a loophole.

The distinguished chairman of the Judiciary Committee, whom I deeply respect, has said, well, a game will be played if we put the words Social Security in the Constitution. Education moneys will be called Social Security moneys. The amendment is drafted to be specific, to prevent this from happening, and it does.

Now, Chairman HATCH has also said that no one wants to use Social Security revenues to balance the budget, and we could protect them in implementation legislation or by some other resolution.

I initially thought, well, maybe that is a great idea. If we can do it that way, why not do it. And so we asked the Congressional Research Service, if that could be done.

I wish to read the reply I received. This is what it says:

If the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculations of total receipts and outlays under section 1 of the balanced budget amendment.

Mr. President, I ask unanimous consent that the communication from the American Law Division of the Congressional Research Service be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 6, 1995.

To: Senator Dianne Feinstein (Attention: Mark Kadesh).

From: American Law Division.

Subject: Whether the Social Security trust funds can be excluded from the calculations required by the proposed balanced budget amendment.

This is to respond to your request to evaluate whether Congress could by statute or resolution provide that certain outlays or receipts would not be included within the term ''total outlays and receipts'' as used in the proposed Balance Budget Amendment. Specifically, you requested an analysis as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund could be exempted from the calculation necessary to determine compliance with the constitutional amendment proposed in H.J. Res. 1, which provides that total expenditures will not exceed total outlays.[1]

Section 1 of H.J. Res. 1, as placed on the Senate Calendar, provides that total outlays for any fiscal year will not exceed total receipts for that fiscal year, unless authorized by three-fifths of the whole number of each House of Congress. The resolution also states that total receipts shall include all receipts of the United States Government except those derived from borrowing, and that total outlays shall include all outlays of the United States Government except for those used for repayment of debt principal. These requirements can be waived during periods of war or serious threats to national security.

Under the proposed language, it would appear that the receipts received by the United States which go to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. This is confirmed by the House Report issued with H.J. Res. 1.[2] Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security Trust Funds from the calculations of total receipts and outlays under section 1 of the amendment.[3]

KENNETH R. THOMAS,
Legislative Attorney, American Law Division.

FOOTNOTES

[1] H.J. Res. 1, 104th Congress, 1st Sess. (January 27, 1995) provides the following proposed constitutional amendment—

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Section 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

[2] House Rept. 104–3, 104th Congress, 1st Session states the following:

The Committee concluded that exempting Social Security from computations of receipts and outlays would not be helpful to Social Security beneficiaries. Although Social Security accounts are running a surplus at this time, the situation is expected to change in the future with a Social Security related deficit developing. If we exclude Social Security from balanced budget computations, Congress will not have to make adjustments elsewhere in the budget to compensate for this projected deficit * * *. Id. at 11.

It should also be noted that an amendment by Representative Frank to exempt the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from total receipts and total outlays was defeated in committee by a 16–19 rollcall vote. Id. at 14. A similar amendment by Representative Conyers was defeated in the House, 141 Cong. Rec. H741 (daily ed. January 23, 1995), as was an amendment by Representative Wise. Id. at H731.

[3] Although the Congress is given the authority to implement this article by appropriate legislation, there is no indication that the Congress would have the authority to pass legislation which conflicts with the provisions of the amendment.

Mrs. FEINSTEIN. This means then that Congress does not have the option of later excluding Social Security in implementation language. We simply do not have it. Therefore, unless Congress enacts this amendment, Social Security funds will be used to balance the budget.

No other way around it. No talk is going to change it. No pounding the breast is going to change it. No vows taken with blood or wine or anything else is going to change it. It will be enshrined in the Constitution of the United States and $3 trillion of money paid in FICA taxes by young people in this country, working men and women, will be used to pay for agriculture, to pay for HUD, to pay for education, to pay for this highway project or that highway project.

I believe that is violative of a public trust, and I believe that what this amendment is all about should not be to gut Social Security, and that is exactly what we would be doing, if we don't exclude Social Security.

So we have taken care of that argument. Congress does not have the option of later excluding Social Security in implementation language.

It is very clear. A vote for a balanced budget amendment that does not have this amendment in it is clearly a vote that puts Social Security on budget and takes its surplus. Let there be no doubt about it.

CHARGE THREE

Exempting Social Security could create a Social Security deficit.

Actually, the exact opposite is true. Excluding Social Security from the balanced budget amendment protects it while including it in the balanced budget amendment guts it. If you put Social Security in the budget, it is not to protect it. It is to use its revenues and thus increase its insolvency.

In 60 years of Social Security history, the trust funds have never run a deficit. They cannot. If trust funds run out of money, benefits cannot be paid. It is that simple and straightforward.

CHARGE FOUR

Excluding Social Security would allow the Government to gamble with Social Security funds.

According to the Republican policy committee report, and I quote,

> Congress might stop using Social Security surpluses to buy Government securities and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures or speculating on foreign currencies.

Mr. President, to that I say nonsense. To that I say baloney. That is pure flimflam. Social Security is off budget today, and the trust funds are not allowed to be invested anywhere except U.S. Treasury bonds. And they are the safest investment in the world. If they go, our Government goes.

Social Security has never been allowed, nor will it ever be allowed under this amendment, to use trust fund reserves to buy up real estate or cattle futures or to speculate on foreign currencies. This charge is pure obfuscation. It is pure fantasy.

Under this amendment, Social Security would still be required to invest in U.S. Treasury bonds, and there is nearly $5 trillion today of Federal governmental debt. The U.S. Treasury will continue to issue bonds and Social Security will continue to purchase those bonds.

The biggest difference between the practice today and the practice if the balanced budget amendment excluding Social Security is adopted is that when the constitutional amendment takes effect, the U.S. deficit will actually shrink—shrink—for nearly the next two decades, not grow.

And to my mind that is fiscally prudent. As the debt shrinks, interest rates drop. This means businesses can expand and hire new workers, Americans can afford new homes and pay for college for their children. Shrinking the debt is the right objective, and that will happen under this amendment for the next two decades.

Mr. President, in conclusion. I have listened to all the arguments about what is wrong with our amendment to exclude Social Security, but they all boil down to one thing: Members of Congress simply want to use the money to balance the budget.

That is not a real argument. That is a failure to deal truthfully with the American people. To loot Social Security is morally wrong and I cannot support it.

I want to support, as I said before, a balanced budget amendment and I am prepared to do so if Social Security is excluded. Rather than argue about this amendment, my colleagues who support a constitutional balanced budget amendment as I do, why not do the right thing and accept this amendment to exclude Social Security? Then we can move forward in a bipartisan way and get this country back on the right track again.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, as I have heard my friend from Florida and the Senator from California make their arguments on this balanced budget amendment, if there is ever an argument that they have made that has been powerful it is this one, but it is an argument why we should have a balanced budget amendment so these trust funds can stay viable, so we can live up to our obligations. It was a wonderful argument for them. And I do not think we should lose the spirit of just exactly why we have to have it.

If we go far back in our history to the ratifying of our Constitution and read the argument that was made then, when we formed this country, there was a very deep concern from the Framers of this Constitution about our ability to create national debt. I think it was Thomas Jefferson himself who made the statement that still was one of his concerns when the Constitution was ratified. I know it was a concern of the first President of this United States, George Washington.

If we read our history, those concerns have lasted as long as our Constitution has lasted. So the argument they make is a very persuasive one for, and a good reason why we need, a balanced budget amendment at this time.

I yield the floor.

Mr. HATCH. Mr. President, opponents of House Joint Resolution 1, the balanced budget amendment, are expected to support an amendment unsuccessfully offered in the Judiciary Committee by Senator DIANNE FEINSTEIN to specifically exclude Social Security from the calculations used to determine if the Federal Government's budget is in balance. A slightly modified version of this amendment has been introduced on the floor by Senator HARRY REID.

The consequence of its passage would be cataclysmic for millions of middle-class Americans who are counting on Social Security to supplement their retirement income in the future. At best, the Reid amendment is a jobs program for constitutional lawyers who would keep the matter tied up in the courts for years, if not decades.

The Reid amendment is just the sort of protection today's senior and tomorrow's retirees don't need. By requiring the Government to ignore Social Security receipts and expenditures in balancing its books, the Reid amendment would threaten the future of a program on which tens of millions of Americans rely.

HOW SOCIAL SECURITY WORKS

Consider how the Government collects payroll or Federal Insurance Contribution Act [FICA] taxes and pays Social Security benefits. Social Security payroll taxes—like Federal income, corporate, and excise taxes—are collected by the U.S. Treasury. Unlike other Treasury receipts, however, FICA revenues are used to back monthly Social Security checks. The House Ways and Means Committee's Overview of Entitlement Programs [the ''Green Book''] describes the transaction this way:

> The trust funds are given IOUs when [FICA] taxes are received by the Treasury, and those IOUs are taken back when the Treasury makes expenditures on the program's behalf. This handling of [Social Security] finances goes back to the inception of the program and has not been altered by the inclusion or exclusion of the [Social Security] trust funds in or from the federal budget. [1994 Overview of Entitlement Programs, p. 91]

Throughout most of the program's history, the Treasury has collected more in FICA taxes than it has needed to pay Social Security benefits. The trust funds are thus stockpiling IOU's from the Treasury and are expected to do so for nearly two more decades. This year, for example, the Congressional Budget Office [CBO] estimates that Social Security receipts will exceed outlays by $69 billion. Over the 5-year period from 1996–2000, CBO projects that Social Security will take in $421 billion more than it will spend.

The Reid amendment would require Congress, when it hammers out annual Government budgets, to pretend that these billions of dollars simply do not exist. The Treasury would continue to collect hefty payroll taxes from working Americans, but these revenues could not be counted when determining whether the Federal budget was in balance.

WHAT THE REID AMENDMENT WOULD DO

The Reid amendment, as it was offered in—and tabled by—the Judiciary Committee, would add a new sentence at the end of section 7 of House Joint Resolution 1, the balanced budget amendment. The Nevada Senator's amendment reads:

> The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disability benefits shall not be counted as receipts or outlays for purposes of this article.

In order to bring revenues into line with expenditures under the bizarre accounting system necessitated by this amendment, Congress would have to

choose from at least four major options, each of which would hurt the economy and imperil the Social Security system.

REID OPTION 1: RUN GOVERNMENT SURPLUSES

The first option would be for the Federal Government to run annual surpluses—collecting more in taxes than it spends—equal to the value of Government securities purchased by the trust funds.

This year, for example, the Social Security trust funds will buy $69 billion in Government securities from the Treasury. If a balanced budget amendment with the Reid provision were in effect, the Treasury would have to make believe that it never received this $69 billion. Thus, Congress would have to raise taxes or cut spending by $69 billion just to keep the deficit at its current level—$176 billion, according to CBO's most recent estimate. In order to balance the fiscal year 1995 budget under the Reid amendment, the Government would have to eliminate the $176 billion deficit and then come up with an additional $69 billion.

The Reid amendment thus would make it harder to achieve a balanced Federal budget, unless Congress resorted to one of the other options described in this paper. Ironically, many advocates of the Reid amendment oppose the balanced budget amendment because they believe that it would require tough decisions on cutting Federal spending. The balanced budget amendment with the Reid provision could actually make these decisions tougher than would an amendment without that provision.

REID OPTION 2: EXPAND THE DEFINITION OF ''SOCIAL SECURITY''

While Congress is unaccustomed to passing balanced budgets, much less running surpluses, the Reid amendment would present lawmakers with another option, one with which it is more familiar—spending taxpayers' money.

The Reid amendment would effectively create two Federal budgets: One bound by rules of sound fiscal discipline and another in which Congress could spend as it pleased. The former budget would include all non-Social Security programs; the latter, all programs defined as ''Social Security.''

It wouldn't take long before Congress started to redefine its favorite programs as ''Social Security.'' For example, the Supplemental Security Income Program [SSI], a welfare program for indigent aged, blind, and disabled people, is administered by the Social Security Administration, though it is financed by general revenues rather than through the payroll tax.

Spending on SSI has grown rapidly in recent years, and the program has been plagued by scandal. There has been a sizable increase in the number of alcoholics and drug addicts who qualify for benefits on the basis of their addiction. Critics also say that the steep rise in the number of children on the SSI rolls is due in large part to the mischaracterization of behavioral problems as disabilities. And many legal aliens have begun to collect monthly SSI checks when their sponsors—usually family members—withdraw financial support.

A balanced budget amendment would force Congress to take a hard look at the SSI Program and institute reforms to control costs. But if the Reid provision were added to the amendment, Congress could take the easy way out by using the FICA tax to pay SSI benefits. Other welfare programs—like Medicaid, food stamps, and scores of others—also could escape reform by being reclassified as ''Social Security.'' This would drain resources intended for seniors and impair Government's ability to pay retiree benefits.

REID OPTION 3: CREATE A SOCIAL SECURITY DEFICIT

The Reid amendment would require only part of the budget to be in balance—non-Social Security spending would have to equal non-Social Security revenues. But the Reid amendment would permit part of the budget to be wildly out of balance—the part that seniors rely on for their monthly Social Security checks.

Because Congress would be prohibited from counting revenues from FICA taxes as Government receipts in determining whether the budget is balanced, lawmakers could drastically reduce these taxes without increasing the deficit. Increases in income taxes, however, would reduce the deficit. Thus, even if revenues from Federal income taxes were increased by the same amount that revenues from FICA taxes were decreased, the deficit actually would be reduced under the Reid amendment's twilight zone accounting.

The Reid amendment thus would create a perverse incentive for Congress to create huge Social Security deficits in order to balance the Federal budget. Replacing FICA revenues with other Federal tax revenues would be an easy means of helping to balance the non-Social Security portion of the budget, which is all the amendment would require.

Of course, the FICA taxes would no longer fully fund Social Security benefits, threatening the program with bankruptcy. The Social Security trustees could borrow money from the public in order to cover monthly checks to retirees, a step unprecedented in the program's history. But these Social Security deficits wouldn't matter under the Reid amendment. In the twisted logic of the amendment, the Federal budget would be considered balanced as a matter of constitutional law, even as the Federal Government plunged deeper into debt, a debt that would fall on future generations.

REID OPTION 4: GAMBLE WITH SOCIAL SECURITY FUNDS

Congress could avoid these problems by changing the way that proceeds from the FICA tax are spent. Current law permits these funds to be used only to pay benefits and to purchase government securities. It also accounts for these intergovernmental transactions in a commonsense way: The Treasury is credited with the revenues not needed to pay benefits, and the trust funds receive an equal amount in Government securities. Since the Government is borrowing money from itself, this transaction has no net effect on the deficit.

The Reid amendment would change the way these transactions are accounted for. While the trust funds would continue to count their Government securities as assets, the Treasury would have to pretend that it received nothing of value in return. Thus, in the bizarre world created by the Reid amendment, every time the Treasury issued a Government security to the trust fund, the deficit would increase, just as the Government's debt increases when it sells bonds to the general public.

Since the Reid amendment would treat these intergovernmental transactions as it would public bond issues, Congress might stop using Social Security surpluses to buy Government securities, and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures, or speculating on foreign currencies.

HOW TO SAVE SOCIAL SECURITY

Far from saving Social Security, the Reid amendment would threaten the program, driving Congress to pursue policies that would bleed the system and damage the economy in the process.

It also would tie the hands of lawmakers who want to restore the Federal Government to fiscal soundness. Congressional Budget Office Director Robert Reischauer, during his January 26 appearance before the Senate Finance Committee, was asked by Senator DON NICKLES whether he thought a balanced budget amendment should include exceptions for Social Security or other Federal programs. Dr. Reischauer replied:

> I would say the most comprehensive treatment of the budget would be the most desirable. And what you want is a situation where all activities of the Federal Government are on the table to increase or decrease all of the time in the future. We do not know how this country is going to evolve. * * * In 1920, there was no such thing as Social Security. Now there is. Who knows what the world will look like in 2020?
>
> If you are going to lock something into the Constitution, you want to do what our founding fathers did, which was provide guidance, general guidance, not nitty gritty specificity, so that the amendment will have enduring value.

The best way to assure that the Social Security system will have enduring value is for Government to get its own financial house in order. Rising Federal debt, and the interest payments it entails, threaten Social Security and stunt economic growth. Robert Myers, Social Security's former

chief actuary and deputy commissioner, has stated:

If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

A government crippled by debt can't keep its promises. The balanced budget amendment—without the Reid provision—will help Congress make good on its pledge to seniors and to millions of working Americans to preserve Social Security.

Mr. President, I referred yesterday to a thoughtful article on this subject by Mr. David Keating, published in the Washington Times. I would ask that this be included in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 8, 1995]

SOCIAL SECURITY AND THE BALANCED BUDGET

(By David Keating)

During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Although the Social Security system currently collects more in taxes than it spends in benefits, this will change early in the next century. If Social Security is exempt, the balanced-budget rule would quickly become worthless. Consider this: In the year 2050, this exemption would legalize an annual total budget deficit of over $2 trillion. That $2 trillion annual deficit will occur under current Social Security policies as today's children retire. This loophole would give Congress yet another excuse to stall any action to address these huge Social Security deficits.

The balanced-budget amendment simply requires that Congress take a three-fifths vote in order to pass a bill to borrow more money. Excluding Social Security sounds nice. but it would actually create a huge flaw in the amendment. As Congress chafes under the balanced-budget rule, it would likely use the Social Security loophole to fund other programs, leading in turn to the destruction of Social Security as it works today.

Congress would probably first add other programs that aid the elderly into Social Security. Obviously candidates include veterans' benefits and pensions, which total more than $20 billion a year. Supplemental Security Income, which is used to aid the elderly poor and costs over $25 billion a year, is another likely candidate. Then there is the approximately $175 billion in Medicare and Medicaid spending that benefits the aged. A portion of funds spent on the retired poor by Food Stamps, low-income home energy assistance, housing subsidy and other social service programs might be transferred to newly exempt Social Security trust funds. Some or all of federal employee or military retirement programs may also become part of Social Security.

A future Congress that wished to bypass the balanced-budget amendment could also, by a simple majority vote, authorize deficits as large as current Social Security spending. How? By reducing Social Security trust-fund taxes and revenues and increasing ''operating'' fund taxes and revenues by an equal amount. This has the potential to be as much as a $330 billion loophole, the current cost of the Social Security program.

It also increases the danger of granting further ''exemptions'' to the provisions of a balanced budget amendment. If Social Security is declared exempt, advocates of other causes—from highway builders to teachers—would demand their own exemptions. Or, Congress could simply begin funding everyday programs under the guise of ''Social Security.'' Sound implausible? Who ever thought the Disability Insurance part of the Social Security System would pay benefits, as it does now, to young drug addicts and alcoholics who then use the money to sustain their habits?

There is nothing in the proposed exemption that would prohibit spending money from the Social Security trust funds for nonretirement programs. A future Congress and president that wished to circumvent the balanced-budget rule could do so simply by funding non-Social Security programs from trust fund accounts. A simple majority of Congress could thus effectively get around the balanced budget amendment and its limit on new debt.

In 1974, the federal debt was $483.9 billion. Today it's over $4.8 trillion, thanks to federal spending growth of twice the rate of inflation. Fifty-two cents of every personal federal income tax dollar now goes to pay interest on the national debt. Not only will interest begin to crowd out Social Security, but the continued buildup of debt will impair the ability of future taxpayers to refund moneys borrowed from the trust fund. Only an all-inclusive Balanced-Budget Amendment will force Congress to balance the budget and create a sound environment for the future of Social Security.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise today in support of the Reid-Feinstein amendment to exempt Social Security in any balanced budget amendment to the Constitution of the United States. I want to be absolutely clear. I will not vote for a balanced budget amendment to the Constitution that does not exempt Social Security. I will defend that principle in the Constitution. I will defend it on the Senate floor. And I will make sure to do all I can to exempt it in the balanced budget amendment.

Social Security is our primary contract with America. Social Security is a sacred and legal trust between the people and the U.S. Government. It is a social contract that was established more than 60 years ago and I believe promises made should be promises kept. We said to the American people if you practice self-help, if you contribute to a Social Security trust fund, we will make available to you a safety net and a floor on which you can build your retirement.

I believe this is a promise that needs to be kept. It was made in the New Deal. It was made in the Fair Deal. It was made in the New Frontier. It was made in the Great Society. It was reaffirmed by Ronald Reagan and George Bush and we should reaffirm it here. Social Security should be a sacred trust among the American people and should not be subjected to the vagaries of the U.S. Congress.

Republican colleagues say, ''Do not worry. We all like Social Security. It is probably the one thing the Democrats did that we really do like. We do not want to touch Social Security and we can balance the budget without it.''

That is like hearing somebody say, ''Do not worry, Honey, I will take care of you.'' But then we all know that does not happen.

If in fact my colleagues on the other side of the aisle believe that Social Security should not be touched, let us not wait, then, for some mysterious enabling legislation. Let us put it in writing now and then let us put it in the constitutional amendment.

We talk a lot about the Contract With America and there is much about it that I support: the Congressional Accountability Act, the unfunded mandate legislation, the fact that we need to reform welfare to make sure we reward work, support families, and move people to self-sufficiency.

I also want to go back to the original contract, which is the Social Security contract. We need to honor work. We need to honor sweat equity. We need to continue to give help to those who practice self-help, those people who put money into the Social Security trust fund, believing it would be there for them and not be subject to whatever the Congress wants to do on any given year with the budget.

My contract with the American people and the people of the State of Maryland is I will not vote to cut Social Security and I will not vote for a balanced budget amendment that does not exempt Social Security. I will not vote to balance the budget on the backs of the generation that saved Western civilization.

Right now we have wonderful, ordinary men and women who did extraordinary things during World War II who are now in their seventies and eighties, who absolutely rely on Social Security. Eleanor Roosevelt called that generation who mobilized for the war, for World War II, she called them to something, and said it was no ordinary time and no ordinary solutions would be sufficient to defeat those enemies of America and Western civilization.

Not only was it no ordinary time, they were no ordinary generation. Now we cannot make them pay for the red ink that has been run up in the Federal deficit.

Social Security is not the cause of the Federal deficit. It is an independent, self-financed and a dedicated fund. In the early 1980's we all took tough medicine in order to make the Social Security trust fund solvent. Today the Social Security has a reserve, it has a surplus because we anticipate the needs of an aging generation. Older Americans who survive on Social Security plus a small pension are not responsible for this Federal budget deficit and should not pay the price for the balanced budget amendment.

This is not just a senior citizen issue. This is a family issue. Right now there are many families in my age group who are called the sandwich generation. They are helping support their mother and father—or in many instances their family is self-sufficient because of Social Security combined with a private pension plan—but this sandwich generation is helping mom and dad and paying for the kids in college. They deserve the fact that their mother and father should get the Social Security check that they planned for and that they thought would be there for them.

I will not let those families down. I am on their side, standing up for the principles of family responsibility, self-help and believing when your U.S. Government makes a contract with you it will not change the rules of the game in the midst of debates on the budget.

Let us be clear. Social Security is not welfare. It is not a line item in the appropriations process. It is not something we decide on every year. It is an independent self-financed solvent trust—underline the word ''trust''—fund. It is the foundation of retirement security and family security.

If we do not exempt it from the balanced budget amendment I predict it will be cut. I predict it will be cut severely. This will mean that millions of families could see their incomes sink, and older Americans and disabled Americans will be placed at risk.

We hear a lot about angry taxpayers, but they are not angry at Social Security. Americans know that Social Security works, and 79 percent of the American people want to see Social Security exempted from the balanced budget amendment. I stand with those Americans. Count me as part of the 79 percent.

Count me as being 100 percent with that percentage of the American people who want Social Security exempted in the balanced budget amendment. Let us protect and preserve and defend that social contract with them and let us protect, preserve, and defend the Constitution of the United States of America.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

Mr. HATCH. Mr. President, I think this has been a reasonable debate. It has been civil. The debate has been so for both sides of this issue, and both sides have been well-represented. Naturally I feel our side is correct. I would not be here if I did not, working day in and day out. But the American people voted for change. They thought they were going to get it when they voted for President Clinton. And to a degree they have gotten change, but not the change they thought they were going to get. They thought he would lead the fight for a balanced budget. In a sense, with increasing taxes and doing some budgetary cuts in the last year, I guess you could give him some credit for that, except that under that budget that he passed with 100 percent Democrats and no Republicans, the Vice President having to break the tie, that budget has deficits shooting up in 1996 to as high as $400 billion-plus shortly after the turn of the century.

This year the President has brought his budget forward, and I really believe he has just thrown in the sponge because this year's budget has $200 billion deficits ad infinitum just on and on well into the next century, certainly for the next 12 years. And those are based on his rosiest assumptions. He just plain did not do anything about persistent yearly deficits. That is not change. That is business as usual. And $200 billion deficits are very, very high.

The American people voted for change, and the balanced budget is part of that change. I think we have to overcome this deficit problem.

This chart here shows the President's projections. Calculating the deficit under President Clinton, we started with a $4.8 trillion national debt, and between 1994 and the year 2000, 5 years, he will spend $1.39 trillion more than we are currently spending.

The deficits will be $103.2 billion for 1994; $129.5 billion in 1995. Then they go up from there. But they average well over $190 billion a year. This chart only shows projections to the year 2000. They have projected up to the year 2007. Every one of those years has $190 billion-plus deficits. That is assuming that the optimistic economic assumptions of the President will be valid, even though we may have some downturns and upturns and everything else during that time. I do not think that these optimistic assumptions will hold, especially if you do not have a balanced budget amendment to get the Government to live within its means.

The American people want change. They are not going to be satisfied with business as usual. What I hear from the opponents, sincere as they may be, is that we are going to have business as usual. They know full well the American people support a balanced budget amendment—and the other body passed this amendment overwhelmingly. It was kind of a miracle really because we have been fighting for the balanced budget amendment ever since I came here. We passed the balanced budget amendment in 1982 by the requisite 67 votes plus 2. We had 69 votes. It went to the House, and we got 60 percent of the House to vote for it but it was not the two-thirds. Tip O'Neill beat us over there. Then we were beaten again over there. But this year, in a vote of 300 to 132, I believe, they overwhelmingly passed the balanced budget amendment.

So for the first time in history, the Senate, which has a history of previously having passed the balanced budget amendment, has a chance to pass it on to the States and make this a very pivotal year in U.S. history by putting the discipline in the Constitution that will help us to get spending under control.

I think the people out there know full well that since the other body passed this amendment overwhelmingly with strong bipartisan support despite the President's opposition—I have to say that I do not think the President is opposing this very strongly. Sure, he does not want it to pass. His budget makes that clear. But I think deep down he probably wishes it would pass because then it would provide the fiscal discipline that his party and our party need in order to get spending under control.

I would like to take a few minutes to define some of the reasons the American people need a balanced budget amendment. The Tax Foundation, in its April 1994 special report, calculated that an American worker worked 125 days last year just to pay taxes. That means from January 1 to May 5, working Americans earned absolutely nothing for themselves. Every dime they earned—working Americans between January 1 and May 5—went to taxes for the Federal Government. Put another way, in an 8-hour day, a working American spends the first 2 hours and 45 minutes working for the Government. That is wrong. The hard-working Americans who grant us the privilege of serving them deserve better than this. The American people have earned this amendment. It would be a shame for us, after the House bit the bullet and passed this amendment and after they have taken the lead, to deprive our citizens any longer.

By the way, it was a bipartisan vote in the House, as it has to be in either body. It was not a Republican victory. This is not a Republican amendment. This is a bipartisan, consensus amendment. I know. I have worked on it and have helped write it now for all of these last 19 years, and certainly since 1982. And we have worked with our Democratic counterparts year in and year out, and 72 terrific, courageous Democrats voted for this over in the House of Representatives. It would not have passed without them. We all know that. So there is no reason for either side to claim victory here, if this passes, as I think it will. There is every reason for us to continue to work together.

Hard-working Americans who grant us the privilege of serving them deserve a better break than they are getting. The American people have earned this amendment. It would be a shame for us to deprive them of this.

Those of my colleagues who believe Americans are getting their money's worth for their tax dollars should oppose the balanced budget amendment. But if any of them believe that, I would be surprised. Those Senators who believe otherwise should support it.

Mr. President, the size of our bureaucracy is out of control, and wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative. Let me get into that in a minute. But before I do, let me go back to our balanced budget

debt tracker and the growth of the national debate as we debate.

Mr. President, when we started the debate on day one, the national debt was $4.8 trillion, and is represented by this red line. We are now in the 11th day. We are now up to $9,123,840,000 in increased debt just in the 11 days since we started this debate.

It is going up every day that we debate. We are standing here seeing the sinking of the *Titanic*, and just whittling—I guess fiddling would be a better word—while Washington is sinking American taxpayers deeper day in and day out. Just look at how the debt grows. That is going to go up every day this debate continues. It is time for us to do something about it. The bureaucracy is out of control. Wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative.

Let me mention some of the details of our current plight.

I am grateful for the National Taxpayers Union for compiling some of these points. No. 1, the fiscal year Federal budget deficit was $203.4 billion. No. 2, the Federal Government has run deficits in 33 of the last 34 years and has run a deficit every single year for the past 25 years. No. 4, last year, gross interest payments alone on the national debt were just under $300 billion. These gross interest payments were the second largest item in the Federal budget, and they were more than the total revenues of the Federal Government in 1975. In other words, what we are paying for interest, which just goes down the drain, totaled nearly $300 billion, and that figure is more than the total Federal budget was in 1975, just 20 years ago.

It took our Nation 205 years, from 1776 to 1981, to reach $1 trillion in national debt. It took only 11 years to reach $4 trillion. On the last day of 1994, the total Federal debt had reached $4.8 trillion. That means that I was a little wrong here when I started my chart behind me as having a $4.8 trillion national debt the day we began the debate. That was the debt January 1. So we were actually higher than that when we began the debate. But, having used that as a rounded baseline figure, we are now another $9 billion, going on $10 billion, in debt just in the 11 days this debate has been going on.

The country is suffering. I have to say that despite claims of drastic deficit reduction with the 1993 passage of one of the largest tax increases in American history, the Congressional Budget Office predicted deficits will exceed $300 billion in less than 10 years from now.

Mr. President, I understand the distinguished Senator from Wisconsin wants to speak. If I could take maybe a couple of more minutes, I will be glad to yield.

Even the President's budget, as I mentioned, just sent to Congress, as optimistic as it is, predicts about $200 billion in deficits every year through the year 2002 when our amendment will go into effect. This is another $1.4 trillion in debt over those 7 years. That is almost certainly a vast understatement. Think of the increase in yearly interest payments that will add to the Federal budget every year just from that.

The Washington Post headline on Saturday said a great deal about the President's budget proposal: ''New Budget to Continue U.S. Deficits; Clinton Proposal Due Monday Produced Amid Staff Doubts.'' The article reports that the President's budget ''left some administration officials doubting the President's commitment to his campaign vow to halve the deficit by 1996.'' The headline over the continuation of the Post story on page 4 aptly reads: ''Clinton's Proposed Budget Continues Deficits He Pledged to Cut.''

Some who are cynical believe he has done that so that the Republican Congress will have to make the cuts, and then they can criticize the Republican Congress for having done so. I hope that is not the case. Nevertheless, it is apparent that he has not been doing what he promised to try to do. Is there any doubt that we cannot keep spending this way and racking up these huge deficits? Is there any doubt that the politics as usual, represented by the President and his budget proposals, do not serve the best interest of our hard-working taxpayers? Federal spending and debt crowds out free enterprise. When the Federal Government spends and borrows, it soaks up resources that private business might otherwise use to build or expand factories, showrooms, and stores, and the ability to employ many Americans at better wages.

Deficit financing is hurting the chances that our children and grandchildren will have financial security. Each one of them owes $18,500 in national debt as of right now—in fact, each American citizen, man, woman and child. Each year we are going to add, under the President's budget, $200 billion to the national debt, from here on in, ad infinitum. Each year we do that, we cost the average child just over $5,000 in extra taxes over his or her working lifetime, just to pay interest costs.

The President is proposing to do just that, year after year. I know it is tough to be President and I know it is tough to make these decisions. But future generations are going to face higher interest rates, less affordable homes, fewer consumer conveniences, fewer jobs, lower wages, and a loss of economic sovereignty, unless our fiscal house is brought into order. So it is time we face these facts, Mr. President. It is time to make the commitment to balance the Federal budget, and we need this constitutional mandate.

So I urge my colleagues in the Senate to please consider this and please support us in fighting for and voting for the balanced budget amendment.

I have more to say, but I will say it at another time, because the distinguished Senator from Wisconsin desires to speak.

I yield the floor.

Mr. FEINGOLD. Mr. President, we are doing something very unusual here. We are working on a constitutional amendment. We know that has not happened many times in our history, and so when you deal with a constitutional amendment, you have to take an even tougher attitude about what you are doing. I think you have to consider that two different things can happen, obviously. One is that the amendment may be defeated which, in this case, I happen to prefer. As we go through the amendments, we also have to be responsible about the amendments we put on, because whether I like it or not, this may become the law of the land, part of the Constitution.

So the amendments that are offered become particularly important. What we are doing here is to decide whether or not this balanced budget amendment should become the law of the land and possibly a straitjacket and a problem for a Federal Government from which it will be very difficult to extricate ourselves. So it is in that spirit that I address the amendment of the Senator from Nevada.

I want to take this opportunity to commend the Senator from Nevada for his eloquent leadership on this issue of the Social Security aspect of the balanced budget amendment—his leadership last session and his leadership now. I also commend the senior Senator from California, who took the lead in the Judiciary Committee on which I serve in trying to provide at least this exemption for Social Security from the balanced budget amendment.

The Senator from California did such a good job, and I was happy to be able to help her. We had a very close vote; we were only one vote off in the Judiciary Committee from defeating a motion to table the amendment.

I see this amendment both in the committee and here on the floor as not only serious, but as a sincere and constructive amendment, even though I have reservations about the balanced budget amendment itself. I especially speak at this time because even though I think there is a chance the balanced budget amendment will not pass this body, and even though I think there is a possibility that even if it goes through the Congress it will not be approved by the States, the fact is that it may well do that.

We may well be faced with the possibility that the U.S. Constitution will have a balanced budget amendment that provides no protection for the Social Security program. Listening to the debate in committee and in listening to the debate yesterday on the floor, I realized again that when you look at the Social Security amendment, it really depends on how you look at the Social Security fund itself. How one

comes down on this amendment depends on how you look at the contributions people make to the Social Security system.

One group of people see the Social Security fund as a distinct and separate fund, based on a contract. They think they paid in the money, that a deal was made, that they are entitled to their Social Security benefits, and that it is not subject to congressional whim.

There is another group that sees this as just another program, albeit a worthy program. I know of no Member of the Senate or any Member of the other body who does not think Social Security is a worthy program. But this other group just sees it as a program, something that may make sense, something that is expensive, something that we may have to move around and take some money from, but something that is worthy nonetheless. Those are really the two different ways to look at Social Security. It is because of this distinction—the differences between the way people look at Social Security—that people come down on different sides on what the chairman of the Judiciary Committee called in the committee the loophole.

The chairman, the Senator from Utah, said that putting this amendment into the balanced budget amendment and into the Constitution would create a loophole; that the Members of Congress could take basically anything they wanted and label it Social Security and use it as a way to get out from under the amendment. That was the chairman's view of how this would create a loophole.

But I think I look at the Social Security fund a little differently than the chairman—and I acknowledge that a lot of people support him in his view. But I look at the Social Security system as a contract. And so for me, the loophole is not the amendment that the Senator from Nevada is proposing; the loophole is the past and inappropriate use of the Social Security fund to mask the deficit and the debt. That has been the loophole that has been used in the Congress.

We should not suggest even for a minute—and apparently it went a lot longer than that—that somehow the Social Security fund is part of that money that comes into the Federal Government and that we can use it in our budget calculations, as, in fact, it has been used in the past to mask just how big the deficit really is. I know that the Congress in recent years has recognized that this is inappropriate, but it was done—that is the dangerous loophole; that the Social Security fund can be regarded as a cookie jar, a slush fund, whatever you want to call it, to solve our problems that we have failed to solve. In my mind, that is the loophole, not the risk that the Constitution would say do not touch Social Security.

I think the amendment of the Senator from Nevada and the amendment in committee of the Senator from California are critical because they permanently close the loophole as we move in the balanced budget era.

In fact, I would say, based on a few years of listening to folks all over my State, that the use of the Social Security fund to mask the deficit and the debt is one of the really strong reasons people mistrust the Federal Government. They are troubled by their belief that we are willing to engage in gridlock and avoid solving our Nation's problems. But, they are also angry that we can be so arrogant as to consider Social Security system funds not to be part of a contract with the people who have paid into the system, but money that we can use to solve problems that we have not been willing to solve in the past.

The amendment of the Senator from Nevada is responsible as to the future, as well. It is highly responsible, because what it does is address the future solvency of the Social Security fund.

Just as the Social Security fund is not the reason we have a deficit today—we know that the fund is solvent—it is still the case that the Social Security fund faces an extremely likely, if not certain, strain in the future. It must remain intact as a separate system with a separate, credible, long-term financing plan so that Social Security will be there for those of us who come along in the future. Without the amendment of the Senator from Nevada, the balanced budget amendment becomes not a friend to the future, but a continuing threat to the integrity of the Social Security system.

Now, that is not to say—and I think this is important—that there cannot be changes on the table for Social Security. I think there should be. Everything needs to be improved over time and, especially when you are facing future insolvency, we have to consider some changes.

In fact, maybe we should look at some of the changes proposed by the so-called Entitlements Commission, the Kerrey-Danforth Commission. They put some ideas on the table that had to do with Social Security, such as whether or not we should raise the retirement age, whether or not there should be some different assumptions made in terms of how the Consumer Price Index is calculated as it relates to the cost-of-living increases.

I am willing to consider those changes, but only if those changes are used to make sure that the money goes into the Social Security fund to make sure it is solvent for the future. Without the amendment of the Senator from Nevada, these tough changes, which are going to be controversial no matter what, will be changes that the American people may see as ways not to make the fund solvent for the future, but to take care of pork projects somewhere else out of their State so that Members of Congress do not have to balance the budget directly. I think that is a valid fear, not only for seniors, but for all the people who come after them and who hope that they have not paid into the Social Security system in vain.

Mr. President, in this context, I am troubled not only by the notion that somehow we are creating a loophole in the Constitution, but I am especially troubled by the notion that I have heard expressed in committee and on the floor—I do not know whether it is a notion or a reassurance or a wish—which is this: The statement that somehow Social Security will compete well. It is going to do really well, we are told. It has a lot of support. There is nothing to worry about. Nobody is going to hurt Social Security.

That is what the proponents of the balanced budget amendment tell us. That is what people say when they say we do not need the amendment of the Senator from Nevada.

But I think that is troubling. I am afraid that the Social Security system may not fare so well in the brave new world of the balanced budget amendment or in this new marketplace of budgetary suitors. I think that the language of the marketplace in saying that Social Security will compete well is a direct breach of the whole concept of Social Security and the promise that was made to all those hardworking Americans who paid into the system over the years, understanding and believing in their Government that nobody would monkey around with their retirement money.

Mr. President, we are not talking here about just another kind of tax revenue. Nobody likes taxes. Nobody likes April 15. But the understanding is, when you send in that money on April 15, or you have to send in a little extra amount because your withholding was not quite right, that it goes into a big pot out here and these Members of Congress get to decide, along with the President, what is done with it. People do not like it, but they understand that is our system.

But that is not their understanding when it comes to Social Security. For 50 years, that is not what the American people have been told Social Security is all about.

To put it another way, I do not think the American people think they should be part of, in effect, a large block grant that the Federal Government has where they have to compete against other programs, and that they hope they do well in this new block grant after the balanced budget amendment, and they hope there will be enough money there so they can get their Social Security benefits. That is not the understanding.

Mr. President, words of ''competition'' and ''free market'' are almost always appropriate. That is what our system is based on. The words of ''free market'' and ''faring well'' and ''competing'' with other worthy programs are not appropriate when it comes to Social Security.

The final point I would like to make, because I think this is often overlooked in attempts to minimize the importance of this amendment, is that there is an implication that this is just about senior citizens. Somehow, this is pandering to older Americans who want their Social Security benefits, as if there was something wrong with that. There are constant references to the power of the senior lobby, how we are pandering to older people. This is what we hear all the time.

But I will say that I agree with the sentiments of the proponents of the balanced budget amendment who say that nobody is going to mess around with the seniors today. That is politically explosive. That is not going to happen. We are not going to take away from the benefits of senior citizens today. They are not, if you will, the at-risk population when it comes to the balanced budget amendment.

I would like to identify three generations that are far more at risk because of this constitutional amendment than the seniors of today.

The first generation is my generation, the baby boomers.

Do not accuse me of pandering to seniors. Accuse me, if you will, of worrying about my own Social Security benefits. I am concerned. I am concerned that, if this institution has the right to mess around with Social Security funds, when my wife and I get up to be that age, there is not going to be anything there. And there are a lot of us in our generation. You bet, we have a lot of votes. But we also have a right to the benefits that we paid for and we were told we were going to get by participating in this system. Clearly, my generation is concerned.

There is another generation that I know is concerned and they have become very vocal. They are called generation X, kids in their late twenties or early thirties. They actually have articulated a philosophy for which I do not pretend to be the spokesman. Obviously, I am too old. I have read the articles and heard the statements and seen them on TV. What they are saying is, we are not sure that the older folks—and now I am in that group—who are running the show in Washington care at all if Social Security is solvent when we get there.

They know there are seniors today. There is a huge group of baby boomers that will eat up all kinds of benefits when they get there. They, I think, kind of smell a rat. When they get there, they are very concerned that this system that they are now paying into in their younger years, when they would probably like to get a house, buy another car, they are worried we are spending.

There is a third generation, the age of my kids. People who are 14, 11, 9. People that do not understand this. Yet some are figuring out that we have an awful big Federal deficit here, and they will realize shortly as they graduate from high school and go into the work force, if we do not protect Social Security, they will be the ultimate victims of our fiscal irresponsibility of recent years.

I conclude, Mr. President, noting that the people that we are always talking about with regard to the deficit and the balanced budget amendment are the children and the grandchildren. Would it not be ironic if, in the name of helping the children and the grandchildren, we take away forever the possibility that those same people would have the opportunity to have Social Security? That is ultimately what is going on here. We are taking away potentially, without this protection, the same rights and privileges that so many of us hope to enjoy, because there just will not be any money left in the fund.

Mr. President, this is a sincere amendment. Whether the balanced budget amendment passes or not, it is absolutely essential that we keep it separate, that we keep our promise not only to those who have worked and paid in, but that we keep our promise to those who come after.

I urge my colleagues to regard this as an important amendment. I strongly urge support for the motion of the Senator from Nevada. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Kentucky.

Mr. FORD. Mr. President, I take the floor to join my colleague from Wisconsin and my other colleagues in support of their attempt to ease our seniors' fears and to help set some parameters for the debate on the balanced budget amendment.

The fact is, the Social Security system is not causing the deficit. Its revenues and surpluses should not be used to mask the deficit nor should its outlays be counted as part of expenditures. Because of these very compelling facts, it is clear to me that Social Security should be exempted from the balanced budget amendment.

Unfortunately, as has been pointed out by various Senators, there is a great deal of confusion in the country over what the balanced budget amendment will mean. The Members on the other side of the aisle have recently voted down the right-to-know amendment that would have gone a long way to answer these difficult and important questions that are confusing the American people. I think this is unfortunate. Throughout the debate in the House and here in the Senate, Members from the other side of the aisle have continued to say ''everything is on the table.'' Asked if that included Social Security, most have tried to be reassuring. Well, when someone tells me that everything is under consideration and then adds that we'll protect Social Security only after being prompted, forgive me for not being too heartened by their words.

I say as my father used to say, put it in writing. Put your money where your mouth is and continue to keep the Social Security system in its protected position as a trust fund, separate and distinct from the rest of the Federal budget.

The many proposals to balance the budget being circulated are scaring people living on Social Security and scaring those who expect the U.S. Congress, to abide by our contract, our promise, that the funds will be there when they need them. The conflicting statements in the press and the speculation on the political talk shows is feeding the confusion about what will happen to Social Security. So, Mr. President, I believe it is high time that Senators go on record stating flatly where we stand with respect to Social Security.

Oh, no, do not come up with this ''We will take care of it in the implementing language.'' That does not buy it. Trust, but verify. We heard that. I trust, but I want to verify it in writing.

I am not afraid to say where I stand. I think those who are supporting the balanced budget amendment are scared to death over this one. We have not had to have a caucus on what to do about the vote on Social Security. We have not had to have a caucus saying we want to develop a second-degree amendment or a substitute that puts Members in a position that when we get to the implementing language we cannot touch Social Security.

I have an answer for that one, I think. Many years ago our Nation made a pact with its people that their payroll contributions—and we make them pay—would be available when needed, whether in old age or because of disability.

When I say ''protect'' I mean protect, without a doubt. Some have advocated dealing with Social Security issues, as I say, in the implementing language of the balanced budget amendment. I say to my colleagues and the Nation that that will not cut it. Legislation can be changed at the whim of this Congress or the next Congress.

Our amendment is different. By actually writing the protection into the Constitution it truly protects the Social Security contract. We have heard a lot about contracts in the last 35 to 40 days. We had heard a lot of it last year. Now we have a contract we want to break.

''Oh, we are not going to break it. We are going to take care of it in implementing language.'' Well, how are we going to take care of it? We can change it any week we want to, any month we want to, any year we want to, any Congress we want to. So we do not take care of it. We can change it.

In fact, this amendment reinforces our position, makes it stronger, makes Social Security safer and more secure. Neither receipts nor outlays will be counted as part of the budget under this provision.

The facts in this case bear repeating, I think. The Social Security system is not causing the deficit. Our proposal

protects the sanctity of this most vital program.

I hope and trust that most of our colleagues will join in protecting Social Security. We need to go on record—not some vague time in the future—to put our seniors' fears to rest.

If we say we want to safeguard Social Security, remember that actions speak louder than words. Support the Reid-Feinstein amendment to the balanced budget amendment. Support this measure. Support for this measure is the only way to truly guard the trust fund. I hope my colleagues will support it.

Opponents argue on this issue that statutes never have been incorporated in the Constitution and this would be an unprecedented constitutionalizing of a statute.

The response to that is, this is the first time that we have ever tried to do an amendment to the Constitution fixing fiscal policy. So if this is the first time we have done that, we can do something else for the first time.

So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society; namely, Social Security?

I know there are a lot of people here just as sincere about supporting the constitutional amendment as they can be. I support it. I voted for a constitutional amendment to balance the budget. You are going to need my vote, but you know, they say, whichever way it goes, Democrats lose on this. If you pass a balanced budget amendment, the Republicans win. If they lose, they beat the heck out of us for the next 2 years politically, and there will be fewer Democrats here 2 years from now than there are now. I see the President smiling. He would like that. That is all right. I am going to do what I think is best whether I get to come back or not, and I will defend my position with anyone on the other side any time you want to have that debate.

But there are some people around this Chamber I respect. I respect them personally and for their judgment and experience and knowledge. One of those is the distinguished Senator from Alabama, Senator HEFLIN. I do not think anybody in this Chamber disputes his legal and constitutional knowledge.

So let us just look at this for just a moment, where he is coming from. Opponents of this amendment argue that we will use implementing legislation to exempt Social Security from the Balanced Budget Act calculations. That is what we hear. We hear it every day from my learned friend from Utah—I heard it, he just keeps repeating it, and I almost believe it he has repeated it so much. But let us listen to the distinguished Senator from Alabama. This refutes the ability to do something about Social Security in the implementing language that we hear about.

Here is what Senator HEFLIN says:

> Attempts to protect Social Security through implementing language would be futile.

Futile, and I underscore that.

> Once the Constitution is amended to require that total outlays for any fiscal year shall not exceed total receipts for that fiscal year, Social Security is in danger.

That is what Senator HEFLIN says. And he goes further to say:

> This means that there will be a constitutional requirement that Social Security funds be considered on budget, because the language says all receipts, all revenues.

All receipts, all revenues. So when that balanced budget amendment is passed, that includes Social Security, and this is by a man I believe has as good a knowledge of the Constitution as anyone in this Chamber.

He goes on further to say:

> If the balanced budget amendment is adopted as presently worded, it would prohibit—

Let me repeat that.

> it would prohibit Congress from legislatively taking Social Security funds off budget

Because you have included them—

> and would nullify the provisions of the 1990 Budget Enforcement Act which requires Social Security funds to be considered off budget.

That balanced budget amendment says it is all receipts, all revenues, and here is a fellow I think you have to respect, a Senator, I better be careful. Senator BYRD will be up here in a minute if I call him ''fellow.'' He is a Senator. So I want to be sure I say it right.

Here is a Senator we all respect. He thought about this for weeks, and he would not have made that statement publicly if he did not believe he was legally and constitutionally correct. When he makes that statement, after thoughtful consideration, I have to believe it.

We have others from the American Law Division who agree with Senator HEFLIN. They put out their statements. Once you put ''all receipts'' in that amendment to the Constitution, you eliminate the ability under the legislative implementation of that budget of trying to exclude Social Security.

If you are willing to take that chance, and if you are willing to take that chance, go ahead and vote against it. But I will tell the Senate and the American people, here is one Senator who is not going to vote to include Social Security. I have too many in my State, and you have too many in your State and there are too many across this country who have a contract with us.

''Oh, it's all right, old FORD is down there flapping his lips. It's not going to make any difference, they already have the votes.'' They at least start out with 53—maybe 52. You did lose one. One on that side is all right, up until now.

But when it comes to the point of whether you want to believe the constitutional scholars that once you pass this balanced budget amendment Social Security is excluded from the implementation of that budget by this body, then you have said one thing and you are unable to do it.

I do not want the courts to start telling me to cut the budget, to raise the taxes, you cannot do this and you cannot do that. And we are getting very close to saying to the courts, ''You are going to run this country.'' I am not ready for the courts to tell me how to vote in the legislature, in the Congress, and I do not think you want to vote to give that much power to the courts.

We are on the verge of saying that the courts will be all powerful over our fiscal policy. Line-item veto—we are going to give that to the Executive. We can just get us a plastic card and vote from home, and a lot of people would probably like for us to do that. But we are slowly but surely saying to our forefathers that you made the best judgment of any country in the world when you put together the Constitution, but we are saying now we are going to give a piece of the legislative prerogative to the courts, we are going to give another piece of legislative prerogative to the President.

I believe Senator HEFLIN when he says that if you say ''all receipts'' and the constitutional amendment passes, you will not be able to get Social Security and those people out there now drawing Social Security will be in deep trouble. A $702 billion surplus in 2002 in Social Security. A $780 billion surplus in Social Security in 2002 and you want to take that and reduce the deficit.

Now, if I did not have to pay it, it might be a different deal, but I have to pay it. I look forward to it because it is a contract. How many people get out of paying Social Security? I do not know. Unless you do not make anything, you pay Social Security. It is planned to go up and have a surplus. That is the plan. We do not even have a means test. I have not even heard it suggested.

I see a lot of people taking notes while I am talking. Maybe they want to think about this constitutional question a little bit.

But I just say to my colleagues and to those who may be watching—once they started listening to me talk, they probably turned on the local news or something—but you better be careful about allowing the Social Security amendment to fail because if that balanced budget amendment passes—and I suspect it will and the States will ratify it—then Social Security is part of the deficit reduction, regardless of our implementing language.

Oh, I will hear good legal words. I am not a lawyer. Therefore, I am not a word merchant, and I cannot take my words and make it sound good. You have both sides. You have both sides. And it is good to argue that way.

But the only thing I know is I listen to people I trust, people I think are intelligent, people I think thought this part of the amendment through thoroughly and have now made their judgment. That judgment has been supported by the American Law Division of the Congressional Research Service. They all concur with Senator HEFLIN's statement. If that is true, all of us in

this Chamber better take a step back and look at where this has taken us, particularly as it relates to Social Security.

Mr. President, I say to my colleagues I hope that the 17,000 calls per minute being made around this country as it relates to Social Security begin to burn between now and the time that they have this vote, and that we can at least save Social Security in our haste to have a drag race and accomplish things and put it on the 30-second sound bite.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I agree with three-fourths of what Senator FEINGOLD said before and what Senator FORD has said. I believe we do have a contract with people who have signed up for Social Security. As a matter of fact, I do not remember when it was, but about 10 years ago, when I introduced a balanced budget amendment, I had an exemption for Social Security.

I finally withdrew that for two reasons. First, I believed that we better protect Social Security by not having it in, and I will explain that in a few moments. Second, we have a contract with a lot of other people, too. And if you put in this exemption for those on Social Security, what about Federal employees? What about veterans? What about railroad employees? What about other trust funds we have set up where we have a contract—for aviation, for highways, for other things?

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SIMON. I will be pleased to yield.

Mr. FORD. I understand what the Senator is saying about these other contracts. But in the military, we appropriate funds every year for the retirement of the military. The airport improvement trust fund, if you fly an airplane, you pay the tax. If you do not fly, you do not. Then you are going to see that we can reduce those taxes. Therefore, you will not have a trust fund. Under the highway trust fund, you have gasoline taxes. If you reduce those taxes, you do not have a trust fund. Here it is mandatory that you pay under Social Security, and that is a trust fund with a contract. Will the Senator agree with that?

Mr. SIMON. I agree they are different. But what about railroad employees, if I may ask?

Mr. FORD. Railroad employees are under Social Security. They have been transferred to the Social Security. The railroad retirement system has been merged with Social Security, and Social Security is the railroad retirement fund.

Mr. SIMON. I differ with my colleague on that.

Mr. FORD. My father-in-law is a railroad retiree, and he gets his check from Social Security. Now, Mr. President, I do not know what it is, what kind of fund he has, but they did not have enough funds to take care of it and they turned it over to Social Security, and Social Security is now taking care of those retired railroad people.

Mr. SIMON. The Senator is partially correct in that.

Mr. FORD. At least that is better than being all wrong.

Mr. SIMON. Mr. President, let me just add, we have a contract not only with people who are on Social Security today. We have a contract with those three groups that Senator FEINGOLD mentioned in the future. And how is the Social Security trust fund protected? It is protected by U.S. bonds.

If you take a look at the history of nations, when nations get around 9, 10, or 11 percent of deficit versus national income, with the exception when you are in a war, then nations start printing money. What the economists say is they monetize the debt. The latest CBO projection is we are going to end up, in the year 2030, with 18 percent. That suggests that the only way we can protect Social Security is to make sure that debt does not rise, and that we do not monetize the debt, because if the dollar is only worth 25 cents, those bonds are only worth 25 cents on the dollar.

Senator FORD is correct. Social Security is not causing the deficit. I have voted for statutory provisions, and I will again as we move ahead. But we also have to recognize that if we separate Social Security and say this is not our direct responsibility, starting in the year 2012 or 2013, Social Security starts to go into a deficit situation.

What we ought to be doing, if this passes, is sitting down with senior groups right now and saying how do we plan for this? Do we have to have a half-percent increase in Social Security in the FICA tax to pay for it? Should we, over a period of 12 years, each month increase the retirement that you need to have?

I do not know what the answers are, but I know that if we just put this off and say this is not our direct responsibility, we are asking for trouble.

Here let me just add, we ought to be listening to Bob Myers, for 21 years the chief actuary of the Social Security System. He says it is absolutely essential for the future of our system that we pass the balanced budget amendment. I hope we do that.

Let me just add one other point. There are those who philosophically just are opposed to a balanced budget amendment, period. My friend, Senator BYRD, is one of those. Senator FEINGOLD is one of those. But let no one use the defeat—and I think this amendment will be defeated—let no one use that as political cover and say, well, I cannot do this because I want to protect Social Security recipients. The only sure way to protect Social Security recipients is, as Bob Myers has pointed out, to pass the balanced budget amendment. And that is what I hope we will do and do in a responsible way.

The Reid amendment, in my opinion, should be defeated. Then we should do the right thing by those who are on Social Security now and will be on Social Security in decades to come by adopting the balanced budget amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has referred to Mr. Bob Myers on two or three occasions. On another day I will take the time to read into the RECORD what Mr. Robert Ball had to say about Mr. Myers' statement and had to say about Social Security and had to say about the balanced budget amendment, so that the record will be balanced.

I thank the Senator.

Mr. President, when former President John F. Kennedy wrote ''Profiles in Courage,'' I believe he wrote about Edmund G. Ross, of Kansas, during the debate in 1868 on the impeachment of Andrew Johnson. At the conclusion of the trial when the vote was taken, the first vote was on article 11. That was a test vote. The House managers felt that was kind of a catch-all provision on which the guilty verdict would most likely be rendered—would have its best chance. But on that vote, 7 Republicans voted with 12 Democrats to acquit President Andrew Johnson. Thirty-six votes were needed for a guilty verdict, for a conviction; 36 votes. The vote was 35 to 19. And so those who sought to convict President Johnson failed by one vote, and President Kennedy mentions the name, I believe, of Edmund G. Ross, of Kansas, who was one of the Republicans who cast a vote for acquittal and thus, apparently, sealed his political doom in so doing.

But there was another Senator who cast such a vote and that was Peter G. Van Winkel, of West Virginia. Peter G. Van Winkel was from Parkersburg, and he voted to acquit President Johnson. In so doing, Peter G. Van Winkel closed the escape door and sealed his doom politically. The West Virginia Senate, in that year of 1868, passed a resolution condemning—I believe the vote was 18 to 3—condemning Johnson. So the pressure was on because most of the West Virginians were Unionists. The pressure was on Peter G. Van Winkel to vote guilty. Waitman T. Willey, the other West Virginia Senator, voted guilty. But Peter G. Van Winkel voted not guilty.

Edmund G. Ross went on to switch from the Republican Party to the Democratic Party in later years. He, I believe, was Democratic candidate for Governor of his State later. He had a continuing political career as a Democrat.

But not so with Van Winkel. He was finished. He looked down into the open political grave and knew that was where he was going to his final rest.

So there were two profiles in courage.

I was visiting with Senator PELL recently and I saw on his office wall a

framed article, I believe it is from the New York Tribune. The headline was as follows.

Pell Will Vote Against Bonus; Means His End.

New York Representative Says Act Will Be Political Suicide But He Can See No 0ther Course.

And reading from that May 1 story of 1919 or 1920, I forget which it was, dateline Washington, May 1.

Representative Herbert C. Pell, Jr., Democrat, who was elected to the House from the Fifth Avenue District, (17th of New York), announced today in a speech on the floor that he would vote against the soldier's bonus bill despite his belief that to follow such a course would be political suicide.

Explaining his conviction later, Mr. Pell said that although most of his constituents might mildly approve his stand he believed several hundred returned soldiers of Democratic sympathies would cross the party line and assure his defeat in a district which was normally Republican.

''I intend to vote against the bonus,'' Mr. Pell said in his speech. ''I am doing this in the full realization that it means the end of my political career, and I can tell you frankly that it is a painful thing to commit suicide, but I do not think that honor will permit me to follow any other course.''

I will not read the rest of the article. But here was a profile in courage, Herbert C. Pell, Jr., father of our own illustrious colleague, CLAIBORNE PELL, who knew that he was closing the door forever to any future in politics but who stood upon principle. He put principle above party; principle ahead of expediency, and cast that vote. So I asked Senator PELL to give me a copy of that newspaper story.

I ask unanimous consent it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Tribune]

PELL WILL VOTE AGAINST BONUS; MEANS HIS END

NEW YORK REPRESENTATIVE SAYS ACT WILL BE POLITICAL SUICIDE, BUT HE CAN SEE NO OTHER COURSE

TAX METHODS ASSAILED

WOULD PARALYZE INDUSTRIES AND CREATE THE WORST PANIC IN HISTORY; IS BELIEF

(From The Tribune's Washington Bureau)

WASHINGTON, May 1.—Representative Herbert C. Pell Jr., Democrat, who was elected to the House from the ''Fifth Avenue District'' (17th, of New York), announced to-day in a speech on the floor that he would vote against the soldiers' bonus bill despite his belief that to follow such a course would be political suicide.

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THINKS INDUSTRIES WOULD BE PARALYZED

''Of course I shall vote for the most generous treatment possible for men that have been injured in the service of the United States, and also for proper care of the dependents of those men who have been killed, but I cannot bring myself, merely for consideration of political advantage, to vote for a bill which would impose a tax of $20 a head on every man, woman and child in the country. There is no conceivable way, or at least no way has been suggested, by which such an amount of money could be raised which would not paralyze the industries of the United States and precipitate such a crisis as we have never seen in our history.

''Hard times unquestionably are coming, whatever we may do, but while we cannot avert difficulties we can tremendously aggravate them. So far there have been three plans suggested for raising the money.

''First, by the issue of $2,000,000,000 of bonds which, obviously could not possibly be marketed at a rate very much under 8 per cent, which would promptly knock twenty points off the price of Liberty bonds and make any private borrowing by business men practically impossible.

TAX METHODS ARE ASSAILED

''Second, a retroactive tax on incomes for at least three or four years. Ordinary common sense will show any man that this money has not been kept by the individuals who acquired it, in the form of cash in their stockings, but has been spent or invested, and to raise the tax money every business man in the country would be obliged to go into the money market and borrow on his own credit. This also would run the price of money up to such an extent that the permanent investment rate in the United States would remain somewhere around 8 per cent for a great many years. Of course, I mean non-speculative investments—the class of thing that before the war paid from 3½ to 4½ per cent.

''The third plan is a general sales tax of one-half of 1 per cent on all sales made in the country. The argument for this is that it would take the money from the people in such small installments that they would not notice it, but it would be impossible to take such an enormous sum from the community without very seriously affecting all business throughout the country, and, of course, it would wreck the financial district of New York, and with it the hope of commercial preëminence of the world.

MONEY WOULD DRIFT TO LONDON

''An American stock exchange would probably be opened in London, on which all stocks listed on New York would be dealt in. This would mean that London would become the great market of the world for call money, and would end any hope that we may have held in the past of New York becoming the financial capital of the world.

''Considering the low purchasing power of money to-day and also the general tendency of all classes toward extravagance, $500 means about as much to a man to-day as $75 or $100 used to mean to us, and we may rest assured that nine-tenths of the men receiving this money will spend it on a good time and not work until it is all gone. After that they will try to get back the jobs they held and find that they no longer exist, so that their last state will be worse than the first.''

Representative Johnson, of South Dakota, insisting that the bonus bill ''must pass,'' proposed in the House to-day the elimination of the tax on sales, which was criticized severely by Republican members in conference last night, and the substitution of a tax on war profits.

Chairman Fordney of the House Ways and Means Committee, announced that sessions of the committee would be held late next week, at which the elimination of the sales tax provision would be considered.

Mr. BYRD. Mr. President, earlier we witnessed here in the Senate one of those vital moments of historic drama for which the U.S. Senate was created, that moment during which our friend and colleague, Senator MARK HATFIELD from Oregon rose and announced his opposition to the proposed balanced budget amendment to the Constitution. When he did that he wrote on this very day his own profile in courage.

Senator HATFIELD and I are both standing in this debate on principles that transcend both party allegiances and personal quirks. Our position is against vilifying the sacred document on which this Republic is based with parochial conceits and economic policies that will surely be viewed in the future as an anachronism—if this amendment is ever adopted in the country.

Our position on this matter reflects a conservative stance on the Constitution, based on the ''strict constructionism.''

Where are all these conservatives we hear about? Like Disraeli, I am a conservative: To retain all that is good in the Constitution. And the radicals remove all that is bad. This position of strict construction is rooted in American history and in constitutional traditions.

But one thing highlights Senator HATFIELD's position and differentiates that position from my own position. Senator HATFIELD is swimming against the inclinations of the majority of his caucus. It may very well turn out to be almost a unanimous caucus except for his vote. Senator HATFIELD is swimming against the inclinations of the majority of his caucus and against the directives of the so-called Contract With America, of which the House Members of Senator HATFIELD's own party are so enamored.

Senator HATFIELD's stand on the issue of the balanced budget amendment is a stand which should make every Senator proud, even those who differ with Senator HATFIELD and with me on this issue. Senator HATFIELD's position on this matter suggests those instances —and I have referred to a few earlier—those instances of character and distinction cited in ''Profiles in Courage,'' one of those defining moments for which the Founding Fathers created the Senate as ''the place to send legislation so that it might cool down.''

Mr. President, I again commend my friend and colleague Senator HATFIELD for his courage and his demonstrated leadership on this issue, and in this body. He has stood on the unfailing foundation of principle.

He has lived up to his oath to support and to defend the Constitution of the United States against all enemies, foreign and domestic. He has put his vote behind reserving that grand document —and here it is, the Constitution of the

United States—for future generations. He has stood against the political winds of expediency, and the people of Oregon should be proud of him, and the American people should be proud of him. Regardless of their viewpoint on this particular issue, they should be proud of him.

Mr. President, it seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics, it is a time of sound bites and media men.

The practical application of democracy as it has evolved, with its condensed messages and its blow-dried candidates, stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex, and cumbersome way of governing. Its strong point is not speed, and not efficiency but stability. In a world enamored of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications, and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for representative democracy.

It is as if the perseverance to examine issues with meticulous care, considering and publicly debating all aspects until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is all too much of that to watch.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems, without quick or obvious solutions, are especially frustrating to the American people. In many American families, both parents have to work just to make ends meet, and then struggle to parcel out any leftover time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple, quick solution is currently at a premium value. The simple, quick solution is at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some have discovered that the simple, the catchy, the obvious, the easy will sell like hot cakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits? You bet they are. Well, then, pass a constitutional amendment to balance the budget; it is just that simple.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, Article V, which provides for the amending of that document if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments, 17 since the original 10 that we refer to as the Bill of Rights. I, myself, voted for five of those amendments here in this body.

But here, we are talking about an amendment that would burst at their seams the very pillars on which this constitutional system rests: The separation of powers and checks and balances. That is what it amounts to. I will go into that with greater particularity on another day. But the Framers in writing the Constitution intended that it endure for ages to come, and that, consequently, it be adapted to the ''various crises of human affairs.'' Those of the words of John Marshall. So in the midst of all of this hustle and bustle, and the search for expediencies, easy answers, why do we not just throw out the Constitution and start all over? Or perhaps we should do it by stealth—do it by stealth—under the cloak of a balanced budget amendment to the Constitution.

Mr. President, that is why the American people have a right to know what this amendment will do. Let us take a close look at House Joint Resolution 1.

I want to appeal to that jury out there, that jury which during this debate is viewing the electronic eye. And among that jury, I am appealing to Senators, Senators perhaps in particular at this moment. I want to make my case before that jury, and I hope that with a little patience, because talk becomes tedious at times, especially on this occasion when I will be explaining the flaws in this amendment—it may become a little tedious. May I say to the men and women of the jury, please be patient, because I am going to prove beyond a reasonable doubt that this constitutional amendment to balance the budget is filled with flaws, that it will not work, that it cannot work and that the committee in its committee report admitted essentially that there were problems with it and sought to provide the escape doors through which we might run from that problem.

I am going to prove that beyond a reasonable doubt, for all those who will take the patience to listen. Bring on your ready response team. I saw on television one evening on the evening news that my friend, Mr. DOLE, had brought out, I believe, 9 or 10 Senators from the other side of the aisle—and maybe 1 from this side, I am not sure—and it was a ready response team. They were going to ''wear him out,'' talking about ROBERT BYRD. They were going to wear him out. Well, bring on your ready response team now, while I am speaking. Bring them on. I will yield for questions. I will yield for statements by unanimous consent. But do it now. You remember the little ad on TV, ''Do it here, do it now.'' Well, do it here, do it now. All right. To the ready response team I say, ''come on, do it here, do it now, while I am on the floor. Bring out your 9 or 10.

I want to focus on this measure, because just as Toto pulled back the curtain to expose the not-so-mighty Wizard of Oz, the curtain must be pulled back on this resolution so that the American people, too, can see that it is political sorcery, political witchcraft, political black magic.

Section 1 of the proposed constitutional amendment on this chart to my left, so that the jurors can read it for themselves, reads:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

I will speak at a later time about this clause which deals with the supermajorities that are built into this amendment. There are 9 supermajorities in the Constitution of the United States and the amendments thereto. Six supermajorities are provided for in the original Constitution, one supermajority is provided for in the 12th amendment, one in the 14th amendment, one in the 25th amendment, making a total of 9 supermajorities built into the Constitution and amendments thereto. I will talk about that.

I will repeat this first quote from Section 1: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' That means that total Government spending for any fiscal year shall not exceed total receipts—''* * * shall not exceed * * *'' the money taken in by the Government.

That language probably sounds fairly straightforward. It should be easily understood: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' But if we accept that requirement, if we rivet that quack nostrum into the Constitution of the United States, then the obvious question is, can we ensure that, in fact, outlays do not exceed receipts? That is what the mandate says here. How are we supposed to comply with that constitutional mandate? Simply stating that outlays shall not exceed receipts is nothing more than an empty incantation; just to say it is more than an empty incantation. Stating it will not automatically make it happen, any more than if we said there will be no more poverty, no more crime, or no more pollution. There would still need to be some sort of mechanism to carry out the goal. That, of course, is also true of balancing the budget.

Everyone should realize that there has to be a plan in order to actually get the budget into balance. That is what many of us have been trying to get the proponents of the amendment to tell us. Show us the plan. Let the American people see your plan for balancing the budget. The people have a right to know.

But, Mr. President, proponents of the amendment tell us not to worry. They say that a constitutional amendment is not the place to put the particulars, or details, or how we achieve a balanced budget. They say that section 6 of the proposed amendment requires Congress to develop its own enforcement mechanism by passing implementation legislation—by passing implementing legislation. Congress will enforce it, says section 6 of this constitutional amendment. If that is the case, then the American people have a right to know what that section says.

Section 6—here it is on the chart to my left—reads as follows: ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

For the public to understand what kind of wonder drug they are being asked to swallow, they need to fully understand that specific section of the resolution. And once they do understand it, Mr. President, I believe they will know that this amendment is nothing more than political witchcraft.

Section 6 of the resolution, of the balanced budget amendment, states that ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

Again, Mr. President, such language would appear rather uncomplicated. But if we take a closer look, especially at the latter half of that sentence, we will see that the entire premise of this amendment is as shaky as a house of cards. Indeed, in one single word—the word ''estimates''—we find the Achilles heel of the whole balanced budget amendment concept, be it House Joint Resolution 1 or some other version. The Achilles heel is the word ''estimates.''

Following that, let us zero in on the word ''estimates.'' If we follow the directive of section 6, then the central tenet of our enforcement mechanism, we would see, is to be based on ''estimates of outlays and receipts.'' Now get that. ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

What the public needs to know, but what they are not being told, is that, unlike most individuals who will receive a set salary or wage for the year and whose expenses are relatively stable, total outlays and total receipts of the Federal Government are never, never, never known—and in fact they cannot be known—at the beginning of any given fiscal year. It is impossible for the total receipts and the total revenues to be known at the beginning of any given fiscal year. All the President and Congress have to work with, when they begin to put the budget together, are estimates provided to them by the Office of Management and Budget and the Congressional Budget Office—estimates, nothing more.

If we have learned nothing else over the past 15 years, it is that actual outlays and actual receipts in any given year can, and generally do, vary from those estimates by billions of dollars—not millions, but billions of dollars. In fact, in most years, actual outlays and actual receipts do not even come close—do not even come close—to what the experts projected at the beginning of the fiscal year.

Estimates are not accurate. They never are. And if they ever will be, it will be pure happenstance and it will not happen often.

As these charts to my left will show, outlays, receipts, and deficits have consistently been misestimated in every one of the 15 years from fiscal year 1980 through fiscal year 1994, inclusive. No exception. In every one of those 15 years—from fiscal year 1980 through fiscal year 1994—the outlays, receipts and deficits have been misestimated.

Mr. President, before turning to the specifics of these charts, let me emphasize that the data presented here come from the independent and nonpartisan Congressional Budget Office. That office, created by the 1974 Congressional Budget Act, is charged with the job of assisting Congress in the preparation and analysis of the budget by providing us with the economic and budget data we need throughout the year. As part of those duties, they are responsible for closely monitoring the Government's deficits. But, as we shall see, despite all the expertise of the individuals who work in that office, they remain powerless—absolutely powerless—to provide the accuracy that would be required under this amendment. They are the best in the business, but they will never, never be able to produce what this amendment calls for.

Let us look at the first chart. This first chart shows the difference between revenues, as estimated in the first budget resolution for each of fiscal years 1980 through 1994, versus what those revenues actually turned out to be.

The estimate of the revenues versus what the revenues actually turned out to be.

Starting on the left, the viewer's left, on your left out there looking through that electronic eye, starting on your left with fiscal year 1980, we can see that actual revenues collected by the Federal Government were $11.1 billion more than what had been forecast in the budget resolution for that year. Eleven billion dollars, Mr. President. Then in fiscal year 1981, revenues fell short of the estimate by $11.3 billion. In fiscal year 1982, revenues fell short of the estimate by $40 billion. For fiscal year 1983, revenues fell short of the estimate—in other words, the income of the Government, the actual income of the Government for that fiscal year fell short of the estimate—by $65.3 billion.

Now I will not take each year, but the viewers can see that in only 1 year were the estimates really close. In that year, they missed the estimate by $1.7 billion. But look at the other wide ranges—$55 billion in 1991, $77.5 billion in 1992. The actual revenues missed estimated revenues by $77 billion in that year.

The point I am making here is that in no year, in no year, were the estimates accurate—not one year—and range as far off, as I say, as $65 billion in fiscal year 1983 and, in 1992, $77.5 million, the errors between the actual revenues and the estimates.

Now we are talking about the word ''estimates'' in this constitutional amendment, in this balanced budget constitutional amendment. I want to keep our attention on the word ''estimates'' and I am showing that the historical record here clearly, clearly, is convincing that estimates are always wrong. They have always been wrong.

So all in all, those who have done the estimating have not produced a very good record.

Now this next chart shows for the same 15 fiscal years the difference between estimated outlays—that is the money the Government spends out—the difference between the estimated outlays, as contained in the first budget resolution, and what those outlays actually were. In other words, the difference in what the Government actually spent, as against the estimates of what the Government would spend.

So what was estimated on the one hand and what the outlays were on the other hand was a vast difference.

So, starting again on the viewer's left, with fiscal year 1980, we can see that outlays were actually $47.6 billion more than what the budget resolution had estimated. If we were to pass a budget resolution, we should pass it by May of each year for the following fiscal year. This year, 1995, we should expect to pass a budget resolution by May for the next fiscal year, which begins on October 1 this year and goes through September 30 next year.

In fiscal year 1981, outlays were $47 billion greater; in fiscal year 1982, the outlays were $33 billion greater; And so on and so on.

The point I am making here, and the viewers can see for themselves from the chart the errors between the actual outlays, the actual spend-out by the Government as against the estimated outlays, the estimated Government spending, and the viewers will see, again, that in no year was there an accurate estimate.

The green line here, represented by ''0,'' represents a situation in which the estimates and the actual outlays would be right on, so that the ''zero miss,'' a ''zero miss'' estimate—because the estimate would be accurate—hit

the nail right on the head. That is the green line.

Therefore, the bars represent in each year how much the estimates were off, one way or the other. In some years, the actual outlays were more than the estimated outlays represented by the red line. In a few years, the actual outlays were less than the estimates; in one instance, $91.9 billion less than the estimates. That was in 1993, when we adopted the budget reduction package for which not a Member on that side, not one, not a Republican Senator, not a Republican House Member, voted for that budget deficit reduction measure.

The point again, as I say, looking at the zero line, meaning absolute accuracy, one can see how much in each year the estimate missed the point.

What I am showing here is, if we keep our eye on that word ''Estimates,'' we will see that the estimates are always off, one way or the other.

Now, chart 3 gives the differences between the actual budget totals and the first budget resolution estimates for fiscal years 1980–94, the same period that was addressed by the preceding two charts. The error between the actual and the estimated deficits in billions of dollars—again, the source of the information is the Congressional Budget Office, the office we depend upon here as we formulate our budget. Since the difference between the revenues and the outlays—one chart I have already shown dealt with revenues, the money taken in; the other chart I have used dealt with outlays, the money that the Government spent.

This chart, then, combines the two, in essence, and gives us the difference between the actual budget totals and the first budget estimated deficit for fiscal years 1980–1994—the actual deficits. Since the difference between the revenues and the outlays, the difference between what the Government takes in on one hand and what the Government has to spend on the other is what makes up the deficit, this third chart shows the difference between what the deficit was estimated to be and what it actually turned out to be for those fiscal years 1980–1994. Again, the green line represents ''zero miss,'' meaning the estimate was right on target, the actual was right on target with the estimate. It was not missed.

For fiscal year 1980, the deficit was $36.5 billion—$36.5 billion. Now, I see the response team gathering. I am glad. For fiscal year 1980, the deficit was $36.5 billion, greater than had been estimated. For the next year, 1981, the deficit was $58.3 billion larger than had been estimated. For fiscal year 1982, $73 billion larger. For fiscal year 1983, the deficit was $91.4 billion greater than had been estimated.

Keep your eye on the word ''Estimates.'' Skip over here to 1990; the budget deficit was $119.1 billion greater than had been estimated, and so on. Those who are viewing the chart to my left can see for themselves.

In 2 years, the deficit was less than the estimate. But the point is that in no year was there accuracy. Almost accuracy, very close, in 1984—missed by $3.7 billion. In 1987, it was missed by $6.2 billion. But look at the range: From $36 billion to $91 billion to $119 billion to $71 billion—off. That is not an inconsequential error. That is not an inconsequential figure.

So the point is that in all of these years covered by the chart, the estimates were off. The point of these charts is to show that all efforts to estimate outlays and receipts accurately have repeatedly failed—repeatedly failed. Every single year for the past 15 years, the estimators have failed to accurately estimate what the deficit would be.

In addition, I would also make the point that we do not know if the CBO's estimate is off, or if it is, by how much. Get this: We do not know if the CBO's estimate is off, or if it is, by how much until after the fiscal year has been completed. There is no way in God's Heaven, with all of His troops of angels that one—I should not say that about God. I suspect He can foresee these things. But there is no way on Earth that we can know what the revenues will be, that we can know what the outlays will be, until the fiscal year is over and gone, until after September 30. We will not know how much the outlays are off, how much the receipts are off about this particular fiscal year we are in, until after next September 30 is gone, gone with the wind, and we will not even know it then because the Treasury probably will not have its final receipts and outlays until October 15, or some such.

We simply cannot know with any exactitude what the deficit will be during that fiscal year. By the time we do know, though, it will be too late to correct the problem, at least under the balanced budget amendment. It will be too late to correct the problem, because what was the instruction in Section 1?

The instruction was, in section 1—the mandate:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

We will not know what the total outlays are. We will not know what the total receipts are for this fiscal year until it is gone, until the fiscal year is gone, marked off the calendar. In other words, using estimates of revenues and outlays—the money that comes in and the money that goes out—it is virtually impossible to determine whether or not the budget will be in balance until after the fiscal year is over, after the horse is out of the barn; the doors are open and out go the horses. Too late. In 11 of the past 15 years, revenues have been lower than expected, and in 10 of the 15 years, outlays have been greater than expected.

Let me say that again. In 11 of the past 15 years, revenues have been lower than the estimates, and in 10 of the 15 years, outlays have been higher than the estimates. And there is nothing in this resolution—nothing in this resolution—or in any other resolution or in any other version of the balanced budget amendment that can correct that problem. Nothing. There is not one among the 100 Senators who can come up with a version that will correct it. Not one. Not 100 working together can correct, can find a way to accurately estimate what the revenues will be, what the outlays will be, what the deficit will be in any fiscal year. You cannot do it until the chapter is closed, the receipts and the outlays are in and, by then, the door on the fiscal year is gone, closed.

How then are we going to come forth with this mandate: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *''?

Yet, Mr. President, despite knowing that the estimates we must work with will inevitably be in error—inevitably—they are exactly what this balanced budget amendment would have us rely on, the word ''estimates.'' Remember, it says, right there in section 6, that we ''may rely on estimates of outlays and receipts.''

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates.

That is weak, it has no foundation.

may rely on estimates of outlays and receipts.

If you cannot rely on the estimates, then how can you help but violate this mandate? If estimates cannot be relied upon, then how can we avoid violating this section 1:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *

It does not say ''may not.'' It says ''shall not.''

So it says there in section 6 that Congress ''may rely on estimates of outlays and receipts.'' That is it.

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Now, what does that mean? What are we talking about? As I say, section 1 states:

Total outlays for any fiscal year shall not—

Shall not, shall not, shall not—

exceed total receipts for that fiscal year.

No ifs, ands, buts or maybes—''shall not.''

Total outlays shall not exceed total receipts for that fiscal year.* * *

Then how will it be done? How will it be done? The magic incantation in section 6 is that the ''Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts'' even though we know, by the record, that the estimates we must work with will inevitably be in error. They are exactly what this balanced budget amendment would have us rely on. It says so. That is what it says. I did not say it. It says so. It says we may rely

on estimates of outlays and receipts in balancing that budget. We already have a process for estimating revenues, outlays, and deficits prior to each fiscal year, and as we have seen by the evidence that I have shown, it is far from perfect.

So what is Congress to do? It is ludicrous to think that just because we adopt this balanced budget amendment we will somehow come up with a new system that will accurately predict balanced budgets in advance of each fiscal year. As I say, it cannot be done. Einstein could not do it. Worse than that, Mr. President, is that we will never know if our estimates are off or how much they are off until it is too late to correct that problem. We will not know it, at least not in time to fix the imbalance. These revenue and outlay numbers cannot be calculated until after a fiscal year is over. Therefore, we have no way of knowing during the fiscal year whether or not outlays are going to exceed receipts until it is too late.

Yet, the clear language of the amendment states in no unmistakable terms, in simple, down-to-Earth English: Outlays ''shall not'' exceed receipts. That is what the amendment says. I did not write it. I did not write that amendment, but that is what it says: Outlays ''shall not.'' No ifs, ands, buts, maybes—outlays ''shall not'' exceed receipts.

Of course, it would be easy to say that all we needed to do to correct the dilemma is to find more competent budget analysts. Let us throw the rascals out and hire a whole new batch of analysts. Unfortunately, it is not that simple. The plain truth is that the men and the women who helped put these figures together each year are not at fault. They are not at fault. They are as good as one could find anywhere in the four winds.

If not the analysts, then who is this culprit? In simple terms, the miscalculations that we have seen displayed on these charts can be put into three categories: Policy miscalculations, economic miscalculations, and technical miscalculations. Those are the terms used by the Congressional Budget Office to explain the differences between the budget estimates and what actually occurred each year: Policy, economic, and technical.

The first of these terms, policy, refers to any portions of these differences that can be attributed to the Congress' passing legislation that was not accounted for in the estimates.

However, over the 15 fiscal years represented on these charts, policy differences accounted for the smallest amount of estimation error. In fact, enactment of legislation by the Congress since 1990 has been but a very small portion of the deficit error. The reason for that, Mr. President, is the pay-as-you-go requirement and the spending caps that were instituted with the 1990 Budget Enforcement Act—which I insisted on in talking to Mr. Darman right down in my office—the pay-as-you-go requirement, the spending caps that were instituted with the 1990 Budget Enforcement Act and extended in the summer of 1993 through the Omnibus Budget Reconciliation Act. Those caps are tough new requirements that have worked to restrain spending, because the only way around them is with the designation of an emergency.

The second reason for the difference between actual versus estimated revenues, outlays and deficits, is attributed to the failure of budget analysts to anticipate the actual performance of the economy.

I know that some Americans may not be aware of the fact that when the budget is put together, it is based on certain economic assumptions. Factors such as the gross national product, the unemployment rate, the inflation rate, and interest rates must be assumed for the upcoming year. They have to be assumed because they cannot be known.

Therefore, if more Americans are unemployed than had been anticipated, the Government will have larger outlays for unemployment insurance benefits, food stamps, and so on, than originally thought. This larger payout for these benefits would then be categorized as an economic error. Likewise, if interest rates unexpectedly go up, then the amount of interest we have to pay on the national debt would be higher. This, too, would be considered as an economic error. Nobody can help it, and no one could foresee it. It just happens.

Mr. President, to illustrate the point, we can look to the recent recession. Because that recession was deeper than expected, and the recovery weaker, revenues unexpectedly fell in fiscal year 1992. As a consequence, lower-than-projected revenues, due to the economy's failure to perform as expected, caused the fiscal year 1992 budget deficit to exceed the budget resolution's deficit estimate by $11.4 billion.

Finally, the third reason why estimates are inaccurate is due to what CBO calls technical differences. This category contains a number of items. Most notable among these are the miscalculations due to rising health care costs associated with the Medicare and Medicaid programs.

Mr. President, I know all of these explanations and numbers must be mind-numbing to the American people, but they should not be mind-numbing to Senators. The fact that this material may be dry does not make it any less true or important. What is most critical, though, is that the public understands that errors attributable to economic factors—things like higher-than-expected interest rates, or higher-than-expected unemployment—accounted for 64.2 percent of the $28 billion average error in the deficit projection. What that means, simply, is that of all of the factors that account for deficit estimates being out-of-sync with reality, nearly two-thirds of the average error over the past 15 years was due to factors that we will never be able to correct, unless, of course, someone has a crystal ball that can accurately tell us at the beginning of each year what the unemployment rate, the interest rate, the inflation rate, and the gross domestic product will be throughout that year. It cannot be done.

Mr. President, this is why I refer to the word ''estimates'' as being the Achilles' heel of the balanced budget amendment. On the one hand, under this resolution we would be constitutionally bound—bound—to balance the Federal budget every year.

That is what it says. I did not write it. That is what the amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.''

But while we struggle with that difficult task, the economic information we have at our disposal will inevitably be in error, and two-thirds of that error will be due to factors beyond anyone's control.

Here comes the response team.

Is this the response team?

Here they are. All right, I am ready to yield any time any one of them wants to ask me a question or make a correction if I am wrong.

What a balanced budget amendment amounts to, then, is like telling someone that they must drive their car 100 miles, but only giving them 80 miles worth of gas. No matter how hard they try, or how well-intentioned they may be, there is just no way on God's green Earth that they can make up that last 20 miles.

If we know, then, that we must balance the budget—and that is what the balanced budget amendment says, we must balance it, no ifs, buts, whereases or why, no excuses. If we know that we must balance the budget, and we also know that it is impossible to know what it would take to do that at the beginning of the year, it should be obvious to everyone that Congress will be forced to pull out its old bag of tricks and bring back the same old smoke and mirrors and rosy scenarios and hidden asterisks to make this amendment appear to work. In other words, we will cook the numbers—cook the numbers—and massage the estimates in order to be able to try to live up to the new constitutional mandate. That will not make the new amendment work, but it may, for a little while, make it appear to work. Rather than rely on my own imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1, the balanced budget amendment.

So I have already shown beyond a reasonable doubt to those who have patiently listened that this constitutional amendment mandating a balanced budget every year cannot work, and it will not work because it is based

on an uncorrectable flaw, that flaw being the word ''estimates.'' And Congress is to enforce this amendment by relying on that Achilles' heel, that uncorrectable flaw, the word ''estimates.''

So beyond any reasonable doubt, to any reasonable man, it is obvious, it is plain as the nose on your face that it is flawed, that it cannot work, because it is based on the word ''estimates.''

So then what are we going to do? I said I would also prove beyond a reasonable doubt that the committee report recognizes this is not going to work. The committee report recognizes that. How many of you have read that report? Here it is. This is the committee report by the Committee on the Judiciary when it reported out Senate Joint Resolution 1. This is the committee report that accompanied the resolution, when the resolution was reported.

So the committee report itself comes up with some suggestions as to how we might get around it. Why would the committee do that? Why would the committee itself come up with some suggestions as to how we might avoid the strict mandate, if the committee itself did not recognize that there is an uncorrectable flaw? Why would the committee itself recommend certain suggestions by which we may have escape hatches—the committee itself?

So, rather than rely on my imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1—the balanced budget amendment.

Before proceeding, Mr. President, I want to explain that I am reading from the Senate Judiciary Committee's report on the balanced budget amendment. On page 19—I will even give you the page number, page 19. Hear me now. The response team—sit up in your seats. Listen. I am going to expect you to tackle me while I am on the floor, now. Look on page 19 of the committee report.

On page 19 of the Senate's report—get it and read it—Senate report 104–5, it is stated that this provision gives Congress—''this provision'' meaning section 6.

What does section 6 mean? ''This provision''—meaning section 6—''gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation.'' What is meant by ''flexibility?''

The report continues:

> For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Read that again. For example, Congress could use estimates.''

There is that Achilles heel.

> . . . could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Does this mean that, if we pass a budget that is balanced at the beginning of the year, at least on paper, we need not worry if the budget becomes unbalanced during the course of the year? Is that the ideal we are supposed to include in our implementing legislation? Is that what the sponsors of this amendment have in mind? I think that is a very different approach than what the American people are expecting from a balanced budget amendment.

We have already seen that estimates of revenues and outlays are invariably wrong, and that is understandable, as we have explained. But the committee report says:

> Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Who knows what reasonable is? Who will be the judge? As Alexander Pope said, ''Who shall decide when doctors disagree?'' So, who shall decide what ''reasonable'' is? What may appear to be reasonable in my thinking may not appear to be reasonable in the next person's thinking. Who decides what is reasonable? Who will make that decision?

It goes on to say: ''* * * so long as the estimates were reasonable and made in good faith.''

Who knows what ''good faith'' is? How do we know whether the estimates were made in good faith? How do we know? Who is to say? Who is to know whether they were made in good faith? Who is the judge? This is plainly an escape hatch and it is in the committee report by the Judiciary Committee. Did the Judiciary Committee not know about the inconsistencies in the estimates between outlays and receipts? Was there not anyone on that committee who knew that estimates are invariably wrong when produced by the CBO, estimates of the revenues and receipts and deficit? Did anyone ever think of it?

The next sentence states: In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article.

Congress could decide that. Mr. President, what that sentence says to me, is that, at the same time that the proponents of this amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress that they do not expect us to practice what we preach. That is just incredible. If we followed this advice and the Congress codified a broad definition of the words ''temporary'' and ''self-correcting,'' then we will have found another escape hatch—aha, there it is, this is another escape door that we all know will be needed under this amendment. But will that be what the American people expect from this amendment?

The proponents have trumpeted from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico: This is the wonder cure. This is the wonder drug, a prescription for budget deficits. A politician appearing before an audience, can ask the question—I have been out there on those hustings a few times—''How many of you believe that we ought to have a balanced budget amendment to the Constitution?'' All hands will go up. ''Well, I want to tell you, ladies and gentlemen, you elect me, and I will vote for a constitutional amendment to balance the budget.''

Get your applause meters going. That is a sure way to ring the bell. This wonder drug is the way to get votes. It is not a sure cure—it may be a cure that kills—but it is a sure way to get votes.

Reading again from the committee report—that the Judiciary Committee wrote for our edification when it reported the constitutional amendment to balance the budget to the Senate floor—the next sentence states: ''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1 .''

Now get that. Let us read that again.

''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1''—which says total outlays, total Government spendout, shall not exceed total Government income in any fiscal year.

How small is small? How small is a negligible deviation? Is the term deficit now a variable which Congress can manipulate by saying that a deficit is not a deficit is not a deficit?

It reminds me of Abraham when he intervened on behalf of the city of Sodom. He asked God, if perchance there were 50 good men in Sodom, would God destroy Sodom. God said no. Well, perchance there were five less than 50, perchance there were 45, would God destroy Sodom. God said no. Well, perchance there were 40 good men, would God destroy Sodom. God said no. Perchance if there were 30? God said no. Well, even if there were just 20? God said no, he will not do it. Well, even if there were just 10? God said no, if there were just 10, he would not destroy Sodom. So God answered that if there were 10 righteous men in Sodom, he would spare the city.

This is the same thing in a reverse sort of way.

If Congress could state that very small, or negligible, deviations from a balanced budget would not represent a violation of section 1, how small is small? Is it $5 billion? Will you spare us if it is just $5 billion? Well, they will spare it. Well, what if it is $10 billion? Will you spare us? May we consider that we balanced the budget if we only

miss it by $10 billion? Well, we may. How about $20 billion? How about $30 billion? How about $50 billion? What is wrong if it is $11 billion? How about $12 billion? If $12 billion is only a ''negligible'' deviation, how about $20 billion, $30 billion, $50 billion? Is $75 billion a negligible deviation? How about $175 billion?

So here, Mr. President, one has to ask the question. Where do we stop? What is ''negligible?'' What is ''small?''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes. I will be glad to.

Is the Senator from one of the renowned ''special response'' teams?

Mr. SANTORUM. I am not sure. I asked to come to the floor—

Mr. BYRD. Now is a good time to find out.

Mr. SANTORUM. To listen and to learn. I was just questioning—

Mr. BYRD. I wonder if the Senator would wait until I finish, if we could.

Mr. SANTORUM. You said ''interrupt me'' any time for questions. So I thought I was free to do so.

Mr. BYRD. This is really one of the ''ready response'' teams.

Mr. SANTORUM. I was just questioning. Are you suggesting that negligible amounts could mean rather extraordinary amounts? You are not suggesting that a Member of the Senate would violate his constitutional oath of office to uphold the Constitution which requires a balanced budget? You would not be suggesting that someone would deliberately violate their oath of office by allowing a large deficit to occur when the Constitution says that cannot occur?

Mr. BYRD. It depends on what the Senator means. When he said would a Senator ''deliberately violate his oath of office,'' I am looking at what the amendment says. I did not write it, Senator. I did not sign onto that Contract With America. I have not gone around the country saying that the answer to our deficit problem is a constitutional amendment to balance the budget. You perhaps did. I did not.

I am pointing out that that constitutional amendment to balance the budget, which you swore to vote for, probably has flaws. Unless you rewrite that language that is in that constitutional amendment, which I did not write, you are not going to correct that flaw, and it is going to be based on estimates which I have already said are invariably wrong. It is not whether a Senator would knowingly violate his oath. It is what the amendment says, that your party for the most part wrote. I did not write it. I am looking at the language. It is plain, unmistakable, clear English language.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for an additional question?

Mr. BYRD. Yes.

Mr. SANTORUM. Mr. President, does the plain, unmistakable, clear language say the budget ''shall'' not? I mean, is not that very clear from the language, that it ''shall'' not be?

Mr. BYRD. Read it, in case the Senator has not read it.

Mr. SANTORUM. I have read it on many occasions, just here today.

Mr. BYRD. The Senator has not read it all. It says ''shall not exceed total outlays for any fiscal year—''shall not.'' It does not say ''may not.''

Let me respond. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. That leaves no wiggle room. You ought to read that. You and your colleagues who are proponents of this language ought to take a microscope and look at that language.

Mr. SANTORUM. If the Senator from West Virginia will yield.

Mr. BYRD. It is plain, it is simple.

Yes.

Mr. SANTORUM. That is exactly my point. It is very clear that it says it ''shall not exceed'' and the suggestion that you have made is that a $75 billion deficit would be permitted under the Constitution, it seems to me.

Mr. BYRD. No. No. I did not say it would be permitted. I did not say it would be permitted. I said under the Constitution no missed estimates would be permitted. It says what it says. The total outlays for any fiscal year shall not exceed total receipts for that fiscal year. I did not say we would permit $5 billion, permit $10 billion or $75 billion. The Senator was not listening to me. I was talking about Abraham, and how he approached God, and said, well, if there are 50 men, righteous men, in Sodom, would you spare them? God said yes. What about 45? Yes. What about 50? Yes. What about 35, 30, 20, 10?

So where do we stop here? That is what I am saying. If you are going to say in this section 6, the Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts, and if you are going to say in the committee report, the Congress could state that very small or negligible deviations from a balanced budget would not represent a violation, what is ''small?'' What is ''very small?'' I was saying is 75 very small? Is that negligible? Is 50 small? So you tell me. What is small in that context? What is small?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question.

Mr. BYRD. Yes. I yield.

Mr. SANTORUM. My question to you, Senator, is the language from the constitutional amendment is very clear, that at the end of the fiscal year revenues will not exceed—excuse me. Expenditures will not exceed revenues. That is very clear.

Mr. BYRD. It does not say ''at the end.'' You might want to read what the constitutional amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.'' How are you going to know until the fiscal year is behind you?

Mr. SANTORUM. That is exactly right. That was my point. You will not know whether you have met the charge of the constitutional amendment until the end of the year.

Mr. BYRD. Until the end of the year.

Mr. SANTORUM. That is correct. At that point we will have to have satisfied that condition. Correct?

Mr. BYRD. The year is gone.

Mr. SANTORUM. That is correct. I am sure the Senator knows that does not mean that all expenditures or outlays have been in fact expended. So we could rescind. We could, as has been done here, retroactively tax. There are all sorts of options available to satisfy that amendment after the fact.

Is not that the case?

Mr. BYRD. No. Let me finish, will you?

Mr. SANTORUM. You asked me. You permitted me to ask questions. So I was complying.

Mr. BYRD. I want to answer your question.

Mr. SANTORUM. Thank you.

Mr. BYRD. You stay around.

Mr. SANTORUM. I am not moving.

Mr. BYRD. Mr. President, we have the suggestion that the Congress could just stand up and declare that certain amounts of the deficit, as long as we determined them to be ''negligible,'' they are not in violation of the amendment.

A $25 billion deviation—Congress could say it is OK. It is small. It is small in comparison to what? When considered in the context of a budget that is $1.5 trillion, it is negligible. But if we were to constitutionalize the mandate that outlays must not exceed receipts—outlays must not exceed receipts, let me say that to my friend—if we were to constitutionalize the mandate that outlays must not exceed receipts, a congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. I will say that again. If we were to constitutionalize a mandate that outlays shall not exceed receipts—that is what the amendment says. I did not write it. I do not subscribe to it.

Mr. CRAIG. Will the Senator from West Virginia yield?

Mr. BYRD. It does not say ''may not.'' The amendment mandates that outlays ''shall not exceed receipts.'' If we were to constitutionalize the mandate, any attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If the Congress can violate this amendment with impunity, then what other provisions of the Constitution might be in peril?

Finally—and then I will be glad to yield; we now have two members of the response team here, and I see another one on the far side of the enemy territory—if Congress can violate this amendment with impunity, then what other provisions of the Constitution

might be in peril? Finally, the last sentence in this paragraph states, ''If an excess of outlays over receipts''—I think this gets to the question of the Senator from Pennsylvania [Mr. SANTORUM]—''were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

So there you have it. Now I will take the question of the Senator. But, you see, this is the final escape hatch that I will mention today:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

Mr. SANTORUM. If the Senator will yield, in the last sentence, the operative underlined that I see is the word ''can'' require. They do not have to do so. But they can. They also have the option, if I understand, to rescind, retroactively tax, or ''by a three-fifths vote''—and you did not read the rest of that, but ''by a three-fifths vote impose a balanced budget.''

So there are options available, are there not, to the Congress and to the President under the balanced budget amendment?

Mr. BYRD. There we have it. A member of the response team is saying, ''There are options, are there not?'' Let us read this first paragraph of the balanced budget amendment:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not give you any option. It does not give me any option. The American people out there can read and they can understand.

Senator, you can say all you want to, and you can weasel around the word ''can.''

If an excess of outlays over receipts were to occur, Congress can require . . .

Well, that is an escape hatch. It can require——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I will yield to the Senator, but I do not want to be interrupted in the middle of a sentence. I will read it again:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That is an ''option,'' the Senator says. The American people out there who are reading do not see that option. In the plain, simple English words of the constitutional amendment to balance the budget:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not say anything about an option.

I yield.

Mr. SANTORUM. There is a dependent clause after ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .''

It then says '' . . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.''

So there is an option clearly stated in the constitutional amendment; is there not?

Mr. BYRD. The Senator was not here when I said earlier that at a later date, I will talk about the supermajorities. I read it when I first brought the chart out. The Senator was not here. I first brought this out, and I read the entire thing, laid it all out. Every time I raised it to the public view, they could all see the remaining clause. I said that I will only deal with this first clause.

Yes, it provides for an additional supermajority in the Constitution, which will raise to 10 the total number of supermajorities that are in the original Constitution and the amendments thereto. It will be raised to a new level when we get down to the raising of the statutory debt limit. So much for supermajorities today. The Senator may say what he wishes about the supermajority.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. I would like to refer to your charts talking about the deficit estimates and that they are unreliable. You say they are estimates at the beginning of the fiscal year. By the Congressional Budget Office?

Mr. BYRD. Yes.

Mr. SANTORUM. When you say at the beginning—my understanding is that the Congressional Budget Office issues two reports, one in August and one in January. Which one does that refer to?

Mr. BYRD. You are talking about the midsession review, the one in August. But, Senator——

Mr. SANTORUM. Is this the January report you are referring to?

Mr. BYRD. It has to be, which you will learn after a while. I welcome this exchange. I think that is what has been missing in so much of this. We all get on the floor and make our speeches, but we do not debate. So I welcome this exchange and I congratulate the Senator and commend him. But I happen to be on the Appropriations Committee, so I know a little about what I am saying. I helped to write the 1974 Budget Act.

The resolution on the budget should be enacted by May of each year. And it is only after that budget resolution is enacted that the chairmen of the Appropriations Committees of the two Houses allocate those funds to their subcommittees. And it is only after that that the appropriations bills start coming through.

But prior to the budget resolution in May, the Congressional Budget Office prepares its estimates of revenues and receipts and deficits for the forthcoming fiscal year and projects those 5 years down the road.

What I have been saying is that, in addition to the flaw, the word ''estimates,'' which by these charts—and which you are going to ask me about in a moment—have been shown to be invariably wrong. The Congress, the House, and the Senate have to depend on those CBO estimates in enacting the budget resolution, after which, as I say, the allocations of funds and then the appropriations of moneys come to pass. But all that is in advance of the fiscal year. It is in advance of the beginning of the next fiscal year. And we have shown by the charts that those estimates are invariably wrong.

Now the question.

Mr. SANTORUM. If I may, my question is—and I think you have answered it in part—that these estimates on your chart reflect an estimate that was done some 6 months prior to the fiscal year; is that correct?

Mr. BYRD. Yes.

Mr. SANTORUM. Are there not subsequent updates by the Congressional Budget Office, the Office of Management and Budget, and reports from the Treasury as to actual receipts and revenues that one could, if one were in Congress or the Senate, adjust to meet the updated projections so we would have a better idea where we were going to be by the time we reach the end of the year?

Mr. BYRD. There is the midsession review. But, I say to the Senator, that midsession review still is going to be based on estimates. It cannot actually foresee what the revenues will be for the remaining months, or what the outlays will be.

Mr. SANTORUM. Mr. President, will the Senator yield further for a question?

Mr. BYRD. Besides, the nearer we get to the end of that fiscal year, the greater is the pain if one tries to make a correction in the remaining 6 months, 5 months, 4 months, 3 months, 2 months, 1 month.

Mr. SANTORUM. Mr. President, will the Senator continue to yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. Is it not possible, under implementing legislation, for us to require the Congressional Budget Office or the Office of Management and Budget to put forth a monthly calculation of what the deficit will be so we have our finger on the pulse of what the revenues and outlays will be so that, in fact, farther out from that final end of fiscal year, we might be able to adjust if we see from those estimates that we are going to run into trouble? In fact, is that not one of the problems now that we do not do that; we do not react based on what we know from continuing estimates?

Mr. BYRD. I have two or three things I would like to say in response to that question. Is the Senator suggesting monthly budget resolutions?

Mr. SANTORUM. No, I am not. I am suggesting that the Congressional Budget Office could do monthly estimates as to what the deficit will be for that fiscal year so we might have a better understanding of what we are going

to be faced with at the end of that fiscal year.

Mr. BYRD. It is going to be pretty difficult for the Congressional Budget Office to anticipate what interest rates may be a month from now, 2 months from now. We do not know what Mr. Greenspan is going to say. The Senator knows that.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia would yield, they do that now as part of the estimate process.

All I am suggesting is they do it every month as opposed to twice a year so we have a better idea what we will be facing at the end of that year.

Mr. BYRD. Once the Senator has been here to see and hear the prolonged and sometimes bitter debate on the budget resolution—I hope he would not be suggesting that we are going to have subsequent budget resolutions every month or so. There can be a substitute one under law. But here he comes talking about implementing legislation. Who is going to pass the implementing legislation? Congress, right?

Now, how can the Senator say that 10 years out implementing legislation will do thus or so, or it will not do thus and so? He may be here. I doubt that I will be.

Mr. SANTORUM. I hope so.

Mr. BYRD. But nobody can promise what implementing legislation will do or what it will not do. Nobody can say ''Well, this is not the intention.'' ''This is not the intention.'' ''That is not the intention.''

Those are the words of a Senator at a given time here during this debate. That is not his intention, but nobody can say what the intention of Senators will be 10 years from now. We are talking about implementing legislation.

Here we are talking about a Constitution that does not change from month to month or year to year. It may be here for decades or centuries if it is not repealed.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. Is it not customary that constitutional amendments, after the passage of that amendment, there is usually some legislation enacted to implement that legislation? Is that normally the course?

Mr. BYRD. Some constitutional amendments state that.

Mr. SANTORUM. It is not unprecedented that we would have an implementing piece of legislation.

Mr. BYRD. It is not. Some amendments, especially those that were passed during the Civil War and the Reconstruction era, specifically provide for implementing legislation.

Mr. SANTORUM. In fact, would you not suggest that with this constitutional amendment it would be incumbent upon us to pass some sort of implementing legislation?

Mr. BYRD. Well, it says that Congress shall enforce the act in section 6, Congress shall enforce it by appropriate legislation.

Mr. SANTORUM. So would you suggest that requires us to pass an implementing piece of legislation?

Mr. BYRD. I am suggesting that that legislation may rely on estimates of outlays and receipts, and I am saying that the estimates are invariably wrong. Consequently, it is an uncorrectable flaw in the amendment. Consequently, the American people cannot depend upon this amendment to balance the budget.

And I am saying also that the Judiciary Committee must have known that when they wrote the committee report to give us several scapegoats.

Mr. SANTORUM. If I could reiterate my question, does section 6, in your opinion, require us to pass some sort of implementing legislation?

Mr. BYRD. I will read you what it says. ''Congress shall''—not maybe, but shall—''enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a further question?

Mr. BYRD. Yes.

Mr. SANTORUM. The next chart that you brought up after those was the committee report which talked about implementing legislation.

Mr. BYRD. Yes.

Mr. SANTORUM. And from what you read in the plain language of the constitutional amendment, we are under some obligation to implement this act by some form of implementing legislation.

Mr. BYRD. We are under an obligation to make that amendment work. And I am saying we cannot, do not have any intention of making it work, because the committee is giving us a way out when it says we can rely on estimates.

Mr. SANTORUM. Would we not have the opportunity to require the Congressional Budget Office, the Treasury Department, the Office of Management and Budget, whatever, to come up with more current monthly, maybe even more often, deficit projections to guide the hand of the Congress in trying to meet the stated purpose of the constitutional amendment, which is that expenditures do not exceed revenues? Could we not do that?

Mr. BYRD. Yes, I hope we would. I hope we would.

Mr. SANTORUM. Would that not at least ameliorate the problem of an estimate 6 months prior to the fiscal year, fully 18 months before the end of that fiscal year, which arguably is not going to be exactly accurate? But, as we all know, as we get closer to the fiscal year and in the fiscal year, we would have a much better idea of what the final outcome of that year would be. So we would be able to react.

Mr. BYRD. Senator, it will not work.

Suppose you have a disaster in June, July, August, September, a disaster that costs $10 billion? You cannot foresee that. You cannot depend on estimates, if you want to be accurate. And the first section, section 1, does not give you any room to be inaccurate.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. I go back to this clause, ''unless three-fifths of the whole number.''

I was looking the other day at the emergency supplemental appropriations that we have passed in this Congress that violate the caps, and I noticed an amazing thing. That almost all of them passed by more than three-fifths of the whole number of the House and Senate. So we seem to be able to, when faced with some structure of the budget, to come to a consensus and pass it, in very large numbers, with very large pluralities, to respond to a national emergency.

(Mr. GRAMS assumed the chair.)

Mr. BYRD. Senator, we do. Sometimes we do not.

But you still add to the deficit, no matter whether you call it an emergency or not.

I am glad the Senator raised that point, because it does raise some questions in my mind as to whether that is actually going to be the case.

Let me read a letter to the President, dated February 7, signed by the leadership of the other body, NEWT GINGRICH, Speaker of the House; RICHARD ARMEY, majority leader of the House; JOHN KASICH, chairman of the Committee on the Budget; and BOB LIVINGSTON, chairman of the House Committee on Appropriations. Here is what it says:

> DEAR MR. PRESIDENT: The fiscal year 1996 budget which you transmitted to Congress contains an additional $10.4 billion in supplemental budget requests for fiscal year 1995. Your budget submission further reflects only $2.4 billion in rescissions and savings for FY 1995. Most of these requests are for emergencies.
>
> The House Appropriations Committee will proceed to review and act on these requests but highest priority will be given to replenishing the accounts in the Department of Defense badly depleted by contingencies in the Persian Gulf, Somalia, Rwanda, Haiti and other activities. The committee and the House, in turn, will act only after offsets for these activities have been identified. However, we will not act on the balance of the request until you [meaning the President] have identified offsets and deductions to make up the balance of the funding. Whether these activities are emergencies or not [this is the House leadership writing to the President] it will be our policy to pay for them rather than to add to our already immense deficit problem.
>
> We therefore ask you to identify additional rescissions as soon as possible so we can move expeditiously on your supplemental request.

Now, there is no guarantee there. There is no guarantee as I read there from the letter written by the leadership of the other body, no guarantee that they will agree that such expenditures for disasters will be considered as

emergencies and, therefore, not charged against the budget caps.

Mr. REID. Mr. President, would the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. REID. Mr. President, I have been listening to the conversation between the Senator from West Virginia and the Senator from Pennsylvania, and I would be interested in whether or not the statement I am making is true. It is my understanding that interest rates have been raised the past year six or eight times. Does the Senator from West Virginia know that to be accurate?

Mr. BYRD. Mr. President, they have been raised several times.

Mr. REID. Would that have some bearing on making estimates?

Mr. BYRD. Mr. President, there is no question.

Mr. REID. Mr. President, in fact, as the Senator from Nevada, it is my understanding, if we were going to make estimates a year ago not knowing if the interest rates would be raised, they would be totally off base as to the estimates because they have been raised a significant number of times this past year, is that not right?

Mr. BYRD. Absolutely.

Mr. REID. Now, it is my understanding the interest on the debt yearly payment is over $300 billion a year; is that about right?

Mr. BYRD. About $235 billion.

Mr. REID. And going up as the Fed raises interest rates, so that would affect your estimates, would it not?

Mr. BYRD. That would.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, I ask unanimous consent that I, who hold the floor, may ask the Senator a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, can the Senator—he was talking about disasters and how normally there are the votes here in the House and Senate to respond to supplemental requests for disasters and thereby waive this deficit requirement as it would appear in the new constitutional amendment. Does he feel he can assure the Senate that the House leadership will back off in this statement that they made to the President in the letter which I read?

Mr. SANTORUM. Mr. President, as the Senator from West Virginia knows and as we discussed, the three-fifths override provision in the constitutional amendment is but an option available to this body to fund emergencies.

Another option that is available is the one that is detailed in that letter which is to rescind obligated moneys from the prior year.

So that is what they have suggested in that letter, which I think, given our deficit state at this point, is the most responsible way to do it. I wholeheartedly support that effort, and I think it is the responsible way to do it. It can clearly continue to be an option under the constitutional amendment.

Mr. BYRD. Does the Senator feel that with the House majority leadership taking a clear and strong position against supplemental appropriations for this purpose, is the Senator about to tell me that three-fifths of the House would vote to waive it, with the Republican majority over there against such a waiver?

Mr. SANTORUM. Mr. President, I suggest to the Senator from West Virginia that the majority of the Members of the House would vote for a rescission package to fund it, which would accomplish the same thing.

Mr. BYRD. The Senator is not talking about a majority. He earlier was talking about a supermajority.

Mr. SANTORUM. I was talking options available. One is a supermajority, one is a simple majority of rescissions.

Mr. BYRD. I go back to this plain and simple language, Senator. You can argue with me as long as you want to argue, until you are blue in the face, but your argument does not, in plain, simple English language—and that is your amendment; that is the amendment which you told the voters of Pennsylvania you would support.

Mr. SANTORUM. I suggest that that is exactly what they are doing.

Mr. BYRD. Wait, just wait, Senator. I was not born yesterday.

I am directing your attention to this language. This is the language. This is what we will vote on. Not what somebody is talking about in West Virginia or Pennsylvania or anywhere else.

This is the language. ''Total outlays for fiscal year shall not''—shall not—''exceed total receipts for that fiscal year.'' There is no option mentioned in that amendment. The option is mentioned in the committee report.

Mr. SANTORUM. Are we still under the unanimous consent which he has yielded to me so I can respond, or do I need to ask?

Mr. BYRD. You do not have to ask unanimous consent to ask me a question.

Mr. SANTORUM. So we are past the point in which you asked me a question.

Mr. BYRD. Oh, yes, you are on the response team. I am just going to try to answer your question.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. SANTORUM. You held up the letter from the House Republican leadership talking about an emergency supplemental appropriation. That would be an appropriation above what is normally budgeted for?

Mr. BYRD. That is right.

Mr. SANTORUM. What the House leadership responded was, they would be happy to comply with the request but we want to find other measures within that budget to offset those expenditures.

Mr. BYRD. As I read, they said they would be happy to comply with the request as it pertains to defense.

Mr. SANTORUM. But they also said—did they not ask the President to find rescissions to offset those expenditures?

Mr. BYRD. They did.

Mr. SANTORUM. Which would then comply with the balanced budget amendment, would it not?

Mr. BYRD. The balanced budget amendment does not say anything about that.

Mr. SANTORUM. Mr. President, would it not be in keeping with the balanced budget amendment that they would offset so that the deficit would show zero based on that particular transaction?

Mr. BYRD. The balanced budget amendment requires a balanced budget, no matter how you reach it. Got to hit it on the head. There is no wiggle room, Senator.

Mr. SANTORUM. I am not suggesting there is. I am suggesting what they are doing is the responsible thing.

Is it not your understanding that what they are saying is that they want to offset new expenditures with spending cuts from someplace else in the budget?

Mr. BYRD. That is what they are saying with respect to the disaster or to those parts of the supplemental requests that do not deal with defense.

I am not arguing whether they are reasonable or whether they are not.

Mr. SANTORUM. Are you arguing that is outside the purview of the balanced budget amendment—what they are doing is outside? That would be violative of the balanced budget amendment.

Mr. BYRD. No, I am not arguing that at all. This is my argument. I want the Senator to keep in view in his mental vision what the amendment says. ''Total outlays shall not exceed total receipts for any fiscal year.''

Mr. SANTORUM. If the Senator from West Virginia will yield for a question, Mr. President, does that letter that you read to me as an example violate the constitutional amendment?

Mr. BYRD. Mr. President, no, no.

Does the Senator think it does?

Mr. SANTORUM. I do not.

Mr. BYRD. I do not either, but that is beside the point, as to whether it violates the Constitution.

Does the Senator have any further questions?

Mr. SANTORUM. I am sure I will. Thank you.

Mr. BYRD. I thank the Senator for his question. I would much rather have an exchange out here than just standing and reading a speech. I really mean that. I would like to see more of an exchange rather than just written speeches. So I am not perturbed by it. I am encouraged by it. At least somebody is listening.

At least somebody is paying attention, and that somebody is giving me a chance to answer some questions. I

would be happy if the response team would continue to gather. Let us have more of an exchange. I apologize to other Senators who may want to speak.

So there you have it. What a prescription for a balanced budget. That is a massive loophole. Let me read it again. ''If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

Now, there is another scapegoat. That is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Attila, the king of the Huns, and the scourge of God, to drive his 700 Scythian horsemen through.

What the sponsors of the amendment are telling us is that, if Congress cannot figure out what to do, if Congress runs into options too difficult to swallow, Congress can just require that the shortfall be made up the next year. Just put it off until the next year.

Now what kind of fiscal shenanigan is this? If you cannot balance one year, just roll it over to the next? That is not what that constitutional amendment mandates in the first section; that is not what the American people are being told. Just roll it over until the next year. Mr. President, what kind of fiscal witchcraft is this?

Let me emphasize again, these suggestions for dealing with the deficit under a balanced budget amendment come from the committee's report. Every Senator, every Senator's office should get that report. Read the escape hatches for yourselves, and then ask yourself, am I going to vote for that kind of a sham? Am I going to fool the American people when they can read, they can see, they can know that amendment has uncorrectable flaws in it. And the Judiciary Committee must have understood that when it came through with its committee report providing for some escape hatches.

As such, these suggestions in the committee report would not become part of the underlying resolution if it were to pass. They are not going to be incorporated into the constitutional amendment. They would not have any force of law. But, nevertheless, they give the American people some idea of the kinds of gimmicks and evasions the people can expect to see if this constitutional amendment is adopted by the Congress and ratified by three-fourths of the States.

The American people are being sold a bag of budget tricks. Is this what the American people want? Is that what you want, Mr. and Mrs. America? Are the American people being told about the realities of what it would take to balance the budget each and every year? The people have a right to know these things.

As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the public that we really intend just to carry the deficit over into the following year.

Let us take a look at that chart again. What this committee report is telling us is that Congress may roll over this deficit from one year to the next.

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That means taking the year 1980, for example, when there was a shortfall between the actual and estimated deficit of $36 billion. So what this committee report is saying is, ''Senators, just vote it over to the next year, don't worry about it.''

The next year, we see that it misses by $58 billion and the next year by $73 billion and the next year over $91 billion.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Will the Senator allow me to finish? I do not have much further to read, and I will be happy to yield.

So what they are saying is, ''Roll it over, roll it over to the next year, that is OK.'' That is not what the American people out there are expecting from those who are the proponents of this balanced budget amendment.

The proponents are saying, ''Let's have a constitutional amendment to balance the budget. Let's do it like you do, Mr. and Mrs. America, you and your families, you do it every year. We ought to have to do it.''

That is saying we ought to do it like the States have to do it. They have constitutional amendments to balance their budget. Well, I will talk more about those pretenses at some other point. But this is what you are being told; the American people are being told that if there is an excess in the deficit one year, it can be rolled over to the next.

Senators ought to read this constitutional amendment. They ought to read the committee report by the Judiciary Committee in the Senate which accompanied the resolution when it was reported to the floor. They ought to read it. It will not work. The Judiciary Committee knows it will not work. One only needs to read the report to understand that the Judiciary Committee saw there were going to be problems with it.

You will not hear the proponents telling the public that the Congress will just stand up and declare the deficit ''negligible,'' and so we are not going to deal with it.

I do not hear them telling the American people that, if this measure is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Tell them the truth. And Senators know they are not being told that. Senators know or ought to know what this amendment says, what the words plainly state.

Senators ought not be willing to hoodwink the American people into supporting something that the American people can read and can understand. And it is not going to work. The committee report just as plainly states that.

Mr. President, if this matter were not so serious, if it were not so dangerous to the delicate separation and balance of powers that were put in place more than 200 years ago, and if it would not have such cataclysmic effects on the economic well-being of the American people, what we have seen today, with respect just to section 6 would be laughable. It would be laughable. But it is really not laughable. And the sooner the American people begin to understand that, and the sooner the Members of this body understand that, the sooner we will realize the serious policy choices that must be made if we are to put our fiscal house in order.

Mr. President, how much confidence do even the authors of this amendment have, if right in the committee report, they start figuring out ways to get around this amendment? How much confidence do the proponents have—the sponsors of the amendment—if right in the committee report they start figuring out ways to get around the amendment? No, Mr. President, this amendment is not worthy of being enshrined in our Constitution. It is little more than political catnip offered to disguise the real difficulty of getting our budgets in balance. I do not think we should perpetrate this charade upon the American people. That is what it is.

I want to see our deficits reduced as much as any Senator here wants to see them reduced. I voted for a package to reduce them in 1990. I voted for a package to reduce the budget deficits in 1993. So I believe we ought to get control of them. But not a single Republican Senator, not one of those who are proponents of this constitutional amendment to balance the budget voted for that budget deficit reduction measure in 1993. Not one Member of the House, not one Republican Member did that. And yet today they say we need a balanced budget amendment to the Constitution.

If it were simply a political sham, which it is, if it were just a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further diminishment of the trust of the people in their Government. They do not trust the Government much now. They do not trust politicians much now. They do not trust Members of Congress much now. The legislative branch can ill-afford any more cynicism and loss of trust. And this Senator worries as much about the trust deficit as he does about the budget deficit.

Often Members believe that doing what seems to be the safe thing—in other words, the popular thing—will prove also to be the right thing. Political correctness is supposed to be the order of the day, I guess. I believe that endorsing this balanced budget amendment has taken on the aura of a politically correct act. It has become a litmus test of sorts—the right choice to make the political proprietary meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way is far too important for us to take the temporarily easy way out. The American people must be made to understand that once they take a closer look at this amendment—and I believe that Senators, once they take a closer look at the amendment and once Senators read the committee report—they will find that this amendment is far from what it seems.

I hope each Senator will carefully study this amendment before voting on it. I believe close and open-minded scrutiny of this proposal shreds it—cuts it to pieces; it will not work; it is quack medicine—reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making.

Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act.

Now, I understand the Senator from North Carolina, my friend from the State in which I was born, wants to make a speech as soon as I finish. But before he does, the distinguished Senator from Pennsylvania [Mr. SANTORUM] had asked me to yield. I asked that he wait until I finish my speech, and I thank him for that. I am glad to yield to him.

Mr. SANTORUM. I thank the Senator from West Virginia.

I wish to go back to that chart and again try to find out specifically what data the Senator is referring to there. I just had someone look up the 1974 Budget Act and the 1985 Gramm-Rudman-Hollings Budget Enforcement Act to find out what the timeframe was for estimates to be given. And my understanding is that—I am sure the Senator knows the 1974 Budget Act; he was one of the principal writers of it—the Office of Management and Budget submits a beginning-of-the-year budgetary assessment on February 1, which just occurred the other day. They make a midseason review in July or August. That is under the Budget Act of 1974. The Congressional Budget Office makes a beginning-of-the-year—which is the end of January—assessment after OMB makes its assessment and then an end-of-July reassessment.

My question is, the Senator referred to this data being May, roughly May, springtime, after all the budget resolutions were passed. I do not see any requirement for a report here, and I am wondering if in fact this data is not February data as opposed to May or June data.

Mr. BYRD. Yes, it is.

Mr. SANTORUM. It is February.

Mr. BYRD. It is not May. What I said about May was that under the 1974 act, Congress is supposed to pass a budget resolution which lays out the anticipated outlays, the anticipated receipts and the anticipated deficits, and then, only after then can the Appropriations Committee of the Senate—the House committees can go before that, but only after that budget resolution is passed and sent to conference and agreed upon can the Senate appropriations committees begin their work. Sometimes, I guess, we complete the budget resolution perhaps before May, sometimes we may not, but that was what I alluded to in the case of May.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will continue to yield for a question, so the numbers that the Senator is saying are in error, the inaccurate estimates, are estimates that were made 21 months prior to the end of the fiscal year, correct?

Mr. BYRD. Whatever, 21 or 20 or 18 or 19. The point I am saying is the estimates simply do not work out. They are always wrong. And in this constitutional amendment here, that is the Achilles' heel. The word ''estimates'' is the Achilles' heel. They are always wrong. Consequently, we can never base our actions on those estimates and expect to balance that budget.

Mr. SIMON. Would my colleague from West Virginia yield for a question?

Mr. BYRD. Yes, I will be glad to.

Mr. SIMON. First of all, as he knows, I have great respect for him. He is an extremely valuable Member of this body.

I will tell you what I think is the error of the Senator's assumption here. First, we can build in, as has been recommended by former Assistant Secretary of the Treasury Fred Bergsten, among others, about a 2-percent surplus. That on a $1.6 trillion budget would be about $32 billion.

Second, because we do have to rely on estimates somewhat, we have talked about having a 3-percent leeway so that you could go 3 percent below and then that would automatically transfer to the next fiscal year. That would be $48 billion. Right now, the combination of those two things would be $80 billion. That would take care of all but two fiscal years the Senator has on the board there. In those two fiscal years——

Mr. BYRD. What does the Senator mean by saying it would take care of all of them, all but two? What does the Senator mean?

Mr. SIMON. Every one of those except two is less than $80 billion.

Mr. BYRD. What is the Senator saying?

Mr. SIMON. Let me go over this again. The recommendation of several people, including Alan Greenspan and former Assistant Secretary of the Treasury Fred Bergsten, a recommendation that I concur in, is that we build in about a 2-percent surplus when we put together a budget. In terms of our $1.6 trillion budget, that would be about a $32 billion surplus. Then because no one, as the Senator points out, can know for sure down to the dollar or even the $1 billion where we are going to come out, we have made clear in committee that there can be up to a 3-percent deficit that would be transferred to the next fiscal year. That would be $48 billion. The $32 billion and the $48 billion combine to $80 billion. That, every one of those, is less than an $80 billion differential except for 2 years.

In those 2 years, the procedure would be for Congress to say we can either, with 60 votes, create a small deficit—but it would be small indeed, compared to the deficits today—or we could authorize putting it in the next fiscal year.

It is something that we would have to face. But it is a practical way of facing this problem.

Mr. BYRD. The Senator said ''something we would have to face?'' The Senator will not be around here after next year to face it. And I will not be around here many more years to face it. How do we know what future Congresses will say? We say we will say that. We say it is not the intention to do thus and so. How do we know what the intention of a future Congress will be?

Also, may I say this?

Mr. SIMON. You have the floor.

Mr. BYRD. Please take a look at the amendment which you are supporting. It does not say anything about building up a surplus in 1 year. It does not say anything about 3 percent or 2 percent or 10 percent or 20 percent. It says, ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *''

Napoleon said that on his council there were men who were far more eloquent than he, but he always stopped them by saying 2 and 2 equals 4.

So I am going to say to you, Senator—and I say this with great respect, and the Senator from Pennsylvania, and any other Senators on the response team—2 and 2 makes 4.

Read it. Read what your amendment is saying. ''Total outlays for any fiscal year shall not * * *.'' It does not say may not. ''* * * shall not exceed total receipts for that fiscal year.''

Now, 2 and 2 makes 4. Do not come at me with all implementing legislation, ''We might build up a surplus.''

We will not be around here. How do we know what a future Congress will do?

''We will do this and we will do that in implementing legislation. We will build up a surplus. We can roll that over if we hit a year in which there is

a deficit. We can just roll it over next year.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

That is not what those people over there are being told. And you know it. And you know it, Senator. We all know it. Read it for yourselves. I did not write it. I am not going to support it.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. I support getting to a balanced budget. But not this. Not this way.

Yes, I yield.

Mr. SIMON. Mr. President, I thank him for yielding.

You have to put that together with the language about estimates, together.

Mr. BYRD. That is just what I did just earlier. I put them together and came out wrong every time.

Mr. SIMON. All right. And the reality is we do not know—when we come to September 30, we do not know what the deficit is, or what it is precisely.

Mr. BYRD. We will not know it.

Mr. SIMON. We do not know that until sometime later. That is why we make this adjustment. And that is when we will make the adjustment.

I think—and I respect——

Mr. BYRD. This does not say anything about an adjustment.

Mr. SIMON. Pardon?

Mr. BYRD. This amendment? What are we talking about here? I thought we were debating a constitutional amendment to balance the budget. It does not say anything about an adjustment.

Mr. SIMON. We are. Well, what I am simply saying is we have built into this the flexibility to take care of the kind of unknown kind of situations that you are talking about.

Mr. BYRD. Senator, you say ''we have built into this.'' Where does it say that in the amendment? Where does it say it?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question?

Mr. BYRD. I am yielding right now to the Senator. Then I will be glad to yield.

Mr. SANTORUM. I was going to answer his question.

Mr. SIMON. Just a response to this question, and then I will yield to my friend from Pennsylvania.

Mr. BYRD. I know what the Senator from Pennsylvania is going to say. He will say look at that supermajority we provide in there. That is what he was going to say? Was that not what you were going to say?

Mr. SANTORUM. I would suggest to the Senator from West Virginia he read section 2 of the article, which requires a three-fifths vote to increase the debt limit.

Mr. BYRD. Yes, another supermajority. That is the 11th one.

Mr. SANTORUM. That is the safeguard against deficits. We cannot just incur a deficit because we have to raise the debt limit. We cannot raise the debt limit without a three-fifths majority. Thereby we are bound to do something about the deficit. So we will be forced, as the Senator from Illinois was saying—here is the enforcement. Here is the teeth right within the constitutional amendment. Section 2 requires us to have a vote on debt limit increase, and when we get to zero we will have the debt limit and we should not have to change it ever.

That is the enforcement mechanism. That makes us come here and do something about it to comply with section 1 of the constitutional amendment.

Mr. BYRD. The Senator is now talking about providing for a minority veto, a minority veto. The Framers provided for a majoritarian, democratic rule. The Senator is now talking about reverting to nondemocratic supermajority rule.

I was going to wait until another day to talk about these supermajorities.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. And I will. But what he is saying here is that any Senator can, as a ticket for his vote—as a ticket for his vote to raise the debt limit, as a ticket for his vote to waive the deficit requirements—may say to the majority, ''I want mine. I want my special project. I want my special program. That is my ticket, Mr. Majority. I will give you my vote and help you get that two-thirds, but I want mine.'' As a consequence, we will end up adding to the deficits rather than reining them in.

Is it a little hard to understand? Maybe.

Mr. SIMON. Will my colleague yield on that question, on that point?

Mr. BYRD. Oh yes, yes.

Mr. SIMON addressed the Chair.

Mr. BYRD. Let me say just another word about these supermajorities.

Mr. SIMON. Is it not true that there are eight provisions in the Constitution right now requiring a supermajority?

Mr. BYRD. No, that is not true.

Mr. SIMON. I beg to differ with my colleague.

Mr. BYRD. I will show you the Constitution.

Mr. SIMON. On most things, he is correct.

Mr. BYRD. In this, I am correct. In the original Constitution, there are six. In the 12th amendment, there is one dealing with the election of the Vice President by the Senate. In the 14th, there is one dealing with the waiving—in the case of individuals who have taken oaths of office and who participate in a rebellion against the country, two-thirds of the Congress may waive that and allow the person—two-thirds may waive that disability. And in the 25th amendment, where it talks about the disability of the President, there is a supermajority.

So, Senator, when you start talking about the Constitution, let us both sit down and read it together. There are not eight, or whatever the Senator said. There are six in the original, one in the 12th, one in the 14th, and one in the 25th amendments to the Constitution, making a total of nine.

That is a minor matter.

Mr. SIMON. I will take your word it is nine rather than eight. But the point is, this is not something startlingly new. Those provisions are in to prevent Government abuse. And I think we have had Government abuse.

The second point I ask——

Mr. BYRD. Wait just a minute. The Senator is not going to get off with that. I am going to yield to him. I am not going to shut him off. He is not going to get away with that.

Most supermajorities are in the Constitution to protect the structure of that Constitution. Let us talk about expulsion, the expulsion of a Senator, or the conviction of a President in an impeachment trial. They are there to protect individual rights. Those two supermajorities are there to protect individual rights.

In the case of a veto, the exercise of a Presidential veto, that supermajority is to protect one branch against another.

As a matter of fact, it was stated at the Constitutional Convention by one of the Framers that one of the reasons the President ought to have a veto was to protect himself against the legislative branch. There are various others that are claiming to protect individual rights. They are not supermajorities to nail down some fiscal policy. The Constitution does not embrace somebody's fiscal policy. So there were good reasons. Those are not the reasons these two new supermajorities that we are about to inscribe in the Constitution are for.

Mr. SIMON. But one of the things those who founded our Government talked about is taxation without representation. And one of the reasons that Thomas Jefferson favored a balanced budget amendment to the Constitution is he said one generation should no more be obligated to pick up the debt of a previous generation than to pick up the debt of another country.

Mr. BYRD. Thomas Jefferson was not at the Constitutional Convention, as the Senator knows. He was the President of the United States from 1801 to 1809, and when he was President, why did not he ask the Congress to adopt a constitutional amendment to do that? Why did not he? He did not do it. No constitutional amendment was ever sent. Why did not Jefferson do that?

Mr. SIMON. I would be pleased to respond, because George Washington operated this country very frugally. Then, in his Farewell Address, George Washington warned do not get the country into debt. We followed that advice, really followed it up until not too many years ago. Then we lost that sense of responsibility. But it is very interesting in Thomas Jefferson's first term he reduced the small Federal debt we had in this country by 50 percent.

Mr. BYRD. It was also interesting that Jefferson took advantage of the opportunity—I am glad he did—to buy the Louisiana Territory, 1,827,000 square miles for $15 million; less than 2½ cents per acre, extending from the Gulf of Mexico to the Canadian border, from the Mississippi to the Rockies. I am glad he did. He went into debt for it. Where did he get the money? He borrowed it from the banks. That debt, $15 million in that day, was 1.9 times the total budget for that year. If that were to happen in this year, when we have a budget of $1.6 trillion, and if we bought the Louisiana Territory and it cost us 1.9 times the amount of the Federal budget, you could figure that for yourselves. That has to be something like, about $3.1 trillion. I am glad he did. I am glad he went into debt. When going into debt, he benefited all of the ensuing generations from then until kingdom come.

Mr. SIMON. My colleague is absolutely correct. In fact, he illustrates the point that this constitutional amendment has that flexibility.

Mr. BYRD. Wait a minute. It also illustrates that Jefferson was embarrassed by what he had said, and later he said he was embarrassed by it. But he said because of the laws of necessity the means sometimes are worthy of the end.

Mr. SIMON. Let me add that the treaty was signed in Paris in May. In those days you did not find out what had happened for a while. When word got to Washington, DC, in July—and I apologize to my colleague from North Carolina—when word got to Jefferson in July in Washington, DC, he was as startled as anyone else by the Louisiana Purchase.

Our Secretary of the Treasury at that point was a man named Albert Gallatin, many States have Gallatin counties named for him. Most people do not know for whom Gallatin is named. Albert Gallatin objected to the Louisiana Purchase, or part of it, because part of the agreement was that the bonds were 5 percent. They could not pay back any of it for the first 15 years. He wanted to pay it off very, very quickly. But the really important point here is that there were two votes in the U.S. Senate on the Louisiana Purchase. There was one vote in the House of Representatives on the Louisiana Purchase. I do know the precise totals. It was something like 26 to 3, or something like that, in the Senate, and all of them were far more than the 60 percent required by this constitutional amendment.

So this amendment would not have blocked the Louisiana Purchase, I want to assure my colleague from West Virginia.

Mr. BYRD. I did not say the amendment would have blocked the Louisiana Purchase. I am saying, like Napoleon did, that two plus two equals four. Read it.

Mr. SIMON. I do not disagree.

Mr. BYRD. ''Total outlays for any fiscal year shall not exceed total receipts for any fiscal year.'' You cannot get away from it. It has you by the neck.

Mr. SIMON. The Senator and I differ. But I thank him for yielding to me.

Mr. BYRD. I thank the Senator.

Mr. FAIRCLOTH addressed the Chair.

Mr. BYRD. Mr. President, I apologize to my friend from North Carolina. I thank the Senator from North Carolina. Let me thank the Senator from Pennsylvania. He made a good try.

I have not yielded yet. I have not yielded the floor yet.

Mr. FAIRCLOTH. I thank the Senator.

Mr. BYRD. I will in just a moment.

I want to commend and compliment the Senator from Pennsylvania. He did the right thing. He raised his questions. I learn when people ask me questions. And I hope that the listening audience learns. That is the purpose of this, that others who may have a chance to listen, hopefully will listen, may learn something from the questions and from the answers. I do not know all the answers. I do not claim to know that. But I fervently believe the position I am taking, and I think that a clear reading of the amendment supports me.

I thank my Senator from North Carolina for yielding. I beg his pardon for delaying him.

I yield the floor, Mr. President.

Mr. FAIRCLOTH. I thank the Senator from West Virginia. I thought he had yielded the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask for 20 minutes to discuss the Reid amendment.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from North Carolina yield for a parliamentary inquiry?

Mr. FAIRCLOTH. I yield the floor for 1 minute to the Senator from Nevada.

Mr. REID. I did not hear. Is the Senator from North Carolina speaking on the matter before the Senate?

The PRESIDING OFFICER. The Senator has been recognized to speak.

The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I will address the Reid amendment. But there are other things I am going to say first with reference to it.

Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Mr. President, quite simply, no other legislative issue the Senate will consider is more important than this one. I know this is a broad statement. But the economic future of the United States rests entirely with this amendment. The future of the United States, the well-being of our children, grandchildren and children yet unborn rests entirely of whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment, this country is headed irrevocably toward an economic calamity. Our national debt will soon consume us. We are taking the same path as Mexico, but unlike Mexico, there will be no one that can bail us out.

Mr. President, I have heard a lot of talk on the Senate floor about how we have to find a lot of cuts in order to balance the budget. Senator DASCHLE had a right-to-know amendment that we defeated yesterday. He wanted to know where the spending cuts will be made over the next 7 years.

But the most important thing that we can do is declare that we will balance the budget, show the fortitude to balance the budget, and then once we are bound by the Constitution, we will find a way to keep the budget in balance.

This brings me to the point I want to make and the point of the speech. It will only take 50 votes plus 1 in this Senate to raise taxes. Any Senator that cannot bring it upon himself to vote for cuts can stand up and vote for a tax increase. Any Senator that wants to go back to his constituents and tell them that he is raising their taxes by another 15 percent or more, taking another 15 percent or more out of the gross profits of the small businesses that are struggling already to keep buckle and tongue together, any Senator that wants this extra money to pay for more foreign aid, more welfare, a bigger Department of HUD, and more farm subsidies, he can do that. All he has to do is vote for a tax increase. He can go back to his constituents and tell them that he voted for a tax increase because he thinks these things are more important than the taxpayers keeping more of their own money.

Senators are saying that we cannot deny money to the helpless in our society. I say that the most helpless in our society are our grandchildren, our children, and the progeny not yet born, upon whom we are placing an enormous debt. If our generation wants greater Government, more giveaways, then it is the duty of this Congress to step up to the plate and pay for it now, to face the voters and say: I increased your taxes because I am for more giveaway programs and more spending.

I am tired of those that say they may not vote for the constitutional amendment because they do not know where the cuts will come from. If they have the courage, they simply can vote a tax increase and there will not have to be any cuts. For me personally, I will not be telling anyone in North Carolina that I need 15 percent more of their income to pay for more Government. I do not think we need more foreign aid, more welfare, more money for HUD, or more money for farm subsidies. In fact, what I can tell them is if we simply stop spending more money each year,

we would have a balanced budget, with no cuts.

When I ran for the Senate, I said I would not vote for a tax increase. I have not, nor will I ever. The Federal Government needs to change its spending habits, not impose a burden of higher taxes upon the working people and taxpayers of this country. If we froze Federal spending to the levels that are in the fiscal year 1994 budget, we would not only have a balanced budget in 1997, but we would have a surplus of $10 billion. Instead, we just pour more money into more giveaway programs, with no end in sight.

Mr. President, the message the American people sent to us on November 8 was that they want less Government, not more; less regulations, not more; and more freedom to earn a living and generate a profit and spend their own money. I ran on that message in 1992, and I have not changed to this day.

Mr. President, finally, let me talk about the national debt that is consuming us. It took this country nearly 200 years—from its founding until 1983—to accumulate a national debt of $1 trillion. But since then, in just the last 12 years, we have added $2 trillion more to our debt. Today, our national debt stands at $3.6 trillion.

Under the 1996 budget that the President just released, our national debt will grow to $4.8 trillion by the year 2000. In other words, in just 4 years, our national debt will grow by another trillion dollars.

Every person who has ever gone into debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the U.S. Government today. Interest is starting to destroy the Federal budget.

Mr. President, all of this is taking its toll on our economy and the ability of the U.S. Government to function. In the 1996 budget, 16 cents of every tax dollar will be spent just to pay the interest on the debt. But to put it in real and, I think, more impressive terms, when taxpayers file their income tax returns this year, they should know that 41 percent—41 percent—of all the income taxes that they send to Washington will be used for the sole purpose of paying interest on the money we have already borrowed. In other words, 41 percent of all the individual income taxes collected this year will go to pay interest on the debt.

By the year 2000, our national debt will be equal to 52 percent of the gross national product. In 1980, the figure was exactly half that. In 1996, for the first time, we will spend more on interest on our debt than we will on our military. And we are supposed to be the preeminent military power in the world, and should remain so.

Not only is our debt burden hurting us at home, but it is hurting us abroad. The dollar has fallen against every major currency of the industrialized nations of the world.

Mr. President, some might ask, how did we get ourselves into this mess? We got into this condition not because the working people are taxed too little, but because the Congress spends too much. In 1996, Americans will send $1.4 trillion to the Federal Government. Regrettably, this is not enough for Congress. There is never enough.

If we could just control Federal spending, we might not have to consider this amendment. But for 35 years, this Congress has been unable to muster the fortitude to control Federal spending. It is amazing to think that just since 1982, the Federal budget has doubled. Are we, as a country, better off today than we were in 1982 because we have doubled Federal spending? The answer is simple: We are deeper in debt and have little to show for it, but the interest will be with us to infinity.

Mr. President, we know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment. We need to leave our children a clean balance sheet, not a lifetime of debt, excessive taxes and a contingent liability of $7 trillion.

Mr. President, in speaking of the national debt, and its impact upon us, I ask your indulgence to tell a very quick story from my early business career.

As a 21-year-old man, I was trying to buy some new trucks and equipment, and the banker would not consider the loan unless my mother endorsed the paper. Well, she was a very, very stingy Scottish lady and looked things over well before she signed them. This had gone on for a couple of weeks, and I went in the house for lunch one day and I asked her to talk about it. She had the liability and the debt service written on a handkerchief, and the proposed income that I said I was going to make on the same handkerchief on the other side, just a ledger sheet of income and debt service. And she asked me if her figures were right, and I told her they were. She picked it up, handed it to me and said, ''Go and wash it.'' When I stuck it under the spigot and the water hit it, I saw what she had done. She had placed my debt, and had written that in indelible ink. She had written my income in fruit dye. Her words were—and I will never forget them, and the country needs to remember them, too—''When you make a debt, it will be with you always until you pay it, plus interest. Your income can go in a flash.''

Mr. President, I yield the floor and the rest of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I made my comments this morning on the Reid amendment. I very strongly support it and I pointed out my rationale for so doing.

Since then, we have been reading the committee report, Mr. President, and something has come to my attention. In the spirit of debate and discussion which was so prevalent on the floor between the Senator from Pennsylvania and the distinguished ranking member of the Appropriations Committee, I would like to continue that spirit, and if the bill manager, the Senator from Pennsylvania, would be prepared to answer a question on the majority report, I would appreciate it very much.

In this report, on page 19, it is pointed out that some programs are exempted from this resolution and some are not. Now, this is news to me, because, as a member of the Judiciary Committee that considered this, that was not the case.

I would like to read the exact language. It reads:

> Among the Federal programs that would not be covered by S.J. Res. 1 is the electric power program of the Tennessee Valley Authority. Since 1959, the financing of that program has been the sole responsibility of its own electric ratepayers—not the U.S. Treasury and the Nation's taxpayers. Consequently, the receipts and outlays of that program are not part of the problem S.J. Res. 1 is directed at solving.

Now, this is very strange to me. Social Security is put on budget and its receipts and outlays are subject to Senate Joint Resolution 1, but we suddenly find that the Tennessee Valley Authority is not. And not only is it not, but the words prefacing the statement say ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

My question to the distinguished Senator from Pennsylvania is: A, are you aware of this, that the TVA is being exempted; and, B, what other programs are being exempted from Senate Joint Resolution 1?

Mr. SANTORUM. I am trying to find the page which the Senator is citing.

Mrs. FEINSTEIN. Page 19 of the committee report, about two-thirds of the way down the page. It says ''Total outlays,'' and then the second paragraph there, which begins ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

Mr. CRAIG. Will the Senator from California yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. Mr. President, I am glad the Senator found and brought that issue up, because it is critical only in the context of understanding how it fits. I say that as an individual who helped craft this amendment and believes in the logic and in the appropriateness of the words ''Everything that is in the general fund budget is on the table,'' and everything that the general fund budget and the Senate or the Congress of the United States have authority over in decisionmaking for the purposes of appropriations, allocation of resources, or the establishment of funding levels is on the table.

The Tennessee Valley Authority, like other PMA's, or power management Authorities, are not on the Federal budget. They have a Federal obligation

and that is to return revenue to the Government for the money that was used to finance them.

But the Federal Government does not establish their budgets, nor does the Congress of the United States. And that is what is directed in this program.

So it is not a loophole. Everything that is in the budget is on the table. This is a revenue source. It is the board of this particular PMA, or power management authority, that establishes their own budgets and they look at their obligation to the Federal Government as a debt payment obligation. They are not a part of general fund budgeting, nor can they either be called off budget, because they are a quasi-independent Federal agency nontied to the general fund budget.

Mrs. FEINSTEIN. Senator, this is exactly my point, because in 1990, this body took Social Security off budget by a vote of 98 to 2. Social Security draws its revenues from its own specific FICA tax, not from the income tax or any other tax of Government.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. I agree the Congress did that. But you and I both know that the Congress of the United States every year includes in the final budget of this country and the budget that you and I will decide in the coming months Social Security expenditures. We are allowed by the law and the Social Security law to make decisions on Social Security. The term ''off budget'' for Social Security is an accounting terminology that separates it from the general fund budget or, if you will, the all-inclusive Federal budget that we have been operating on since the Johnson years.

The power authority is not something on whose budget we decide. That is decided by a separate board. It is only the amount of obligation of payment that power authority is tied to.

So if I may politely say, you cannot compare an apple to an orange. And in this example, that is exactly what I believe you are attempting to do. They are uniquely different entities under the law and under the budget process of our Government.

Mr. SIMON. Will my colleague yield?

Mrs. FEINSTEIN. I certainly will.

Mr. SIMON. I thank the Senator.

If I may make another comparison. It is like Fannie Mae or Sallie Mae. They are entities created by the Federal Government. Their boards are appointed by the President of the United States. But if Fannie Mae gets into some difficulty, they have to raise their own revenue. We are not going to come along and help them.

I do not want Social Security to be in that situation. I want us to feel an obligation to make sure that we fund Social Security.

So I think we are not just talking about something that is off budget where we have an obligation. In this case, we are talking about something that is a Federal Government-created entity, but they have to take care of their own revenue. And if they run into some financial difficulties, they have to raise power rates or, in the case of Fannie Mae, may have to raise interest rates or something else. But we are not going to come along and bail them out.

Mr. REID. Will the Senator from California allow the Senator to ask a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I would be interested if the Senator from California could answer a question based on what the Senator from Illinois said.

Why, then, was not Sallie Mae and Fannie Mae excluded? Why is it only the Tennessee Valley Authority?

Mrs. FEINSTEIN. Mr. President, this has piqued my curiosity as to what is excluded because, if we just follow the logic of the distinguished Senator from Illinois, I stretched my memory back to see if there was a time when the Federal Government ever bailed out Social Security. I do not believe there was. There were times when the Federal Government, the Congress, has raised the FICA tax, but the FICA tax is a compulsory dedicated tax that goes for retirements.

I find it somewhat interesting that some programs—and it does refer to quasigovernmental programs in this as well—some programs are exempted under this bill and others are not.

Of course, the program which is most important to the American people is Social Security. It is not exempted. It is not exempted because there will be 3 trillion dollars' worth of surplus revenues that are going to be taken from Social Security and used to balance the budget.

That is what Senator REID and I do not think is right. I would just like very much to obtain a full list from the committee and from the authors of this as to precisely which programs are being exempted from the balanced budget amendment.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I will yield.

Mr. CRAIG. Mr. President, no program of the Federal Government is being exempted. These are not Federal programs. These are independent entities that are known as quasi-governmental because it took a Federal act to create them. They are not on budget. They have never been on budget. This is the same report language that was filed a year ago and 3 years ago as we worked this very issue.

So I appreciate your concern because I, too, strongly believe exactly the way the Senator from California believes—that the trust fund of the Social Security system should never be used to balance the budget.

I have one of these entities in my area known as the Bonneville Power Administration. We do not establish their budget here. You have never voted on it. Neither have I. They are a Federal power-marketing agency. They establish their budget just exactly the way the Senator from Illinois said—by rates, and by rate increases if they need to increase their budgets. They have but one obligation to the Senate and to the Government of our country, and that is to return a revenue, based on their debt obligation.

That becomes part of this revenue flow that becomes part of the budget. That is not even like Social Security. Social Security does not return a revenue to the Government following an expenditure. It is a tax flowing in to service the obligations of Social Security and Social Security recipients.

The Tennessee Valley Authority does not flow money to the Government for purposes of obligation other than debt structure, and they are not a part of the unified Federal budget. Simply are not and never have been.

Mrs. FEINSTEIN. Mr. President, let me make this point, if I may, because the Senator from Idaho has just said these are not Federal programs.

The majority report says these are Federal programs. The majority report says: ''Among the Federal programs that would not be covered by S.J. Res. 1 is the Electric Power Program of the TVA.'' Now you are saying it is not only TVA, it is Bonneville as well.

Now, maybe to some the argument can be made that there is no Federal responsibility for these. But if something happened with these programs, I think we would bail them out very rapidly. I do not accept the argument that they are not Federal programs, and the majority report does not accept that argument.

I yield to the Senator from Nevada.

Mr. REID. Mr. President, I appreciate the Senator yielding for a question.

Mr. President, if the Senator from California would look at page 19, the paragraph that begins ''Total outlays,'' right above where the Senator has been reading, it stands on its head what my friend from Idaho said.

Listen: ''Total outlays is intended to include all disbursements from the Treasury of the United States''—listen to this—''either directly or indirectly through Federal or''—listen to this—''quasi-Federal agencies created under the authority of the acts of Congress and either on budget or off budget.''

So that, I say respectfully to my friend from Idaho through my friend from California, that is directly opposite what he said. Is that not what the English language says?

Mrs. FEINSTEIN. That is exactly right, Mr. President. Something is wrong. Something is fishy, I think. And I think we ought to find out what it is, because what is sauce for the goose is sauce for the gander.

I am happy to yield to the Senator from Illinois.

Mr. SIMON. Mr. President, let me just say if we were to rephrase this, I would say the first paragraph we are talking about ''among the federally created programs'' would have language that is more clear.

If my colleague from California wants to vote against the report for that reason, that is fine but just vote for the constitutional amendment.

Let me respond to my friend from Nevada, because the paragraph that he quotes is correct.

The REA serves people in Nevada, California, Idaho, and Illinois. We do permit Government-backed bonds.

Now, when we put out those REA bonds we put a little bit into the Treasury. Whatever CBO determines is a risk factor, that is put there.

Now, when my colleague from California says, well, if Bonneville went down the tube, we probably would rescue then, I think that is correct. I would just remind the Senator that we also rescued Lockheed. We also rescued Chrysler. We will not put any more in here from Michigan for Chrysler or Ford or General Motors, but we do put whatever risk factor we have to when there are federally backed bonds.

Mrs. FEINSTEIN. I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, thank you.

We can play semantics with the report language if you wish and we can ask a variety of questions of the report language. I do not dispute the legitimacy of asking the questions.

The report language is not the amendment. What is in the amendment and which is key, and I think the Senator in searching for the Government programs that would meet the definition, needs to look at section 1 of the amendment.

It says ''Total outlays for any fiscal year.'' That is the operative word, Senator. Now, the Senator used the example if my power authority, Bonneville, got in trouble, would we bail them out. I do not know. We would have to decide that at the time. That would become an outlay at that moment in time.

We would have to fit that into the context of a balanced budget because we would decide collectively that maybe it was necessary to do it—it was going to damage the region. Your State of California buys a lot of power out of the Bonneville power grid. If the Bonneville power grid was going down, we might become allies. We would want to save it so that my State would not go dark and your State would not go dark.

But the point is, does it become an outlay? That is all you and I for the purpose of a balanced budget amendment have a responsibility for. It is at this time not an outlay. TVA does not come to the Federal budget. It is not an outlay of the Federal budget. If it got in trouble—and I think your analogy is fair, as the Senator from Illinois mentioned the analogy of Chrysler and the New York City bailout. New York City is not an outlay today and should never appear on the budget, should not be considered.

But if New York came, like they did years ago and said, ''We are near bankruptcy. Help us,'' they become an outlay. They become a part of the unified budgets of the Federal Government, and it is at that time that we would have to make a decision.

So, whether the report language is right or wrong, the ultimate test and a legitimate question to ask, I sincerely believe, is what segments of the Federal Government manifest an outlay to the unified budget of the Federal Government? While we took Social Security off budget and away from the unified budget, which is merely an accounting word for total expenditure, total receipts, in the end we bring it back. We bring it back and we put it in to the total budget of the Federal Government, and you and I vote annually on the expenditures of Social Security.

We do not on TVA, we do not on Bonneville Power, we do not in this operative section—not operative, but descriptive section. Report language is never operative. It is only descriptive. It expresses general intent. It is only at that point that I think your concern deserves an answer, and I would like to try to put a list together for you.

But if you are basing it on your reason to vote because it is off, the test is: Does it manifest by its presence an outlay to the unified budget of the Federal Government? And the very simple answer to that is no, it does not.

I thank the Senator from California for yielding.

Mrs. FEINSTEIN. Mr. President, I appreciate that and I thank the Senator. It is just that I think I find a conflict in this because, after all, Social Security, although there is an outlay every year, is running well in surplus. By the year 2002 when this is operative, there will be $705 billion plus another $300 billion, it is my understanding, becoming available for retirements. But because they are not needed, this amendment would automatically use those revenues to balance the budget. That is my problem with this.

The fact that—let us say it is Federal or quasi-Federal—this is still an entity that is the product of the Federal Government whose full faith and credit at one point built it, et cetera, and whose full faith and credit would sustain it if it fell into tough years.

I look at Social Security as important as TVA, it is as important as Bonneville if you are a senior who is depending on it or a working person who is paying the FICA taxes with the expectation that the Government is going to make those revenues available. This amendment does not make those revenues available for retirements.

So all we are saying is, just as you have excepted Bonneville, TVA, and some other things yet unknown to some of us, we say exempt Social Security, and then we can all march forward together.

Mr. CRAIG. If the Senator will yield.

Mrs. FEINSTEIN. I yield the floor, and I thank the Senator very much.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, only briefly to respond to the Senator from California. She and I are clearly on the same wave length. We do not want to see the trust funds and the revenues that build up to support future generations Social Security checks used to balance the budget. The tragedy is today they are. Today the surpluses are spent through the general fund and notes are deposited in the trust funds, interest bearing notes. This is a requirement of the law, the law that created Social Security. That is what goes on today.

So the Social Security stability, while there are revenues coming in in the form of taxes, has always been based on the willingness of the Congress of the United States, the Senator from California and the Senator from Idaho for assuring its stability because we, by voting every year to pass a unified Federal budget, vote on the expenditure of moneys from the trust fund to things other than Social Security because the money is borrowed from the trust fund and expended out through the general fund. That is part of the financing of our Government, whether you and I disagree with that or not.

It is not a separate pool of money setting to the side bearing interest. It is working money and, of course, it comes in the form of Treasury notes and interest bearing at the time. That is how it works. I think that is a reasonably good description of how it works and certainly one that will not change.

I think the argument that all of us have had is, if you are going to balance the budget, you look at all of the Federal budget, all of it that is currently inside the unified Federal budget and in the calculations that we make on an annual basis from a budgetary point of view.

While the Senator from California has expressed her concerns here, let me close this thought by simply saying, what is now not currently on budget or a requirement that the Senator from California or the Senator from Idaho deal with it at all, unless it got in trouble, as she makes out, that would be then the point that we would be responsible for it, and it would fit under the definition and the clear examination of article I which says, ''total outlays.'' There is the key, total outlays for any fiscal year. Right now TVA is not an outlay nor are those other entities.

Mr. President, one other item that I thought was interesting this afternoon in the debate and the discussion as it relates to the Senator from West Virginia when he was breaking out different portions of the budget and he was dealing with sections that talked about revenues and how we would handle them, it was interesting to me that he was only willing to deal with pieces and not the whole.

It is most unfair, in my opinion, to examine the amendment in pieces and

say, and, therefore, that piece is operative exclusively under a certain manner. Let me give an example of what I think I am concerned about when he said, ''The limit on debt of the United States held by the public shall not be increased, unless three-fifths'' vote. He talked about revenues and the ability to evaluate those and, again, it was an operative factor of three-fifths vote.

We understand that the art of projecting revenue in a gross domestic product as large as the United States is not a perfect art, and while our very best minds at the Office of Management and Budget, or the Congressional Budget Office, or Treasury might come up with a fixed revenue for the year over which we budget, it would not be unreasonable, based on cyclical patterns, for that revenue to be off by $10, $12, $14, or $20 billion.

The Senator from West Virginia is absolutely right. We are never accurate to within the cent or the dollar or even the hundreds of millions of dollars.

But what it then says is that, by a three-fifths vote, other things are allowed to happen and that remains the key operative. What the process does is that it causes us for the first time to try to live within the revenue projection. And certainly the Senator from West Virginia, who for years has been chairman of the Appropriations Committee, knows that this Congress and probably few that he has ever been involved in ever consciously created a budget to live within the revenue projections. It was always take that revenue and borrow a heck of a lot more.

Now what we are saying is that as we work over the next 7 years to bring this budget into balance, from that point forward we will live within the best guesstimates possible by the professionals, and we will project spending levels on an annualized basis on those projections, on those averages, on those summaries. And if we miss them, then through the implementing language and a new budget process that would be created growing out of this, we would deal with them.

Would it be to lift the debt ceiling by three-fifths vote and move them into debt? Yes, that could be done. That would then clear out the budget for the year.

Would it be to raise revenue to offset it? Yes, that could be done.

Would it be possible to spin it into the next fiscal year as a debt to be paid immediately because of a projected surplus in the next year? Yes, that, too, could be done.

This amendment does not restrict those kinds of actions. What it does say and what is important to say is you look at the total of the argument, read the whole amendment, do not examine the pieces. Put it all together, make it a whole body, make it a whole document because that is how we will all have to look at it and that is how we will have to operate as a Congress under the 28th amendment to the Constitution, the one that we are now debating. We will not operate exclusively by the pieces or the parts. It will be a whole document that will cause us to react that will create the implementing language which will be probably a new Budget Act and a new process.

What it does disallow, and that is, of course, where this Congress has found itself in real trouble over the years, it disallows the ability to micromanage in a way that has created the kind of debt structure that we have. It simply puts us within parameters, very strict parameters, and it gives, I think, the American people for the first time a sense of confidence that we actually are trying to stay within our limits and balance the Federal budget.

I would like to try to do that. I think most Americans want us to do that. I am privileged to be serving my 15th year in the U.S. Congress, and never in those 15 years has this Congress consciously tried to live within its revenue or live within a balanced budget. It always figures we will take what we can get and we will borrow the rest to meet our political desires and not our fiscal responsibility.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. REID. I would ask my friend to yield, if I could talk to either Senator SANTORUM or Senator CRAIG, whoever is managing the bill now?

Mr. SANTORUM. Is the Senator asking me to yield?

Mr. REID. Yes.

Mr. SANTORUM. I ask unanimous consent that I may yield to the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is late in the day, and I am wondering if at least for the next hour or so we could get some idea if we have some speakers. I have someone who is tentatively scheduled to come at 5 o'clock, the Senator from Alabama. It is just so people are not necessarily waiting around. I see the Senator from Michigan is here.

Mr. SANTORUM. I do not think we have anyone lined up at this point to speak. I was going to speak for about 5 minutes and then I am going to sit.

Mr. REID. I thank the Senator.

Mr. SANTORUM. Mr. President, I wanted to finish up what little colloquy and discussion we had just a short while ago with the distinguished Senator from West Virginia. I wanted to continue that debate, but in deference to my colleague from North Carolina, I allowed him to make his presentation. But there was a couple of things I just wanted to bring closure to before we move on to the next round.

The point the Senator from West Virginia was alluding to was section 1 of the bill:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *

It is unenforceable, unworkable; these estimates will throw you all off; the estimates do not work; they are not reliable. And as a result this is an unenforceable constitutional amendment that is going to cause all sorts of unconstitutional activities in this Chamber.

I mentioned to him that we must look down to the next section, section 2, which states:

> The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for an increase, for such an increase by rollcall vote.

There is the enforcement; that once we get to the balanced budget, or once we get to where the debt limit is, that we cannot increase that debt limit without a three-fifths vote. That means we cannot incur a debt or a deficit from any year because if we incur a debt and do not raise the debt limit, then we cannot issue obligations to pay for that deficit, which means that would be in a sense a default of certain obligations.

Now, that is the enforcement. That is the mechanism that drives section 1, that makes us get better estimates.

I believe, as I am sure the Senator from West Virginia believes, that we will get better estimates and they will be more ongoing, they will not be every 6 months but will be on a more frequent basis so we can calculate what the correct number will be at the end of the fiscal year so we can hit pretty close to zero and hopefully hit a surplus.

That is the enforcement. That is what makes all of this discussion about estimates, frankly, irrelevant to the enforcement of this act because the enforcement is the debt limit provision. That is what forces us to come in with a balanced budget, irrespective of what the estimates say.

The response then was, well, you are creating a minority veto; that the minority is going to have all this power because it is going to be a supermajority that is going to be required to raise the debt limit.

I would just suggest I have the distinct feeling that we are here because we have a minority veto, that we have been talking about this bill for 2 weeks because of a minority veto; that we will be filing a cloture motion soon and we will find out whether there is a minority veto.

This place runs on minority veto. The minority veto is the hallmark—as the Senator from West Virginia said during his discussion, things come over here to cool down a little bit, to cool down.

I saw a movie the other day, ''Encino Man,'' not exactly the greatest movie that was ever made, but Encino Man was about a Cro-Magnon man and his spouse who were hit by an avalanche. Now, that is cool down. And they were encased in ice. And the Encino Man as a result of an earthquake was uncovered, and the ice block that he was encapsulated in thawed, and he came to life.

My concern is that in this body we are getting avalanched to the point where we are going to be encapsulated in ice and not be able to act and do anything on this balanced budget amendment, and when we wake up it will not be as happy a world as what the Encino Man faced. When we wake up, we may have desperation, despair, and economic collapse in this country because we simply chose to cool things off.

We cannot afford to cool things off any more. The more we cool things off here, the hotter it gets out there. We have an obligation to act.

Do not talk about minority vetoes. We have seen plenty of that around here on this issue. And I suspect the Senator from West Virginia likes that fact, of having that minority veto. As the Senator from Kansas, Mrs. KASSEBAUM, said, maybe it is a bad idea whose time has come, but it is a necessary evil that we have to put on to this country to get our financial act in order for the next generation of Americans.

I do not want to be the first generation of American leaders to leave the next generation worse off than we are and worse off than my grandparents were, and that is what we are standing on the precipice of if we do not act today.

I am hopeful we will. I am confident we will. I do trust the better angels of our nature in this place. I know there is a lot of activity going on that is trying to cloud this issue, but I fundamentally believe that people in this Chamber will do the right thing when called upon and they will stand up for the future of this country.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVALUATION OF THE MEXICAN PESO

Mr. BENNETT. Mr. President, I thank my colleagues for indulging me in this matter and I will attempt to be as brief as I can.

Yesterday, at this time, the chairman of the Banking Committee, my friend, AL D'AMATO from New York, took the floor and made a strong statement with respect to the peso situation in Mexico and the proposed solution to that situation from our Government. I wish to take the floor and respond and expand upon the statements made by my distinguished chairman.

I agree basically with the position that he took. I do not share some of the outrage that he expressed with respect to the administration's action. I took the floor after the administration had announced their action and generally praised it because I do believe that if we had not taken some kind of action the Mexican economy in an atmosphere of panic would, indeed, have spun out of control and the Mexican Government would have been in default on their bonds within some 48 hours of the time the administration acted.

However, I do not want to leave the impression that with my support of the administration's actions I support the notion that the Mexican Government acted wisely when they devalued the peso in the first place. And the outrage suggested by the chairman of the Banking Committee was appropriately placed when it goes to the question of those who planned this devaluation, those who approved of the devaluation, and those who took the position that the devaluation was inevitable and that it was proper.

In the Wall Street Journal yesterday, Robert Bartley, the editor of the Journal, wrote a somewhat lengthy but in my view very perceptive summary of this situation called ''Mexico: Suffering the Conventional Wisdom.'' I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. The reason I praised the administration action when it was announced was that unlike the original proposal, the administration action called for entry into the circumstance of the Federal Reserve Board. I have enormous respect for Alan Greenspan, the Chairman of the Federal Reserve Board, who has an understanding of the evils of devaluation that I think goes beyond that held by some policymakers at the International Monetary Fund and the World Bank.

Devaluations are not inevitable. Devaluations are not good policy. Devaluations are usually an attempt on the part of one government to, in the phrase that's become known, beggar thy neighbor—punish another government on their borders, either physically or by trade.

We went through the circumstance of passing NAFTA in this body and in the other body. I was a strong supporter of NAFTA for a variety of reasons that I will not review here.

One of the fundamental pillars of NAFTA was that we would establish free trade between these nations, and the assumption was very specific that this free trade would continue on a dependable exchange rate between countries. For Mexico, once the free trade zone was established, to violate that assumption and say, ''Well, now we have free trade in our countries but we are going to try to make our goods more attractive in your country by devaluing the peso and thereby making our exports cheaper,'' was a violation of that agreement, certainly of its spirit if not its letter.

The fact that the markets reacted so violently to the devaluation, catching the experts at the IMF by surprise with that violence, demonstrates the fact that moving away from the 3.5 relationship between the dollar and the peso was, indeed, a violation of the whole spirit of the NAFTA debate and represented a betrayal of those who had supported NAFTA.

Conventional wisdom, as Mr. Bartley points out, says ''No, no, you can devaluate a little bit and everything will be fine.'' The reaction in this circumstance said you cannot devalue a little bit when the devaluation is a betrayal. You have destroyed the whole relationship that existed between the two countries. That, in my view, was what was wrong.

Now, in the package put together by the administration, there is the opportunity for Alan Greenspan and his opposite number in Mexico, Miguel Mancera, to get together and say we will use these funds that are now available to us by virtue of the decision of the President of the United States, not to bail out investors in Mexico but to start to extinguish pesos. We can acquire pesos by virtue of the money that we have and then extinguish them—tear them up, if you will—and reverse the monetary policy that flooded the Mexican economy with too many pesos, which is what led to the devaluation in the first place.

We can use this money, these two gentlemen can, because they have the expertise, they have the ability, and if the Treasury Department will back them, they will have the support they need to say we can use this money over time to reverse the betrayal of the devaluation. And if that is the approach, I am convinced we will see the Mexican crisis resolve itself happily.

Unfortunately, if that is not the approach, if the money is used in the conventional wisdom fashion of trying to see to it that all of the investors in Mexico are made whole, then I think the dire predictions that we have heard on this floor will indeed come true.

So, I salute the chairman of the Banking Committee. I am a member of that committee, and I look forward to the hearings that he has told us he will schedule. I think it is very appropriate for him to take on this watchdog role that he outlined for us in his floor statements yesterday.

But I hope the administration will recognize that those of us who supported what they proposed are looking to them to try to move to undo that which triggered the crisis in the first place, which was the act of betrayal, the devaluation.

It was not the trade deficit. This country had a trade deficit, the United States, until 1914. The part of the country from which I come, the West, was built by trade deficits. The railroad that linked the West to the East and created all of the economic opportunities that came in its wake was built with British money, not American.

Trade deficits are normal and healthy in developing countries. No,

this devaluation was caused by overprinting of pesos, and it can be solved by using the breathing time purchased for it by the administration to extinguish those pesos and move back to the time where two trading partners who have joined hands in good faith under the umbrella of NAFTA can once again say: We can trust each other. There will be no future betrayal. We will stand as we have stood in the past.

It cannot be done overnight. But it can be done if it is announced as a goal, if it is announced as an open target, and the two central bankers, Mr. Greenspan and Mr. Mancera, then set about to find a program to have it come to pass in a legitimate, orderly and proper fashion.

This is the way to get the Mexicans back on their feet and this is the way to protect the American taxpayer. I salute Chairman D'AMATO in his vigilance to hold hearings to see to it that this is carried out in that fashion.

I yield the floor.

EXHIBIT 1

[From the Wall Street Journal, Feb. 8, 1991]

MEXICO: SUFFERING THE CONVENTIONAL WISDOM

(By Robert L. Bartley)

Confusion number one is that the best exchange rate is one that produces the ''right'' trade balance. With the collapse of the Marxism now behind us, this has become the most pernicious idea loose on the earth today.—''Dollar Turmoil,'' Review & Outlook, The Wall Street Journal, May 23, 1989.

So some 93 million Mexicans are learning to their sorrow. But perhaps there is something to be redeemed from their misery. Just possibly the debacle will spell the end of devaluation as a policy instrument, not only in Mexico but around the world.

The initial conventional wisdom is quite the opposite, of course. With the peso devaluation providing an utter calamity, financial sophisticates have decided the mistake was not doing it sooner. To the untutored, this logic may not be intuitively obvious. Indeed, taxpayers who've poined up some $50 billion in guarantees may be relieved to discover there is another view: that the Dec. 20–22 devaluation was a dreadful mistake, though one in which the Mexicans merely followed prevailing conventional wisdom.

That wisdom holds, for example, that Mexico was ''forced'' to devalue, which is myth number one. A collapsing currency is usually the sign of a economy with an inflationary spiral and an uncontrolled fiscal deficit. But the Mexican budget was nearly in balance, and the ratio of its debt to GDP was below the OECD average. Inflation has subsided to single digits. Exports were surging, up 35% to the U.S., scarcely the sign of an ''overvalued'' currency. Growth, while not as vigorous as some developing nations, was picking up in the wake of the North American Free Trade Agreement. The real sector of the economy was not sick but healthy.

FOREIGN EXCHANGE LEGACY

In the financial sector, the incoming Zedillo administration did inherit a problem: Foreign exchange reserves were declining. As recorded in the graphs Bank of Mexico Governor Miguel Mancera published on this page Jan 31, adapted alongside today, they'd fallen from a peak of nearly $30 billion before the March assassination of Presidential nominee Donaldo Colosio to about $12 billion at the Zedilo inauguration Dec. 1.

In dealing with this problem, however, the incoming administration had a choice. The road not taken was simply to tighten monetary policy. In the conventional view, this means raising interest rates to attract dollar inflows and thus stabilize reserves. In the more modern and more helpful monetary approach to the balance of payments, the same actions would be viewed as reducing the supply of pesos. A lower supply of pesos relative to the supply of dollars would increase the value of the peso, and a higher exchange rate would reduce the incentive to cash peso for dollars. Reducing the supply of pesos would also be likely to boost short-term interest rates, though this is a side-effect, and long-term rates might actually benefit.

Instead the Mexicans chose to devalue, widening the bands on the exchange rate on Dec. 20 and going to a freely floating rate on Dec.22. The latter decision really was forced because the earlier one collapsed investor confidence in the peso. Widening the bands clearly presaged devaluation and led to a massive flight from the peso, and the loss of half of the remaining reserves in one day. Judging by their public economic plans, the Mexican authorities had in mind an exchange rate of 4.5 pesos to the dollar, a 22 percent devaluation from the earlier 3.5 floor. But with confidence imploding, the peso dropped immediately to 5.5 then as low as 6.33, a 45% devaluation. With more than $50 billion in guarantees from the U.S. Exchange Stabilization Fund, international financial institutions and commercial banks now announced, the peso recovered to 5.335 yesterday, devalued 35%.

Meanwhile, interest rates surged. In the wake of devaluation, the rate on 28-day cetes, peso-denominated Treasury bills, reached 39%, up from 13.75% in the Dec. 14 action. Even with the support package, the 28-day cetes rate was 32.75% at the most recent auction Feb. 1. Foreign exchange reserves were almost exhausted before the bailout package, and the Mexican economy is visibly collapsing into recession. The argument that Mexico was ''forced'' to devalue rests on the notion that otherwise it would have vanished foreign exchange reserves, a recession and soaring interest rates. With devaluation more than doubling interest rates, it' absurd to suggest that the same rates would not have been enough to defend a 3.5 peso exchange rate when the former level of confidence still prevailed.

What's more, in all likelihood the damage has only begun. Mexican living standards already are plunging. The devaluation will surely result in a major surge of inflation, which will offset any imagined trade advantages to a lower exchange rate. The combination of inflation and recession will throw the government budget into chaos. The economic turmoil, especially the devastation of the nascent middle class, will in turn produce political turmoil. Much of the hard-won progress of the last 12 years will be reversed.

The Mexican outcome provides a particularly clear empirical test of a set of conventional wisdoms about economic policy, trade and exchange rates. For this was not some backwater decision. The key decision-makers in Los Pinos (the White House) and Hacendia (the Treasury) boasted Ph.D.s in economics from Yale and Stanford. Devaluation has long been urged by important business sectors in Mexico, and advocated/predicted by various commentators on Mexico, in particular journalist Christopher Whalen and MIT economist Rudiger Dornbush. When the action was taken, U.S. Treasury Secretary Lloyd Bentsen immediately said it ''will support the healthy development of the Mexican economy.''

The arguments of this illustrious group are familiar: Exchange rate pressures are caused and cured by trade deficits. Thus the Mexican authorities thought their fundamental problem was not purely monetary, but rather a high current account deficit. And further that the deficit could be cured by devaluation; a lower exchange rate would make Mexican goods cheaper north of the Rio Grande and U.S. goods more expensive south of the border. So Mexicans would sell more and buy less, and the trade account would come into balance, or at least to a ''sustainable'' level. Many economists and such institutions as the International Monetary Fund have long given the same advice to every troubled economy in the world. It was the conventional wisdom preached even to the U.S. in the 1980s, the occasion of the ''Dollar Turmoil'' editorial quoted above.

Yet in fact trade deficits are perfectly normal, if not indeed a sign of health. The international balances are an accounting identity, and trade deficits and investment inflows are two sides of the same coin. So any developing nation that succeeds in attracting capital must by definition run a trade deficit. Or to put it another way, a rapidly growing economy will attract more than its share of the world's investment and require more than its share of the world's goods.

The key, then, is not to balance the current account with the rest of the world, but to balance trade deficits with voluntary investment inflows. Mexico ran current account deficits of $25 billion in 1992 and $23 billion in 1993, and during this time not only maintained the peso at around 3.1, but accumulated large foreign reserves. In 1994, the current account deficit was only slightly higher—$27 billion after 11 months. The problem came with the inflows, as political turmoil shook investor confidence.

The biggest shock was the Colosio assassination. The Salinas administration responded by devaluing the peso to 3.4 from 3.1, within the previously announced bands. It also used some of its foreign exchange hoard to buy pesos and engineered a sharp boost in interest rates, taking 28-day cetes to around 18% from 9.6%. This mix succeeded in stabilizing foreign reserves from April to November, with a blip over the threatened but ultimately aborted resignation of Jorge Carpizo McGregor, widely seen as the Mexican government's badge of integrity. In November, reserves resumed their fall with the angry resignation of Deputy Attorney General Mario Ruiz Massieu, who had been investigating the assassination of his brother, Jose Francisco Ruiz Massieu, secretary general of the ruling Institutional Revolutionary Party (PRI) who had tried to fight party corruption. The resigning official repeated his suspicions that drug dealers were working with elements of the PRI, and charged that high party officials had obstructed his probe.

Clearly these political events were shocks to monetary policy and the exchange rate, as Governor Mancera argued in his article here. He added, however, that in line with standard central bank practice around the world, the resulting foreign exchange transactions had been ''sterilized,'' or offset with domestic transactions. The idea is to insulate domestic monetary policy from the impact of international markets (though in fact both turn on the same money supply). So the central bank would sell its dollar reserves, thus withdrawing pesos from circulation, but then would buy domestic notes and bonds, putting the same pesos back in circulation.

So internal measures of ''the money supply,'' the monetary base for example, displayed their usual growth path with their usual seasonal variations. But the point was that the political shocks changed the demand for money; the supply was not allowed

to adjust. In effect, the central bank created the pesos used to buy away its dollar reserves. With a large stock of reserves and a store of credibility earned with the Salinas reforms, the sterilized interventions did buy time for a monetary correction, but instead the new administration decided to devalue. The $50 billion support package has restored some stability, but without policy changes Mexico could sterilize its way through $50 billion as it just sterilized its way through $30 billion.

A CONTRARY PRINCIPLE

It would be quite another matter if some of the $50 billion were used for unsterilized intervention, buying pesos and extinguishing them. And while sterilization is indeed standard policy under the international conventional wisdom, it is not the only possible one. Indeed, the currency board policies adopted in Hong Kong, Argentina and Estonia operate on a contrary principle. Local currency is issued only when new foreign exchange reserves are earned, and is extinguished when reserves fall. Interestingly, Argentina reacted to the Mexican crisis by eliminating its remaining bands, not widening them. Finance Minister Domingo Cavallo clearly has not adopted the conventional wisdom; indeed, he consummated his currency board by inviting IMF advisers out of his nation.

The currency board arrangement is reminiscent of the classical gold standard before World War I, when the domestic monetary base automatically rose or fell with the gain or loss of gold reserves. The currency boards use foreign currency instead of gold, of course. This means that while all nations could use the gold standard, with currency boards one central bank, presumably the Federal Reserve, would have to use some other outside signal in setting the pace of money creation.

The new Republican Congress is gearing up for hearings about what went wrong in Mexico, which promise to become a reexamination of the prevailing conventional wisdom. Clearly the Republicans recognize the devaluation as a mistake, as Senate Majority Leader Bob Dole has plainly stated. What advice, Republican committees want to know, did the Mexicans get from the IMF and U.S. Treasury? And what advice will they give the future Mexicos?

When the GOP won in November, who would have guessed that one of the first effects would be a far-reaching examination of international monetary policy? Even for us who thought its arcane mysteries were as dangerous as they've now proved in Mexico, it seemed too much to hope.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

AMENDMENT NO. 236

Mr. HEFLIN. Mr. President, I rise in support of the amendment to the resolution offered by Senator REID which would protect the Social Security system. I am a cosponsor of the amendment to balance the budget and a strong believer in it. But I feel the Social Security program is such that it ought to be off budget and that we ought to have truth in regard to budgeting.

I am a cosponsor of the Reid amendment, which is designed to ensure that the budget is not balanced on the backs of hard-working Americans who have contributed toward their retirement with a portion of each paycheck. This is not only a protection for retirees but also a protection for all Americans who pay into the program.

The amendment is simple. It protects the Social Security system by excluding the receipts and the outlays of the Social Security program from the budget. The present system of collecting FICA payments from employees' paychecks, as well as a matching contribution from employers, is used to fund a Social Security trust fund. Currently, the payments to the Social Security recipients out of this trust fund are less than the amount taken in through the FICA payments. This surplus in contributions to the fund was created by Congress in the early 1980's to account for the increase in the payout which will occur in the future as the baby boomers begin to retire and draw upon Social Security, and was also done for the purpose of making the Social Security system at that particular time stable, and to try to make it actuarially sound for a great number of years.

We can liken the Social Security trust fund to the traditional savings account most Americans have in the bank. By putting a little money into a savings account each month, and forgetting it is there, it will eventually build up and become substantial by the time it is needed. We do not include the savings account in our monthly operating budget in our checking account, which is used to pay monthly bills and expenses. As I read it, under the language in the balanced budget resolution now pending here in the Senate, this Social Security savings account would no longer be completely safe to build up the surplus which will be needed to pay retiring baby boomers in the 21st century.

Next, I will turn to what are potential problems, which may arise under the current language of the balanced budget resolution.

If at some time the payments to Social Security beneficiaries should be greater than the receipts from the FICA tax revenues, a deficit would occur. According to figures supplied by the Social Security Administration this should occur starting in the year 2013. At this point it is not clear what effect this deficit would have on Social Security payments. As part of a unified budget, would the deficit which would begin to occur with respect to Social Security tax funds require a drastic cut in other non-Social Security programs to make up the trust fund deficit? Or would Congress change the formula for benefits and thus reduce those benefits?

A scenario, which could occur under the balanced budget amendment as currently drafted, concerns the ability of the Government to repay to Social Security trust fund the interest owed from its Government investments. It seems that the intent of section 7 of the amendment is to exempt from total outlays the repayment of debt principal. Those words seem to be carefully chosen of ''debt principal.'' The unintended consequence—I hope it is unintended; it may not be unintended—to Social Security may be that should outlays exceed receipts from the general Treasury funds then, according to section 7, no interest payments would be made to the Social Security trust fund.

What happens is that under the Social Security trust fund, we invest in Government securities. Those Government securities are not transferable. Those Government securities are particularly Social Security trust fund investments. They draw interest. That is part of the effort that was made to make the Social Security fund actuarially sound. But pursuant to the definitions under section 7 of outlays and of receipts, the definition of receipts, includes all receipts except those obtained from borrowing.

The Social Security funds are in effect invested in Government securities and, therefore, they are borrowed money.

Then we find that in the outlays, the definition is that it includes all outlays that the Government is obligated to pay with the exception of the payments to the debt principal. Therefore, it does not include the payments which we classify as interest. Since interest payments will be on budget, that causes a problem relative to whether or not interest payments will be paid back.

The result of this nonpayment of interest due on principal debt could substantially affect the stability of the bonds, which secure the debt and the trust fund. If this should happen the bonds would probably go into default and thus have little value. This would cause a destabilization in the funds invested with Social Security trust fund dollars, and a loss of faith by the American people.

To show what could happen, we look ahead and see what is the amount of money we are referring to and what could possibly be involved with this amendment. According to the Social Security Administration, they anticipate that by the year 2003 there will be $1,151,300,000,000 in assets of the Social Security fund. And, under the law, those assets, a surplus, will be invested in Government securities. If the interest could not be paid on those because of the operation of on-budget activity, then you would have $1 trillion that is in some bonds in which the Government has invested with no interest paid, and therefore causing serious problems, and certainly this would deprive the Social Security funds of the interest that has been accrued in the event that the on-budget does not pay them back.

This could be averted through challenges in courts, but that raises questions of interpretation under the principles of constitutional construction.

Generally, constitutional provisions have received a broader and more liberal construction than statutes. The Supreme Court in *Kansas* v. *Colorado*, 206 U.S. 46, 88 (1906), upheld this general rule stating ''the Constitution is not to be construed technically and narrowly, like an indictment, * * *, but as [a document that creates] a system of government whose provisions are designed to make effective and operative all the governmental powers granted.'' The balanced budget amendment presently contains exceptions which raise issues as to how broadly it should be interpreted.

Section 7 of the balanced budget resolution contains language which creates exceptions to what shall be counted as receipts and outlays of the U.S. Government. The provision which pertains to outlays, specifically excepts from the calculation of outlays the repayment of debt principal. How broadly this exception may be interpreted raises great concern. The Supreme Court has addressed the issue of statutory exceptions and has held that ''in construing provisions * * *, in which a general statement of policy is qualified by an exception, we usually read the exception narrowly in order to preserve the primary operation of the provision.'' *Commissioner* v. *Clark*, 489 U.S. 726, 739 (1989); ''where Congress explicitly enumerates certain exceptions to a general prohibition, additional exceptions are not implied.'' The Supreme Court in a 1991 case of United States versus Smith, and then in the case of Citicorp Industrial Credit, Inc. versus Brock, a 1987 case—held similarly to the previous courts, although this case dealt particularly with the Fair Labor Standards Act, it follows the statutory interpretation principle for a narrow interpretation of statutory exemptions. This textual principle of construction regarding the narrow construction of exceptions is included in the Canons of Construction, which are now followed by the U.S. Supreme Court, which we generally refer to as the Rehnquist court.

We need to make sure that the scenarios that I have described do not happen. To do so will require an amendment to the present balanced budget resolution being offered. We should keep in mind that Social Security is a program self-financed from contributions by employees and employers, which does not contribute 1 penny to the deficit. In fact, Congress, realizing this fact, included in the 1990 Budget Enforcement Act, a provision that declared that the funds were off budget. Unfortunately, the current resolution would clearly put Social Security on budget and thus overturn our recent decision to affirm the off-budget status of Social Security.

I have supported a balanced budget amendment since my first days in the Senate. There have been several times in the past where the passage of an amendment was close but failed for one reason or another. But now that the amendment has passed the House, there is renewed momentum which I believe will carry the amendment successfully through the Senate. But as we debate and develop the balanced budget amendment, we need to be sure that we also protect the integrity of the Social Security System and maintain truth in budgeting. The protection of the self-funded system can be maintained by keeping it off budget and out of the balanced budget process.

Mr. President, there has been raised the issue of whether or not the Reid amendment is proper in that it contains language which, in effect, refers to existing statutes. Some say this should not be included in the Constitution. However, it has been done before, in the 21st amendment. It was the 21st amendment that repealed the 18th amendment. The 18th amendment, as you remember, dealt with intoxicating liquors, and the 21st amendment repealed it. But in section 2 of the 21st amendment, it has this language:

> The transportation or importation into any State, territory, or possession of the United States for delivery or use therein of intoxicating liquors in violation of the laws thereof is hereby prohibited.

What we were stating in that amendment was a reference to laws of States—not just the United States, but the laws of the States in its reference, and that, in my judgment, is a precedent for including the language that is included in the Reid amendment.

Another source for precedent is in the 14th amendment—the 14th amendment, of course, is one of the amendments that was adopted following the War Between the States. In section 4 of that amendment, it makes reference to existing statutes. In that section it states:

> The validity of the public debt of the United States authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing insurrection or rebellion shall not be questioned.

Again, it is referring to existing debts that were created under laws of the United States for the payment of pensions and bounties for services in suppressing insurrection or rebellion. And then it goes forward in that section,

> * * * but neither the United States or any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void.

So we have seen reference to statutory language in the Constitution on at least two occasions.

I think others are seeking the floor. I am glad to yield if the Senator from South Carolina wishes to speak.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. HOLLINGS] is recognized.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague. It should be noted that the law in the Constitution is being cited not only by the distinguished Senator, but by a former Chief Justice of the Supreme Court of the State of Alabama, Senator HEFLIN. He has studied the law and legal precedence—particularly constitutional provisions. I compliment him for speaking out on this particular occasion.

It is not my intent to belabor the point, but I certainly want to emphasize that there is no alternative other than including the REID amendment. Why do I say that? Section 13301 of the Budget Enforcement Act, says, thou shalt not use Social Security funds with respect to receipts, outlays, or concerning the deficit.

That law passed this particular body on a vote of 98–2, in 1990, and was signed into law by President George Walker Herbert Bush on November 5, 1990. It is the law, and it has been reiterated again and again. On Monday of this week, Mr. President, it was cited by the distinguished majority whip—the distinguished Senator from Mississippi. When asked about specific cuts, he said:

> Nobody—Republican, Democrat, conservative, liberal, moderate—is even thinking about using Social Security to balance the budget, to pass the joint resolution for the balanced budget amendment to the Constitution.

They are not thinking about it, they are doing it. You actually repeal section 13301 of the Budget Enforcement Act that says: Thou shalt not use Social Security trust funds for deficit purposes.

Why is that, Mr. President? It clearly states in section 7 of the resolution:

> Total receipts shall include all receipts of the United States Government, except those derived from borrowing.

The Social Security receipts in the Social Security trust fund is included in deficit calculations under this definition. Some on the other side have said, ''Do not worry, we will legislate later.''

But I recall that none other than President George Washington, in his Farewell Address, said:

> If in the opinion of the people the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this is one instance of good, it is the customary weapon by which free governments are destroyed.

The Father of this Country knew that you could not change the Constitution by statute.

I have been in favor of balancing the budget. I helped the distinguished Senator from Utah [Mr. HATCH] in 1982 when the balanced budget amendment received the two-thirds required, the 67 votes.

We tried again with my distinguished senior colleague, Senator THURMOND, in 1986 but we did not get two-thirds required.

We tried last year under the distinguished leadership of the Senator from Illinois [Senator SIMON] but again failed.

We have been in the vineyards working on this particular problem, but part and parcel of the problem is another contract with America—the contract we made with the senior citizens of America back in 1935.

We felt so keenly about honoring that contract, that we raised taxes in 1983, under the Greenspan commission, to keep the program fiscally sound and to maintain that solemn trust. To maintain that contract with our senior citizens—not for defense, not for welfare, not for foreign aid, not for other Government programs—but for the Social Security trust fund.

If you had said at that time that we were raising taxes for welfare, foreign aid, defense or other spending, I would have voted no and other Senators would have voted no. But instead, we said, ''This is a trust fund and we must continue to keep that trust.''

Like the Senator from Mississippi has said, no one is thinking about violating that trust, but yet we are constitutionally dissolving it by including revenues from the Social Security trust in the definition of total receipts. Legislative fixes will not work. As George Washington said, you cannot amend the Constitution except as the Constitution itself designates.

I am a reasonable man—as Rex Harrison said in ''My Fair Lady,'' an ordinary man—just trying to get along on the floor of the Senate, certainly supporting a balanced budget, but feeling compelled to take issue here having established a record in protecting Social Security.

In the Budget Committee in 1990, I proposed the Social Security Preservation Act. It stipulated that Social Security trust funds should not be used in calculating the deficit. It was reported out 20 to 1, and on the Senate floor passed by a vote of 98 to 2. And still, I see administrations, Republican and Democrat; I see Congresses, Republican and Democrat, violating the law.

Unfortunately, it does not surprise me. Former Senator Harry Byrd shepherded his own statute through the Congress which said, in essence, ''Thou budget shall be balanced.'' It was the law, and yet we never adhered to it. I do not know how we get away with this thievery. But I know that something is amiss when honest public servants say that no one is considering using Social Security to balance the budget when, on the face of the legislation, it would require it. At that point, I have to speak out.

As a result, I have written a letter to all the Senators to put to rest ideas about changing it by legislation later on. You cannot amend the Constitution by legislation. You have to get a joint resolution, have three readings in the Senate, and have an affirmation of 37, or two-thirds, of the sovereign States of America. So even if I wanted to protect Social Security by statute, I could not do what they say can be done.

I will read the letter. This is to every one of my colleagues in the Senate.

In 1983, the Congress made the Social Security fund fiscally sound by programmed tax increases. Naturally, the Congress would never have supported these tax increases if the monies were to be used for foreign aid, defense, welfare or the deficit costs of government. But violating the truth-in-budgeting principle, the Administrations and Congresses continued to use the Social Security trust fund to obscure the size of the deficit. Annoyed with this violation, the Budget Committee voted nearly unanimously in 1990 and the United States Senate with a vote of 98–2 joined the House in the now formal statutory law of the United States in section 13301 of the Budget Enforcement Act, forbidding by law the use of the Social Security fund for the deficit. The violation continues. Now comes the balanced budget amendment to the Constitution requiring that, ''Total receipts shall include all receipts of the United States Government except those derived from borrowing.'' Left alone, this provision would repeal Section 13301 and constitutionally endorse the violation. The REID amendment presently under consideration corrects this unintended repeal by stating that the Social Security trust fund, ''* * * should not be counted as receipts or outlays for the purpose of this article.''

John Mitchell, the former Attorney General was known for the axiom, ''Watch what we do, not what we say.'' It should be made crystal clear that we mean what we say. If you want to continue to use the trust fund and breach the trust, vote against the Reid amendment. There it is clear and simple, so everyone understands.

If you want to maintain the trust—the Contract with America made back in 1935—then please support the Reid amendment.

If this Reid amendment is allowed, there is no misunderstanding that we will maintain the trust.

If the Reid amendment is defeated, we will be taking $636 billion away from the trust fund in order to obscure the size of the deficit.

Mr. BIDEN. Will the Senator yield?

Mr. President, is it not true—and I am not being solicitous. No one knows more about the budget process on this floor than the distinguished Senator from South Carolina, and no one has more credentials for making the tough decisions about what we should do to cut the budget than the Senator from South Carolina. He has always put his vote where his mouth is on this issue which, I might say, very few Members of either party have done in the past.

The Senator just pointed out that we are talking about the difference between, for this next year, $600-some billion—not this year—$600-some billion, between now and the time it comes time to balance the budget, additional, we have to find, if the Reid amendment passes.

Is it not true that in addition to that, what is likely to happen is that our friends, who are going to find increasing pressure to balance the budget and who have never been great friends of the trust fund to begin with, are going to, in the next year or 2 or 3, as we move toward the year 2003, since most young people the age of your children and mine believe they are not going to get Social Security, anyway, is it not likely that we will see a movement that we will cut Social Security benefits; that we will either raise the retirement age or cut benefits, further increasing the surplus that Social Security will generate between now and the year 2014, and further making the deficit look smaller, so that it is easier to meet the balanced budget requirement by the year 2003?

Does the Senator think that is as likely a scenario as any other we are likely to see?

Mr. HOLLINGS. Mr. President, the distinguished Senator from Delaware and former chairman of the Judiciary Committee knows it well. He is a constitutional expert, and is right on target as to the practical result.

We see several Senators trying to avoid the problem and not engage in truth in budgeting. We have truth in packaging and truth in lending, but we do not have truth in budgeting. It was not in the Contract With America and it is not in the current version of this balanced budget amendment.

Mr. BIDEN. If the Senator will yield for an additional question, as I understand it, the distinguished majority leader is going to come to the floor at some point and offer a legislative fix for this constitutional dilemma, to try to convince all the American people that the Republicans or those who are for the balanced budget do not want to cut Social Security and are not going to be using Social Security trust fund moneys to reduce the deficit.

Now, we both know that we cannot alter—the Senator said it more eloquently than anyone thus far—we cannot alter the Constitution other than by the rules the Constitution sets out.

We will assume for just a moment the distinguished Senator from Kansas, if that is what he decides to do, comes along and says we will pass a resolution promising we will not do that. Is it the understanding of my friend from South Carolina that means, for calculation purposes of what constitutes the deficit, that between now and the year 2000, we will not count the $60 billion surplus this year and the $100 billion surplus in the year 2000, toward reducing the deficit?

Is that what he is going to do?

Mr. HOLLINGS. There can be no legislative fix. Constitutionally you are mandating Social Security receipts as part of total receipts. If the distinguished majority leader wants to put in a separate constitutional amendment, that may be different. I am not trying to tear down House Joint Resolution 1, the balanced budget amendment to the Constitution. I voted for it three times. I would like to vote for it a fourth time, but I cannot in good conscience repeal my own statute.

Mr. BIDEN. Will the Senator yield for another question?

Mr. HOLLINGS. Yes.

Mr. BIDEN. When we debated this in the Judiciary Committee, and this legislation came out of the committee, I, along with Senator FEINSTEIN and others, argued for this amendment in the committee. One of our senior Republican colleagues was very blunt about this issue. He said, along with former Senator Tsongas of the Concord Coalition, who came in to testify, the following:

That if you take Social Security out of the mix here and set it aside so it is not covered by a constitutional amendment, we are not likely to do anything to fix it.

What they mean by ''fix it'' is change Social Security; that is, either raise the retirement age, cut the benefits or increase the taxes, because everybody knows that by the time—I am 52—by the time it comes time for me to collect Social Security, there are not going to be enough of your children and my children to pay for my Social Security benefits. So something is going to have to be done.

Unrelated to the balanced budget amendment and the impact of the Reid amendment on the balanced budget amendment or the impact of the balanced budget amendment on Social Security, unrelated to the balanced budget amendment, just Social Security all by itself, does the Senator from South Carolina see any way in which Social Security can be protected from significant change if, in fact, it is included as part of the balanced budget amendment?

Mr. HOLLINGS. No, taking it off-budget is the only way to protect it. That is the only way that we can be sure that Social Security funds are not being used to mask the size of the deficit.

Mr. BIDEN. Right.

Mr. HOLLINGS. You can still go in and change the age if you wanted to or raise the FICA tax. I do not want to.

Mr. BIDEN. Absolutely.

Mr. HOLLINGS. But I think the Reid amendment is very clear. It states that the receipts, ''including attributable interests and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age survivors and disability benefits shall not be counted as receipts or outlays for the purpose of this article.''

It does not say that you have to have a trust fund. They can go in and repeal the 1935 Roosevelt Social Security if they wanted to.

Mr. BIDEN. Will the Senator yield for 30 seconds more?

Mr. HOLLINGS. Yes.

Mr. BIDEN. I want to thank the Senator for allowing me to interrupt him with all these questions. It seems pretty clear to me this is about two things: One, they need the Social Security dollars to make the deficit look like it is less than it is, and then the next step is they are going to need to try to deal with changing it to increase the amount of money they get in the trust funds to make the deficit look even less, which means that Social Security is going to get hit.

But I will withhold my statement on this until tomorrow. I thank my colleague for letting me interrupt.

Mr. HOLLINGS. I thank the distinguished Senator from Delaware. I yield the floor.

Mr. HATCH. Mr. President, I cannot emphasize enough, that the surest way to harm Social Security, the surest way to deplete the trust fund, the surest way to open a loophole which will swallow the balanced budget amendment is to pass this exemption.

If we open up this loophole it will be big enough to drive a truck through, and it will not be long before the convoy starts rolling.

If we keep the balanced budget amendment whole, however, we will protect Social Security. Several of my colleagues appear to misunderstand how the trust fund works. The extra money in the trust fund is borrowed by the Treasury, not stolen but borrowed. And just like any other loan in the country, it must be repaid. The trust fund loses nothing. In fact, it gains the interest which the Treasury has to pay on the loan. That will not change under the balanced budget amendment.

The integrity of the trust fund is furthered by the balanced budget amendment. Any money the Treasury may borrow, must be repaid. Just because a balanced budget rule is adopted, there is no reason to think the status of the trust fund will change. It is a complete non sequitur, Mr. President. There is absolutely nothing in the balanced budget amendment which says the funds designated for the Social Security trust fund will not remain so dedicated. They will. So let me say it again, as clearly and concisely as I possibly can—the trust fund is not harmed in any way, shape, or form by the balanced budget amendment.

Unfortunately, the trust fund will not fare so well under the Reid exemption. If the loophole goes into effect, all kinds of unrelated spending programs will suddenly be redesignated as Social Security and will soak up the Social Security surplus. That means the Treasury will not have to borrow money from Social Security because the new programs will be Social Security. What an insidious turn of events. Under the proposed exemption, the trust fund will actually be depleted years before it would without the exemption.

I want to respond briefly to the notion that we cannot protect Social Security through the implementing legislation. The balanced budget amendment requires that the whole budget be balanced. Surpluses are certainly permitted, and nothing in the balanced budget amendment discourages us saving for a rainy day, as the Social Security system now does. None of the statutory protections that are now enacted will be brushed aside, and nothing keeps us from keeping the accounts segregated and accounting in a way that shows what is dedicated to Social Security. Nothing will change in the way we segregate Social Security if the balanced budget amendment is adopted.

It is true that the budget must be balanced. But this will help protect Social Security recipients who rely on those moneys after 2029, when the trust funds are projected to be insolvent. At that point, the balanced budget amendment will require that there be sufficient money to pay those benefits. And a balanced budget rule will help those who rely on Social Security after 2019, when the trust fund will begin to redeem its loan to the Federal Government. To the extent that the Federal Government is in a better position to repay this debt, the Social Security recipients are more strongly protected. And to the extent that the Government continues its profligate ways, it will be less, not more, able to repay the debt to the trust fund.

So the best way to protect Social Security recipients in the long run is to adopt a balanced budget amendment so that the Government will be able to pay its debt to retirees.

Mr. DOLE. Mr. President, I thank my colleagues.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I will take a moment and then be happy to yield the floor.

MOTION TO REFER

Mr. President, I send a motion to refer to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the motion.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] moves to refer H.J. Res. 1 to the Budget Committee with instructions to report back forthwith H.J. Res. 1 in status quo, and at the earliest date possible report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.

Mr. DOLE. I ask for the yeas and nays on the motion to refer.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk to the motion to refer.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 237 to the instructions of the motion to refer H.J. Res. 1 to the Budget Committee.

Mr. DOLE. Mr. President, 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:

In lieu of the instructions, and after the words ''Budget Committee'' on page 1, lines 1 and 2 insert: ''that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

Mr. DOLE. 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.

AMENDMENT NO. 238 TO AMENDMENT NO. 237

Mr. DOLE. Mr. President, I send an amendment to the desk in the second degree to my amendment and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

THe Senator from Kansas [Mr. DOLE] proposes an amendment numbered 238 to amendment No. 237.

Mr. DOLE. Mr. President, 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:

Strike all after the first word and insert the following: '', for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

Mr. DOLE. I thank my colleague from South Caroline and other colleagues for yielding to me.

MORNING BUSINESS

REPORT OF PROPOSED LEGISLATION ENTITLED ''MAJOR LEAGUE BASEBALL RESTORATION ACT''—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS OF THE SENATE—PM 14

Under the authority of the order of the Senate of January 4, 1995, the Secretary of the Senate on February 8, 1995, received a message from the President of the United States; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to transmit for your immediate consideration and enactment the ''Major League Baseball Restoration Act.'' This legislation would provide for a fair and prompt settlement of the ongoing labor-management dispute affecting Major League Baseball.

Major League Baseball has historically occupied a unique place in American life. The parties to the current contentious dispute have been unable to resolve their differences, despite many months of negotiations and the assistance of one of this country's most skilled mediators. If the dispute is permitted to continue, there is likely to be substantial economic damage to the cities and communities in which major league franchises are located and to the communities that host spring training. The ongoing dispute also threatens further serious harm to an important national institution.

The bill I am transmitting today is a simple one. It would authorize the President to appoint a 3-member National Baseball Dispute Resolution Panel. This Panel of impartial and skilled arbitrators would be empowered to gather information from all sides and impose a binding agreement on the parties. The Panel would be urged to act as quickly as possible. Its decision would not be subject to judicial review.

In arriving at a fair settlement, the Panel would consider a number of factors affecting the parties, but it could also take into account the effect on the public and the best interests of the game.

The Panel would be given sufficient tools to do its job, without the need for further appropriations. Primary support for its activities would come from the Federal Mediation and Conciliation Service, but other agencies would also be authorized to provide needed support.

The dispute now affecting Major League Baseball has been a protracted one, and I believe that the time has come to take action. I urge the Congress to take prompt and favorable action on this legislation.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 8, 1995.*

REPORT OF THE NATIONAL ENDOWMENT FOR THE HUMANITIES FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 15

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources.

To the Congress of the United States:

I am pleased to present to you the Twenty-ninth Annual Report of the National Endowment for the Humanities (NEH), the Federal agency charged with fostering scholarship and imparting knowledge in the humanities. Its work supports an impressive range of humanities projects.

These projects can reach an audience as general as the 28 million who watched the documentary Baseball, or as specialized as the 50 scholars who this past fall examined current research on Dante. Small local historical societies have received NEH support, as have some of the Nation's largest cultural institutions. Students from kindergarten through graduate school, professors and teachers, and the general public in all parts of the Nation have been touched by the Endowment's activities.

As we approach the 21st century, the world is growing smaller and its problems seemingly bigger. Societies are becoming more complex and fractious. The knowledge and wisdom, the insight and perspective, imparted by history, philosophy, literature, and other humanities disciplines enable us to meet the challenges of contemporary life.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

REPORT OF PROPOSED LEGISLATION ENTITLED ''THE OMNIBUS COUNTERTERRORISM ACT OF 1995''—MESSAGE FROM THE PRESIDENT—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on the Judiciary.

To the Congress of the United States:

I am pleased to transmit today for your immediate consideration and enactment the ''Omnibus Counterterrorism Act of 1995.'' Also transmitted is a section-by-section analysis. This legislative proposal is part of my Administration's comprehensive effort to strengthen the ability of the United States to deter terrorist acts and punish those who aid or abet any international terrorist activity in the United States. It corrects deficiencies and gaps in current law.

Some of the most significant provisions of the bill will:

—Provide clear Federal criminal jurisdiction for any international terrorist attack that might occur in the United States;

—Provide Federal criminal jurisdiction over terrorists who use the United States as the place from which to plan terrorist attacks overseas;

—Provide a workable mechanism, utilizing U.S. District Court Judges appointed by the Chief Justice, to deport expeditiously alien terrorists without risking the disclosure of national security information or techniques;

—Provide a new mechanism for preventing fund-raising in the United States that supports international terrorist activities overseas; and

—Implement an international treaty requiring the insertion of a chemical agent into plastic explosives when manufactured to make them detectable.

The fund-raising provision includes a licensing mechanism under which

funds can only be transferred based on a strict showing that the money will be used exclusively for religious, charitable, literary, or educational purposes and will not be diverted for terrorist activity. The bill also includes numerous relatively technical, but highly important, provisions that will facilitate investigations and prosecutions of terrorist crimes.

It is the Administration's intent that section 101 of the bill confer Federal jurisdiction only over international terrorism offenses. The Administration will work with Members of Congress to ensure that the language in the bill is consistent with that intent.

I urge the prompt and favorable consideration of this legislative proposal by the Congress.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 9, 1995.*

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 666. An act to control crime by exclusionary rule reform.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 666. An Act to control crime by exclusionary rule reform; to the Committee on the Judiciary.

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–409. A communication from the Secretary of the Army, transmitting, pursuant to law, the report on the Washington Aqueduct; to the Committee on Environment and Public Works.

EC–410. A communication from the Secretary of Labor, transmitting, pursuant to law, notice of the award of a sole-source contract for the Cleveland Job Corps Center; to the Committee on Governmental Affairs.

EC–411. A communication from the Secretary of Veterans' Affairs and the Secretary of Defense, transmitting, pursuant to law, the report on the implementation of the health resources sharing portion; to the Committee on Veterans' Affairs.

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. MCCAIN (for himself and Mr. INOUYE):

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. EXON:

S. 379. A bill for the relief of Richard W. Schaffert; to the Committee on Finance.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. INOUYE:)

S. 377. A bill to amend a provision of part A of title IX of the Elementary and Secondary Education Act of 1965, relating to Indian education, to provide a technical amendment, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN EDUCATION TITLE TECHNICAL CORRECTION ACT OF 1995

● Mr. MCCAIN. Mr. President, I introduce a bill to make a technical correction to the Indian title in the Improving America's Schools Act. I am pleased that Senator DANIEL INOUYE, vice chairman of the Committee on Indian Affairs, has joined me as a cosponsor of this measure.

The technical corrections bill would correct a minor oversight in language which could have major ramifications in the education of American Indian and Alaska Native children. The law currently states that in order for a school to be eligible for an Indian Education Act formula grant, it must have 10 eligible students and have 25 percent of its student population eligible for the program. This language unnecessarily restricts a schools eligibility for grant funding by requiring schools to meet both criteria. I have been informed that the intent of the conferees was to include the word ''or'' rather than ''and'' thereby creating the potential for American Indians and Alaska Natives to have a greater opportunity to benefit from the Improving America's Schools Act. This amendment is intended to correct this oversight and fulfill the true intent of the act, to improve schools for all Americans, including Indians and Alaska Natives.

Mr. President, time is of the essence with regard to this legislation. I understand that the Department of Education is currently drafting regulations to implement the new provisions of the Indian Education Act. Unless this technical oversight is not immediately fixed, the existing language will result in the disqualification of many schools serving American Indians and Alaska Natives through the promulgation of regulation which do not accurately reflect the intent of Congress. Therefore, I hope that the Senate will act quickly on this amendment in order to prevent unnecessary hardships for the many American Indian and Alaska Native students which stand to benefit from this act.

I ask unanimous consent that the full 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. 377

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

SECTION 1. TECHNICAL AMENDMENT.

Section 9112(a)(1)(A) of the Elementary and Secondary Education Act of 1965 (as added by section 101 of the Improving America's Schools Act of 1994 (Public Law 103–382)) is amended by striking ''and'' and inserting ''or''.●

● Mr. INOUYE. Mr. President, even though technical correction bills are ordinarily not drafted until late each session of Congress, I cosponsor a bill, introduced by the chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN of Arizona, to make a one word technical correction to the Indian title in the Improving America's Schools Act. I do so because the Department of Education is now drafting regulations to implement new provisions of the Indian Education Act, and unless corrected promptly, the program for Indian children will be limited in ways that the 103d Congress did not intend.

Let me provide a context for the technical correction to Public Law 103–382 that would be accomplished by enactment of this bill. Among other things, the Indian Education Act provides for formula grants to schools to enable them to operate small supplemental programs for Indian children. In its version of the reauthorization, the House of Representatives would have required that a school have 20 Indian children or that the Indian children make up 25 percent of the student body of the school. The Senate, on the other hand, would have required a minimum of 10 children or that they make up 25 percent of the student body of the

school. Conferees agreed upon the Senate version: 10 students or 25 percent of the school's enrollment.

Mr. President, the issue before the conferees was only whether a minimum of 10 or 20 Indian children would be required for eligibility. The conjunction ''or'' was not ever an issue, and that it was not is testified to by the side-by-sides prepared for the Senate and House conferees. But, the final document prepared by the Senate Legislative Counsel substituted the word ''and'' for ''or.'' And that final document was enacted into law.

What this bill would do is correct the technical error. I have consulted conferees and their notes verify that the word ''or'' was in both House and Senate versions of the bill. The effect of the bill I am introducing would be to restore language intended by both the House and Senate.

Mr. President, if this bill should not be enacted, hundreds of classrooms with Indian children would lose the supplemental programs, all because of a drafting error. In reauthorizing the Indian Education Act, this was emphatically not the result intended by the Congress, and I hope that I may count on my colleagues to support enactment of this technical corrections bill.●

By Mr. GORTON (for himself and Mrs. MURRAY):

S. 378. A bill to authorize the Secretary of the Interior to exchange certain lands of the Columbia Basin Federal reclamation project, Washington, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOISE CASCADE LAND EXCHANGE ACT OF 1995

● Mr. GORTON. Mr. President, today, together with Senator MURRAY, I introduce a bill to authorize a land exchange between the Bureau of Reclamation and the Boise Cascade Corp. Unfortunately for its proponents, this legislation has been introduced during both the 102d and 103d Congress. This year, Senator MURRAY and I will work to pass this legislation and finally get it signed into law.

Boise Cascade's plywood and sawmill operations in Kettle Falls, WA are adjacent to 26 acres of land owned by the Bureau of Reclamation. The Bureau land provides a buffer between scenic Lake Roosevelt and Boise Cascade's operations. The National Park Service, which manages the Bureau's land, historically has issued a special-use permit allowing Boise Cascade to operate along the edge of the land. However, the Park Service has indicated that it may not reissue the permit when it expires in 1995, and has stated conclusively that the permit will not be reissued upon expiration in 2000. Consequently, passage of this legislation this year is crucial.

Without a special use permit, Boise Cascade would not be able to continue its operations at Kettle Falls. Thus, 350 mill jobs would be lost and the community would be devastated. To prevent such a catastrophe, Boise Cascade has proposed exchanging 138 acres of land it owns for 6 of the 26 acres it needs to continue operating. The 138 acres is primarily wildlife habitat located along Lake Roosevelt and the Colville River, and would be conveyed to the Bureau of Reclamation upon passage of this legislation.

This land exchange is supported by the Bureau of Reclamation, the Park Service, and Boise Cascade. In addition, a local citizen's group concerned with Columbia River water quality issues has negotiated a series of mitigation measures with Boise Cascade, and has given its full support to the land exchange.

Mr. President, this exchange make good sense and will avoid a potentially severe problem. Last year the Energy Committee reported out of committee the exact legislation that I am introducing today. I urge the committee to promptly review this legislation, and I will work with them on this issue. I thank my colleagues for their consideration.●

Mrs. MURRAY. Mr. President, I want to say a few words about an important bill for Washington State. Today, I join my colleague, the senior Senator from Washington [Mr. GORTON] introducing legislation to authorize a land exchange between Boise Cascade Corp. and the Bureau of Reclamation.

Boise Cascade operates a sawmill adjacent to the Lake Roosevelt National Recreation Area near Kettle Falls, WA. The land located between the mill and the lake is owned by the Bureau of Reclamation. However, it is managed by the National Park Service under its authority over the Lake Roosevelt unit. Unfortunately, the proximity of the mill to the recreation area has led to concerns within the Park Service about potential effects of Boise operation on the public.

Mr. President, Boise Cascade has been a stellar corporate citizen in this area. The company has absolutely no desire to adversely affect the recreation area. In fact, given their druthers, they'd like to enhance the area. That's why this bill is so important.

If we enact this bill, we will ensure Boise's ability to continue its mill operation. In addition, we will add significant benefit to Lake Roosevelt. That's because this bill seeks to implement a land exchange that will add 132 acres to the national recreation area. Here's how it works: Boise Cascade owns 138 acres along the lake near the Colville River. This land provides excellent wildlife forage habitat. The Bureau owns 26 acres between the mill and the lake. In exchange for 6 of these acres, Boise will deed its 138 to the Government for incorporation into the recreation area.

Mr. President, this is a great deal for the taxpayers and the citizens of Kettle Falls: 138 acres for just 6. There are 350 jobs at the Boise mill. Needless to say, it's the major employer in that area. The terms of this exchange have been mutually agreed to by the agencies, the company, the local citizens, and conservation groups concerned with protecting the lake. It's good for the community, and it's good for the resource. I hope all my colleagues will recognize this, and support our efforts to move the bill toward passage.

By Mr. FEINGOLD (for himself and Mr. SIMON):

S. 380. A bill to provide for public access to information regarding the availability of insurance, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ANTI-REDLINING IN INSURANCE DISCLOSURE ACT OF 1995

Mr. FEINGOLD. Mr. President, today I am pleased to reintroduce legislation that I originally introduced in the Senate last year, the Anti-Redlining in Insurance Disclosure Act of 1995. Although the House of Representatives was able to pass a more limited disclosure bill during the 103d Congress, I was disappointed that the Senate was unable to address what I see as not only a critically important civil rights issue, but also an issue essential to any hopes of revitalizing the struggling economies of our inner cities.

In recent years, this Nation has made tremendous strides in fighting various forms of discrimination, particularly in terms of employment and educational opportunities. Unfortunately, the progress we have made in combating these forms of discrimination has not lessened the need to exercise the same level of persistence in extinguishing equally offensive, less subtle forms of racism and bigotry.

The term redlining actually evolved from the practice of particular individuals in the banking industry using maps with red lines drawn around certain neighborhoods. These individuals would then instruct their loan officers to avoid offering their financial services to residents of these redlined neighborhoods. These red lines typically encircled low-income and minority communities, resulting in the unavailability of the financial services necessary to purchase a home, a business, or an automobile. But even as Congress identified and moved to curb these discriminatory practices in the banking industry, a disturbing and growing level of discrimination was emerging from the insurance industry that would continue to deny certain individuals the opportunity to own their own home or start a small business.

Home ownership is an aspiration that transcends the artificial boundaries of race and income in America. As anyone who has secured their first home loan can attest, there is an extraordinary feeling of prestige and sense of self-worth that accompanies home ownership. But for those individuals that reside in the economically depressed inner-city neighborhoods of Milwaukee, Chicago, and other such cities, these feelings of pride and accomplishment are even further intensified. It is

tragic that redlining practices exist, and unless the Federal Government takes forceful action we will continue to send the wrong message to those who seek to stabilize and stimulate these inner-city economies. We must expose and eliminate these appalling redlining practices that prevent hard-working, fully qualified individuals from pursuing their dream, and their right, to obtain a home or business loan.

Though it may seem obvious to some, we must recognize that any serious effort to rebuild the economies of these inner-city communities must have minority home and small business ownership as their cornerstones. There are many well-motivated individuals in these communities that are committed to economic revitalization—whether it is purchasing a home for their family or starting a small business and creating jobs. It is heartening that there are both Democrats and Republicans, conservatives and liberals who recognize the need to revitalize our inner cities, and yet it seems fruitless to discuss ideas such as enterprise zones and community development block grants without addressing a glaring problem that prevents an otherwise qualified individual from owning their own home or business.

Several years ago Congress reacted to reports and studies that an element of the financial services industry was preventing residents of minority and low-income communities from obtaining home loans. In response, Congress passed the Home Mortgage Disclosure Act [HMDA] which required banks and thrifts to report their lending practices using a set level of criteria. This legislation, which contrary to dire predictions has had a nominal impact on the vitality and prosperity of the lending industry, has provided Federal and State regulators in the mortgage financing field with detailed information to identify mortgage redlining. This critical piece of legislation was passed for precisely the reason of enhancing the power of State and Federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. But as effective as disclosure requirements have been in exposing these abuses in the banking industry, it is clearly not enough.

Property insurance, as we all know, is almost a prerequisite to obtaining a home loan. This was best illustrated by Judge Frank Easterbrook of the U.S. Seventh Circuit Court of Appeals in that court's ruling that redlining practices are illegal and a violation of the Fair Housing Act. Speaking for a unanimous court, Judge Easterbrook observed that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' Judge Easterbrook's remarks underscore the need to place people of all racial and ethnic backgrounds on a level playing field when it comes to the opportunity to purchase insurance. In short, denying an individual access to affordable and adequate property insurance is essentially denying that individual access to home ownership.

The key question, of course, is do redlining practices exist? Countless new reports and studies indicate that there is a prevalent and growing level of discriminatory underwriting in the insurance industry. Studies such as the 1979 report of the Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin Advisory Committees to the U.S. Commission on Civil Rights and the recent study on home insurance in 14 cities released by the community advocacy group ACORN have pointed out that insurance redlining practices are widespread in America. These reports highlight the fallacies in the contention that lack of adequate insurance in many of these communities is due to economics and statistically based risk assessment. In addition, there is substantial anecdotal evidence that suggests individuals residing in minority and low-income communities are systematically denied affordable or adequate homeowners insurance.

I was shocked and outraged when I first saw the extensive media reports of the statements made by a district sales manager of a large insurance company which serves the city of Milwaukee. The sales manager was recorded saying to his insurance agents:

> Very honestly, I think you write too many blacks * * *. You gotta sell good, solid, premium paying white people * * *. They own their homes, the white works * * *. Very honestly, black people will buy anything that looks good right now * * * but when it comes to pay for it next time * * * you're not going to get your money out of them * * *. The only way you're going to correct your persistency is get away from blacks.

This policy of denying affordable insurance to minorities was also illustrated when the manager showed one agent how to accomplish this goal by stating that

> * * * if a black wants insurance, you don't have to say, just tell them, because based on this kind of policy, the company will only allow me to accept an annual premium. Do it that way.

Mr. President, Milwaukee, WI is truly a wonderful city. It has midwestern charm, a strong work ethic and like many other of our Nation's urban communities, a large inner-city population that is struggling to become economically vibrant and prosperous. But what redlining practices do is deny those who are playing by the rules the opportunity to own their own home or business. Again, there are those who will assert that insurance is less available in these areas because of risk-assessment and other economic principles. But according to a study by the Missouri insurance department, data comparing low-income minority areas with low-income white areas in St. Louis and Kansas City showed that low-income minorities on average paid higher premiums for homeowners insurance than white homeowners of similar means for comparable coverage. On top of this, actual losses were lower in the minority areas. Clearly the problem of discrimination exists and is widespread. The question now is what can we do about it.

Redlining practices are illegal. This was established by Judge Easterbrook and the Seventh Circuit Court of Appeals in NAACP versus American Family Insurance, when the court ruled that the Fair Housing Act also applies to the underwriting of homeowners insurance. The problem is with the inability of some regulators and the unwillingness of others to enforce the law. In powerful testimony before several congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. Assistant Secretary Roberta Achtenberg, head of the Department of Housing and Urban Development's Division of Fair Housing and Equal Opportunity testified to this, as did Deval Patrick, assistant attorney general for civil rights. It was also expressed by numerous State insurance commissioners including those from Texas, California, and Missouri, as well as several civil rights and community groups.

As clear as the problem of insurance redlining has become, so has the solution. Public disclosure can serve multiple purposes in combating insurance discrimination by allowing for an accurate assessment of the extent and nature of the problem, as well as assisting Federal and State regulators who are charged with enforcing the anti-discrimination laws that currently exist. The Home Mortgage Disclosure Act has been effective, but passing disclosure laws that only apply to banks and thrifts is like throwing out a life preserver with rope that is several feet short. We must go further, and pursue disclosure regulations that will provide Federal and State insurance regulators the same tools that Federal and State banking regulators have, and allow them to detect and expose any incidence of discrimination in the availability of homeowners insurance.

The bill I am introducing today, the Anti-Redlining in Insurance Disclosure Act, would require insurance companies to disclose information regarding where they write property insurance and is closely patterned after the requirements in the Home Mortgage Disclosure Act. The bill would require the Secretary of Housing and Urban Development to establish requirements for insurers to compile and submit policy information annually. The information that the bill requires to be disclosed must be reported along census tract lines, and must include the number and types of policies written, the race of the applicants, whether the applicant was accepted or rejected and the loss data for the specified area. This information would be collected in the 50 largest metropolitan statistical areas

[MSA's] and an additional 100 MSA's based on geographic diversity and size of MSA populations. These disclosure requirements are almost identical to those recommended by the General Accounting Office in their investigation of this issue last year. Providing this extensive and detailed information will enable regulators to analyze and compare the availability, affordability, and quality of insurance coverage for property, casualty, and homeowners insurance.

Insurance redlining is a national phenomena that demands a Federal response. In the insurance industry, enforcement by State officials of existing antidiscrimination statutes has proven to be difficult for one principal reason; though many State insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other State insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate and affordable insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and ethnic background of the applicant.

Last year, the efforts of Representatives CARDISS COLLINS, and JOSEPH KENNEDY resulted in the House of Representatives passing a disclosure bill similar to the bill I have introduced today. My colleague from Wisconsin, Representative TOM BARRETT, has also been actively involved with the insurance redlining issue. Just last year, Representative BARRETT chaired a field hearing in Milwaukee where first-hand testimony was given about the extent of these discrimination abuses in Milwaukee and other cities plagued by similar problems.

In addition, it is my understanding that due to the leadership of Secretary Cisneros and Assistant Secretary Achtenberg, HUD is considering the promulgation of disclosure requirements similar to the reporting requirements in the bill I have introduced today. Although some have suggested that HUD lacks the necessary authority to pass such regulations, it is important to note that HUD has been identified by a Federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company versus Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference.'' I look forward to monitoring the development of HUD's actions, and will certainly lend my support and assistance to their efforts to curb redlining practices.

Mr. President, Voltaire once said that ''Prejudices are what fools use for reason.'' It is clearly one thing to underwrite insurance policies based on sound economic factors and principles—it is another thing to deny adequate or affordable insurance based on an individual's race or ethnic background. We should be very proud of the civil rights accomplishments our society has made in the last 30 years. But as many potential homeowners in my State and across the country have discovered, too many individuals in the insurance industry have used their prejudices to determine the economic and social future of communities that are on the brink of collapse. Passing this legislation would represent marked progress in the pathway to offering all of our citizens, regardless of racial or ethnic background, equal access to social justice and economic opportunity.

I would like to conclude, Mr. President, by asking unanimous consent that several items be printed in the RECORD. These items include the text of the bill, a letter I received from several organizations supporting the legislation, a letter that I, Senator SIMON, and several member of the House sent to Roberta Achtenberg, Assistant Secretary for Fair Housing and Equal Opportunity as well as a response I received from that Department, and finally, two editorials from the Houston Post and the Dallas Morning News on the issue of insurance redlining.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 380

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 ''Anti-Redlining in Insurance Disclosure Act of 1995''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Establishment of general requirements to submit information.
Sec. 4. Reporting of noncommercial insurance information.
Sec. 5. Study of commercial insurance for residential properties and small businesses.
Sec. 6. Reporting of rural insurance information.
Sec. 7. Waiver of reporting requirements.
Sec. 8. Reporting by private mortgage insurers.
Sec. 9. Use of data contractor and statistical agents.
Sec. 10. Submission of information to Secretary and maintenance of information.
Sec. 11. Compilation of aggregate information.
Sec. 12. Availability and access system.
Sec. 13. Designations.
Sec. 14. Improved methods and reporting on basis of other areas.
Sec. 15. Annual reporting period.
Sec. 16. Disclosures by insurers to applicants and policyholders.
Sec. 17. Enforcement.
Sec. 18. Reports.
Sec. 19. Task force on agency appointments.
Sec. 20. Studies.
Sec. 21. Exemption and relation to State laws.
Sec. 22. Regulations.
Sec. 23. Definitions.
Sec. 24. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are disparities in insurance coverage provided by some insurers between areas of different incomes and racial composition;

(2) such disparities in affordability and availability of insurance severely limit the ability of qualified consumers to obtain credit for home and business purchases; and

(3) the lack of affordable and adequate commercial insurance for small businesses severely curtails the establishment and growth of such businesses.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a nationwide database for determining the availability, affordability, and adequacy of insurance coverage for consumers and small businesses;

(2) to facilitate the enforcement of Federal and State laws that prohibit illegally discriminatory insurance practices; and

(3) to determine whether the extent and characteristics of insurance availability, affordability, and coverage require public officials to take any actions—

(A) to remedy redlining or other illegally or unfairly discriminatory insurance practices; or

(B) regarding areas underserved by insurers.

(c) CONSTRUCTION.—Nothing in this Act is intended to, nor shall it be construed to, encourage unsound underwriting practices.

SEC. 3. ESTABLISHMENT OF GENERAL REQUIREMENTS TO SUBMIT INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to compile and submit information to the Secretary for each annual reporting period, in accordance with this Act.

(b) CONSULTATION.—In establishing the requirements for the submission of information under this Act, the Secretary shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents), representatives of property and casualty insurers, and community, consumer, and civil rights organizations, as appropriate.

SEC. 4. REPORTING OF NONCOMMERCIAL INSURANCE INFORMATION.

(a) IN GENERAL.—The requirements established pursuant to section 3 to carry out this section shall—

(1) be designed to ensure that information is submitted and compiled under this section as may be necessary to permit analysis and comparison of—

(A) the availability and affordability of insurance coverage and the quality or type of insurance coverage, by MSA and the applicable region, race, and gender of policyholders; and

(B) the location of the principal place of business of insurance agents and the race of such agents, and the location of the principal place of business of insurance agents terminated and the race of such agents, by MSA and applicable region; and

(2) specify the data elements required to be reported under this section and require uniformity in the definitions of the data elements.

(b) DESIGNATED INSURERS.—

(1) AGGREGATE INFORMATION.—The regulations issued under section 3 shall require that each designated insurer for a designated line of insurance under section 13(c)(1) compile and submit to the Secretary, for each annual reporting period—

(A) the total number of policies issued in such line, total exposures covered by such policies, and total amount of premiums for such policies, by designated line and by designated MSA and applicable region in which the insured risk is located;

(B) the total number of cancellations and nonrenewals (expressed in terms of policies or exposures, as determined by the Secretary), by designated line and by designated MSA and applicable region in which the insured risk is located;

(C) the total number and racial characteristics of—

(i) licensed agents of such insurer selling insurance in the designated line, by designated MSA and applicable region in which the agent's principal place of business is located; and

(ii) such agents who were terminated by the insurer, by designated MSA and applicable region in which the agent's principal place of business was located; and

(D) for such designated line of insurance, information that will enable the Secretary to assess the aggregate loss experience for the insurer, by designated MSA and applicable region in which the insured risk is located.

(2) SPECIFICATION OF INFORMATION FOR ITEMIZED DISCLOSURE.—

(A) IN GENERAL.—The regulations issued under section 3 regarding annual reporting requirements for designated insurers for a designated line of insurance under section 13(c)(1) shall, with respect to policies issued under the designated line or exposure units covered by such policies, as determined by the Secretary—

(i) specify the data elements that shall be submitted;

(ii) provide for the submission of information on an individual insurer basis;

(iii) provide for the submission of the information with the least burden on insurers, particularly small insurers, and insurance agents;

(iv) take into account existing statistical reporting systems in the insurance industry;

(v) require reporting by MSA and applicable region in which the insured risk is located;

(vi) provide for the submission of information that identifies the designated line and subline or coverage type;

(vii) provide for the submission of information that distinguishes policies written in a residual market from policies written in the voluntary market;

(viii) specify—

(I) whether information shall be submitted on the basis of policy or exposure unit; and

(II) whether information, when submitted, shall be aggregated by like policyholders with like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported;

(ix) provide for the submission of information regarding the number of cancellations and nonrenewals of policies under the designated line by MSA and applicable region in which the insured risk is located, by race and gender of the policyholder (if known to the insurer), and by whether the policy was issued in a voluntary or residual market; and

(x) provide for the submission of information on the racial characteristics and gender of policyholders at the level of detail comparable to that required by the Home Mortgage Disclosure Act of 1975 (and the regulations issued thereunder).

(B) RULES REGARDING OBTAINING RACIAL INFORMATION.—With respect to the information specified in subparagraph (A)(x), applicants for, and policyholders of, insurance may be asked their racial characteristics only in writing. Any such written question shall clearly indicate that a response to the question is voluntary on the part of the applicant or policyholder, but encouraged, and that the information is being requested by the Federal Government to monitor the availability and affordability of insurance. If an applicant for, or policyholder of, insurance declines to provide such information, the agent or insurer for such insurance may provide such information.

(3) RULE FOR REPORTING BY DESIGNATED INSURERS.—A designated insurer for a designated line shall submit—

(A) information required under subparagraphs (A), (B), and (D) of paragraph (1) and information required pursuant to paragraph (2), for risks insured under such line that are located within each designated MSA, any part of which is located in a State for which the insurer is designated; and

(B) information required under paragraph (1)(C) for agents within such designated MSA's.

(c) NONDESIGNATED INSURERS.—The regulations issued under section 3 shall require each insurer that issues an insurance policy in a designated line of insurance under section 13(c)(1) that covers an insured risk located in a designated MSA and which is not a designated insurer for the line in any State in which any part of such MSA is located, to compile and submit to the Secretary, for each annual reporting period—

(1) the total number of policies issued in such line;

(2) the total exposures covered by such policies; and

(3) the total amount of premiums for such policies;

by designated MSA and applicable region in which the insured risk is located.

SEC. 5. STUDY OF COMMERCIAL INSURANCE FOR RESIDENTIAL PROPERTIES AND SMALL BUSINESSES.

(a) IN GENERAL.—The Secretary shall conduct a study to determine the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

(b) SUBMISSION OF INFORMATION.—To acquire information for the study under this section, the Secretary shall, by regulation, establish requirements for insurers providing commercial insurance for residential properties and small businesses to compile and submit to the Secretary on an annual basis information regarding such insurance, as follows:

(1) MSA'S.—The Secretary shall carry out the study only with respect to the 25 MSA's having the largest populations, as determined by the Secretary and specified in the regulations under this section.

(2) INSURERS.—For each of the MSA's specified pursuant to paragraph (1), the Secretary shall designate the insurers required to submit the information. The Secretary shall designate a sufficient number of insurers to provide a representative sample of the insurers providing such insurance in each such MSA.

(3) LINES OF INSURANCE.—The Secretary shall require the submission of information regarding such lines, sublines, or coverage types of commercial insurance as the Secretary determines are necessary or important with respect to establishing, operating, or maintaining residential properties and each type of small business selected under paragraph (4), and shall require submission of such information by such lines, sublines, or coverage types.

(4) SMALL BUSINESSES.—For purposes of paragraph (3), the Secretary shall determine the types of businesses that are typical of small businesses and shall select a representative sample of such types.

(5) DATA ELEMENTS.—The Secretary shall identify the data elements required to be submitted.

(6) SUBMISSION BY LOCATION.—The Secretary shall require the information to be submitted by designated MSA and applicable region in which the insured risk is located.

(7) SUBMISSION BY INSURER.—The Secretary shall require the submission of information on an individual insurer basis and shall specify whether information, when submitted, shall be aggregated by like policies, except that the Secretary shall not permit such aggregation if it will adversely affect the accuracy of the information reported.

(8) SUNSET.—The Secretary shall require the submission of information under this section only for each of the first 5 annual reporting periods beginning more than 3 years after the date of enactment of this Act.

(c) CONSIDERATIONS.—In establishing the requirements for submission of information under this section, the Secretary shall—

(1) take into consideration the administrative, paperwork, and other burdens on insurers and insurance agents involved in complying with the requirements of this section;

(2) minimize the burdens imposed by such requirements with respect to such insurers and agents; and

(3) take into consideration existing statistical reporting systems in the insurance industry.

(d) REPORT.—Not later than 6 months after the expiration of the fifth of the 5 annual reporting periods referred to in subsection (b)(8), the Secretary shall submit a report to the Congress describing the information submitted under the study conducted under this section and any findings of the Secretary from the study regarding disparities in the availability, affordability, and quality or types of commercial insurance coverage for residential properties and small businesses, in urban areas.

SEC. 6. REPORTING OF RURAL INSURANCE INFORMATION.

(a) IN GENERAL.—The Secretary shall, by regulation, establish requirements for insurers to annually compile and submit to the Secretary information concerning the availability, affordability, and quality or type of insurance in designated rural areas in the lines designated under section 13(c)(1).

(b) CONTENT.—The regulations under this section shall provide that—

(1) the information to be compiled and submitted under this section by designated insurers and insurers that are not designated insurers shall be of such types, data elements, and specificity that is as identical as possible to the types, data elements, and specificity of information required under this Act of designated and nondesignated insurers, respectively, for designated MSA's and shall be subject to the provisions of section 4(b)(2)(B); and

(2) the information compiled and submitted under this section shall be compiled and submitted on the basis of each 5-digit zip code in which the insured risks are located, rather than on the basis of designated MSA and applicable region (as otherwise required in this Act).

(c) DESIGNATION OF RURAL AREAS.—For purposes of this section, the term ''designated rural area'' means the following:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this section

apply, any of the 50 rural areas designated by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance. The Secretary shall (to the extent possible) designate one rural area under this paragraph in each State of the United States.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, a rural area for which a designation made by the Secretary under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate 50 rural areas as designated rural areas for each such 5-year period and shall designate such rural areas based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of rural areas for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 18(b) relating to such period.

(D) The designations of rural areas for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of a rural area shall remain in effect until a succeeding designation of rural areas under paragraph (2) takes effect.

SEC. 7. WAIVER OF REPORTING REQUIREMENTS.

(a) WAIVER FOR STATES COLLECTING EQUIVALENT INFORMATION.—

(1) AUTHORITY.—Subject to the requirements under this section, the Secretary shall provide, by regulation, for the waiver of the applicability of the provisions of sections 4, 5, and 6 for each insurer transacting business within a State referred to in paragraph (2), but only with respect to information required to be submitted under such sections that relates to agents or insured risks located in the State.

(2) REQUIREMENTS.—The Secretary may make a waiver pursuant to paragraph (1) only with respect to a State that the Secretary determines has in effect a law or other requirement that—

(A) requires insurers to submit to the State information that is the same as or equivalent to the information that is required to be submitted to the Secretary pursuant to sections 4, 5, and 6;

(B) provides for adequate enforcement of such law or other requirements;

(C) provides for the same annual reporting period used by the Secretary under this Act and for submission of the information to the Secretary in a timely fashion, as determined by the Secretary; and

(D) provides that, to the extent statistical agents are permitted to submit information to the State on behalf of insurers, such agents are subject to the same or equivalent requirements as provided under section 9(b).

(3) DURATION.—A waiver pursuant to paragraph (1) may remain in effect only during the period for which the State law or other requirement under paragraph (2) remains in effect.

(b) MULTIPLE-STATE MSA'S.—In the case of any designated MSA that contains area within—

(1) any State for which a waiver has been made pursuant to subsection (a); and

(2) any State for which such a waiver has not been made;

the provisions of this Act requiring submission of information to the Secretary regarding such MSA shall be considered to apply only to the portion of such MSA that is located within the State for which such a waiver has not been made.

(c) AUTHORITY FOR SECRETARY TO OBTAIN INFORMATION DIRECTLY FROM INSURERS.—If the State for which a waiver has been made pursuant to subsection (a) does not submit to the Secretary the information required under subsection (a)(2)(A) or submits information that is not complete, the Secretary shall require the insurers transacting business within the State to submit such information directly to the Secretary.

SEC. 8. REPORTING BY PRIVATE MORTGAGE INSURERS.

(a) HMDA REPORTING.—On an annual basis, the Federal Financial Institutions Examination Council (hereafter in this section referred to as the ''Council'') shall determine the extent to which each insurer providing private mortgage insurance is making available to the public and submitting to the appropriate agency information regarding such insurance that is equivalent to the information regarding mortgages required to be reported under the Home Mortgage Disclosure Act of 1975.

(b) REPORTING UNDER THIS ACT.—

(1) CERTIFICATION OF NONCOMPLIANCE.—If, for any annual period referred to in subsection (a), the Council determines that any insurer providing private mortgage insurance is not making available to the public or submitting the information referred to in subsection (a) or that the information made available or submitted is not equivalent information as described in subsection (a), then the Council shall notify the insurer of such noncompliance. If, after the expiration of a reasonable period of time, the insurer has not remedied such noncompliance to the satisfaction of the Council, then the Council shall immediately certify such noncompliance to the Secretary.

(2) REQUIREMENT.—Upon the receipt of a certification under paragraph (1), the Secretary shall, by regulation, require such insurer to submit to the Secretary information regarding such insurance that complies with the provisions of section 4 that are applicable to such insurance. Such regulations shall be issued not later than 6 months after receipt of such certification and shall apply to the first succeeding annual reporting period beginning not less than 6 months after issuance of such regulations and to each annual reporting period thereafter.

SEC. 9. USE OF DATA CONTRACTOR AND STATISTICAL AGENTS.

(a) DATA COLLECTION CONTRACTOR.—The Secretary may contract with a data collection contractor to collect the information required to be maintained and submitted under sections 4, 5, 6, 7, and 8(b), if the contractor agrees to collect the information pursuant to the terms and conditions of such sections and this Act and the regulations issued thereunder. Information submitted to such contractor shall be available to the public to the same extent as if the information were submitted directly to the Secretary.

(b) USE OF STATISTICAL AGENTS.—

(1) IN GENERAL.—The Secretary shall provide, by regulation, that insurers may submit any information required under sections 4, 5, 6, and 8(b) through statistical agents acting on behalf of more than one insurer.

(2) PROTECTIONS.—The regulations issued under this subsection shall permit submission of information through a statistical agent only if the Secretary determines that—

(A) the statistical agent has adequate procedures to protect the integrity of the information submitted;

(B) the statistical agent has a statistical plan and format for submitting the information that meets the requirements of this Act;

(C) the statistical agent has procedures in place that ensure that information reported under the statistical plan in connection with reporting under this Act and submitted to the Secretary is not subject to any adjustment by the statistical agent or an insurer for reasons other than technical accuracy and conformance to the statistical plan;

(D) the information of an insurer is not subject to review by any other insurer before being made available to the public; and

(E) acceptance of the information through the statistical agent will not adversely affect the accuracy of the information reported.

(3) DISCONTINUANCE OF ACCEPTANCE OF INFORMATION.—The Secretary may discontinue accepting information reported through a statistical agent pursuant to this subsection if the Secretary determines that the requirements for such reporting are no longer met or that continued acceptance of such information is contrary to the goal of ensuring the accuracy of the information reported.

(4) GAO AUDITS.—The Comptroller General of the United States shall, at the request of the Secretary, audit information collection and submission performed under this subsection by data collection contractors or statistical agents to ensure that the integrity of the information collected and submitted is protected. In determining whether to request an audit of a statistical agent, the Secretary shall consider the sufficiency (for purposes of this Act) of audits of the statistical agent conducted in connection with State insurance regulation.

(5) LIABILITY.—Notwithstanding any use of a statistical agent as authorized under this subsection, an insurer using such an agent shall be responsible for compliance with the requirements under this Act.

SEC. 10. SUBMISSION OF INFORMATION TO SECRETARY AND MAINTENANCE OF INFORMATION.

(a) PERIOD OF MAINTENANCE.—Each insurer required by this Act to compile and submit information to the Secretary shall maintain such information for the 3-year period beginning upon the conclusion of the annual reporting period to which such information relates. The Secretary shall maintain any information submitted to the Secretary for such period as the Secretary considers appropriate and feasible to carry out the purposes of this Act and to allow for historical analysis and comparison of the information.

(b) SUBMISSION.—The Secretary shall issue regulations prescribing a standard schedule (taking into consideration the provisions of section 12(a)), format, and method for submitting information under this Act to the Secretary. The format and method of submitting the information shall facilitate and encourage the submission in a form readable by a computer. Any insurer submitting information to the Secretary may submit in writing to the Secretary any additional information or explanations that the insurer considers relevant to the decision by the insurer to sell insurance.

SEC. 11. COMPILATION OF AGGREGATE INFORMATION.

(a) INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile, for each designated MSA, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information submitted under sections 4, 5, 7, and 8(b) and loss ratios (if the submission of loss information is required), aggregated by applicable region for all insurers submitting such information; and

(B) such information and loss ratios (if the submission of loss information is required), aggregated by applicable region for each such insurer; and

(2) produce tables based on information submitted under sections 4, 5, 7, and 8(b) for each designated MSA, by insurer and for all insurers, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods; and

(B) loss ratios based on the information obtained pursuant to sections 4, 5, 7, and 8(b) (if the submission of loss information is required), aggregated for the applicable regions within the MSA, grouped according to location, age of property, income level, and racial characteristics of neighborhoods.

(b) AGENT INFORMATION.—For each annual reporting period and for each designated MSA, the Secretary shall compile, by designated line, the information submitted under section 4(b)(1)(C)—

(1) by designated insurer by applicable region;

(2) by designated insurer aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics; and

(3) for all designated insurers that have submitted such information for the designated MSA, aggregated for the applicable regions within the designated MSA, grouped according to location, age of property, income level, and racial characteristics.

(c) RURAL INSURANCE INFORMATION.—For each annual reporting period, the Secretary shall—

(1) compile for each applicable 5-digit zip code, by designated line (and if such information is submitted, by subline or coverage type)—

(A) information regarding insurance in rural areas submitted under sections 6 and 7 and loss ratios, for all insurers for which such information is submitted; and

(B) such information and loss ratios, for each such insurer; and

(2) produce tables for each 5-digit zip code based on information regarding insurance in rural areas submitted under sections 6 and 7, by insurer and for all such insurers for which information is submitted under such sections, by designated line (and if such information is submitted, by subline or coverage type), indicating—

(A) insurance underwriting patterns, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available); and

(B) loss ratios, based on the information obtained pursuant to sections 6 and 7, aggregated by zip codes, grouped according to location, age of property, income level, and racial characteristics of neighborhoods (where such demographic information is available).

SEC. 12. AVAILABILITY AND ACCESS SYSTEM.

(a) AVAILABILITY TO PUBLIC.—

(1) IN GENERAL.—The Secretary shall maintain and make available to the public, in accordance with the requirements of this section, any information submitted to the Secretary under this Act and any information compiled by the Secretary under this Act.

(2) TIMING.—The Secretary shall make such information publicly available on a timetable determined by the Secretary, but not later than 9 months after the conclusion of the annual reporting period to which the information relates, except that such information shall not be made available to the public until it is available in its entirety unless not all the information required to be reported is available by such date.

(b) PUBLIC ACCESS SYSTEM.—

(1) IMPLEMENTATION.—The Secretary shall implement a system to facilitate access to any information required to be made available to the public under this Act.

(2) BASES OF AVAILABILITY.—The system shall provide access in the following manners:

(A) ACCESS TO ITEMIZED INFORMATION.—To information submitted under sections 4, 5, 6, 7, and 8(b) on the basis of the insurer submitting the information, on the basis of designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code), and on any other basis the Secretary considers feasible and appropriate.

(B) ACCESS TO AGGREGATE INFORMATION.—To aggregate information compiled under section 11, on the basis of—

(i) the insurer submitting the information;

(ii) designated MSA and applicable region (or in the case of rural information submitted under section 6 or 7, on the basis of 5-digit zip code); and

(iii) any other basis the Secretary considers feasible and appropriate.

(3) METHOD.—The access system shall include a toll-free telephone number that can be used by the public to request such information and the address at which a written request for such information may be submitted.

(4) FORM.—The Secretary shall, by regulation, establish the forms in which such information may be furnished by the Secretary. Such forms shall include written statements, forms readable by widely used personal computers, and, if feasible, on-line access for personal computers. The Secretary shall provide the information available under this section in any such form requested by the person requesting the information, except that the Secretary may charge a fee for providing such information, which may not exceed the amount, determined by the Secretary, that is equal to the cost of reproducing the information.

(5) ANALYSIS SOFTWARE.—The Secretary shall make available to the public software that can be used on a personal computer to analyze the information provided under this section. The software shall be capable of analyzing the information by insurer, designated line, race, gender, MSA, and applicable region. It shall also contain data compiled by the Secretary for each MSA and applicable region on income levels, age of property, and racial characteristics that can be used to evaluate the information provided under this Act by insurers. The software and any accompanying data shall be made available to the public without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software and the accompanying data.

(c) PROTECTIONS REGARDING LOSS INFORMATION.—

(1) PROHIBITION OF DISCLOSURE OF LOSS INFORMATION.—Notwithstanding any other provision of this Act, the Secretary may not make available to the public or otherwise disclose any information submitted under this Act regarding the amount or number of claims paid by any insurer, the amount of losses of any insurer, or the loss experience for any insurer, except—

(A) in the form of a loss ratio (expressing the relationship of claims paid to premiums) made available or disclosed in compliance with the provisions of paragraph (2); or

(B) as provided in paragraph (3).

(2) PROTECTION OF IDENTITY OF INSURER.—In making available to the public or otherwise disclosing a loss ratio for an insurer—

(A) the Secretary may not identify the insurer to which the loss ratio relates; and

(B) the Secretary may disclose the loss ratio only in a manner that does not allow any party to determine the identity of the specific insurer to which the loss ratio relates, except parties having access to information under paragraph (3).

(3) CONFIDENTIALITY OF INFORMATION DISCLOSED TO GOVERNMENTAL AGENCIES.—The Secretary may make information referred to in paragraph (1) and the identity of the specific insurer to which such information relates available to any Federal entity and any State agency responsible for regulating insurance in a State and may otherwise disclose such information to any such entity or agency, but only to the extent such entity or agency agrees not to make any such information available or disclose such information to any other person.

SEC. 13. DESIGNATIONS.

(a) DESIGNATION OF MSA'S.—For purposes of this Act, the term ''designated MSA'' means the following MSA's:

(1) FIRST 5 YEARS.—With respect to the first 5 annual reporting periods to which the reporting requirements under this Act apply (pursuant to section 24), any of the 150 MSA's selected as follows:

(A) The Secretary shall select the 50 MSA's having the largest populations, as determined by the Secretary and specified in regulations issued pursuant to section 22, which shall not be amended or revised after issuance.

(B) The Secretary shall select 100 additional MSA's, on a basis that provides for—

(i) geographic diversity among the designated MSA's under this paragraph; and

(ii) diversity in size of the populations among such MSA's.

(2) AFTER FIRST 5 YEARS.—With respect to annual reporting periods thereafter, an MSA for which a designation under this paragraph is in effect, pursuant to the following requirements:

(A) The designations shall be made for each of the successive 5-year periods at the time provided in subparagraph (C), and the first such period shall be the 5-year period beginning upon the commencement of the sixth annual reporting period to which the reporting requirements under this Act apply.

(B) The Secretary shall designate not less than 150 MSA's as designated MSA's for each such 5-year period and shall designate such MSA's based upon the information and recommendations made in the report under section 18(b) relating to the period.

(C) The Secretary shall make the designation of MSA's for an ensuing 5-year period by regulations issued—

(i) not later than 12 months before the commencement of the 5-year period; and

(ii) not later than 6 months after the submission to the Secretary of the report under section 20(b) relating to such period.

(D) The designations of MSA's for a 5-year period shall take effect upon the commencement of the first annual reporting period of the 5-year period beginning not less than 12 months after the issuance of the regulations making such designations, and shall remain in effect until the expiration of the 5-year period.

Notwithstanding any other provision of this section, the designation of an MSA shall remain in effect until a succeeding designation of MSA's under paragraph (2) takes effect.

(b) DESIGNATION OF INSURERS.—The Secretary shall designate, for each designated line and each State, insurers doing business in the lines as designated insurers in the State for purposes of this Act, subject to the following requirements:

(1) HIGHEST AGGREGATE PREMIUM VOLUME.—

(A) GENERAL RULE.—For each State, the Secretary shall designate, for each designated line, each of the insurers and insurer groups included in the class established under this paragraph for the State.

(B) DETERMINATION.—In each State, the Secretary shall rank the insurers and insurer groups in each designated line from the insurer or group having the largest aggregate premium volume in the State for such line to the insurer or group having the smallest such aggregate premium volume and shall include in the class for the State only—

(i) the insurer or group of the highest rank;

(ii) each insurer or group of successively lower rank if the inclusion of such insurer or group in the class does not result in the sum of such aggregate premium volumes for insurers and groups in the class exceeding 80 percent of the total aggregate premium volume in the State for the line; and

(iii) the first such successively lower ranked insurer or insurer group whose inclusion in the class results in such sum exceeding 80 percent of the total aggregate premium volume in the State for the line.

(2) MINIMUM AGGREGATE PREMIUM VOLUME.—For each State, the Secretary shall designate, for each designated line, each insurer and insurer group not designated pursuant to paragraph (1) whose premium volume in the State for the designated line exceeds 1 percent of the total aggregate premium volume in the State for the line.

(3) FAIR PLANS AND JOINT UNDERWRITING ASSOCIATIONS.—For each State, the Secretary shall designate, for each designated line—

(A) each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements; and

(B) each joint underwriting association;

that provides insurance under such line.

(4) DURATION.—The Secretary shall designate insurers under this subsection once every 5 years. Each insurer designated shall be a designated insurer for each of the first 5 successive annual reporting periods commencing after such designation.

(c) DESIGNATION OF LINES OF INSURANCE.—

(1) IN GENERAL.—The Secretary shall, by regulation, designate homeowners, dwelling fire, and allied lines of insurance as designated lines for purposes of this Act, and shall distinguish the coverage types in such lines by the perils covered and by market or replacement value. For purposes of this Act, homeowners insurance shall not include any renters coverage or coverage for the personal property of a condominium owner.

(2) REPORT.—At any time the Secretary determines that any line of insurance not described in paragraph (1) should be a designated line because disparities in coverage provided under such line exist among geographic areas having different income levels or racial composition, the Secretary shall submit a report recommending designating such line of insurance as a designated line for purposes of this Act to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate.

(3) DURATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make the designations under this subsection once every 5 years, by regulation, and each line and subline or coverage type designated under such regulations shall be designated for each of the first 5 successive annual reporting periods occurring after issuance of the regulations.

(B) ALTERATION.—During any 5-year period referred to in subparagraph (A) in which designations are in effect, the Secretary may amend or revise the designated lines, sublines, and coverage types only by regulation and only in accordance with the requirements of this subsection. Such regulations amending or revising designations shall apply only to annual reporting periods beginning after the expiration of the 6-month period beginning on the date of issuance of the regulations.

(d) TIMING OF DESIGNATIONS.—The Secretary shall make the designations required by subsections (b)(4) and (c)(3)(A) and notify interested parties during the 6-month period ending 6 months before the commencement of the first annual reporting period to which such designations apply.

(e) OBTAINING INFORMATION.—The Secretary may require insurers to submit to the Secretary such information as the Secretary considers necessary to make designations specifically required under this Act. The Secretary may not require insurers to submit any information under this subsection that relates to any line of insurance not specifically authorized to be designated pursuant to this Act or that is to be used solely for the purpose of a report under subsection (c)(2).

SEC. 14. IMPROVED METHODS AND REPORTING ON BASIS OF OTHER AREAS.

(a) DEVELOPMENT OF IMPROVED METHODS.—The Secretary shall develop, or assist in the improvement of, methods of matching addresses and applicable regions to facilitate compliance by insurers, in as economical a manner as possible, with the requirements of this Act. The Secretary shall allow insurers, or statistical agents acting on behalf of insurers, to match addresses and applicable regions through the use of 9-digit zip codes if the Secretary determines that such use will substantially reduce the cost and burden to insurers of such matching without significant adverse impact on the reliability of the matching.

(b) ADDRESS CONVERSION SOFTWARE.—The Secretary shall make available, to any insurer required to provide information to the Secretary under this Act, computer software that can be used to convert addresses to applicable regions within designated MSA's. The software shall be made available in forms that provide such conversion for designated MSA's on a nationwide basis and on a State-by-State basis. The software shall be made available not later than 6 months before the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26) and shall be updated annually. The software shall be made available without charge, except for an amount, determined by the Secretary, which shall not exceed the actual cost of reproducing the software.

(c) CONVERTIBILITY.—

(1) AUTHORITY.—The Secretary may, by regulation, provide for insurers to comply with the requirements under sections 4, 5, and 8(b) by reporting the information required under such sections on the basis of geographical location other than MSA and applicable region, but only if the Secretary determines that information reported on such other basis is convertible to the basis of MSA and applicable region and such conversion does not affect the accuracy of the information.

(2) LIMITATION.—With respect to any information submitted on the basis of geographical location other than designated MSA and applicable region pursuant to paragraph (1), the Secretary may disclose the information only on the basis of designated MSA and applicable region.

SEC. 15. ANNUAL REPORTING PERIOD.

(a) IN GENERAL.—For purposes of this Act, the annual reporting periods shall be the 12-month periods commencing in each calendar year on the same day, which shall be selected under subsection (b) by the Secretary.

(b) SELECTION.—Not later than the expiration of the 6-month period beginning on the date of enactment of this Act, the Secretary shall, by regulation, select a day of the year upon which all annual reporting periods shall commence. In determining such day, the Secretary shall consider the reporting periods used for purposes of State and other insurance statistical reporting systems, in order to minimize the burdens on insurers.

SEC. 16. DISCLOSURES BY INSURERS TO APPLICANTS AND POLICYHOLDERS.

(a) IN GENERAL.—The Secretary shall, by regulation, require the following disclosures:

(1) APPLICANTS.—Each insurer that, through the insurer, or an agent or broker, declines a written application or written request to issue an insurance policy under a designated line shall provide to the applicant at the time of such declination, through such insurer, agent, or broker, one of the following:

(A) A written explanation of the specific reasons for the declination.

(B) Written notice that—

(i) the applicant may submit to the insurer, agent, or broker, within 90 days of such notice, a written request for a written explanation of the reasons for the declination; and

(ii) pursuant to such a request, an explanation shall be provided to the applicant within 21 days after receipt of such request.

(2) PROVISION OF EXPLANATION.—If an insurer, agent, or broker making a declination receives a written request referred to in paragraph (1)(B) within such 90-day period, the insurer, agent, or broker shall provide a written explanation referred to in such subparagraph within such 21-day period.

(3) POLICYHOLDERS.—Each insurer that cancels or refuses to renew an insurance policy under a designated line shall provide to the policyholder, in writing and within an appropriate period of time as determined by the Secretary, the reasons for canceling or refusing to renew the policy.

(b) MODEL ACTS.—In issuing regulations under subsection (a), the Secretary shall consider relevant portions of model acts developed by the National Association of Insurance Commissioners.

(c) PREEMPTION.—Subsection (a) shall not be construed to annul, alter, or effect, or exempt any insurer, agent, or broker subject to the provisions of subsection (a) from complying with any laws or requirements of any State with respect to notifying insurance applicants or policyholders of the reasons for declination or cancellation of, or refusal to renew insurance, except to the extent that such laws or requirements are inconsistent with subsection (a) (or the regulations issued thereunder) and then only to the extent of such inconsistency. The Secretary is authorized to determine whether such inconsistencies exist and to resolve issues regarding such inconsistencies. The Secretary may not provide that any State law or requirement is inconsistent with subsection (a) if it imposes requirements equivalent to the requirements under such subsection or requirements that are more stringent or comprehensive, in the determination of the Secretary.

(d) IMMUNITY.—In issuing regulations under subsection (a), the Secretary shall specifically consider the necessity of providing insurers, agents, and brokers with immunity solely for the act of conveying or communicating the reasons for a declination or cancellation of, or refusal to renew insurance on behalf of a principal making such decision. The Secretary may provide for immunity under the regulations issued under subsection (a) if the Secretary determines that such a provision is necessary and in the public interest, except that the Secretary may not provide immunity for any conduct that is negligent, reckless, or willful.

(e) ENFORCEMENT.—The Secretary may authorize the States to enforce the requirements under regulations issued under subsection (a).

SEC. 17. ENFORCEMENT.

(a) CIVIL PENALTIES.—Any insurer who is determined by the Secretary, after providing opportunity for a hearing on the record, to have violated any requirement pursuant to this Act shall be subject to a civil penalty of not to exceed $5,000 for each day during which such violation continues.

(b) INJUNCTION.—The Secretary may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any insurer who violates the requirements referred to in subsection (a).

(c) INSURER LIABILITY.—An insurer shall be responsible under subsections (a) and (b) for any violation of a statistical agent acting on behalf of the insurer.

SEC. 18. REPORTS.

(a) ANNUAL REPORT.—The Secretary shall annually report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate on the implementation of this Act and shall make recommendations to such committees on such additional legislation as the Secretary deems appropriate to carry out this Act. The Secretary shall include in each annual report a description of any complaints or problems resulting from the implementation of this Act, of which the Secretary has knowledge, made by (or on behalf of) insurance policyholders that concern the disclosure of information regarding policyholders and any recommendations for addressing such problems. Each report shall specifically address whether granting property and casualty insurance powers to other financial intermediaries would significantly reduce redlining and other discriminatory insurance practices and the Secretary shall consult with the appropriate financial institution regulators regarding such issues in preparing the report.

(b) GAO REPORTS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit a report under this subsection to the Secretary and the Congress for each 5-year period referred to in sections 6(c)(2) and 13(a)(2), which contains information to be used by the Secretary in implementing this Act during such period.

(2) TIMING.—The report under this subsection for each such 5-year period shall be submitted not later than 18 months before the commencement of the period to which the report relates.

(3) CONTENTS.—A report under this subsection shall include the following information:

(A) An analysis of the adequacy of the implementation of this Act and any recommendations of the Comptroller General for improving the implementation.

(B) The costs to the Federal Government, insurers, and consumers of implementing and complying with this Act.

(C) Any beneficial or harmful effects resulting from the requirements of this Act.

(D) An analysis of whether, considering the purposes of this Act, insurers are required by this Act (or by implementing regulations) to submit appropriate information.

(E) An analysis of whether sufficient evidence exists of patterns of disparities in the availability, affordability, and quality or type of insurance coverage to warrant continued applicability of the requirements of this Act.

(F) An analysis of whether the group of designated MSA's in effect at the time of the report are appropriate for purposes of this Act.

(G) Specific recommendations, for use by the Secretary in designating MSA's for the 5-year period for which the report is made, with regard to—

(i) the characteristics of MSA's that should be included in the group of designated MSA's;

(ii) the number of MSA's that should be included in the group;

(iii) the number of MSA's having each particular characteristic that should be included in the group; and

(iv) the characteristics of MSA's, and number of MSA's having each such characteristic, that should be removed from the group of designated MSA's in effect at the time of the report.

(H) With respect only to the first report required under this subsection, recommendations of whether the study conducted under section 5 should be continued beyond the date in section 5(b)(8) and, if so, whether the requirements regarding the submission of information under the study should be expanded or changed with respect to insurers, MSA's, lines, sublines or coverage types of insurance, and types of small businesses, or whether the study should be allowed to terminate under law.

(I) An analysis of whether the group of designated rural areas in effect at the time of the report are appropriate for purposes of this Act.

(J) Specific recommendations, for use by the Secretary in designating rural areas for purposes of section 6 for the 5-year period for which the report is made, with regard to—

(i) the characteristics of rural areas that should be included in the group of designated rural areas under such section;

(ii) the number of rural areas having each particular characteristic that should be included in the group; and

(iii) the characteristics of rural areas, and number of rural areas having each such characteristic, that should be removed from the group of designated rural areas in effect at the time of the report.

(K) Any other information or recommendations relating to the requirements or implementation of this Act that the Comptroller General considers appropriate.

(4) CONSULTATION.—In preparing each report under this subsection, the Comptroller General shall consult with Federal agencies having appropriate expertise, the National Association of Insurance Commissioners, State insurance regulators, statistical agents, representatives of small businesses, representatives of insurance agents (including minority insurance agents) and property and casualty insurers, and community, consumer, and civil rights organizations.

SEC. 19. TASK FORCE ON AGENCY APPOINTMENTS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force on insurance agency appointments (hereafter in this section referred to as the ''Task Force''). The Task Force shall—

(1) consist of representatives of appropriate Federal agencies, property and casualty insurance agents, including specifically minority insurance agents, property and casualty insurers, State insurance regulators, and community, consumer, and civil rights organizations;

(2) have a significant representation from minority insurance agents; and

(3) be chaired by the Secretary or the Secretary's designee.

(b) FUNCTION.— The Task Force shall—

(1) review the problems inner-city and minority agents may have in receiving appointments to represent property and casualty insurers and consider the effects such problems have on the availability, affordability, and quality or type of insurance, especially in underserved areas;

(2) review the practices of insurers in terminating agents and consider the effects such practices have on the availability, affordability, and quality or type of insurance, especially in underserved areas; and

(3) recommend solutions to improve the ability of inner-city and minority insurance agents to market property and casualty insurance products, including steps property and casualty insurers should take to increase their appointments of such agents.

(c) REPORT AND TERMINATION.—The Task Force shall report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate its findings under paragraphs (1) and (2) of subsection (b) and its recommendations under paragraph (3) of subsection (b) not later than 2 years after the date of enactment of this Act. The Task Force shall terminate on the date on which the report is submitted to the committees.

SEC. 20. STUDIES.

(a) STUDY OF INSURANCE PRESCREENING.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility and utility of requiring insurers to report information with respect to the characteristics of applicants for insurance and reasons for rejection of applicants. The study shall examine the extent to which—

(A) oral applications or representations are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(B) written applications are used by insurers and agents in making determinations regarding whether or not to insure a prospective insured;

(C) written applications are submitted after the insurer or agent has already made a determination to provide insurance to a prospective insured or has determined that the prospective insured is eligible for insurance; and

(D) prospective insured persons are discouraged from submitting applications for insurance based, in whole or in part, on—

(i) the location of the risk to be insured;

(ii) the racial characteristics of the prospective insured;

(iii) the racial composition of the neighborhood in which the risk to be insured is located; and

(iv) in the case of residential property insurance, the age and value of the risk to be insured.

(2) REPORT.—The Secretary shall report the results of the study under paragraph (1) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act. The report shall include recommendations of the Secretary—

(A) with respect to requiring insurers to report on the disposition of oral and written applications for insurance; and

(B) for any legislation that the Secretary considers appropriate regarding the issues described in the report.

(b) STUDY OF INSURER ACTIONS TO MEET INSURANCE NEEDS OF CERTAIN NEIGHBORHOODS.—The Secretary shall conduct a study of various practices, actions, and methods undertaken by insurers to meet the property and casualty insurance needs of residents of low- and moderate-income neighborhoods, minority neighborhoods, and small businesses located in such neighborhoods. The Secretary shall report the results of the study, including any recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(c) STUDY OF DISPARATE CLAIMS TREATMENT.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine whether, and the extent to which, insurers engage in disparate treatment in handling claims of policyholders under designated lines of insurance based on the race, gender, and income level of the policyholder, and on the racial characteristics and income levels of the area in which the insured risk is located. In conducting the study, the Secretary shall specifically consider whether residents of low-income neighborhoods or areas and minority neighborhoods or areas are more likely than residents of other areas to have their claims contested or their insurance coverage canceled.

(2) REPORT.—The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 2 years after the date of enactment of this Act.

(d) STUDY OF RATING TERRITORIES.—The Secretary shall conduct a study to determine whether the practice in the insurance industry of basing insurance premium amounts on the territory in which the insured risk is located has a disparate impact on the availability, affordability, or quality of insurance by race, gender, or type of neighborhood. The Secretary shall submit a report on the results of the study to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 12 months after the date of enactment of this Act.

(e) STUDY OF INSURER REINVESTMENT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall conduct a study to determine the feasibility of requiring insurers to reinvest in communities and neighborhoods from which they collect premiums for insurance and whether, and the extent to which, community reinvestment requirements for insurers should be established that are comparable to the community reinvestment requirements applicable to depository institutions. The Secretary shall consult with representatives of insurers and consumer, community, and civil rights organizations regarding the results of the study and any recommendations to be made based on the results of the study.

(2) REPORT.—The Secretary shall report the results of the study, including any such recommendations, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the appropriate committees of the Senate, not later than 6 months after the conclusion of the first annual reporting period to which the reporting requirements under this Act apply (pursuant to section 26).

SEC. 21. EXEMPTION AND RELATION TO STATE LAWS.

(a) EXEMPTION FOR UNITED STATES PROGRAMS.—Reporting shall not be required under this Act with respect to insurance provided by any program underwritten or administered by the United States.

(b) RELATION TO STATE LAWS.—This Act does not annul, alter, or affect, or exempt the obligation of any insurer subject to this Act to comply with the laws of any State or subdivision thereof with respect to public disclosure, submission of information, and recordkeeping.

SEC. 22. REGULATIONS.

(a) IN GENERAL.—The Secretary shall issue any regulations required under this Act and any other regulations that may be necessary to carry out this Act. The regulations shall be issued through rulemaking in accordance with the procedures under section 553 of title 5, United States Code, for substantive rules. Except as otherwise provided in this Act, such final regulations shall be issued not later than the expiration of the 18-month period beginning on the date of enactment of this Act.

(b) BURDENS.—In prescribing such regulations, the Secretary shall take into consideration the administrative, paperwork, and other burdens on insurance agents, including independent insurance agents, involved in complying with the requirements of this Act and shall minimize the burdens imposed by such requirements with respect to such agents.

SEC. 23. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) AGENT.—The term ''agent'' means, with respect to an insurer, an agent licensed by a State who sells property and casualty insurance. The term includes agents who are employees of the insurer, agents who are independent contractors working exclusively for the insurer, and agents who are independent contractors appointed to represent the insurer on a nonexclusive basis.

(2) APPLICABLE REGION.—The term ''applicable region'' means, with respect to a designated MSA—

(A) for any county located within the MSA that has a population of more than 30,000, the applicable census tract within the county; or

(B) for any county located within the MSA that has a population of 30,000 or less, the applicable county.

(3) COMMERCIAL INSURANCE.—The term ''commercial insurance'' means any line of property and casualty insurance, except homeowner's, dwelling fire, allied lines, and other personal lines of insurance.

(4) DESIGNATED INSURER.—The term ''designated insurer'' means, with respect to a designated line, an insurer designated for a State by the Secretary under section 13(b) as a designated insurer for such line or any insurer that is part of an insurer group selected under such section.

(5) DESIGNATED INVESTMENT.—The term ''designated investment'' means making or purchasing a loan for the purchase of commercial real estate, making or purchasing a mortgage loan for the purchase of a 1- to 4-family dwelling, making or purchasing a commercial or industrial loan.

(6) DESIGNATED LINE.—The term ''designated line'' means a line of insurance or bid, performance, and payment bonds designated by the Secretary under section 13(c).

(7) EXPOSURES.—The term ''exposures'' means, with respect to an insurance policy, an expression of an exposure unit covered under the policy compared to the duration of the policy (pursuant to standards established by the Secretary for uniform reporting of exposures).

(8) EXPOSURE UNITS.—The term ''exposure units'' means a dwelling covered under an insurance policy for homeowners, dwelling fire, or allied lines coverage.

(9) INSURANCE.—The term ''insurance'' means property and casualty insurance. Such term includes primary insurance, surplus lines insurance, and any other arrangement for the shifting and distributing of risks that is determined to be insurance under the law of any State in which the insurer or insurer group engages in an insurance business.

(10) INSURER.—Except with respect to section 8, the term ''insurer'' means any corporation, association, society, order, firm, company, mutual, partnership, individual, aggregation of individuals, or any other legal entity that is authorized to transact the business of property or casualty insurance in any State or that is engaged in a property or casualty insurance business. The term includes any certified foreign direct insurer, but does not include an individual or entity which represents an insurer as agent solely for the purpose of selling or which represents a consumer as a broker solely for the purpose of buying insurance.

(11) ISSUED.—The term ''issued'' means, with respect to an insurance policy, newly issued or renewed.

(12) JOINT UNDERWRITING ASSOCIATION.—The term ''joint underwriting association'' means an unincorporated association of insurers established to provide a particular form of insurance to the public.

(13) MORTGAGE INSURANCE.—The term ''mortgage insurance'' means insurance against the nonpayment of, or default on, a mortgage or loan for residential or commercial property.

(14) MSA.—The term ''MSA'' means a Metropolitan Statistical Area or a Primary Metropolitan Statistical Area.

(15) PRIVATE MORTGAGE INSURANCE.—The term ''private mortgage insurance'' means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(16) PROPERTY AND CASUALTY INSURANCE.—The term ''property and casualty insurance'' means insurance against loss of or damage to property, insurance against loss of income or extra expense incurred because of loss of, or damage to, property, and insurance against third party liability claims caused by negligence or imposed by statute or contract. Such term does not include workers' compensation, professional liability, or title insurance.

(17) RESIDUAL MARKET.—The term ''residual market'' means an assigned risk plan, joint underwriting association, or any similar mechanism designed to make insurance available to those unable to obtain it in the voluntary market. The term includes each statewide plan under part A of title XII of the National Housing Act to assure fair access to insurance requirements.

(18) RURAL AREA.—The term ''rural area'' means any area that—

(A) has a population of 10,000 or more;

(B) has a continuous boundary; and

(C) contains only areas that are rural areas, as such term is defined in section 520 of the Housing Act of 1949 (except that clause (3)(B) of such section 520 shall not apply for purposes of this Act).

(19) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development.

(20) STATE.—The term ''State'' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

SEC. 24. EFFECTIVE DATE.

The requirements of this Act relating to reporting of information by insurers shall take effect with respect to the first annual reporting period that begins not less than 3 years after the date of enactment of this Act.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 28, 1994.

Assistant Secretary ROBERTA ACHTENBERG,
Division of Fair Housing and Equal Opportunity, Department of Housing and Urban Development,
Washington, DC.

DEAR SECRETARY ACHTENBERG: We understand you have recently received a letter from the ranking Republican member of the House Subcommittee on Commerce, Consumer Protection and Competitiveness, regarding the Department of Housing and Urban Development's (HUD) advance notice of proposed rulemaking (ANPR) on discrimination in property insurance. We are writing to inform you that we take a different view from this letter and we would like to encourage you to proceed as scheduled with the ANPR.

We are concerned with several of the letter's assertions, particularly the contentions that insurance underwriting is unrelated to the Fair Housing Act and that HUD is not the proper agency to oversee a federal data collection effort. We respectfully disagree with these notions, as do the federal courts.

Insurance redlining abuses are widespread and well documented. In addition to the countless studies and reports that have verified discriminatory underwriting practices, field hearings such as the recent Chicago hearing sponsored by HUD's Fair Housing and Equal Opportunity Division and the hearings in House and Senate committees have clearly demonstrated that property and other lines of insurance have become unaffordable or unavailable in many minority and low-income communities. Such discriminatory practices are not confined to one insurance company, one community or one state—redlining is a national phenomena that requires an appropriate federal response.

Redlining practices are illegal. This was established in NAACP v. American Family Insurance when the Seventh Circuit Court of Appeals ruled unanimously that the underwriting of homeowners insurance falls under the umbrella of the Fair Housing Act. Judge Frank Easterbrook, speaking for a unanimous Court, stated that ''lenders require their borrowers to secure property insurance. No insurance, no loan; no loan, no house; lack of insurance thus makes housing unavailable.'' As you know, HUD has also been identified by a federal court in Ohio as legally authorized to enforce the Fair Housing Act as it relates to homeowners insurance. This was affirmed in Nationwide Mutual Insurance Company v. Cisneros, when the U.S. District Court upheld HUD's regulatory authority, noting that HUD's contention that it had been delegated authority under the Fair Housing Act was ''reasonable and entitled to substantial deference''.

It is also clear that greater disclosure is a key element in combating redlining. The Home Mortgage Disclosure Act (HMDA) has provided federal and state regulators in the mortgage financing field with detailed information to identify mortgage redlining. As you know, this legislation has been effective and has had little, if any, adverse impact on the vitality and prosperity of the banking industry. This critical piece of legislation was passed for precisely the reason of enhancing the power of state and federal authorities to determine if banks and other lending institutions were discriminating in their lending practices. As needed and effective as that legislation is, we know that it is difficult, if not impossible as noted by the Seventh Circuit Court of Appeals, to obtain a home loan without the necessary insurance. Thus, seeking this sort of disclosure only from the lending industry is like throwing out a life preserver with a rope that is several feet short. We must go further.

In the insurance industry, enforcement by state officials of existing anti-discrimination statutes has proven to be difficult for one principal reason; though many state insurance commissioners have been forceful and aggressive in exposing and sanctioning appropriate parties, other state insurance commissioner offices lack the necessary resources to collect and compile data information adequately. In many markets this data is simply unavailable. And critical to this effort is the need to collect claims and other loss data which is central to determining if the unavailability of adequate insurance is due to sound economic underwriting principles, or to reprehensible factors such as the race and income status of the applicant.

In powerful testimony before several Congressional committees, it has been stated over and over that to enforce the law greater disclosure of crucial information is needed from the insurance industry. This was included in your testimony, Secretary Achtenberg, as well as the testimony of Deval Patrick, Assistant Attorney General for Civil Rights. It was also expressed by a number of state insurance commissioners from across the country.

The letter you received also expressed concerns about the possibility that HUD may promulgate data reporting requirements stronger than those contained in H.R. 1188, the Anti-Redlining in Insurance Disclosure Act. These reporting requirements, such as the collection of claims and loss data, including a large number of Metropolitan Statistical Areas (MSAs), and collecting this data by census tract as opposed to zip codes, have all been recommended by the General Accounting Office, numerous consumer and civil rights groups and various state insurance commissioners. We join these voices in urging you to adopt these strong reporting requirements.

Finally, we would like to commend you, Secretary Achtenberg, as well as Secretary Cisneros and other officials in the Clinton Administration for your forceful stand against discriminatory redlining practices. Although it is disappointing that Congress was unable to pass anti-redlining legislation this year, we are heartened by the Administration's willingness to initiate efforts to curtail and root out discrimination in the insurance marketplace. We look forward to following your progress and invite you to contact us if we can be of any future assistance.

Sincerely,

RUSSELL FEINGOLD,
PAUL SIMON,
Senators.
JOSEPH P. KENNEDY II,
THOMAS BARRETT,
CLEO FIELDS,
HENRY B. GONZALEZ,
LUCILLE ROYBAL-ALLARD,
ESTEBAN EDWARD TORRES,
Representatives.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, December 20, 1994.

Hon. RUSSELL D. FEINGOLD
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: Thank you for your letter of October 28, 1994, expressing your concerns and constructive recommendations on the issues of insurance redlining and discrimination. Let me assure you that the Department of Housing and Urban Development (HUD or the Department) is proceeding as scheduled with the promulgation of a regulation applying the Fair Housing Act (the Act) to property insurance. A similar letter has been sent to Senator Paul Simon, Congressman Joseph P. Kennedy II, Congressman Henry B. Gonzalez, Congressman Thomas Barrett, Congressman Cleo Fields, Congresswoman Lucille Roybal-Allard and Congressman Esteban Edward Torres.

Clearly, the Department shares your view that HUD has authority, and indeed the responsibility, to enforce the Act (Title VIII of the Civil Rights Act of 1968, as amended) in the area of property insurance. Several Administrations, beginning with a HUD General Counsel opinion in 1978, have concluded that the Act prohibits discrimination in the provision of property or hazard insurance. All the court decisions that have addressed this issue, with one exception which was decided prior to the Fair Housing Amendments Act of 1988, have drawn this same conclusion. Because HUD is the primary Title VIII law enforcement agency, and the only agency with authority to promulgate regulations under that Act, the Department will fulfill its obligation to issue rules applying the Act to property insurance.

As you know, in 1989 HUD issued regulations implementing the Fair Housing Amendments Act of 1988. In these regulations, the Department determined that the Act prohibits ''refusing to provide . . . property or hazard insurance . . . or providing such . . . insurance differently because of race, color, religion, sex, handicap, familial status, or national origin'' (24 C.F.R. Section 100.70(a)(4). HUD intends to go beyond this general prohibition and provide more detailed guidance regarding the types of practices and circumstances under which violations of the Act occur.

The Department also shares your viewpoint on the value of greater disclosure of crucial information. The Department was also disappointed that Congress was unable to pass anti-redlining legislation this year. HUD looks forward to working with you to achieve this objective in the next session of Congress.

Your contributions to the public meetings that HUD held during the past few months were most helpful in shaping the Department's thoughts on how HUD should approach the regulation. The hearings you have held on insurance discrimination generated substantial information that will be tremendously beneficial to HUD's rulemaking process. Your specific recommendations on the rule and the public attention that you have stimulated have assisted HUD and many others in cities throughout the country who are attempting to resolve these serious problems.

Any further detailed recommendations or general observations you could share with the Department would be greatly appreciated.

Thank you for your interest in the Department's programs and for the guidance you have provided HUD and your concerted efforts to combat the national problems of insurance redlining and discrimination.

Sincerely,

WILLIAM J. GILMARTIN,
Assistant Secretary.

February 8, 1995.

Hon. RUSS FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: We write to offer our endorsement of the ''Anti-Redlining in Insurance Disclosure Act of 1995.'' This legislation represents a critical first step towards

addressing the serious problem of unfair discrimination and redlining in the provision of homeowners insurance in a simple yet effective way—through the power of sunshine.

Hearings in both the House of Representatives and the Senate last year as well as numerous studies and lawsuits have shown that residents of low-income, predominantly minority areas have a harder time obtaining insurance coverage for their homes. Most recently, the National Association of Insurance Commissioners (NAIC) released the results of its study of homeowners insurance in more than 40 urban areas in 20 states. In its report, the NAIC concluded that ''[t]here is considerable evidence that residents of urban communities, particularly residents of low-income and minority neighborhoods, face greater difficulty in obtaining high-quality homeowners insurance through the voluntary market than residents of other areas.''

Availability and affordability problems for these communities contributes to and furthers urban decay and disinvestment. The lack of affordable insurance is a material deterrent to homeownership and economic development in low income and minority communities. Without insurance, people simply cannot buy homes. And without high-quality insurance, homeowners in these areas are forced to cover much of their loss out of their own pockets—losses they had hoped insurance would cover.

The legislation provides the tools to better understand the extent of the problem and help develop solutions by simply requiring insurers to begin to make public information as to where and at what price they write insurance. It also would collect data on insurer losses which is extremely important data in assessing the underlying causes for these problems. The data collected by this legislation will go a long way to shedding light on the debate over insurance redlining and will be a valuable tool for enforcement of civil rights laws at the state and federal level.

Your legislation incorporates 4 key elements that are essential to advancing fair and equal access to insurance:

First, the bill calls for the collection of data on the cost and type of insurance policies written by the census tract (or zip + 4's) where the policy is issued. Only census tracts provide the kind of relevant demographic data needed to gauge the extent of disparities created by insurance redlining on minority and low-income neighborhoods. The Home Mortgage Disclosure Act requires banks to report loan information on a census tract basis, and this standard should apply to the insurance industry as well.

Second, the bill includes the collection of data on insurance losses and claims. While insurers claim disparities in prices between different neighborhoods are solely based on loss experience, evidence suggests the opposite. Data analyzed by the Missouri Department of Insurance, for example, indicated that residents of minority neighborhoods pay more in premiums, but incur fewer losses, than residents of comparable white neighborhoods. Only through the collection of loss data can we conclusively resolve the debate about whether these disparities are due to risk or prejudice.

Third, the bill would collect this data in 150 Metropolitan Statistical Areas (MSA's). The NAIC data suggest that availability and affordability problems are widespread across the nation. In order to obtain information on all of those areas that may be experiencing such problems, data needs to be collected from as many MSAs as possible. Furthermore, the data will be invaluable as a civil rights enforcement tool, and that tool should be available to the greatest number of communities and citizens.

Fourth, the bill provides for the reporting of the race and gender by policyholders on a voluntary basis. Such data has been collected under HMDA and other federal, state and private entities for years and is essential to assist efforts to enforce state and federal laws prohibiting discrimination in the provision of insurance.

We are eager to work with you to obtain passage of the ''Anti-Redlining in Insurance Disclosure Act of 1995,'' and commend you for your leadership on this important issue.

Sincerely,

Alliance to End Childhood Lead Poisoning.
American Civil Liberties Union (ACLU).
American Planning Association.
Association of Community Organizations for Reform Now (ACORN).
Center for Community Change.
Consumer Federation of America's Insurance Group.
Consumers Union.
Jesuit Conference, USA, Office of Social Ministries.
National Council of La Raza.
National Fair Housing Alliance.
National Neighborhood Coalition.
NETWORK: A National Catholic Social Justice Lobby.
United Methodist Church, General Board of Church and Society.
United States Public Interest Research Group (US PIRG).

[From the Dallas Morning News, Jan. 9, 1995]

INSURANCE REFORM; THE IMPORTANT THING IS TO GET IT DONE

Call it redlining. Call it lack of availability. Call it what you want to call it. The fact remains that too many risk-worthy Texans are unable to obtain automobile and homeowners insurance at the best rates.

The problem is real, and it is serious. Not even the insurance industry denies that a problem exists, though it vehemently disputes accusations that it denies insurance to consumers because of where they live, their skin color or other factors unrelated to risk.

Nonetheless, compelling evidence compiled by the Texas Insurance Department indicates that a disproportionate number of the Texans unable to obtain affordable insurance are racial or ethnic minorities living in lower-income neighborhoods.

The insurance industry may resent the charges of unfair discrimination being hurled by consumer groups, state regulators and some state legislators. However, it is impossible to ignore that most victims of what may be charitably called flaws in the marketplace are neither white nor wealthy.

The issue has come to a head because Texas Insurance Commissioner Rebecca Lightsey, an appointee of Democratic Gov. Ann Richards, must decide whether to enact new anti-discrimination rules before her term expires Feb. 1. Republican Gov.-elect George W. Bush wants her to wait so that the issue may be addressed by his nominee to the post, Elton Bomer.

Mr. Bush's request is reasonable. It would be decent of Ms. Lightsey to comply.

But more important than protocol or deference to an incoming governor is attention to the issue. Denying insurance abets poverty. It is immoral. It is unfair. It makes no economic sense.

In such areas as Oak Cliff and South Dallas, there are many automobiles and homes worth insuring. No insurer should have to provide preferred or standard-rate insurance to a consumer who constitutes a bad risk. But neither should he deny it because of inappropriate or prejudicial notions of insurability.

There are two acceptable courses. Ms. Lightsey can enact the rules, in which case Mr. Bush could refine them later as he sees fit. Or she can let Mr. Bush handle it.

If Ms. Lightsey acts, she should do so because the problem should not fester a moment longer. There should be no implication that Mr. Bush would not act; his good record of support for civil and equal rights indicates quite the contrary.

[From the Houston Post, Jan. 19, 1995]

OUTGOING TEXAS INSURANCE REGULATOR UNINTIMIDATED

Despite criticism, outgoing Texas Insurance Commissioner Rebecca Lightsey has courageously promulgated rules to stop neighborhood ''redlining'' and other discrimination against automobile and property insurance buyers.

The decision was ripe for making on her watch and she made it, undaunted by sniping from the insurance industry and new Republican Gov. George Bush's camp that she was inappropriately acting on her way out.

The insurance industry has been fighting to block antidiscrimination rules for two years or more. And Bush, who had campaign backing from insurance industry leaders, urged Lightsey to let Bush's new commissioner, former state Rep. Elton Bomer, decide whether such rules should be adopted. There appeared a strong likelihood that if Lightsey had acquiesced, we'd have no rules.

Lightsey, an interim appointee of Democratic Gov. Ann Richards, succeeded J. Robert Hunter, another Richards appointee. Hunter resigned after Bush defeated Richards. Lightsey's term ends Feb. 1.

An attorney, former Texas Consumer Association executive director and an aide to Gov. Richards, Lightsey has more insurance regulatory experience than Bomer.

As a Richards staff attorney, she worked on insurance matters, including development of a comprehensive insurance regulation reform law in 1991. She earlier dealt with insurance matters for the consumer association.

Before succeeding Hunter, Lightsey also was executive director of the Texas Insurance Purchasing Alliance. It was created by the Legislature to make health insurance more obtainable for small employers.

The non-discrimination rules she adopted—after holding a Jan. 4 public hearing that Bush wanted canceled—were not hastily written. They were developed by the Texas Department of Insurance after about 18 months of studies and earlier hearings under Hunter and the three-member State Board of Insurance that preceded him. The rules are modified replacements for similar 1993 rules the board adopted, which the insurance industry got a court to throw out.

Although the insurance industry claims the rules are not needed because discrimination is already against state and federal laws, studies by the insurance department and the Office of Public Insurance Counsel indicate discrimination is occurring. It is keeping poor people, particularly in minority neighborhoods, from obtaining house and car insurance or forcing them to pay higher rates. This should not be allowed.

The new rules will prohibit:

Consideration of insurance customers' race, color, religion or national origin. Discrimination based on geographic location, disability, sex or age also will be banned unless companies show they cause extra risk.

Use of underwriting guidelines (secret policies as to who will be insured) not directly related to the risk of extra losses and claims.

Charging of higher rates or denial of coverage to those wanting only the minimum amount of car insurance to satisfy state law.

Consumers can sue for triple damages if the rules are broken.

None of these rules is unreasonable. If the industry is not violating them, it should have no cause for alarm. If it is, such practices should be stopped.

There was no good reason to put off the rules' adoption so the Bush administration could go over the same ground and give the industry more time to fight them.

Lightsey has ordered the rules to go into effect June 1. This gives the Legislature—or Bomer and Bush, who have indicated they don't even know much about the rules—time to review and possibly cancel them.

If the rules are killed, however, those responsible had better be able to show good cause.

By Mr. HELMS (for himself, Mr. DOLE, Mr. MACK, Mr. COVERDELL, Mr. GRAHAM, Mr. D'AMATO, Mr. HATCH, Mr. GRAMM, Mr. THURMOND, Mr. FAIRCLOTH, Mr. GREGG, Mr. INHOFE, Mr. HOLLINGS, and Ms. SNOWE):

S. 381. A bill to strengthen international sanctions against the Castro government in Cuba, to develop a plan to support a transition government leading to a democratically elected government in Cuba, and for other purposes; ordered held at the desk.

THE CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY ACT

Mr. HELMS. Mr. President, the day following the 1994 elections, I met with reporters in Raleigh to discuss in some detail the priorities I intended to pursue as chairman of the Senate Foreign Relations Committee. High on my list of priorities was to do everything possible as chairman to help bring freedom and democracy to Cuba.

Fidel Castro's brutal and cruel Communist dictatorship has persecuted the Cuban people for 36 years. He is the world's longest-reigning tyrant.

That is why I am introducing today a bill titled the ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act'' as my first piece of legislation as chairman of the Foreign Relations Committee.

Let me be clear: Whether Castro leaves Cuba in a vertical position or a horizontal position is up to him and the Cuban people. But he must—and will—leave Cuba.

There are some voices murmuring that the United States should lift the embargo and begin doing business with Castro. I categorically reject such suggestions, because for 36 years, both Republican and Democratic Presidents have maintained a consistent, bipartisan policy of isolating Castro's dictatorship.

There must be no retreat in that policy today. If anything, with the collapse of the U.S.S.R.—and the end of Soviet subsidies to Cuba—the embargo is finally having the effect on Castro that has been intended all along. Why should the United States let up the pressure now? It's time to tighten the screws—not loosen them. We have an obligation—to our principles and to the Cuban people—to elevate the pressure on Castro until the Cuban people are free.

The bi-partisan Cuba policy has led the American people to stand together in support of restoring freedom to Cuba. As for the legislation I am offering today, it incorporates and builds upon the significant work of the two distinguished Senators from Florida, CONNIE MACK and BOB GRAHAM, and of three distinguished Members of the House of Representatives: LINCOLN DIAZ-BALART, BOB MENENDEZ, and ILEANA ROS-LEHTINEN.

The Cuban Liberty and Democratic Solidarity Act:

Strengthens international sanctions against the Castro regime by prohibiting sugar imports from countries that purchase sugar from Cuba and then sell that sugar in the United States by instructing our representatives to the international financial institutions to vote against loans to Cuba and to require the United States to withhold our contribution to those same institutions if they ignore our objections and aid the Castro regime, by urging the President to seek an international embargo against Cuba at the United Nations, and by prohibiting loans or other financing by a United States person to a foreign person or entity who purchases an American property confiscated by the Cuban Government.

Reaffirms the 1992 Cuban Democracy Act;

Revitalizes our broadcasting programs to Cuba by mandating the conversion of television Marti to ultra-high frequency [UHF] broadcasting.

Cuts off foreign aid to any independent State of the Former Soviet Union that aids Castro, especially if that aid goes for the operation of military and intelligence facilities in Cuba which threaten the United States;

Encourages free and fair elections in Cuba after Castro is gone, and authorizes programs to promote free market and private enterprise development; and

Help U.S. citizens and U.S. companies whose property was confiscated by Castro. The bill denies entry into the United States of anyone who confiscates or benefits from confiscated American property; and it allows a U.S. citizen with a confiscated property claim to go into a U.S. court to seek compensation from a person or entity which is being unjustly enriched by the use of that confiscated property.

The Cuban people are industrious and innovative. Where they live and work in freedom, they have prospered. My hope is that this bill will hasten an end to the brutal Castro dictatorship and make Cuba free and prosperous. Libertad Para Cuba.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 381

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 ''Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Sec. 101. Statement of policy.
Sec. 102. Enforcement of the economic embargo of Cuba.
Sec. 103. Prohibition against indirect financing of Cuba.
Sec. 104. United States opposition to Cuban membership in international financial institutions.
Sec. 105. United States opposition to readmission of the Government of Cuba to the Organization of American States.
Sec. 106. Assistance by the independent states of the former Soviet Union for the Government of Cuba.
Sec. 107. Television broadcasting to Cuba.
Sec. 108. Reports on commerce with, and assistance to, Cuba from other foreign countries.
Sec. 109. Importation sanction against certain Cuban trading partners.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

Sec. 201. Policy toward a transition government and a democratically elected government in Cuba.
Sec. 202. Authorization of assistance for the Cuban people.
Sec. 203. Implementation; reports to Congress.
Sec. 204. Termination of the economic embargo of Cuba.
Sec. 205. Requirements for a transition government.
Sec. 206. Requirements for a democratically elected government.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

Sec. 301. Exclusion from the United States of aliens who have confiscated property claimed by United States persons.
Sec. 302. Liability for trafficking in confiscated property claimed by United States persons.
Sec. 303. Determination of claims to confiscated property.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The economy of Cuba has experienced a decline of approximately 60 percent in the last 5 years as a result of—

(A) the reduction in its subsidization by the former Soviet Union;

(B) 36 years of Communist tyranny and economic mismanagement by the Castro government;

(C) the precipitous decline in trade between Cuba and the countries of the former Soviet bloc; and

(D) the policy of the Russian Government and the countries of the former Soviet bloc to conduct economic relations with Cuba predominantly on commercial terms.

(2) At the same time, the welfare and health of the Cuban people have substantially deteriorated as a result of Cuba's economic decline and the refusal of the Castro

regime to permit free and fair democratic elections in Cuba or to adopt any economic or political reforms that would lead to democracy, a market economy, or an economic recovery.

(3) The repression of the Cuban people, including a ban on free and fair democratic elections and the continuing violation of fundamental human rights, has isolated the Cuban regime as the only nondemocratic government in the Western Hemisphere.

(4) As long as no such economic or political reforms are adopted by the Cuban government, the economic condition of the country and the welfare of the Cuban people will not improve in any significant way.

(5) Fidel Castro has defined democratic pluralism as ''pluralistic garbage'' and has made clear that he has no intention of permitting free and fair democratic elections in Cuba or otherwise tolerating the democratization of Cuban society.

(6) The Castro government, in an attempt to retain absolute political power, continues to utilize, as it has from its inception, torture in various forms (including psychiatric abuse), execution, exile, confiscation, political imprisonment, and other forms of terror and repression as most recently demonstrated by the massacre of more than 70 Cuban men, women, and children attempting to flee Cuba.

(7) The Castro government holds hostage in Cuba innocent Cubans whose relatives have escaped the country.

(8) The Castro government has threatened international peace and security by engaging in acts of armed subversion and terrorism, such as the training and arming of groups dedicated to international violence.

(9) The Government of Cuba engages in illegal international narcotics trade and harbors fugitives from justice in the United States.

(10) The totalitarian nature of the Castro regime has deprived the Cuban people of any peaceful means to improve their condition and has led thousands of Cuban citizens to risk or lose their lives in dangerous attempts to escape from Cuba to freedom.

(11) Attempts to escape from Cuba and courageous acts of defiance of the Castro regime by Cuban pro-democracy and human rights groups have ensured the international community's continued awareness of, and concern for, the plight of Cuba.

(12) The Cuban people deserve to be assisted in a decisive manner in order to end the tyranny that has oppressed them for 36 years.

(13) Radio Marti and Television Marti have both been effective vehicles for providing the people of Cuba with news and information and have helped to bolster the morale of the Cubans living under tyranny.

(14) The consistent policy of the United States towards Cuba since the beginning of the Castro regime, carried out by both Democratic and Republican administrations, has sought to keep faith with the people of Cuba, and has been effective in isolating the totalitarian Castro regime.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to strengthen international sanctions against the Castro government;

(2) to encourage the holding of free and fair democratic elections in Cuba, conducted under the supervision of internationally recognized observers;

(3) to provide a policy framework for United States support to the Cuban people in response to the formation of a transition government or a democratically elected government in Cuba; and

(4) to protect the rights of United States persons who own claims to confiscated property abroad.

SEC. 4. DEFINITIONS.

As used in this Act—

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) CONFISCATED.—The term ''confiscated'' refers to the nationalization, expropriation, or other seizure of ownership or control of property by governmental authority—

(A) without adequate and effective compensation or in violation of the law of the place where the property was situated when the confiscation occurred; and

(B) without the claim to the property having been settled pursuant to an international claims settlement agreement.

(3) CUBAN GOVERNMENT.—The term ''Cuban government'' includes the government of any political subdivision, agency, or instrumentality of the Government of Cuba.

(4) DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.—The term ''democratically elected government in Cuba'' means a government described in section 206.

(5) ECONOMIC EMBARGO OF CUBA.—The term ''economic embargo of Cuba'' refers to the economic embargo imposed against Cuba pursuant to section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)), section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act, and the Export Administration Act of 1979.

(6) PROPERTY.—The term ''property'' means—

(A) any property, right, or interest, including any leasehold interest,

(B) debts owed by a foreign government or by any enterprise which has been confiscated by a foreign government; and

(C) debts which are a charge on property confiscated by a foreign government.

(7) TRAFFICS.—The term ''traffics'' means selling, transfering, distributing, dispensing, or otherwise disposing of property, or purchasing, receiving, possessing, obtaining control of, managing, or using property.

(8) TRANSITION GOVERNMENT IN CUBA.—The term ''transition government in Cuba'' means a government described in section 205.

(9) UNITED STATES PERSON.—The term ''United States person'' means

(A) any United States citizen, including, in the context of claims to confiscated property, any person who becomes a United States citizen after the property was confiscated but before final resolution of the claim to that property; and

(B) any corporation, trust, partnership, or other juridical entity 50 percent or more beneficially owned by United States citizens.

TITLE I—STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

SEC. 101. STATEMENT OF POLICY.

It is the sense of the Congress that—

(1) the acts of the Castro government, including its massive, systematic, and extraordinary violations of human rights, are a threat to international peace;

(2) the President should advocate, and should instruct the United States Permanent Representative to the United Nations to propose and seek within the Security Council a mandatory international embargo against the totalitarian government of Cuba pursuant to chapter VII of the Charter of the United Nations, which is similar to consultations conducted by United States representatives with respect to Haiti; and

(3) any resumption of efforts by any independent state of the former Soviet Union to make operational the nuclear facility at Cienfuegos, Cuba, will have a detrimental impact on United States assistance to such state.

SEC. 102. ENFORCEMENT OF THE ECONOMIC EMBARGO OF CUBA.

(a) POLICY.—(1) The Congress hereby reaffirms section 1704(a) of the Cuban Democracy Act of 1992, which states the President should encourage foreign countries to restrict trade and credit relations with Cuba.

(2) The Congress further urges the President to take immediate steps to apply the sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) DIPLOMATIC EFFORTS.—The Secretary of State should ensure that United States diplomatic personnel abroad understand and, in their contacts with foreign officials are—

(1) communicating the reasons for the United States economic embargo of Cuba; and

(2) urging foreign governments to cooperate more effectively with the embargo.

(c) EXISTING REGULATIONS.—The President shall instruct the Secretary of the Treasury and the Attorney General to enforce fully the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) VIOLATIONS OF RESTRICTIONS ON TRAVEL TO CUBA.—The penalties provided for in section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16) shall apply to all violations of the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations) involving transactions incident to travel to and within Cuba, notwithstanding section 16(b)(2) (the first place it appears) and section 16(b)(3) and (4) of such Act.

SEC. 103. PROHIBITION AGAINST INDIRECT FINANCING OF CUBA.

(a) PROHIBITION.—Effective upon the date of enactment of this Act, it is unlawful for any United States person, including any officer, director, or agent thereof and including any officer or employee of a United States agency, knowingly to extend any loan, credit, or other financing to a foreign person that traffics in any property confiscated by the Cuban government the claim to which is owned by a United States person.

(b) TERMINATION OF PROHIBITION.—The prohibition of subsection (a) shall cease to apply on the date of termination of the economic embargo of Cuba.

(c) PENALTIES.—Violations of subsection (a) shall be punishable by the same penalties as are applicable to similar violations of the Cuban Assets Control Regulations in part 515 of title 31, Code of Federal Regulations.

(d) DEFINITIONS.—As used in this section—

(1) the term ''foreign person'' means (A) an alien, and (B) any corporation, trust, partnership, or other juridical entity that is not 50 percent or more beneficially owned by United States citizens; and

(2) the term ''United States agency'' has the same meaning given to the term ''agency'' in section 551(1) of title 5, United States Code.

SEC. 104. UNITED STATES OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) CONTINUED OPPOSITION TO CUBAN MEMBERSHIP IN INTERNATIONAL FINANCIAL INSTITUTIONS.—(1) Except as provided in paragraph (2), the Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against the admission of Cuba as a member of such institution until Cuba holds free and fair, democratic elections, conducted under the supervision of internationally recognized observers.

(2) During the period that a transition government in Cuba is in power, the President

shall take steps to support the processing of Cuba's application for membership in any international financial institution, subject to the membership taking effect after a democratically elected government in Cuba is in power.

(b) REDUCTION IN UNITED STATES PAYMENTS TO INTERNATIONAL FINANCIAL INSTITUTIONS.—If any international financial institution approves a loan or other assistance to Cuba over the opposition of the United States, then the Secretary of the Treasury shall withhold from payment to such institution an amount equal to the amount of the loan or other assistance, with respect to each of the following types of payment:

(1) The paid-in portion of the increase in capital stock of the institution.

(2) The callable portion of the increase in capital stock of the institution.

(c) DEFINITION.—For purposes of this section, the term ''international financial institution'' means the International Monetary Fund, the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guaranty Agency, and the Inter-American Development Bank.

SEC. 105. UNITED STATES OPPOSITION TO READMISSION OF THE GOVERNMENT OF CUBA TO THE ORGANIZATION OF AMERICAN STATES.

The President should instruct the United States Permanent Representative to the Organization of American States to vote against the readmission of the Government of Cuba to membership in the Organization until the President determines under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 106. ASSISTANCE BY THE INDEPENDENT STATES OF THE FORMER SOVIET UNION OF THE GOVERNMENT OF CUBA.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union (within the meaning of section 3 of the FREEDOM Support Act (22 U.S.C. 5801)), including advisers, technicians, and military personnel, from the Cienfuegos nuclear facility in Cuba.

(b) CRITERIA FOR ASSISTANCE.—Section 498A(a)(11) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a(a)(1)) is amended by striking ''of military facilities'' and inserting ''military and intelligence facilities, including the military and intelligence facilities at Lourdes and Cienfuegos,''.

(c) INELIGIBILITY FOR ASSISTANCE.—(1) Section 498A(b) of that Act (22 U.S.C. 2295a(b)) is amended—

(A) by striking ''or'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

''(5) for the government of any independent state effective 30 days after the President has determined and certified to the appropriate congressional committees (and Congress has not enacted legislation disapproving the determination within the 30-day period) that such government is providing assistance for, or engaging in nonmarket based trade (as defined in section 498B(k)(3)) with, the Government of Cuba; or''.

(2) Subsection (k) of section 498B of that Act (22 U.S.C. 2295b(k)), is amended by adding at the end the following:

''(3) NONMARKET BASED TRADE.—As used in section 498A(b)(5), the term 'nonmarket based trade' includes exports, imports, exchanges, or other arrangements that are provided for goods and services (including oil and other petroleum products) on terms more favorable than those generally available in applicable markets or for comparable commodities, including—

''(A) exports to the Government of Cuba on terms that involve a grant, concessional price, guarantee, insurance, or subsidy;

''(B) imports from the Government of Cuba at preferential tariff rates; and

''(C) exchange arrangements that include advance delivery of commodities, arrangements in which the Government of Cuba is not held accountable for unfulfilled exchange contracts, and arrangements under which Cuba does not pay appropriate transportation, insurance, or finance costs.''.

(d) FACILITIES AT LOURDES, CUBA.—(1) The Congress expresses its strong disapproval of the extension by Russia of credits equivalent to $200,000,000 in support of the intelligence facility at Lourdes, Cuba, in November 1994.

(2) Section 498A of the Foreign Assistance Act of 1961 (22 U.S.C. 2295a) is amended by adding at the end the following new subsection:

''(d) REDUCTION IN ASSISTANCE FOR SUPPORT OF MILITARY AND INTELLIGENCE FACILITIES IN CUBA.—(1) Notwithstanding any other provision of law, the President shall withhold from assistance allocated for an independent state of the former Soviet Union under this chapter an amount equal to the sum of assistance and credits, if any, provided by such state in support of military and intelligence facilities in Cuba, such as the intelligence facility at Lourdes, Cuba.

''(2) Nothing in this subsection may be construed to apply to—

''(A) assistance provided under the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228) or the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160); or

''(B) assistance to meet urgent humanitarian needs under section 498(1), including disaster assistance described in subsection (c)(3) of this section.''.

SEC. 107. TELEVISION BROADCASTING TO CUBA.

(a) CONVERSION TO UHF.—The Director of the United States Information Agency shall implement a conversion of television broadcasting to Cuba under the Television Marti Service to ultra high frequency (UHF) broadcasting.

(b) PERIODIC REPORTS.—Not later than 45 days after the date of enactment of this Act, and every three months thereafter until the conversion described in subsection (a) is fully implemented, the Director shall submit a report to the appropriate congressional committees on the progress made in carrying out subsection (a).

SEC. 108. REPORTS ON COMMERCE WITH, AND ASSISTANCE TO, CUBA FROM OTHER FOREIGN COUNTRIES.

(a) REPORTS REQUIRED.—Not later than 90 days after the date of enactment of this Act, and every year thereafter, the President shall submit a report to the appropriate congressional committees on commerce with, and assistance to, Cuba from other foreign countries during the preceding 12-month period.

(b) CONTENTS OF REPORTS.—Each report required by subsection (a) shall, for the period covered by the report, contain—

(1) a description of all bilateral assistance provided to Cuba by other foreign countries, including humanitarian assistance;

(2) a description of Cuba's commerce with foreign countries, including an identification of Cuba's trading partners and the extent of such trade;

(3) a description of the joint ventures completed, or under consideration, by foreign nationals and business firms involving facilities in Cuba, including an identification of the location of the facilities involved and a description of the terms of agreement of the joint ventures and the names of the parties that are involved;

(4) a determination as to whether or not any of the facilities described in paragraph (3) is the subject of a claim against Cuba by a United States person;

(5) a determination of the amount of Cuban debt owed to each foreign country, including the amount of debt exchanged, forgiven, or reduced under the terms of each investment or operation in Cuba involving foreign nationals or businesses; and

(6) a description of the steps taken to assure that raw materials and semifinished or finished goods produced by facilities in Cuba involving foreign nationals or businesses do not enter the United States market, either directly or through third countries or parties.

SEC. 109. IMPORTATION SANCTION AGAINST CERTAIN CUBAN TRADING PARTNERS.

(a) SANCTION.—Notwithstanding any other provision of law, sugars, syrups, and molasses, that are the product of a country that the President determines has imported sugar, syrup, or molasses that is the product of Cuba, shall not be entered, or withdrawn from warehouse for consumption, into the customs territory of the United States, unless the condition set forth in subsection (b) is met.

(b) CONDITION FOR REMOVAL OF SANCTION.—The sanction set forth in subsection (a) shall cease to apply to a country if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections, conducted under the supervision of internationally recognized observers, are held in Cuba. Such certification shall cease to be effective if the President makes a subsequent determination under subsection (a) with respect to that country.

(c) REPORTS TO CONGRESS.—The President shall report to the appropriate congressional committees all determinations made under subsection (a) and all certifications made under subsection (b).

(d) REALLOCATION OF SUGAR QUOTAS.—During any period in which a sanction under subsection (a) is in effect with respect to a country, the President may reallocate to other countries the quota of sugars, syrups, and molasses allocated to that country, before the prohibition went into effect, under chapter 17 of the Harmonized Tariff Schedule of the United States.

TITLE II—SUPPORT FOR A FREE AND INDEPENDENT CUBA

SEC. 201. POLICY TOWARD A TRANSITION GOVERNMENT AND A DEMOCRATICALLY ELECTED GOVERNMENT IN CUBA.

It is the policy of the United States—

(1) to support the self-determination of the Cuban people;

(2) to facilitate a peaceful transition to representative democracy and a free market economy in Cuba;

(3) to be impartial toward any individual or entity in the selection by the Cuban people of their future government;

(4) to enter into negotiations with a democratically elected government in Cuba regarding the status of the United States Naval Base at Guantanamo Bay;

(5) to restore diplomatic relations with Cuba, and support the reintegration of Cuba into entities of the Inter-American System, when the President determines that there exists a democratically elected government in Cuba;

(6) to remove the economic embargo of Cuba when the President determines that

there exists a democratically elected government in Cuba; and

(7) to pursue a mutually beneficial trading relationship with a democratic Cuba.

SEC. 202. AUTHORIZATION OF ASSISTANCE FOR THE CUBAN PEOPLE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The President may provide assistance under this section for the Cuban people after a transition government, or a democratically elected government, is in power in Cuba, as determined under section 203 (a) and (c).

(2) EFFECT ON OTHER LAWS.—

(A) SUPERSEDING OTHER LAWS.—Subject to subparagraph (B), assistance may be provided under this section notwithstanding any other provision of law.

(B) DETERMINATION REQUIRED REGARDING PROPERTY TAKEN FROM UNITED STATES PERSONS.—Subparagraph (A) shall not apply to section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)(2)).

(b) RESPONSE PLAN.—

(1) DEVELOPMENT OF PLAN.—The President shall develop a plan detailing the manner in which the United States would provide and implement support for the Cuban people in response to the formation of—

(A) a transition government in Cuba; and

(B) a democratically elected government in Cuba.

(2) TYPES OF ASSISTANCE.—Support for the Cuban people under the plan described in paragraph (1) shall include the following types of assistance:

(A) TRANSITION GOVERNMENT.—Assistance under the plan to a transition government in Cuba shall be limited to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet emergency humanitarian needs of the Cuban people.

(B) DEMOCRATICALLY ELECTED GOVERNMENT.—Assistance under the plan for a democratically elected government in Cuba shall consist of assistance to promote free market development, private enterprise, and a mutually beneficial trade relationship between the United States and Cuba. Such assistance should include—

(i) financing, guarantees, and other assistance provided by the Export-Import Bank of the United States;

(ii) insurance, guarantees, and other assistance provided by the Overseas Private Investment Corporation for investment projects in Cuba;

(iii) assistance provided by the Trade and Development Agency;

(iv) international narcotics control assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961; and

(v) Peace Corps activities.

(c) CARIBBEAN BASIN INITIATIVE.—(1) The President shall determine, as part of the plan developed under subsection (b), whether or not to designate Cuba as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act.

(2) Any designation of Cuba as a beneficiary country under section 212 of such Act may only be made after a democratically elected government in Cuba is in power. Such designation may be made notwithstanding any other provision of law.

(3) The table contained in section 212(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(b)) is amended by inserting ''Cuba'' between ''Costa Rica'' and ''Dominica''.

(d) TRADE AGREEMENTS.—Notwithstanding any other provision of law, the President, upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power, should—

(1) take the steps necessary to extend nondiscriminatory trade treatment (most-favored-nation status) to the products of Cuba; and

(2) take such other steps as will encourage renewed investment in Cuba.

(e) COMMUNICATION WITH THE CUBAN PEOPLE.—The President should take the necessary steps to communicate to the Cuban people the plan developed under this section.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report describing in detail the plan developed under this section.

SEC. 203. IMPLEMENTATION; REPORTS TO CONGRESS.

(a) IMPLEMENTATION WITH RESPECT TO TRANSITION GOVERNMENT.—Upon making a determination that a transition government in Cuba is in power, the President shall transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such transition government under the plan developed under section 202(b).

(b) REPORTS TO CONGRESS.—(1) The President shall transmit to the appropriate congressional committees a report setting forth the strategy for providing assistance described in section 202(b)(2)(A) to the transition government in Cuba under the plan of assistance developed under section 202(b), the types of such assistance, and the extent to which such assistance has been distributed in accordance with the plan.

(2) The President shall transmit the report not later than 90 days after making the determination referred to in paragraph (1), except that the President shall transmit the report in preliminary form not later than 15 days after making that determination.

(c) IMPLEMENTATION WITH RESPECT TO DEMOCRATICALLY ELECTED GOVERNMENT.—The President shall, upon determining that a democratically elected government in Cuba is in power, transmit that determination to the appropriate congressional committees and should, subject to the availability of appropriations, commence the provision of assistance to such democratically elected government under the plan developed under section 202(b)(2)(B).

(d) ANNUAL REPORTS TO CONGRESS.—Not later than 60 days after the end of each fiscal year, the President shall transmit to the appropriate congressional committees a report on the assistance provided under the plan developed under section 202(b), including a description of each type of assistance, the amounts expended for such assistance, and a description of the assistance to be provided under the plan in the current fiscal year.

SEC. 204. TERMINATION OF THE ECONOMIC EMBARGO OF CUBA.

(a) TERMINATION.—Upon the effective date of this section—

(1) section 620(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(a)) is repealed;

(2) section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)) is amended by striking ''Republic of Cuba'';

(3) the prohibitions on transactions described in part 515 of title 31, Code of Federal Regulations, shall cease to apply; and

(4) the President shall take such other steps as may be necessary to rescind any other regulations in effect under the economic embargo of Cuba.

(b) EFFECTIVE DATE.—This section shall take effect upon transmittal to Congress of a determination under section 203(c) that a democratically elected government in Cuba is in power.

SEC. 205. REQUIREMENTS FOR A TRANSITION GOVERNMENT.

For purposes of this Act, a transition government in Cuba is a government in Cuba that—

(1) is demonstrably in transition from communist totalitarian dictatorship to representative democracy;

(2) has released all political prisoners and allowed for investigations of Cuban prisons by appropriate international human rights organizations;

(3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior, including the Committees for the Defense of the Revolution and the Rapid Response Brigades;

(4) has publicly committed itself to, and is making demonstrable progress in—

(A) establishing an independent judiciary;

(B) respecting internationally recognized human rights and basic freedoms as set forth in the Universal Declaration of Human Rights, to which Cuba is a signatory nation;

(C) effectively guaranteeing the rights of free speech and freedom of the press;

(D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba;

(E) organizing free and fair elections for a new government—

(i) to be held within 1 year after the transition government assumes power;

(ii) with the participation of multiple independent political parties that have full access to the media on an equal basis, including (in the case of radio, television, or other telecommunications media) in terms of allotments of time for such access and the times of day such allotments are given; and

(iii) to be conducted under the supervision of internationally recognized observers, such as the Organization of American States, the United Nations, and other elections monitors;

(F) assuring the right to private property;

(G) taking appropriate steps to return to United States citizens and entities property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or to provide equitable compensation to such citizens and entities for such property;

(H) having a currency that is fully convertible domestically and internationally;

(I) granting permits to privately owned telecommunications and media companies to operate in Cuba; and

(J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations;

(5) does not include Fidel Castro or Raul Castro;

(6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and

(7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

SEC. 206. REQUIREMENTS FOR A DEMOCRATICALLY ELECTED GOVERNMENT.

For purposes of this Act, a democratically elected government in Cuba, in addition to continuing to comply with the requirements of section 205, is a government in Cuba which—

(1) results from free and fair elections—

(A) conducted under the supervision of internationally recognized observers;

(B) in which opposition parties were permitted ample time to organize and campaign for such elections, and in which all candidates in the elections were permitted full access to the media;

(2) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(3) has established an independent judiciary;

(4) is substantially moving toward a market-oriented economic system based on the right to own and enjoy property;

(5) is committed to making constitutional changes that would ensure regular free and fair elections that meet the requirements of paragraph (2); and

(6) has returned to United States citizens, and entities which are 50 percent or more beneficially owned by United States citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provided full compensation in accordance with international law standards and practice to such citizens and entities for such property.

TITLE III—PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

SEC. 301. EXCLUSION FROM THE UNITED STATES OF ALIENS WHO HAVE CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) ADDITIONAL GROUNDS FOR EXCLUSION.—Section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end the following:

''(D) ALIENS WHO HAVE CONFISCATED AMERICAN PROPERTY ABROAD AND RELATED PERSONS.—(i) Any alien who—

''(I) has confiscated, or has directed or overseen the confiscation of, property the claim to which is owned by a United States person, or converts or has converted for personal gain confiscated property, the claim to which is owned by a United States person;

''(II) traffics in confiscated property, the claim to which is owned by a United States person;

''(III) is a corporate officer, principal, or shareholder of an entity which the Secretary of State determines or is informed by competent authority has been involved in the confiscation, trafficking in, or subsequent unauthorized use or benefit from confiscated property, the claim to which is owned by a United States person, or

''(IV) is a spouse or dependent of a person described in subclause (I),

is excludable.

''(ii) The validity of claims under this subparagraph shall be established in accordance with section 303 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.

''(iii) For purposes of this subparagraph, the terms 'confiscated', 'traffics', and 'United States person' have the same meanings given to such terms under section 4 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals seeking to enter the United States on or after the date of enactment of this Act.

SEC. 302. LIABILITY FOR TRAFFICKING IN CONFISCATED PROPERTY CLAIMED BY UNITED STATES PERSONS.

(a) CIVIL REMEDY.—(1) Except as provided in paragraphs (2) and (3), any person or government that traffics in property confiscated by a foreign government shall be liable to the United States person who owns the claim to the confiscated property for money damages in an amount which is the greater of—

(A) the amount certified by the Foreign Claims Settlement Commission under title V of the International Claims Settlement Act of 1949, plus interest at the commercially recognized normal rate;

(B) the amount determined under section 303(a)(2); or

(C) the fair market value of that property, calculated as being the then current value of the property, or the value of the property when confiscated plus interest at the commercially recognized normal rate, whichever is greater.

(2) Except as provided in paragraph (3), any person or government that traffics in confiscated property after having received (A) notice of a claim to ownership of the property by the United States person who owns the claim to the confiscated property, and (B) a copy of this section, shall be liable to such United States person for money damages in an amount which is treble the amount specified in paragraph (1).

(3)(A) Actions may be brought under paragraph (1) with respect to property confiscated before, on, or after the date of enactment of this Act.

(B) In the case of property confiscated before the date of enactment of this Act, no United States person may bring an action under this section unless such person acquired ownership of the claim to the confiscated property before such date.

(C) In the case of property confiscated on or after the date of enactment of this Act, in order to maintain the action, the United States person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by inserting after section 1331 the following new section:

''§ 1331a. Civil actions involving confiscated property

''The district courts shall have exclusive jurisdiction, without regard to the amount in controversy, of any action brought under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

(c) WAIVER OF SOVEREIGN IMMUNITY.—Section 1605 of title 28, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting ''; or''; and

(3) by adding at the end the following:

''(7) in which the action is brought with respect to confiscated property under section 302 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1995.''.

SEC. 303. DETERMINATION OF CLAIMS TO CONFISCATED PROPERTY.

(a) EVIDENCE OF OWNERSHIP.—For purposes of this Act, conclusive evidence of ownership by the United States person of a claim to confiscated property is established—

(1) when the Foreign Claims Settlement Commission certifies the claim under title V of the International Claims Settlement Act of 1949, as amended by subsection (b); or

(2) when the claim has been determined to be valid by a court or administrative agency of the country in which the property was confiscated.

(b) AMENDMENT OF THE INTERNATIONAL CLAIMS SETTLEMENT ACT OF 1949.—Title V of the International Claims Settlement Act of 1949 is amended by adding at the end the following new section:

''ADDITIONAL CLAIMS

''SEC. 514. Notwithstanding any other provision of this title, a United States national may bring a claim to the Commission for determination and certification under this title of the amount and validity of a claim resulting from actions taken by the Government of Cuba described in section 503(a), whether or not the United States national qualified as a United States national at the time of the Cuban government action, except that, in the case of property confiscated after the date of enactment of this section, the claimant must be a United States national at the time of the confiscation.''.

(c) CONFORMING REPEAL.—Section 510 of the International Claims Settlement Act of 1949 (22 U.S.C. 1643i) is repealed.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title and Table of Contents

Section 2. Findings

Details findings regarding Cuba, including the decline of the Cuban economy, the substantial deterioration of the health and welfare of the Cuban people, Castro's refusal to adopt any economic or political reforms, and the continuing repression of the Cuban people.

Section 3. Purposes

States general purposes of the Act, including strengthening international sanctions against the Castro government, encouraging the holding of free and fair elections, providing a policy framework for U.S. support to a transition government and a democratically-elected government in Cuba, and protecting the rights of U.S. persons who own claims to confiscated property abroad.

Section 4. Definitions

Defines terms used in this Act.

TITLE I: STRENGTHENING INTERNATIONAL SANCTIONS AGAINST THE CASTRO GOVERNMENT

Section 101. Statement of Policy

Expresses the sense of Congress that (1) the acts of the Castro government, including human rights violations, are a threat to international peace, (2) the President should instruct the U.S. Permanent Representative to the United Nations to seek, in the Security Council, an international embargo against the Castro dictatorship (similar to consultations conducted with respect to Haiti), and (3) there will be a detrimental impact on United States assistance to any independent state of the former Soviet Union which resumes efforts to make operational the nuclear facility at Cienfuegos, Cuba.

Section 102. Enforcement of the Economic Embargo of Cuba

(a) Reaffirms the Cuban Democracy Act of 1992 [section 1704(a)], which states that the President should encourage foreign countries to restrict trade and credit relations with Cuba, and urges the President to take immediate steps to apply sanctions described in section 1704(b)(1) of such Act against countries assisting Cuba.

(b) Calls on the Secretary of State to direct U.S. diplomatic personnel to communicate to foreign officials the reasons for the U.S. economic embargo on Cuba and to urge foreign governments to cooperate more effectively with the embargo.

(c) Requires the President to instruct the Secretary of the Treasury and Attorney General to fully enforce the Cuban Assets Control Regulations.

(d) Subjects to criminal penalties under the Trading with the Enemy Act persons violating travel restrictions imposed by the Cuban Assets Control Regulations (part 515 of title 31, Code of Federal Regulations). Penalties include fines and/or imprisonment of a person or official of a corporation.

Section 103. Prohibition Against Indirect Financing of Cuba

(a) Prohibits any loans, credits, or other financing from a U.S. person or agency to a foreign person who knowingly purchases a U.S. property confiscated by the Cuban government.

(b) Terminates this prohibition on the date of termination of the economic embargo of Cuba.

(c) Makes violations of this provision punishable by the same penalties that are applicable to similar violations of the Cuban Assets Control Regulations.

Section 104. United States Opposition to Cuban Membership in International Financial Institutions

(a) Requires the Secretary of the Treasury to instruct the U.S. executive director of

each international financial institution to vote against the admission of Cuba as a member until Cuba has held free and fair internationally supervised elections.

(b) Directs the President to take steps during the period that a transition government is in power in Cuba to support the processing of Cuba's application for membership in any international financial institution, to take effect after a democratically-elected government is in power in Cuba.

(c) Requires the United States to withhold payment to any international financial institution that approves a loan or other assistance to Cuba in an amount equal to the amount of the loan or assistance provided to Cuba.

Section 105. United States Opposition to Readmission of Cuba to the Organization of American States (OAS)

States that the President should instruct the U.S. Permanent Representative to the OAS to vote against the readmission of Cuba to membership in the OAS until a democratically-elected government exits in Cuba.

Section 106. Assistance by the Independent States of the Former Soviet Union for the Government of Cuba

(a) Requires the President to submit to Congress a report detailing progress towards the withdrawal of personnel of any independent state of the former Soviet Union [including advisers, technicians, and military personnel] from the Cienfuegos nuclear facility in Cuba.

(b) Amends the criteria for providing U.S. assistance to the independent states of the former Soviet Union to specify that the President shall take into account the extent to which a state is acting to close military and intelligence facilities in Cuba, including the military and intelligence facilities at Lourdes and Cienfuegos. [Section 498(a)(11) of the Foreign Assistance Act currently does not mention intelligence facilities or specify the facilities at Lourdes and Cienfuegos].

(c) Prohibits the President from providing assistance for the government of any independent state that the President has determined and certified to Congress is providing assistance for, or engaging in nonmarket based trade with, the Government of Cuba. Nonmarket based trade includes exports, imports, exchanges, or other arrangements that are provided for goods and services on terms more favorable than those generally available in applicable markets or for comparable commodities.

(d) Express strong disapproval by Congress for $200,000,000 in credits from Russia to Cuba in support of the intelligence facility at Lourdes, Cuba, and requires the President to withhold assistance to any state of the former Soviet Union in an amount equal to the sum of such state's assistance and credits for military and intelligence facilities in Cuba. Funding for Nunn-Lugar denuclearization programs and humanitarian assistance is exempt.

Section 107. Television Broadcasting to Cuba.

Instructs the Director of USIA to implement the conversion of Television Marti to Ultra-High Frequency (UHF) broadcasting, and to submit quarterly reports to Congress on progress made in carrying out the conversion until it is fully implemented.

Section 108. Reports on Commerce with and Assistance to Cuba from Foreign Countries

Directs the President to submit an annual report to Congress on assistance to and commerce with Cuba from foreign countries. Each report shall contain: (1) a description of all bilateral assistance, including humanitarian assistance; (2) identification of Cuba's trading partners and the extent of such trade; (3) a description of joint ventures completed or under consideration by foreign nationals and business firms involving facilities in Cuba; (4) a determination as to whether any facilities are claimed by a U.S. person; (5) a determination of the amount of Cuban debt owed to each foreign country and business, including the amount of debt exchanged, forgiven, or reduced; and (6) steps taken to assure that raw materials and semi-finished or finished goods produced by facilities in Cuba involving foreign nationals or businesses are not entering the U.S. market.

Section 109. Importation Sanction Against Certain Cuban Trading Partners

(a) Prohibits importation into the United States of any sugars, syrups, or molasses that are the product of a country that the President determines has imported sugar, syrup, or molasses from Cuba. The intent of this section is to prevent indirect support of the Cuban sugar industry through countries that buy Cuban sugar for either domestic consumption or reprocessing for export and sell their own or the reprocessed sugar to the United States.

(b) Provides for the removal of the sanction in subsection (a) if the country certifies to the President that the country will not import sugar, syrup, or molasses that is the product of Cuba until free and fair elections are held in Cuba. Such a certification would cease to apply if the President makes a subsequent certification under subsection (a).

(c) Instructs the President to report to Congress all determinations in subsections (a) and (b).

(d) Allows the President to reallocate to other countries the quota of sugars, syrups, and molasses allocated to a country subject to sanction under subsection (a).

TITLE II: SUPPORT FOR A FREE AND INDEPENDENT CUBA

Section 201. Policy Toward a Transition Government and a Democratically-Elected Government

States that U.S. policy is to: (1) support the self-determination of the Cuban people; (2) facilitate a peaceful transition to representative democracy and a free market economy in Cuba; and (3) be impartial toward any individual or entity in the selection by the Cuban people of their future government. Once the President has determined that a democratically-elected government exists in Cuba, the U.S. policy shall be to: (4) enter into negotiations regarding the status of the U.S. Naval Base at Guantanamo; (5) restore diplomatic recognition and support the reintegration of Cuba into entities of the Inter-American System; (6) remove the economic embargo; and (7) pursue a mutually beneficial trading relationship.

Section 202. Authorization of Assistance for the Cuban People

(a) Authorizes the President to provide assistance for the Cuban people after a transition government or a democratically-elected government is in power in Cuba, as determined under section 203. Assistance may be provided under this section notwithstanding any other provision of law, except that no assistance may be given until the President determines that a transition or democratically elected Cuban government has ''taken appropriate steps according to international law standards'' to return or compensate for property taken from US citizens and entities on or after January 1, 1959 [section 620(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2379(a)(2))].

(b)(1) Directs the President to develop a plan detailing the manner in which the United States would provide assistance to the Cuban people in response to the formation of a transition and a democratically-elected government in Cuba.

(2) Limits assistance to a transition government to such food, medicine, medical supplies and equipment, and other assistance as may be necessary to meet the humanitarian needs of the Cuban people.

(3) Specifies that assistance under the plan for a democratically-elected government shall consist of assistance to promote free market development, private enterprise, and mutually beneficial trade; such assistance should include assistance provided by the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency, international narcotics control assistance, and Peace Corps activities.

(c) Requires the President to determine as part of the assistance plan whether to designate Cuba as a beneficiary country under section 212 of the Caribbean Basic Economic Recovery Act once a democratically-elected government is in power in Cuba.

(d) Authorizes the President, upon determining that a democratically-elected government is in power in Cuba, to extend most-favored-nation (MFN) status to Cuba and to otherwise encourage renewed investment in Cuba, notwithstanding any other provision of law.

(e) Directs the President to take the necessary steps to communicate this plan to the Cuban people.

(f) Requires the President to transmit to Congress, not later than 180 days after the enactment of this Act, a detailed report on the plan developed under this section.

Section 203. Implementation; Reports to Congress

(a) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a transition government is in power in Cuba.

(b) Requires the President to transmit to Congress a preliminary report, within 15 days of such a determination, setting forth the strategy and implementation of assistance, followed by a full report not later than 90 days after making the determination.

(c) Authorizes the President to begin assistance to Cuba upon transmittal to Congress of a determination that a democratically-elected government is in power in Cuba.

(d) Requires an annual report, within 60 days of the end of each fiscal year, on the assistance to be provided under the plan developed under section 202(b) and the assistance to be provided in the current fiscal year.

Section 204. Termination of the Economic Embargo on Cuba

Terminates the economic embargo on Cuba upon transmittal to Congress of a presidential determination that a democratically-elected government is in power in Cuba.

Section 205. Requirements for a Transition Government

Defines a transition government in Cuba as one which (1) is demonstrably in transition from communist totalitarian dictatorship to democracy; (2) has released all political prisoners; (3) has dissolved the present Department of State Security in the Cuban Ministry of the Interior; and (4) also ''makes public commitments'' to (A) establishing an independent judiciary, (B) respecting internationally recognized human rights and basic freedoms, (C) guaranteeing the rights of free speech and freedom of the press, (D) permitting the reinstatement of citizenship to Cuban-born nationals returning to Cuba, (E) organizing free and fair elections for a new government, (F) assuring the right to private property, (G) taking appropriate steps either to return to U.S. citizens property taken by the government of Cuba on or after January 1, 1959 or to provide equitable

compensation to U.S. citizens for such property, (H) having a currency that is fully convertible domestically and internationally, (I) granting permits to privately-owned telecommunications and media companies to operate in Cuba, and (J) allowing the establishment of an independent labor movement and of independent social, economic, and political associations. Other provisions include that the transition government: (5) does not include Fidel Castro or Raul Castro; (6) has given adequate assurances that it will allow the speedy and efficient distribution of assistance to the Cuban people; and (7) permits the deployment throughout Cuba of independent and unfettered international human rights monitors.

Section 206. Requirements for a Democratically-Elected Government

Defines a democratic government in Cuba as one which, in addition to the requirements in section 205, (1) is the product of free and fair elections in which opposition parties had sufficient time to organize and were permitted full access to media; (2) is showing respect for basic civil liberties and human rights; (3) has established an independent judiciary; (4) is moving toward a market-oriented economic system based on the right to own and enjoy property; (5) is committed to making constitutional changes that would ensure regular free and fair elections; and (6) has returned to U.S. citizens, and entities which are 50 percent or more beneficially-owned by U.S. citizens, property taken by the Government of Cuba from such citizens and entities on or after January 1, 1959, or provides full compensation in accordance with international law standards.

TITLE III: PROTECTION OF AMERICAN PROPERTY RIGHTS ABROAD

Section 301. Exclusion from the United States of Aliens Who Have Confiscated Property Claimed by United States Persons

Denies entry into the United States to any alien (including a spouse or dependent of that person) who has confiscated, has directed, or has overseen the confiscation, of U.S. property abroad. This provision is applicable to corporate officers, principals, or shareholders of an entity that has been involved in the confiscation, purchase, or receipt of a confiscated property.

Section 302. Liability for Trafficking in Confiscated Property Claimed by United States Persons

(a) Holds any person or government which traffics in property confiscated by a foreign government liable for money damages to the U.S. claimant of the confiscated property. Treble damages are authorized in cases where the person or government trafficking in confiscated property has received notice of a U.S. person's claim of ownership. If property was confiscated before the date of enactment of this Act, no U.S. person may bring an action unless such person acquired ownership of the claim to the confiscated property before such date. If a property is confiscated on or after the date of enactment of this Act, the U.S. person who is the plaintiff must demonstrate to the court that the plaintiff has taken reasonable steps to exhaust all available local remedies.

(b) Gives Federal district courts exclusive jurisdiction over any actions brought under this section.

(c) Waives sovereign immunity for any actions brought under this section.

Section 303. Determination of Claims to Confiscated Property

(a) Provides that conclusive evidence of ownership by a U.S. person to confiscated property is established when the Foreign Claims Settlement Commission certifies the claim or when the claim has been determined valid by a court or administrative agency in the country in which the property was confiscated.

(b) Amends the International Claims Settlement Act to allow a U.S. national to bring a claim to the Commission for determination and certification of the amount and validity of a claim against the Cuban government of confiscation of property.

By Mr. DASCHLE (for himself, Mr. PRESSLER, Mr. CAMPBELL, Mr. SIMON, Mr. PELL, and Mr. DORGAN):

S. 382. A bill to establish a Wounded Knee National Tribal Park, and for other purposes; to the Committee on Indian Affairs.

THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

Mr. DASCHLE. Mr. President, today I am joining with my colleague from South Dakota, Senator PRESSLER, and Senators CAMPBELL, SIMON, PELL, and DORGAN to introduce legislation that would establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this effort is to acknowledge the armed struggle between the Plains Indians and the U.S. Army that culminated in the death of over 300 Lakota Sioux men, women, and children at Wounded Knee, SD, on December 29, 1890.

There is no question about the historical significance of the Wounded Knee tragedy. Wounded Knee not only signaled an end to a chapter in American history often referred to as the ''Indian Wars'' but it also marked a change in national policy that once forced Indian tribes to locate on smaller and smaller reservations.

History books show that on December 15, 1890, Federal agents, concerned about the potential ramifications of a spiritual movement among the Sioux Indians, attempted to arrest Chief Sitting Bull. When one of his followers shot at the agents, they returned gunfire, mortally wounding Sitting Bull.

Sitting Bull's half-brother, Chief Big Foot, took in Sitting Bull's followers. The band fled from the Bad Lands toward the Pine Ridge Indian Reservation. The U.S. Army intercepted the party and accepted an unconditional surrender from Chief Big Foot. The entire band was escorted to a military camp at Wounded Knee Creek.

At Wounded Knee, a single gunshot was fired. It is not known to this day whether the shot was fired by a member of the Sioux Tribe or the U.S. Army. What is known is that the gunshot led to a largely one-side volley of bullets leaving approximately 350 to 370 Sioux men, women, and children dead or wounded. The U.S. Army suffered 60 casualties, many of whom reportedly were hit by bullets fired by their comrades.

These are the tragic facts of what is known as the Wounded Knee Massacre. One hundred years later, in 1990, the 101st Congress passed Senate Concurrent Resolution 153, which acknowledged the carnage at Wounded Knee and expressed ''congressional support for the establishment of a suitable and appropriate memorial to those who were tragically slain at Wounded Knee.''

The bill we are introducing today gives substance to the sentiment expressed by the resolution.

Mr. President, considerable time and thought has been given to the Wounded Knee memorial project by descendants of the victims and survivors of the Wounded Knee tragedy, by the Oglala Sioux and the Cheyenne River Sioux tribal governments, and by Members of Congress, the State of South Dakota, and the Department of the Interior.

The effort to establish a memorial goes back even further than 1990. Since 1950, Wounded Knee has been studied six times by the National Park Service and has been identified as a prime candidate for addition to the National Park System. Since 1987, the Lakota Tribes of South Dakota have been working with the National Park Service to plan for the preservation of Wounded Knee.

In Congress, the Senate Indian Affairs Committee held hearings on proposals to establish a Wounded Knee Memorial and Historic Site on September 25, 1990 in Washington, and on April 30, 1991 at the Pine Ridge Indian Reservation in South Dakota.

In May 1991, at the request of the Lakota Sioux and with the support of the Secretary of the Interior, the National Park Service began to explore management alternatives for the Wounded Knee site. The process included strong public participation from the Oglala Sioux Tribe, the Cheyenne River Sioux Tribe, and the Wounded Knee Survivors Association.

Those hearings enabled all the parties involved to discover much common ground and strengthened our shared resolve to move forward with the establishment of the Wounded Knee National Tribal Park.

The step we are taking today is not an end, but a beginning.

Many issues remain to be addressed, including land acquisition for the Wounded Knee National Park, design of the memorial, and management of the National Tribal Park. I welcome debate on these and other matters, and look forward to participation in the debate.

By passing this legislation, we will clear the way for resolution of those issues. More important, we will preserve for future generations an important chapter from the text of America's past.

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. 382

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 ''Wounded Knee National Tribal Park Establishment Act of 1995''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in December of 1890, approximately 350 to 375 Sioux men, women, and children under the leadership of Chief Big Foot journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation at the invitation of Chief Red Cloud to help make peace between the non-Indians and Indians;

(2) the journey of Chief Big Foot and his band of Minneconjou Sioux occurred during the Ghost Dance Religion period when extreme hostility existed between Sioux Indians and non-Indians residing near the Sioux reservations, and the United States Army assumed control of the Sioux reservations;

(3) Chief Big Foot and his band were intercepted on the Pine Ridge Indian Reservation at Porcupine Butte by Major Whitside, surrendered unconditionally under a white flag of truce, and were escorted to Wounded Knee Creek, where Colonel Forsyth assumed command;

(4) on December 29, 1890, an incident occurred in which soldiers under the command of General Forsyth killed and wounded over 300 members of the band of Chief Big Foot, most all of whom were unarmed and entitled to protection of their rights to property, person, and life under Federal law;

(5) the 1890 Wounded Knee Massacre is a historically significant event because the event marks the last military encounter of the Indian wars period of the 19th century;

(6) in S. Con. Res. 153 (101st Cong., 2d Sess.), Congress apologized to the Sioux people for the 1890 Massacre;

(7)(A) paragraph (2) of such concurrent resolution provides that Congress ''expresses its support for the establishment of a suitable and appropriate Memorial to those who were so tragically slain at Wounded Knee which could inform the American public of the historic significance of the events at Wounded Knee and accurately portray the heroic and courageous campaign waged by the Sioux people to preserve and protect their lands and their way of life during this period''; and

(B) paragraph (3) of such concurrent resolution provides that Congress ''expresses its commitment to acknowledge and learn from our history, including the Wounded Knee Massacre, in order to provide a proper foundation for building an ever more humane, enlightened, and just society for the future'';

(8) the Wounded Knee Massacre site, and sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation, are nationally significant cultural and historic sites that must be protected through the designation of the sites as a national tribal park; and

(9) the Wounded Knee Massacre is a nationally significant event that must be memorialized by establishing suitable and appropriate memorials to the Indian victims of the Massacre, located on the Cheyenne River Indian Reservation and Pine Ridge Indian Reservation.

(b) PURPOSES.—The purposes of this Act are to—

(1) establish the Wounded Knee National Tribal Park consisting of—

(A) sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion located on the Cheyenne River Indian Reservation; and

(B) the 1890 Wounded Knee Massacre Site and sites relating to the Massacre and Ghost Dance Religion located on the Pine Ridge Indian Reservation;

(2) establish suitable and appropriate national monuments within both units of the Wounded Knee National Tribal Park to memorialize the Indian victims of the 1890 Wounded Knee Massacre; and

(3) authorize feasibility studies to—

(A) establish the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) COMMISSION.—The term ''Commission'' means the Wounded Knee National Tribal Park Advisory Commission established under section 8(a).

(2) NORTH UNIT.—The term ''North Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(A).

(3) PARK.—The term ''Park'' means the Wounded Knee National Tribal Park established under section 4.

(4) REAL PROPERTY.—For the purposes of this Act, the term ''real property'' includes lands, and all mineral rights, water rights, easements, permanent structures, and fixtures on such lands.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(6) SOUTH UNIT.—The term ''South Unit'' means the area of the Park comprised of the sites referred to in section 2(b)(1)(B).

SEC. 4. ESTABLISHMENT OF WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a national tribal park to be known as the ''Wounded Knee National Tribal Park'', as generally described in the third alternative of the report completed by the National Park Service entitled ''Draft Study of Alternatives, Environmental Assessment, Wounded Knee, South Dakota,'' and dated January 1993, and as more particularly described in this Act.

(2) AREA INCLUDED IN PARK.—The Wounded Knee National Tribal Park shall consist of—

(A) a North Unit that may include—

(i) such sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion, including the campsite of Chief Big Foot at Deep Creek, as the Cheyenne River Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such unit;

(ii) a cultural center and museum complex;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize Chief Big Foot and his band of Minneconjou Sioux; and

(B) a South Unit that may include—

(i) the 1890 Wounded Knee Massacre site, as generally described in the 1990 boundaries studies authorized by the National Park Service, and such other sites relating to the 1890 Wounded Knee Massacre and Ghost Dance Religion as the Oglala Sioux Tribe, in consultation with the Director of the National Park Service, considers necessary to include in such Unit;

(ii) a cultural center and museum complex at or near the Wounded Knee Massacre site;

(iii) projects described in section 9(b)(2); and

(iv) a suitable and appropriate national monument to memorialize the Sioux Indians involved in the 1890 Wounded Knee Massacre.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall enter into a cooperative agreement with each of the Cheyenne River Sioux Tribe with respect to the North Unity, and Oglala Sioux Tribe with respect to the South Unit to carry out planning, design, construction, operation, maintenance, and replacement activities, as appropriate, for the units.

(2) REQUIREMENTS FOR COOPERATIVE AGREEMENTS.—A cooperative agreement entered into under paragraph (1) shall set forth, in a manner acceptable to the Secretary—

(A)(i) the responsibilities of the parties referred to in paragraph (1) with respect to the North Unit and the South Unit; and

(ii) the manner in which contracts to carry out such activities will be administered;

(B) the procedures and requirements for the approval and acceptance of the design of, and construction of the North Unit and South Unit;

(C) such Federal management policies described in the publication entitled ''Management Policies, U.S. Department of the Interior, National Park Service, 1988'' as the Secretary considers necessary to qualify both units of the Park for affiliation;

(D) a general management plan for each unit of the Park that shall include plans—

(i) to protect and preserve the religious sanctity of the Wounded Knee Massacre site and other religious sites located within each unit;

(ii) to restore the Wounded Knee Massacre site, and other important historic sites located within the units, to the original condition of the sites at the time of the Massacre, including the removal of all buildings and structures that have no historical significance;

(iii) for the enactment of tribal zoning ordinances to protect areas surrounding each unit from commercial development and exploitation;

(iv) for the implementation of a continuing program of public involvement, interpretation, and visitor education concerning Lakota Sioux history and culture within each unit;

(v) to protect, interpret, and preserve important archaological and paleontological sites within each unit;

(vi) for visitor use facilities, and the training and employing of tribal members within each unit, as provided in subsection (e); and

(vii) to waive or require entrance fees at the Wounded Knee Massacre site; and

(E) the role and responsibilities of the Advisory Commission established under section 8(a) in relation to both units.

(c) TITLE.—

(1) PROPERTY ACQUIRED FOR THE NORTH UNIT.—Title to all real property acquired for the North Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Cheyenne River Sioux Tribe.

(2) PROPERTY ACQUIRED FOR THE SOUTH UNIT.—Title to all real property acquired in the South Unit of the Wounded Knee National Tribal Park shall be held in trust by the United States for the Oglala Sioux Tribe.

(d) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary may provide technical assistance to the Cheyenne River Sioux Tribe and Oglala Sioux Tribe for carrying out the activities described in subsection (b)(1).

(2) TRAINING.—In addition to providing the assistance described in paragraph (1), the Secretary may train and employ members of the tribes concerning the operation and maintenance of both units, including training in—

(A) the provision of public services, management of visitor use facilities, interpretation and visitor education on Sioux history and culture, and artifact curation at both units; and

(B) the interpretation, management, protection, and preservation of other historical and natural properties at both units.

(e) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT.—Except as otherwise provided in this Act, the activities described in subsection (b)(1) shall be subject to the Indian

Self-Determination Act (25 U.S.C. 450f et seq.).

SEC. 5. ACQUISITION OF LANDS FOR WOUNDED KNEE NATIONAL TRIBAL PARK.

(a) IN GENERAL.—The Cheyenne River Sioux Tribe and Oglala Sioux Tribe may acquire by purchase from a willing seller, by gift or devise, by exchange, or in other manner—

(1) surface and subsurface rights to any tract of fee-patented or trust land; or

(2) easements that cover such lands,

that those tribes, in consultation with the Secretary, consider necessary for inclusion in the North Unit or the South Unit of the Wounded Knee National Tribal Park.

(b) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe to acquire land and any interest in land or other real property that is necessary for a unit of the Park.

SEC. 6. MANAGEMENT.

(a) MANAGEMENT OF NORTH UNIT.—

(1) IN GENERAL.—The Cheyenne River Sioux Tribe, or a designated agency or authority of that tribe, shall operate, maintain, and manage the North Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Cheyenne River Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Cheyenne River Sioux Tribe shall have no jurisdiction or authority over the South Unit.

(b) MANAGEMENT OF SOUTH UNIT.—

(1) IN GENERAL.—The Oglala Sioux Tribe, or a designated agency or authority of such tribe, shall operate, maintain, and manage the South Unit pursuant to the terms and conditions contained in a cooperative agreement between the Secretary and the Oglala Sioux Tribe entered into by the Secretary and the tribe pursuant to section 4(b).

(2) EXCLUSION.—The Oglala Sioux Tribe shall have no jurisdiction or authority over the North Unit.

SEC. 7. PLANNING AND DESIGN OF NATIONAL MONUMENTS; FEASIBILITY STUDIES.

(a) MONUMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the national monuments on the North Unit and South Unit authorized by subparagraphs (A)(iv) and (B)(iv) of section 4(a)(2) shall be planned, designed, and constructed by the Secretary, after consultation with an advisory committee that the Secretary shall appoint in consultation with—

(A) the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation;

(B) the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation; and

(C) direct descendants of the band of Minneconjou Sioux of Chief Big Foot.

(2) AUTHORITY OF THE CHEYENNE RIVER SIOUX TRIBAL COUNCIL AND THE OGLALA SIOUX TRIBAL COUNCIL.—(A) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have no authority to plan and design the monuments referred to in paragraph (1).

(B) The Cheyenne River Sioux Tribal Council and the Oglala Sioux Tribal Council shall have the authority to enter into contracts for the construction, operation, maintenance, and replacement of the monuments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

(b) FEASIBILITY STUDIES.—

(1) IN GENERAL.—The Secretary shall complete feasibility studies to—

(A) establish and mark the route taken by Chief Big Foot and his band from the Cheyenne River Indian Reservation to Wounded Knee as a national historic trail; and

(B) establish a visitor information and orientation center on the Cheyenne River Indian Reservation.

(2) REPORT.—Not later than 1 year after funds are initially made available to the Secretary for a feasibility study conducted under this subsection, the Secretary shall complete the study and submit a report that contains the findings of the study to Congress.

SEC. 8. WOUNDED KNEE NATIONAL TRIBAL PARK ADVISORY COMMISSION.

(a) IN GENERAL.—There is established within the Department of the Interior the Wounded Knee National Tribal Park Advisory Commission. The Commission shall advise regularly the Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either tribe, concerning the management and administration of the North Unit and South Unit.

(b) ROLE AND RESPONSIBILITIES.—The role and responsibilities of the Commission shall be defined in the cooperative agreements that the Secretary shall enter into with the Cheyenne Sioux Tribe and Oglala Sioux Tribe under section 4(b). The Cheyenne River Sioux Tribe and Oglala Sioux Tribe, or any designated agency or authority of either such tribe, shall consult with the Commission not less frequently than 4 times each year.

(c) PERIOD OF OPERATION.—The Commission shall exist for such time as either the North Unit or the South Unit is in existence.

(d) MEMBERSHIP.—The Secretary shall appoint 17 members of the Commission. In addition, the Director of the National Park Service or a designee of the Director shall serve as an ex-officio member of the Commission. The Secretary shall appoint the members of the Commission after consulting with, and soliciting a recommendation from each of the following:

(1) The Chairman of the Cheyenne River Sioux Tribe.

(2) The President of the Oglala Sioux Tribe.

(3) The Chairman of the Wounded Knee Community Council on the Pine Ridge Indian Reservation.

(4) The Chairman of the Wounded Knee Subcommunity Council on the Pine Ridge Indian Reservation.

(5) The Chairman of the White Clay Community Council on the Pine Ridge Indian Reservation.

(6) The Chairman of District No. 3 on the Cheyenne River Indian Reservation.

(7) The Chairman of Red Scaffold Community on the Cheyenne River Indian Reservation.

(8) The Chairman of Cherry Creek Community on the Cheyenne River Reservation.

(9) The Chairman of Bridger Community on the Cheyenne River Reservation.

(10) The Chairman of the Board of Directors of the Oglala Sioux Parks and Recreation Authority.

(11) The President of the Wounded Knee Survivors Association of the Cheyenne River Indian Reservation.

(12) The President of the Wounded Knee Survivors Association of the Pine Ridge Indian Reservation.

(13) The Secretary of the Smithsonian Institution.

(14)(i) The Governor of the State of South Dakota and the historic preservation officer of such State.

(ii) The Governor of the State of Nebraska and the historic preservation officer of such State.

(e) CHAIR.—The offices of Chairman and Vice Chairman of the Commission shall be rotated between the Chairman of the Cheyenne River Sioux Tribe (or a designated representative of the Chairman) and the President of the Oglala Sioux Tribe (or a designated representative of the President) on a year-to-year basis. If both the Chairman and Vice Chairman are absent from any meeting, the members of the Commission who are present at the meeting shall select a member who is present to serve in the place of the Chairman for the meeting.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members. In a manner consistent with the public meeting requirements of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall from time to time meet with persons concerned with Park issues relating to the North Unit or South Unit. The Commission shall record all minutes and resolutions of the Commission and make such records available to the public upon request.

(g) ADMINISTRATIVE DIRECTOR.—

(1) IN GENERAL.—The Secretary, in consultation with the Commission, shall employ an Administrative Director for the Commission and define the duties of the Administrative Director. The Administrative Director shall be paid at a rate not to exceed the annual rate of basic pay payable for grade GS–12 of the General Schedule under subchapter IV of chapter 53 of title 5, United States Code, without regard to—

(A) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) the provisions of chapter 51, and subchapter III of chapter 52 of that title relating to classification and General Schedule pay rates.

(2) OFFICE.—The office and staff of the Administrative Director shall be located at such location as the Secretary considers appropriate.

(h) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a nonreimbursable basis, such administrative support services as the Commission, in consultation with the Secretary, may request.

(i) EXPENSES.—Members of the Commission who are not otherwise employed by the Federal Government, while away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(j) APPLICABILITY OF FEDERAL ADVISORY ACT.—Except with respect to any requirement for reissuance of a charter, and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission established under this Act.

SEC. 9. FUNDRAISER AGREEMENTS WITH NONPROFIT CORPORATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, may, with the approval of the Secretary, enter into an agreement with a nonprofit corporation to raise funds from private sources to be used in lieu of, or supplement, any Federal funds made available by appropriations pursuant to the authorization under section 11.

(b) NEW PROJECTS.—The Cheyenne River Sioux Tribe and the Oglala Sioux Tribe, or a designated agency or authority of either tribe, shall have the power and authority to enter into a separate agreement with a nonprofit corporation to—

(1) raise funds from private sources to pay for all obligations, costs, and fees for professional services contracted, incurred, or assumed by the tribe, or a designated agency or authority of the tribe, that are related, directly or indirectly, to the development or establishment of the Park; and

(2) raise funds from private sources to plan, design, construct, operate, maintain, and replace—

(A) an international amphitheater dedicated to the Indigenous Peoples of the Americas to be located at or near the Wounded Knee Massacre site, which, if constructed, shall become the permanent home of the Francis Jansen sculpture; and

(B) any other project that the Cheyenne River Sioux Tribe or the Oglala Sioux Tribe may, in consultation with the Secretary, choose to include within the North Unit or South Unit.

SEC. 10. DUTIES OF OTHER FEDERAL ENTITIES.

The appropriate official of any Federal entity that conducts or supports activities that directly affect the Park shall consult with the Secretary and the Cheyenne River Sioux Tribe and the Oglala Sioux Tribe with respect to such activities to minimize any adverse effects on the Park.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

SEC. 12. RULE OF STATUTORY CONSTRUCTION.

Nothing contained in this Act is intended to abrogate, modify, or impair any rights or claims of the Cheyenne River Sioux Tribe or Oglala Sioux Tribe, that are based on any treaty, Executive order, agreement, Act of Congress, or other legal basis.

Mr. PRESSLER. Mr. President, I am pleased to join my colleague from South Dakota, Senator DASCHLE, as well as Senators CAMPBELL, SIMON, PELL, and DORGAN in introducing legislation to establish the Wounded Knee National Tribal Park in the State of South Dakota. The purpose of our legislation is to acknowledge, preserve and protect the historically significant sites of the Wounded Knee tragedy of 1890. National recognition of this area is long overdue.

The legislation we are introducing today is the product of our cumulative efforts over the past several sessions of Congress to properly recognize the Wounded Knee tragedy. Indeed, Wounded Knee has been the subject of Senate consideration for a number of years. Let me highlight some of this activity:

During the 101st Congress, the Senate Select Committee on Indian Affairs held hearings to discuss the historical significance of Wounded Knee. Also during the 101st Congress, the Senate adopted Senate Concurrent Resolution 153, recognizing the 100th anniversary of the Wounded Knee Massacre. This resolution, which I cosponsored, also expressed support for the establishment of a suitable and appropriate memorial to those who were slain at Wounded Knee in 1890.

Late in the 102d Congress and again in the 103d Congress, Senator DASCHLE and I introduced legislation (S. 3213 and S. 278) to establish the Chief Big Foot National Memorial Park and the Wounded Knee National Memorial.

During the 103d Congress, the Senate Energy Committee's Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 278 (July 29, 1993).

In addition to this congressional activity, the National Park Service has studied the historical significance of Wounded Knee six times since 1950. The Park Service consistently has reaffirmed it as a nationally significant area. In fact, our bill is in part based on one of the proposed alternatives mentioned in a January 1993 NPS report on Wounded Knee.

Mr. President, I hope the Senate will agree during this 104th Congress to ensure the protection and preservation of the historical sites at the Wounded Knee tragedy. I look forward to working with my colleagues, members of the Cheyenne River and Oglala Sioux Tribes, the Governor of South Dakota, the National Park Service, and other organizations to move this legislation forward. Above all, we must ensure this legislation is implemented with proper consultation with the Indian communities. It is imperative that Indian perspectives be included in developing the memorials' interpretive sites.

Enactment of our legislation will promote a greater understanding of the events associated with the Wounded Knee tragedy. In addition, appreciation of Indian culture, heritage, and history will be enhanced through establishment of these memorials.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on social security benefits.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 191

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 191, a bill to amend the Endangered Species Act of 1973 to ensure that constitutionally protected private property rights are not infringed until adequate protection is afforded by reauthorization of the Act, to protect against economic losses from critical habitat designation, and for other purposes.

S. 219

At the request of Mr. NICKLES, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 219, a bill to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

S. 307

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 307, a bill to require the Secretary of the Treasury to design and issue new counterfeit-resistant $100 currency.

S. 324

At the request of Mr. WARNER, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 327

At the request of Mr. HATCH, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 348

At the request of Mr. NICKLES, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 348, a bill to provide for a review by the Congress of rules promulgated by agencies, and for other purposes.

SENATE JOINT RESOLUTION 17

At the request of Mr. KEMPTHORNE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of Senate Joint Resolution 17, A joint resolution naming the CVN-76 aircraft carrier as the U.S.S. *Ronald Reagan*.

SENATE CONCURRENT RESOLUTION 3

At the request of Mr. SIMON, the names of the Senator from Minnesota [Mr. GRAMS], the Senator from Texas [Mr. GRAMM], the Senator from Ohio [Mr. DEWINE], the Senator from Virginia [Mr. ROBB], the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from Indiana [Mr. COATS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Idaho [Mr. KEMPTHORNE], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of Senate Concurrent Resolution 3, A concurrent resolution relative to Taiwan and the United Nations.

AMENDMENT NO. 236

At the request of Mr. BRYAN his name was added as a cosponsor of Amendment No. 236 proposed to House Joint Resolution 1, a joint resolution proposing a balanced budget amendment to the Constitution of the United States.

AMENDMENTS SUBMITTED

BALANCED BUDGET AMENDMENT

DOLE AMENDMENT NO. 237

Mr. DOLE proposed an amendment to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

In lieu of the instructions, and after the words ''Budget Committee'' on page 1, lines 1 and 2, insert: ''that for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee shall report back forthwith H.J. Res. 1 in status quo, and at the earliest date practicable they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

DOLE AMENDMENT NO. 238

Mr. DOLE proposed an amendment to amendment No. 237, proposed by him, to the instructions to refer House Joint Resolution 1 to the Committee on the Budget; as follows:

Strike all after the first word and insert the following: '', for the purpose of any constitutional amendment requiring a balanced budget, the Budget Committee of the Senate shall report forthwith H.J. Res. 1 in status quo and at the earliest date practicable after February 8, 1995, they shall report to the Senate how to achieve a balanced budget without increasing the receipts or reducing the disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund to achieve that goal.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 9:30 a.m. on Thursday, February 9, 1995, in open session, to receive testimony on the Defense authorization request for fiscal year 1996 and the future years Defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, February 9, 1995, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of the hearing is to receive testimony on the President's fiscal year 1996 budget for the Department of Energy and the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BURNS. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet Thursday, February 9, 1995, beginning at 9:30 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing on individual retirement accounts, 401K plans, and other savings proposals.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, February 9, 1995, beginning at 10 a.m., in room G–50 of the Dirksen Senate Office Building on challenges facing Indian youth.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, February 9, 1995, to consider Senate Joint Resolution 19 and Senate Joint Resolution 21, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BURNS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on employee involvement and worker management cooperation, during the session of the Senate on Thursday, February 9, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RULES OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mrs. KASSEBAUM. Mr. President, the rules of the Senate Committee on Labor and Human Resources were approved in an executive session held on January 18, 1995. Pursuant to rule XXVI, section 2, of the Standing Rules of the Senate, I submit the rules of the committee for publication in the RECORD.

The rules follow:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

(Nancy Landon Kassebaum, Chairman)

RULES OF PROCEDURE (AS AGREED TO)

Rule 1.—Subject to the provisions of rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD–430, Dirksen Senate Office Building. The chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The chairman of the committee or of a subcommittee, or if the chairman is not present, the ranking majority member present, shall preside at all meetings.

Rule 3.—Meetings of the committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate.

Rule 4.—Subject to paragraph (b), one-third of the membership of the committee, actually present, shall constitute a quorum for the purpose of trnasacting business. Any quorum of the committee which is composed of less than a majority of the members of the committee shall include at least one member of the majority and one member of the minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a minority member, the measure or matter shall lay over for a day. If the presence of a member of the minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the committee or a subcommittee unless a majority of the committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the chairman of the committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The committee may poll any matters of committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forgo such a record. Such records shall contain the vote cast by each member of the committee or subcommittee on any question on which a ''yea and nay'' vote is demanded, and shall be available for inspection by any committee member. The clerk of the committee, or the clerk's designee, shall have the responsibility to make appropriate arrangements to implement this rule.

Rule 8.—The committee and each subcommittee shall undertake, consistent with the provisions of rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the chairman and the ranking minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief

summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the committee or a subcommittee. The committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full committee on any measure within a reasonable time, the chairman may withdraw the measure from such subcommittee and report that fact to the full committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of rule 26.5 of the Standing Rules of the Senate, no person other than members of the committee, members of the staff of the committee, and designated assistants to members of the committee shall be permitted to attend such closed session, except by special dispensation of the committee or subcommittee or the chairman thereof.

Rule 14.—The chairman of the committee or a subcommittee shall be empowered to adjourn any meeting of the committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the committee or a subcommittee for final consideration, the clerk shall place before each member of the committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the minority to examine the proposed text of committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the majority to examine the proposed text prior to filing or publication.

Rule 17.—(a) The committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the committee.

(b) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the committee or subcommittee shall constitute a quorum: provided, with the concurrence of the chairman and ranking minority member of the committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(c) The committee may, by a majority vote, delegate the authority to issue subpoenas to the chairman of the committee or a subcommittee, or to any member designated by such chairman. Prior to the issuance of each subpoena, the ranking minority member of the committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the chairman of the committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the committee requesting same, or to any assistant to a member of the committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the chairman of the committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(d) Any witness summoned to testify at a hearing or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the committee which shall be sworn to as to its completeness and accuracy. The committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and

(II) information relating to financial and other background of the nominee, to be made public when the committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (part II) shall not be required of any nominee when the committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the committee with respect to procedure, the rules of the committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

[Excerpts from the Standing Rules of the Senate]

RULE XXV—STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

* * * * *

(m)(l) Committee on Labor and Human Resources, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Measures relating to education, labor, health, and public welfare.
2. Aging.
3. Agricultural colleges.
4. Arts and humanities.
5. Biomedical research and development.
6. Child labor.
7. Convict labor and the entry of goods made by convicts into interstate commerce.
8. Domestic activities of the American National Red Cross.
9. Equal employment opportunity.
10. Gallaudet College, Howard University, and Saint Elizabeths Hospital.
11. Handicapped individuals.
12. Labor standards and labor statistics.
13. Mediation and arbitration of labor disputes.
14. Occupational safety and health, including the welfare of miners.
15, Private pension plans.
16. Public health.
17. Railway labor and retirement.
18. Regulation of foreign laborers.
19. Student loans.
20. Wages and hours of labor.

(2) Such committee shall also study and review, on a comprehensive basis, matters, relating to health, education and training, and public welfare, and report thereon from time to time.

RULE XXVI—COMMITTEE PROCEDURE

Each[1] standing committee, including any subcommittee of any such committee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate, to require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to take such testimony and to make such expenditures out of the contingent fund of the Senate as may be authorized by resolutions of the Senate. Each such committee may make investigations into any matter within its jurisdiction, may report such hearings as may be had by it, and may employ stenographic assistance at a cost not exceeding the amount prescribed by the Committee on Rules and Administration.[2] The expenses of the committee shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

* * * * *

5. (a) Notwithstanding any other provision of rules, when the Senate is in session, no

[1] As amended S. Res. 281, 96–2, Mar. 11, 1960 (effective Feb. 28, 1961).

[2] Pursuant to section 68c of title 2, United States Code, the Committee on Rules and Administration issues Regulations Governing Rates Payable to Commercial Reporting Farms for Reporting Committee Hearings in the Senate. Copies of the regulations currently in effect may be obtained from the Committee.

committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the majority leader and the minority leader (or in the event of the absence of either of such leaders, from his designee). The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget. The majority leader or his designee shall announce to the Senate whenever consent has been given under this subparagraph and shall state the time and place of such meeting. The right to make such announcement of consent shall have the same priority as the filing of a cloture motion.

(b) Each meeting of a committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the member of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance of any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

(e) Each committee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting or conference whether or not such meeting or any part thereof is closed under this paragraph, unless a majority of its members vote to forgo such a record.

* * * * *

GUIDELINES OF THE SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES WITH RESPECT TO HEARINGS, MARKUP SESSIONS, AND RELATED MATTERS

HEARINGS

Section 133A(a) of the Legislative Reorganization Act requires each committee of the Senate to publicly announced the date, place, and subject matter of any hearing at least one week prior to the commencement of such hearing.

The spirit of this requirement is to assure adequate notice to the public and other Members of the Senate as to the time and subject matter of proposed hearings. In the spirit of section 133A(a) and in order to assure that members of the committee are themselves fully informed and involved in the development of hearings:

1. Public notice of the date, place, and subject matter of each committee or subcommittee hearing should be inserted in the Congressional Record seven days prior to the commencement of such hearing.

2. Seven days prior to public notice of each committee or subcommittee hearing, the committee or subcommittee should provide written notice to each member of the committee of the time, place, and specific subject matter of such hearing, accompanied by a list of those witnesses who have been or are proposed to be invited to appear.

3. The committee and its subcommittee should, to the maximum feasible extent, enforce the provisions of rule 9 of the committee rules as it relates to the submission of written statements of witnesses twenty-four hours in advance of a hearing. When statements are received in advance of a hearing, the committee or subcommittee (as appropriate) should distribute copies of such statements to each of its members.

EXECUTIVE SESSIONS FOR THE PURPOSE OF MARKING UP BILLS

In order to expedite the process of marking up bills and to assist each member of the committee so that there may be full and fair consideration of each bill which the committee or a subcommittee is marking up the following procedures should be followed:

1. Seven days prior to the proposed data for an executive session for the purpose of marking up bills the committee or subcommittee (as appropriate) should provide written notice to each of its members as to the time, place, and specific subject matter of such session, including an agenda listing each bill or other matters to be considered and including:

(a) two copies of each bill, joint resolution, or other legislative matter (or committee print thereof) to be considered at such executive session; and

(b) two copies of a summary of the provisions of each bill, joint resolution, or other legislative matter to be considered at such executive session; and

2. Three days prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or subcommittee (as appropriate) should deliver to each of its members two copies of a cordon print or an equivalent explanation of changes of existing law proposed to be made by each bill, joint resolution, or other legislative matter to be considered at such executive session.

3. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, each member of the committee or a subcommittee (as appropriate) should provide to all other such members two written copies of any amendment or a description of any amendment which that member proposes to offer to each bill, joint resolution, or other legislative matter to be considered at such executive session.

4. Insofar as practical, prior to the scheduled date for an executive session for the purpose of marking up bills, the committee or a subcommittee (as appropriate) should provide each member with a copy of the printed record or a summary of any hearings conducted by the committee or a subcommittee with respect to each bill, joint resolution, or other legislative matter to be considered at such executive session.

COMMITTEE REPORTS, PUBLICATIONS, AND RELATED DOCUMENTS

Rule 16 of the committee rules requires that the minority be given an opportunity to examine the proposed text of committee reports prior to their filing and that the majority be given an opportunity to examine the proposed text of supplemental, minority, or additional views prior to their filing. The views of all members of the committee should be taken fully and fairly into account with respect to all official documents filed or published by the committee. Thus, consistent with the spirit of rule 16, the proposed text of each committee report, hearing record, and other related committee document or publication should be provided to the chairman and ranking minority member of the committee and the chairman and ranking minority member of the appropriate subcommittee at least forty-eight hours prior to its filing or publication.●

IT'S DRUGS, STUPID

● Mr. SIMON. Mr. President, one of the finest public servants in my years in Congress was Joseph Califano, who headed what was then known as Health, Education and Welfare for President Carter. He wrote a story in the Sunday New York Times on the drug problem that makes eminent good sense.

Recently, the Chicago Sun-Times had a front-page story saying that 95 percent of those who apply for drug treatment are being turned down. I visited Cook County jail with 9,000 inmates. In a minimum security barracks, with about 45 men sleeping on cots, one of the prisoners told me he wanted to get into drug treatment. I turned to the assistant warden who was with me and asked why he could not get in, and the warden said they had only 120 spots for drug treatment for 9,000 prisoners. I turned to the rest of the men and asked how many of them would like to get into drug treatment and about 30 raised their hands.

Our failure to provide drug treatment for people who need it is short-sighted. We demagog on the crime issue and pretend we are really doing something when we create 60 new causes for capital punishment and set more mandatory minmums. The reality is, we are

doing nothing through those things to reduce the crime rate.

Senator KENNEDY uses the figure that 75 percent of those who do receive drug treatment while in prison do not come back, and 75 percent of those who do not, do come back. I don't know if those statistics are precisely accurate, but the general principle is clearly accurate. I am grateful to Joe Califano for providing sensible leadership once more.

At this point, I ask that his statement be printed in the RECORD.

The statement follows:

[From the New York Times, Jan. 29, 1995]

IT'S DRUGS, STUPID

(By Joseph Califano)

Despite all the Republican preening and Democratic pouting since Nov. 8, neither political party gets it. If Speaker Newt Gingrich is serious about delivering results from his party's ''Contract With America'' and if President clinton means to revive his Presidency, each can start by recognizing how fundamentally drugs have changed society's problems and that together they can transform Government's response.

For 30 years, America has tried to curb crime with more judges, tougher punishments and bigger prisons. We have tried to rein in health costs by manipulating payments to doctors and hospitals. We've fought poverty with welfare systems that offer little incentive to work. All the while, we have undermined these efforts with our personal and national denial about the sinister dimension drug abuse and addition have added to our society. If Gingrich and Clinton want to prove to us that they can make a difference in what really ails America, they should ''get real'' about how drugs have recast three of the nation's biggest challenges.

Law, Order and Justice—In 1960 there were fewer than 30,000 arrests for drug offenses; in 30 years, that number soared beyond one million. Since 1989, more individuals have been incarcerated for drug offenses than for all violent crimes—and most violent crimes are committed by drug (including alcohol) abusers.

Probation and parole are sick jokes in most cities. As essential first steps to rehabilitation, many parolees need drug treatment and after-care, which means far more monitoring than their drug-free predecessors of a generation ago required, not less. Yet in Los Angeles, for example, probation officers are expected to handle as many as 1,000 cases at a time. With most offenders committing drug- or alcohol-related crimes, it's no wonder so many parolees go right back to jail: 80 percent of prisoners have prior convictions and more than 60 percent have served time before.

Congress and state legislatures keep passing laws more relevant to the celluloid gangsters and inmates of classic 1930's movies than 1990's reality. Today's prisons are wall to wall with drug dealers, addicts, alcohol abusers and the mentally ill (often related to drug abuse). The prison population shot past a million in 1994 and is likely to double soon after the year 2000. Among industrialized nations, the United States is second only to Russia in the number of its citizens it imprisons: 519 per 100,000, compared with 368 for next-place South Africa, 116 for Canada and 36 for Japan.

Judges and prosecutors are demoralized as they juggle caseloads of more than twice the recommended maximum. In 1991 eight states had to close their civil jury trial systems for all or part of the year to comply with speedy trial requirements of criminal cases involving drug abusers. Even where civil courts remain open, the rush of drug-related cases has created intolerable delays—4 years in Newark, 5 in Philadelphia and up to 10 in Cook County, Ill. In our impersonal, bureaucratic world, if society keeps denying citizens timely, individual hearings for their grievances, they may blow off angry steam in destructive ways.

Health Care Cost Containment.—Emergency rooms from Boston to Baton Rouge are piled high with the debris of drug use on city streets—victims of gunshot wounds, drug-promoted child and spouse abuse, and drug-related medical conditions like cardiac complications and sexually transmitted diseases. AIDS and tuberculosis have spread rapidly in large part because of drug use. Beyond dirty needles, studies show that teenagers high on pot, alcohol or other drugs are far more likely to have sex, and to have it without a condom.

Each year drugs and alcohol trigger up to $75 billion in health care costs. The cruelest impact afflicts the half-million newborns exposed to drugs during pregnancy. Crack babies, a rarity a decade ago, crowd $2,000-a-day neonatal wards. Many die. It can cost $1 million to bring each survivor to adulthood.

Even where prenatal care is available—as it is for most Medicaid beneficiaries—women on drugs tend not to take advantage of it. And as for drug treatment, only a relatively small percentage of drug-abusing pregnant mothers seek it, and they must often wait in line for scarce slots. Pregnant mothers' failure to seek prenatal care and stop abusing drugs accounts for much of the almost $3 billion that Medicaid spent in 1994 on impatient hospital care related to drug use.

The Fight Against Poverty.—Drugs have changed the nature of poverty. Nowhere is this more glaring than in the welfare systems and the persistent problem of teen-age pregnancy.

Speaker Gingrich and President Clinton are hell-bent to put welfare mothers to work. But all the financial lures and prods and all the job training in the world will do precious little to make employable the hundreds of thousands of welfare recipients who are addicts and abusers.

For too long, reformers have had their heads in the sand about this unpleasant reality. Liberals fear that admitting the extent of alcohol and drug abuse among welfare recipients will incite even more punitive reactions than those now fashionable. Conservatives don't want to face up to the cost of drug treatment. This political denial assures failure of any effort to put these welfare recipients to work.

The future is not legalization. Legalizing drug use would write off millions of minority Americans, especially children and drug-exposed babies, whose communities are most under siege by drugs. It has not worked in any nation where it's been tried, and our own experience with alcohol and cigarettes shows how unlikely we are to keep legalized drugs away from children.

Drugs are the greatest threat to family stability, decent housing, public schools and even minimal social amenities in urban ghettos. Contrary to the claim of pot proponents, marijuana is dangerous. It devastates short-term memory and the ability to concentrate precisely when our children need them most—when they are in school. And a child 12 to 17 years old who smokes pot is 85 times as likely to use cocaine as a child who does not. Cocaine is much more addictive than alcohol, which has already hooked more than 18 million Americans. Dr. Herbert D. Kleber, a top drug expert, estimates that legalizing cocaine would give us at least 20 million addicts, more than 10 times the number today.

It's especially reckless to promote legalization when we have not committed research funds and energies to addiction prevention and treatment on a scale commensurate with the epidemic. The National Institutes of Health spend some $4 billion for research on cancer, cardiovascular disease and AIDS, but less than 15 percent of that amount for research on substance abuse and addiction, the largest single cause and exacerbator of those diseases.

Treatment varies widely, from inpatient to outpatient, from quick-fix acupuncture to residential programs ranging a few weeks to more than a year, from methadone dependence to drug-free therapeutic communities. Fewer than 25 percent of the individuals who need drug or alcohol treatment enter a program. On average, a quarter complete treatment; half of them are drug- or alcohol-free a year later. In other words, with wide variations depending on individual circumstances, those entering programs have a one-in-eight chance of being free of drugs or alcohol a year later. Those odds beat many for long-shot cancer chemotherapies, and research should significantly improve them. But a recent study in California found that even at current rates of success, $1 invested in treatment saves $7 in crime, health care and welfare costs.

Here are a few suggestions for immediate action to attack the dimension drugs have added to these three problems:

Grant Federal funds to state and Federal prison systems only if they provide drug and alcohol treatment and after-care for all inmates who need it.

Instead of across-the-board mandatory sentences, keep inmates with drug and alcohol problems in jails, boot camps or halfway houses until they experience a year of sobriety after treatment.

Require drug and alcohol addicts to go regularly to treatment and after-care programs like Alcoholics Anonymous while on parole or probation.

Provide Federal funds for police only to cities that enforce drug laws throughout their jurisdiction. End the acceptance of drug bazaars in Harlem and southeast Washington that would not be tolerated on Manhattan's Upper East Side or in Georgetown.

Encourage judges with lots of drug cases to employ public health professionals, just as they hire economists to assist with antitrust cases.

Cut off welfare payments to drug addicts and alcoholics who refuse to seek treatment and pursue after-care. As employers and health professionals know, addicts need lots of carrots and sticks, including the treat of loss of job and income, to get the monkey off their back.

Put children of drug- or alcohol-addicted welfare mothers who refuse treatment into foster care or orphanages. Speaker Gingrich and First Lady Hillary Rodham Clinton have done the nation a disservice by playing all-or-nothing politics with this issue. The compassionate and cost-effective middle ground is to identify those parents who abuse their children by their own drug and alcohol abuse and place those children in decent orphanages and foster care until the parents shape up.

Subject inmates, parolees and welfare recipients with a history of substance abuse to random drug tests, and fund the treatment they need. Liberals must recognize that getting off drugs is the only chance these individuals (and their babies) have to enjoy their civil rights. Conservatives who preach an end to criminal recidivism and welfare dependency must recognize that reincarceration and removal from the welfare rolls for those who test positive is a cruel Catch-22 unless treatment is available.

Fortunately, the new Congress and the new Clinton are certain not to legalize drugs. Unfortunately, it is less clear whether they will recognize the nasty new stain of intractability that drugs have added to crime, health costs and welfare dependency, and go on to tap the potential of research, prevention and treatment to save billions of dollars and millions of lives.

If a mainstream disease like diabetes or cancer affected as many individuals and families as drug and alcohol abuse and addiction do, this nation would mount an effort on the scale of the Manhattan Project to deal with it.●

AMERICA'S GOLD-STAR MOM: ROSE

● Mr. SIMON. Mr. President, I am asking that a column written by Steve Neal, in tribute to the mother of our colleague, EDWARD KENNEDY, be placed into the RECORD.

It is a great tribute to Mrs. Kennedy.

I did not have the privilege of knowing her well, but I wish I had.

In addition to what is said in the Steve Neal column, I believe it is not an exaggeration to say that no mother has contributed as much to the Nation in our 206 year history as Rose Kennedy.

Her life was a story of tragedy and triumph and a brilliant spirit, despite all the tragedies. The remarkable contributions that TED KENNEDY makes to this body and to the Nation are one of many tributes to Rose Kennedy.

At this point, I ask that the Steven Neal column be printed in the RECORD.

The column follows:

[From the Sun-Times, Jan. 24, 1995]

AMERICA'S GOLD-STAR MOM: ROSE

(By Steve Neal)

Rose Fitzgerald Kennedy had style. She spoke on her son's behalf at a Veterans of Foreign Wars hall in Brighton. Mass. It was John F. Kennedy's first campaign. He was running for Congress in 1946. Mrs. Kennedy, who had lost her eldest son Joseph in World War II and had nearly lost another, didn't talk about her family's tragedy. She dazzled the crowd with her wit. As the daughter of a former Boston mayor, Rose Kennedy was a political natural. When she finished her talk at the VFW hall. Mrs. Kennedy got a rousing ovation. Then she introduced the young JFK.

Dave Powers, JFK's war buddy, recalled that Kennedy was ''slightly over-whelmed that his mother could talk that well to an audience.'' As Mrs. Kennedy made her exit, her son stopped her and said, ''Mother, they really love you.''

So did the world.

Rose Elizabeth Fitzgerald Kennedy, who died Sunday at 104, was America's gold-star mother and one of the more extraordinary women of the 20th century. She taught JFK how to give a political speech and how to work a crowd. He couldn't have had a better teacher.

Three of her sons were elected to the U.S. Senate and her son John won the presidency of the United States. She took pride in their accomplishments.

''As Jack's mother, I am confident that Jack will win because his father says so, and through the years I have seen his predictions and judgments vindicated almost without exception,'' Mrs. Kennedy wrote in her diary in June, 1960. ''And so, I believe it. He also says, and has said all along, that if Jack gets the nomination he can beat Nixon.''

Mrs. Kennedy had a long memory. ''We are all furious at Governor [Pat] Brown of California and Governor [David] Lawrence of Pennsylvania because they will not come out for Jack now. Their support would clinch the nomination for him. Joe has worked on Lawrence all winter but he still can't believe a Catholic can be elected.''

Mrs. Kennedy wrote of JFK's first debate: ''I watched Jack last night on the debate, praying through every sentence, as I had prayed during the day. He looked more assured than Nixon and looked better physically. Jack seemed to have the initiative and once or twice rose to inspiring heights of oratory.'' But she noted that he could improve: ''People think that Jack speaks too fast. I agree and have already told him.''

Four of her children had tragic deaths. She said that the wounds of those tragedies never healed. But her courage and faith kept her going. ''One of the best ways to assuage grief is to find a way to turn some part of the loss to a positive, affirmative use for the benefit of other people,'' Mrs. Kennedy wrote in her memoirs. ''I do believe that God blesses us for that and the burden is lightened.''●

ANGUISH IN RWANDA

● Mr. SIMON. Mr. President, recently, the Washington Post had an interesting editorial titled, ''Anguish in Rwanda.''

It speaks of the need for the United Nations to have a few troops, to give some stability to a nation that is teetering on the edge of instability. Perhaps even that is a too favorable description of the situation.

I introduced legislation in the last session, which I will be reintroducing this session, to authorize the United States to have up to 3,000 troops that would be available to the United Nations for their efforts, subject to the approval of the President of the United States. We should call on other nations to do the same.

The great threat to U.S. security and the security of other nations today is instability. By having a small force, a group of volunteers from within our Armed Forces available, we could do much to provide stability in places like Rwanda.

I ask that the Post editorial be printed in the RECORD.

The editorial follows:

[From the Washington Post, Jan. 25, 1995]

ANGUISH IN RWANDA

To protect a million-plus Rwandan refugees in Zaire, the United Nations appealed to 60 nations for peace-keepers. All 60 said no. The secretary general then asked for a few dozen U.N. officers to support soldiers from Zaire. Again the answer was no. Falling back, U.N. Secretary General Boutros Boutros-Ghali now simply asks the Security Council to make available some Zairian troops assisted by civilian refugee officials. The prospects are uncertain.

In the camps there is no uncertainty, only desperation. The Hutus who perpetrated genocide in Rwanda last spring lost to the Tutsi-minority rebels and then carried many of their people, with their supporting community structures, into exile in Zaire. The international relief agencies found these structures essential to funnel in quick aid. But that gave new power and coin to the old Hutu hierarchy, including war criminals, who steal the aid and keep refugees from going home. A moral dilemma has split the agencies: Stay and sustain a regime of killers, or leave and let suffering refugees suffer more. This is the context in which the United Nations seeks to build an alternative security structure.

Last year's television pictures of the genocide publicized the need for emergency supplies, and many responded. But the humanitarian needs of the camps merge into an obscure zone of political struggle, and many lose interest. Dozens of countries were ready to send material aid. None is ready to expose its soldiers to risk for the Hutus. Nor is the problem confined to Rwanda. Its descent to a hollowed-out chaos where it can no longer order its own affairs is typical of the ethnic and national disputes that now disfigure world politics. Expect more in humanitarian crises, the CIA warned last month, and less in international relief.

So many things remain to be done. Right at the top ought to be the establishment of a standby humanitarian food-and-police service, run out of the Security Council, where the United States has a veto, so that when the next quaking call comes, the secretary general does not have to run around begging 60 distracted countries to help in vain.●

GOOD MORNING, VIETNAM

● Mr. SIMON. Mr. President, a few weeks ago, Senator FRANK MURKOWSKI and I had the chance to visit Vietnam. And shortly after we got back, I read the column by Tom Friedman in the New York Times about Vietnam, which makes so much sense.

We are now inching toward full diplomatic relations that should have occurred years ago. Sixteen years ago I had lunch with the Vietnamese delegation at the United Nations and urged full diplomatic recognition at that time. We should do it now—the sooner, the better.

I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

[From the New York Times, Jan. 18, 1995]

GOOD MORNING, VIETNAM

(By Thomas L. Friedman)

HANOI, VIETNAM.—In 1966, at the height of the Vietnam War, Senator George Aiken became famous for suggesting that we simply declare victory and bring American troops home. That victory was phony, but 29 years later we truly have one in Vietnam, if winning is measured by a Vietnam that is economically, politically and strategically pro-Western. Yet despite that victory, Washington is reluctant to open full diplomatic relations with Hanoi and consolidate its tentative move into America's orbit. It's time. It's time we started relating to Vietnam as a country, not a conflict. It's time that we declare victory and go back to Vietnam to reap it.

President Bush should have been the one to open relations. He knew it was the right thing to do, and he had the credibility with veterans' groups to do it. But he didn't. (Wouldn't be prudent.) President Clinton, despite his problems with Vietnam vets, has inched closer to Hanoi, by lifting economic sanctions last year and agreeing to a low-level liaison office this year. For months the State Department has been quietly recommending full normalization, but after the midterm Republican rout the White House said ''Forget it.'' (Wouldn't be prudent.) That is America's loss.

Vietnam's 72 million industrious, literate people are building a market economy from the ground up. Because U.S. diplomats and businesses are not here in force as the foundation stones are laid and the legal system is reformed, this means U.S. standards, regulations and laws are not being wired in. Australia already dominates the phone system, British Petroleum has the oil sector and Singapore advises on the legal code.

I was riding in a taxi here the other day and the driver was studying English from BBC tapes. For 30 minutes I had to listen to a repetition of: ''I like football. I like Manchester United,'' the prominent British soccer team. When they think football here they don't think Dallas Cowboys, and when they think telephones they don't think AT&T.

Strategically, the big issue in Asia will be the containment of China, whose military might, and appetite, will grow as China grows. There is no more powerful counterweight to Beijing than Hanoi, whose tiny army bludgeoned China's in their 1979 border war. China is Vietnam's historical enemy. Most of Hanoi's boulevards are named for heroes of the wars against China. The biggest display in the Hanoi Army Museum is not of Vietnam's victory over the U.S. in 1975, but its victory over the Mongols from the north in 1288. A U.S.-Vietnam entente would get China's attention—and keep it.

As for our M.I.A's, every U.S. official dealing with this issue says Vietnamese cooperation has improved (not diminished, as opponents of relations predicted) since we lifted the economic embargo. The reason is not anything the Hanoi Government is doing, but because the Vietnamese people, villagers and veterans, are now coming forward with information about graves and bones that they were holding back as long as America was embargoing them economically. U.S. M.I.A. officials say normal relations and more Americans traveling here would only elicit more grass-roots cooperation, which is the only way the 1,621 remaining M.I.A. cases will be resolved.

It is pathetic that a small, vindictive cult of M.I.A. activists in America—who broadcast U.F.O. sightings of P.O.W.'s roaming the Vietnamese countryside and demand we withhold normalization to punish Hanoi for war we never should have fought—have intimidated Washington into a Vietnam policy that is bad for M.I.A.'s and bad for America.

The Vietnamese, who have 300,000 M.I.A.'s, have let the future bury the past. As Deputy Foreign Minister LeMai told me: ''If we nursed all of our grudges with all the powers that we have fought against, we wouldn't have relations with anyone. The war divided your society; recognizing Vietnam would put this behind you. It would heal your own wounds.''

He's right. It's time we too buried the past. Hue today is a cuisine, not a battle; Tet is a New Year's celebration, not an offensive; Haiphong is a harbor, not something to be bombed at Christmas; and Highway 1 is where they run the Hanoi Marathon, not the military artery of an enemy nation. President Clinton didn't start this war, and he didn't fight this war, but with a little bit of courage, he could finally end this war.●

A FRACTURED COMMUNITY AND SHORT OF PERFECTION

● Mr. SIMON. Mr. President, recently, the annual Man of the Year Award in St. Louis was given to two people rather than one, our two former colleagues, Tom Eagleton and Jack Danforth.

They are both among our finest.

I am pleased that the citizens of St. Louis appropriately honored both of them.

The St. Louis Post-Dispatch published their comments on that occasion, and because of our association with the two of them and because of what they say about government and our attitudes toward one another in this excessively partisan climate, I urge my colleagues to read their comments.

I ask that their remarks be printed in the RECORD.

The remarks follow:

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

A FRACTURED COMMUNITY

(By Thomas F. Eagleton)

I recently attended a meeting of St. Louis businessmen and heard Charles ''Chuck'' Knight, chairman and CEO of Emerson Electric, say the following: ''Downtown's top attractions—the Arch, Busch Stadium, Kiel Center, Union Station, the convention center, the new football stadium, the casinos—will draw in excess of 12 million visitors annually. That's more than Disneyland.''

Chuck Knight is correct in his enthusiasm for downtown St. Louis, Downtown St. Louis has been revived. Downtown St. Louis is being rescued.

But the city of St. Louis as a whole has not. The Arch does not a city make. Busch Stadium does not a city make. The Kiel Center does not a city make. A football stadium does not a city make.

A city is people. A city is neighborhoods. A city is the interrelation of people with common concerns and common hopes. A city is the cohesive interaction of its peoples and its purposes. A city is the sum of its treasured pact and its capacity to flourish in the future.

Today's city of St. Louis can glory in its past as one of America's great cities, but as presently structured, it is a fading city with a troubled future.

When I entered politics, the city of St. Louis had 850,000 people. Today it is 380,000. The 1994 official State of Missouri demographic report says that in 2020 the population of St. Louis will be between 225,000 and 275,000—much smaller than the Wichita of 2020.

There is a structural noose around the St. Louis region's neck. We don't discuss it much, but the St. Louis metropolitan area is the textbook example of the most politically fragmented, disarrayed urban region in the nation. We are America's worst-case governance scenario. When we succeed, we do so in spite of our structural handicaps.

Back in 1876, the voters approved the separation of the city from the county. There were five municipalities in St. Louis County at that time. There are now 90. One has 11 residents. There are 21 St. Louis County cities with under 1,000 people. Only nine exceed 20,000.

There are 43 fire protection units and 62 police departments.

In the St. Louis metropolitan region, resource disparities are staggering. The city has been tax-abated to excess. In the county, there continues a frenetic, never-ending ''land rush'' to capture tax base in unincorporated portions of the county.

I realize we live in a time when it is out of fashion to discuss the impact of government on private decision-making. I also realize that we like to cling to the sentimental notion that somehow quaint Webster Groves and Ladue, for example, are so self-sufficient as to have no need of interaction and interconnection with governmental conditions around them.

Just as the city of St. Louis has outlived its history, St. Louis County has outgrown its sentimental quaintness. Our city and our county are an aggregation of jerry-built, haphazard, fragmented, disconnected governmental units, many barely treading water. We have had a succession of Boards of freeholders, a Board of Electors, and a Boundary Commission. All have attempted to tinker with the governmental structure and for one reason or another have made no discernable improvement.

We have tried some targeted remedies, such as a Sewer District, Junior College District, Zoo and Museum District, and joint support for a hospital. We have Bi-State. These regional efforts have helped, but the city-county disunion persists.

St. Louis and St. Louis County still remain as the foremost textbook example of how free people can misgovern themselves on the local level.

Enough handwringing. What do we do?

We have two choices.

Creeping incrementalism. Deal with the situation at the margins—tinkering with charter reform—go to the Missouri legislature or voters for non-controversial changes.

Cold bath. Just as the end of communism required a bold, total leap into capitalism, so too the end of St. Louis-St. Louis County disunion will require a bold, total immersion. St. Louis, like Berlin, would be whole again.

I fervently believe in the latter precept. Incrementalism won't go to the root of the distress. I'll give an example. Whether the St. Louis Police Board is appointed by the governor or the mayor will not have an overwhelming, decisive impact on the destiny of St. Louis. Only the boldness of urban consolidation—one city—will be meaningful.

Let me be clear. I am not alleging that solving the governmental barriers of the St. Louis region will alone create a spontaneous regeneration of a new and greater St. Louis with unfettered decency and personal responsibility reigning supreme.

Eliminating the Berlin Wall has not as yet equalized East and West. Eliminating Skinker Boulevard as our own Berlin Wall between poverty and prosperity will not by itself ensure an instantaneous panacea.

It would allow for local government to do its part of the societal job at its united best rather than at its fragmented worst. It would allow for a consolidation of effort and a focus of responsibility that simply isn't possible when political authority is fragmented into bits and pieces.

The day should come when St. Louis recaptures its population, its tax base and its greatness.

To paraphrase a famous Jewish sage, if not now, when? If not us, who?

[From the St. Louis Post-Dispatch, Jan. 10, 1995]

SHORT OF PERFECTION

(By John C. Danforth)

It is a most special honor to be joined in anyone's mind with Tom Eagleton. For all of my political life, Tom has been for me the model of what a public servant should be—smart, energetic, dedicated, always committed to the principles in which he believed. It never mattered to me that his positions were not exactly my own. He was a very fine Senator, and he is a very good friend, and I am proud to share this honor with him.

I don't know whether I am making much more out of it than was intended, but it seems to me that there is a message in this dual award—a message from St. Louis to the country—that it is St. Louis' own answer to

the meanness and the anger that is the politics of the 1990s. The message is that politics does not have to be as mean and as angry as is now the rule.

I don't say this only because of the personal relationship between Tom and me. But beyond recognizing our good relationship, there is something more in the message of today's awards.

Consider what it means when there are two men of the year who made careers in politics, when one is a Democrat and the other a Republican, one a liberal, the other a conservative, one a supporter of Carter and Mondale, the other a supporter of Reagan and Bush. Consider what it means when there are two men of the year, who often disagreed, who often canceled one another's votes in the Senate.

For those citizens who are in a constant state of rage about government, it would be difficult to honor either Tom or me; it would be impossible to honor both of us at the same time. It would be difficult to honor either of us because, with the thousands of Senate votes we cast, each of us has done enough controversial things to make every Missourian mad at least some of the time.

And if it would be difficult for an outraged citizen to honor either one of us separately, it would be absolutely impossible to honor both of us together. Even those who agreed with one of us could not have agreed with both of us at the same time.

If it is essential to you that your politicians reflect your views, and if it angers you when they don't, then Tom, or I, and certainly both of us together, must have made you very angry very often. Many people have theories to explain the general sense of outrage felt against politics and politicians. Some point to the media generally, or more specifically to talk radio or Rush Limbaugh. Some point to negative election campaigns and unprincipled political consultants. All of that deserves attention, but I think there is something more—something broader than the latest trends in the media or in campaigning. It has to do with what people expect from government.

When expectations are unrealistically high, outrage at failure is sure to follow. When we believe that government should have all our answers, we are angry when it has none of our answers. And unrealistic expectations of government are the order of the day. This is true on both the left and the right. On the left, it is thought that government can manage the economy and cure the ills of society. On the right it is thought that government can deter crime and restore personal and religious values. In each case, platforms and programs are thought to hold the key to success, if only the right law is enacted, if only the right people are in charge.

We attribute our failures as a country to failures of our government. We say that our politicians are out of touch. They don't do things our way. They are incompetent, maybe even corrupt.

Our problems are not of our making, but of their making. If only right thinkers were in power, we could get on with the people's business—the business of balancing the budget and cutting taxes and retaining all the benefits we demand.

It is no wonder that we are so angry at government when our expectations are so high. If government has the power to make things right for us and simply doesn't do so, of course we should be mad.

But we have got it wrong, wildly wrong by any historic standard. It is not that government is bad, only that it is government. As such it is limited, not by accident, but by design, not because it is poorly run, but because it is run as our founders intended it to be.

Government is not perfect, and it was not supposed to be perfect. It is not omnipotent, because it was not intended to be omnipotent. It was not intended to rule the economy or our health care system or our families or our values. It never had the total answer, it never had total power—it had limited power and the limited capacity to make things better.

It makes sense to honor Tom Eagleton and Jack Danforth with the same award only if there is a high level of tolerance for each of us, only if you see that each of us was off the mark, that neither of us had all the answers, that it was enough to make a good try.

The business of government is not to reach perfection, for perfection is not reached in this world. Marxism's lesson is that when government attempts to reach perfection, it must be totalitarian.

RECALLING A MAN WHO STAYED THE COURSE

● Mr. SIMON. Mr. President, one of the gems in our society today is Jack Valenti, president of the Motion Picture Association of America and former assistant to Lyndon Johnson.

Recently, I saw his op-ed piece in the Los Angeles Times on the 30th anniversary of the inauguration of Lyndon Johnson as president.

His article reminded me what I heard on the radio recently that our statistics on the children who live in households below the poverty level has risen to 26 percent. I did not hear the source for that, I do not know if it is accurate. The traditional measurement we have been using is 23 percent. And what a tradegy that is. No other Western industrialized democracy comes anywhere near a figure like that, a figure that is totally and completely preventable.

While the Vietnam war marred the record of Lyndon Johnson, what he accomplished in the domestic field—in helping people who desperately need help—should jog our conscience today. There is so much mean-spiritedness and lack of concern for the poor. It appalls me.

All Americans need hope and instead of giving many of them hope, we are giving them jail cells or desperate poverty.

I ask that the Jack Valenti item be printed in the RECORD.

The editorial follows:

RECALLING A MAN WHO STAYED THE COURSE

(By Jack Valenti)

On this day 30 years ago, Lyndon B. Johnson was inaugurated in his own right as the 36th President of the United States. He has been elected President the previous November in a landslide of public favor, with the largest percentage of votes in this century, matched by no other victorious President in the ensuing years. This day plus two is also the 22nd anniversary of his death.

Is it odd or is it merely the lament of one who served him as best I could that his presidency and his passing find only casual regard on this day?

He was the greatest parliamentary commander of his era. he came to the presidency with a fixed compass course about where he wanted to take the nation, and unshakable convictions about what he wanted to do to lift the quality of life. Against opposing forces in and outside his own party, in conflict with those who thought he had no right to be President, contradicting conventional wisdom and political polls, he never hesitated, never flagged, never changed course. He was a professional who knew every nook and cranny of the arena, and when he was in full throttle, he was virtually unstoppable.

He defined swiftly who he was and what he was about. He said that he was going to pass a civil-rights bill and a voting rights bill because, as he declared, ''every citizen ought to have the right to live his own life without fear, and every citizen ought to have the right to vote and when you got the vote, you have political power, and when you have political power, folks listen to you.'' He promptly told his longtime Southern congressional friends that though he loved them, they had best get out of his way or he would run them down. He was going to pass those civil-rights bills. And he did.

He made it clear that he was no longer going to tolerate ''a little old lady being turned away from a hospital because she had no money to pay the bill. By God, that's never going to happen again.'' He determined to pass what he called ''Harry Truman's medical-insurance bill.'' And he did. It was called Medicare.

He railed against the absence of education in too many of America's young. He stood on public rostrums and shouted, ''We're going to make it possible for every boy and girl in America, no matter how poor, no matter their race or religion, no matter what remote corner of the country they live in, to get all the education they can take, by federal loan, scholarship or grant.'' And he passed the Elementary and Secondary Education Act.

He was in a raging passion to destroy poverty in the land. He waged his own ''War on Poverty,'' giving birth to Head Start and a legion of other programs to stir the poor, to ignite their hopes and raise their sights. Some of the programs worked. Some didn't. But he said over and over again, ''If you don't risk, you never rise.''

He often said that no President can lay claim to greatness unless he presides over a robust economy. And so he courted, shamelessly, the business, banking and industrial proconsuls of the nation and made them believe what he said. And the economy prospered.

On the first night of his presidency, he ruminated about the awesome task ahead. But there was on the horizon that night only a thin smudge of a line that was Vietnam. In time, like a relentless cancer curling about the soul of a nation, Vietnam infected his presidency.

If there had not been 16,000 American soldiers in Vietnam when he took office, would he have sent troops there? I don't believe he would have. But who really knows? What I do know is that he grieved, a deep-down sorrow, that he could not find ''an honorable way out'' other than ''hauling ass out of there.''

I think that grieving cut his life short. Every President will testify that when he has to send young men into battle and the casualties begin to mount, it's like drinking carbolic acid every morning.

But it was all a long time ago. To many young people not born when L.B.J. died, he is a remote, distant figure coated with the fungus of Vietnam. They view him, if at all, dispiritedly.

But to others, to paraphrase Ralph Ellison, because of Vietnam, L.B.J. will just have to settle for being the greatest American President for the undereducated young, the poor and the old, the sick and the black. But perhaps that's not too bad an epitaph on this day so far away from where he lived.●

YOU CAN'T LEAD BY FOLLOWING

● Mr. SIMON. Mr. President, in going over some old newspapers that I missed while I was in Illinois over the Christmas/New Year holiday, I came across an op-ed piece by Robin Gerber, a senior fellow at the University of Maryland's Center for Political Leadership and Participation.

It comments on what I consider to be a fundamental weakness in our political process today, that people are trying to follow the polls in how they respond to problems.

There is a great quote in the op-ed piece from our House colleague, STENY HOYER, for whom my admiration has grown through the years. Congressman HOYER states: ''What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They are a substitute for thinking.''

I ask that the Robin Gerber item be printed in the RECORD.

The editorial follows:

YOU CAN'T LEAD BY FOLLOWING

(By Robin Gerber)

There is much talk now of governing from the ''center,'' of how centrist politics can overcome the debacle of the Nov. 8 election and put the president and his party on a true course for reelection in 1996. But it is the moral center that must be found before the political one can be explored.

This quest for defining political vision is imperiled by the misplaced reliance by politicians of both parties on public opinion polls.

Pollsters' authoritative declamations and directions, gleaned from the complex science of gauging the public interest, corrupt the straightforward instincts needed to govern from the gut. Rep. Steny Hoyer, past chairman of the Democratic Caucus, puts it this way, ''What polls do is confuse us. We're not trying to figure out what's right but what is the passion of the day. Polls make us sloppy intellectually. They're a substitute for thinking.''

In an unprecedented effort to lead by following, politicians of the 1990s use polls to support a new form of hyper-interactive governing. Like some collective psychoanalysis on living room couches across the nation, Americans are being probed and prodded as never before. But you can't legislate by the numbers. From the field of war to the football field, no general or quarterback has led by following the combined opinions of the troops or the tight-ends.

Pollsters argue that polls are valuable market assessment tools, a means to focus policy and message on voters' concerns. Even the Founders acknowledged that candidates who depend on the suffrage of their fellow citizens for election should be informed of those citizens' ''dispositions and inclinations and should be willing to allow them their proper degree of influence.'' But polling in 1994 has gone beyond an ancillary tool for governing or campaigning. Rather than a point of departure for sensitive and thoughtful leaders, polls have become a point of no return that overshadows the imperative for leadership. As James MacGregor Burns wrote in his classic text on leadership, ''the transforming leader taps the needs and raises the aspirations and helps shape the values—and hence mobilizes the potential—of followers.'' To be transforming leaders, today's politicians cannot afford to drift, absent the anchor of ideals, in a sea of percentage points.

Two hundred years ago, the Federalist papers expressed our belief as a nation that ''the public voice pronounced by the representatives of the people, will be more consonant to the public good, than if pronounced by the people themselves.'' Measuring and articulating substantive discontent should serve the purpose of keeping elected representatives' debate and decisions in tune with their constituency, not in automatonic lock-step. Pollster Celinda Lake reads the electorate as wanting to raise the pitch of technologically steered democracy so that citizens could directly bestow their opinion on major legislative issues. In that case, perhaps we should give up on our founding ideal of a republic and elect the pollsters directly.

Representative democracy is our greatest national heritage and gives us our greatest national challenge. We seek leaders who will listen and interpret sometimes incoherent, sometimes inchoate messages into policies greater than the sum of our collective consciousness. Political leaders who will transform this country, rather than be transfixed by shifting techno-derived edicts, must lead and govern from the center of their own hearts and minds. No poll has yet been devised that can substitute.●

EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

● Mr. SIMON. Mr. President, the problem of television violence, which I have addressed on a number of occasions in committee and on the floor of the Senate, has recently been addressed by a group of psychiatrists and other social leaders in Great Britain, where the standards are appreciably tighter than ours. And in reading the Jerusalem Post the other day, I came across an article titled, ''Education chief declares war on TV violence.''

The reaction in Israel to too much violence on the television screen is like ours and the British reaction.

At this point, I ask that the Jerusalem Post article be printed in the RECORD. The article follows:

EDUCATION CHIEF DECLARES WAR ON TV VIOLENCE

(By Liat Collins)

Education Minister Amnon Rubinstein last week declared war on TV violence, telling the Knesset that if networks do not demonstrate self restraint in screening movies, he would submit a bill to the cabinet.

Rubinstein's statements came at the end of a discussion on the distribution of ''snuff'' and violent movies in Israel. ''Snuff movies'' document the deliberate torture and murder of a victim for ''entertainment.''

''This type of film goes beyond all acceptable moral boundaries; we're talking about an evil and sick phenomenon. Therefore we must enforce the existing laws, and if need be I will equip myself with extra penal measures,'' Rubinstein said.

''Freedom of expression and civil liberties do not stretch to filmed murders and violence as entertainment,'' he added.

The discussion was initiated by MKs Anat Maor (Meretz), David Mena (Likud), Elie Goldschmidt (Labor) and Shlomo Benizri (Shas), who filed motions for the agenda following an interview in *Yediot Aharonot* with two youths who collect and view these films.

The two adolescents laconically describe how victims have been disembowelled and dismembered alive. One noted that one of the two teenaged killers of taxi driver Derek Roth had seen such movies. He also said he regretted not being awake in time to see the screened footage of the Dizengoff bus bomb.

While condemning the movies, Rubinstein warned of trying to turn two adolescents into representatives of an entire generation.

Benizri, on the other hand, called the phenomenon ''the result of a sick society.'' All the MKs spoke of the need for police cooperation in rooting out the films, and called for strict punitive measures against both distributors and viewers of these movies.●

P.S./WASHINGTON

● Mr. SIMON. Mr. President, for more than 40 years, since I was a young newspaperman in suburban St. Louis, I have written a weekly newspaper column on the topics of the day.

I hope my colleagues will find the newspaper columns I wrote in January of interest, so I ask that they be printed in the RECORD.

The columns follow:

THE VALUE OF THE CARTER MISSIONS

There has been some editorial sniping—as well as criticism from political leaders, most of it not in public statements—about former President Jimmy Carter's efforts in North Korea, Haiti and Bosnia.

''We can have only one person making foreign policy for the United States—and that should be the President, is the argument.

What these nay-sayers miss is the reality that Jimmy Carter does not make any pretense of speaking for the United States. If he were to travel abroad and claim to speak for the President when he has no authorization to do so, that would be wrong.

In the case of Haiti, he went on the mission at the request of the President.

But Jimmy Carter is a person of international stature who can do more to bring people together than any person other than Secretary General Boutros Boutros Ghali of the United Nations.

Carter is regarded as well-motivated and not trying to promote any private agenda or any national agenda other than helping to bring about a world of peace and stability.

When he has gone at the request of other nations to be an observer of elections, where countries are moving to democracy, there has been no criticism.

When he helps bring the two sides of a civil war together in Liberia in Africa, no one pays any attention.

At the Carter Center in Atlanta, he gets people from various nations together to discuss frictions and hopes, and there is hardly a paragraph in any newspaper about it.

But when he moves onto a more visible problem, then the critics emerge.

Part of this is because foreign policy has not been a strong suit of President Clinton. He is better at foreign affairs than he was a year ago and a year from now he will be still better.

It is difficult to move from being Governor of Arkansas to overnight being the most influential person in the world on foreign policy.

Because of a partial foreign policy vacuum in the current administration, some believe that the visibility of a former President doing creative things causes Clinton political embarrassment.

My strong belief is that President Clinton should continue to welcome Jimmy Carter's leadership, as he does that of the United Nations Secretary General, but simply make clear that ordinarily Jimmy Carter is acting on his own, not speaking for the United States.

Whether the former President's activities in Bosina will produce long-term gains is still unclear. But they have done no harm, and may do great good.

In North Korea and Haiti there is no question of the significant contribution of Jimmy Carter.

With the possible exception of John Quincy Adams, no former President has served as effectively as has Jimmy Carter. I would also give high marks for post-president leadership to Thomas Jefferson and Herbert Hoover—Jefferson largely through correspondence and Hoover in a variety of public endeavors.

My hope is that Jimmy Carter will ignore the critics and continue to serve the cause of world peace.

We are indebted to him.

INCHING TOWARD A BALANCED BUDGET AMENDMENT

The nation is inching toward having a balanced budget amendment to the U.S.Constitution, and that is good news for the generations to come.

We have been living on a huge credit card and when the time comes to pay for it, we say blithely: ''Send the bill to our children and grandchildren.'' It is morally indefensible.

Both political parties share the blame.

For 26 years in a row we have been spending more than we take in, and we are already paying for it. A New York Federal Reserve Bank study shows that between 1978 and 1988 the deficit cost us 5 percent of our national income. The Congressional Budget Office suggests that the loss of 1 percent of our national income means the loss of 600,000 jobs.

The deficit has eaten away at our savings, sending interest rates up, reducting our productive capacity because it makes investment too expensive, ultimately reducing the growth of our national income. As late as 1986, the average manufacturing wage per hour was higher in the United States than any other nation. Now 13 nations have exceeded us.

Studies indicate that between 37 percent and 55 percent of our trade deficit has been caused by the budget deficit. That means that the single biggest cause of sending our jobs overseas has been the budget deficit, but the issue is complicated enough that it is not generally understood.

The General Accounting Office in 1992 reported that if we continue on the course of deficit spending we would have a gradual decline or stalemate in our standard of living, but if by the year 2001 we would balanced the budget, by the year 2020 the average American would have an increased income of 36 percent.

Worst of all, the history of nations is that if we continue piling up debt, eventually we will do what the economist call ''monetizing the debt.'' That means that to ''solve'' our problem we will start printing more and more money and our dollars would be less and less valuable. Among other things, that would devastate all private savings as well as things like Social Security.

On top of all that, more and more of our debt is owed to other nations. We now owe more than $800 billion to people outside the United States and that makes our international situation somewhat precarious. The greater our debt, the less independent we can be. It's true of a family; it's true of a country.

It now looks like the proposal, narrowly defeated in the past, will pass. It has been advocated by many people over the years, the first being Thomas Jefferson.

It will include a provision that if there is a 60 percent vote of the House and Senate, we can have a deficit, for there are years in a recession or war when it may be necessary.

Today interest spending by the federal government is ballooning, squeezing out our ability to respond to great needs. In 1949 we devoted 9 percent of the federal budget to education; today it is 2 percent. In 1950 we were paying interest on the debt of World War II and we spent $5.8 billion. This year we will spend more than $300 billion.

To their credit, President Clinton and a bare majority in Congress reduced the deficit in 1993, but that was only the first step needed.

If we adopt the balanced budget amendment and it is approved by 38 state legislatures, we will all have to sacrifice a little.

But I face a choice of sacrificing a little, or harming the future of my three grandchildren. I don't have a difficult time making that choice, and I don't believe most Americans do.

CULTURAL CHASMS THAT DIVIDE US

Madeleine Doubek, political editor of the Daily Herald, the widely circulated newspaper based in the northern and western Chicago suburbs, noted that at a recent news conference I answered a reporter's question by saying: ''We have to reach . . . across the borders of race and religion and ethnic background and economic barriers. We have to communicate to people in the suburbs that they have something at stake in the fate of those who are less fortunate in our society.''

She called me and asked whether that implied racism and classism in the suburbs, and I responded that it did.

I do suggest that those evils are a monopoly of the suburbs. Prejudice rears its ugly head in the central cities, and in the rural areas, as well as in the suburbs.

But there has been a flight from the problems of the cities, a flight to better schools and less crime. Sometimes those two understandable causes have also been confused with flight from African Americans and Latinos.

But whatever the cause, the result is a growing gulf between urban America and suburban America, and that's not good for anyone. We don't want this nation to develop into a Bosnia or Northern Ireland. The harm that comes from the deepening divisions in our society should be obvious.

What can we do about it? More specifically, what can suburbanites and all of us do about it? Let me suggest a few things:

(1) Religious institutions play a powerful role in American life. Ask the question at the appropriate meeting, or to the right people, what your church or temple is doing to bring greater understanding across the barriers that divide us. I would be interested in hearing of specific actions that are planned or are being taken.

(2) Rotary Clubs, business and professional women's groups, teachers' associations and other civic and business-related groups can sponsor programs that help to create greater sensitivity. The myths that are believed about another race or religion or ethnic group often can be demolished in this type of setting. When business and professional people understand that it is good economics not to discriminate, everyone wins.

(3) Individuals can make sure that their children are exposed to people of differing cultural backgrounds in a positive way. Too few white families have ever had an African American or Latino or Asian American family to their homes for dinner. Too few African American families have ever had a white family to their home for dinner. The same can be said across too many ethnic and religious barriers. What seems like a small thing for your family to do can be immensely important for the future of your children, and the future of your community and our nation and our world.

I spoke at three events honoring Martin Luther King Jr.'s birthday this year, and what disturbed me about two of them is that I spoke only to African Americans.

Dr. King wanted us to reach out to one another, understand one another, and replace hatred and prejudice with love and understanding.

That message is needed in the suburbs, but also in our cities and rural areas.

''One nation, indivisible'' we recite when we say the pledge of allegiance to our flag.

Do we mean it? Are we willing to do concrete things to make it a reality?

RELIGIOUS ZEALOTRY CAN TURN GOOD INTO EVIL

There is much that is good about people who have religious beliefs and practice their religion, however imperfectly we all do it. But religion can be abused when people are too zealous—and can be abused when there is a shell of religion that translates into hostility to others.

Almost all religions, if not all, suggest that we should be concerned about those less fortunate. According to a poll conducted for the Center for the Study of American Religion at Princeton University, those who attend religious services weekly in the United States are significantly more likely to think seriously about their responsibilities to the poor.

Many other examples of the good that religious belief provides our society should be given.

But when people are so zealous that they kill people at abortion clinics, or try to impose their beliefs on others, then what is good can become an evil. Many of the most bloody wars have been conducted in the name of religion, usually simply used as a tool by ambitious rulers, but sometimes out of genuine belief by the leaders.

There is also the problem where faith has almost diminished to nothing, except hostility to others who do not share the same religious heritage.

My impression is that most of those involved in the violence of the Protestant-Catholic struggle in Northern Ireland are not necessarily people of deep religious commitment, but people who have grown up with one heritage and have learned to hate the other side.

During my years in the Army I was stationed in Germany, and I remember the young German who told me with great pride that no one in his family had married a Roman Catholic for over a century. I asked what church he attended, and he told me that while he was proud of being a Protestant, he didn't attend any church.

But he had learned to hate.

Hitler had only nominal Christian ties. He believed little, and practiced nothing in the way of religion, but his religious heritage somehow left him with a hatred of Jews.

In Bosnia, nations with strong Orthodox ties are generally much more sympathetic to the Serbian cause than other nations, not for genuine religious reasons but for heritage reasons. Serbia is largely Orthodox Christian.

Muslim countries believe that the reason Europeans and Americans have not responded more to the plight of the Bosnian Muslims is precisely because they are Muslims. I do not believe that is true for the United States, but unfortunately it contains some truth for the more tradition-bound European nations, even though the actual practice of religion is much less evident in Western Europe than in the United States. The

empty shell of Christianity too often only has hostility toward non-Christians.

One of several good things about what we did in Somalia (incorrectly labeled a disaster by those who look at it superficially), in addition to preventing starvation by hundreds of thousands of people, is that a nation labeled by the world as Christian/Jewish, the United States, came to the rescue of a people almost totally Muslim. How would we have looked if the world's most powerful nation had done nothing about massive starvation in a desperate country! But many Muslim nations were permanently surprised that we responded.

The lesson of history is that the genuine practice of religion is wholesome, good for the individual and good for a community and nation. But extreme caution is in order when leaders try to impose their beliefs on others through government.

And the ''stop'' sign should go up when political leaders who share a heritage call on others to hate or kill those who do not share the same faith.●

NOMINATION OF DR. HENRY FOSTER, TO BE SURGEON GENERAL OF THE UNITED STATES

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to speak briefly about two important issues facing the Senate. The first is the nomination of Dr. Henry Foster, to be Surgeon General of the United States, and the second is the continuing impasse over the baseball strike.

With respect to the Foster nomination, Dr. Henry Foster has had an extraordinary, distinguished career in medicine and public health. And I believe that the forthcoming hearings on his nomination will demonstrate that he is well qualified to be Surgeon General.

I would like to take this opportunity to make three brief points. First, and most important at this stage of the debate, I reject the view that Dr. Foster's participation in abortions should disqualify him from this high position. Abortion is not a numbers game. It is a legal medical procedure and a constitutionally protected right.

Second, the American Medical Association enthusiastically supports Dr. Foster's nomination because of his distinguished service as Dean of Meharry Medical College, his record of achievement in medical research, his impressive leadership on issues such as preventive health care for women and children, for reducing infant mortality and teenage pregnancy and fighting drug abuse.

Third, Dr. Foster has had and deserves to continue to have strong bipartisan support. As recently as 1991, he was honored by President Bush as one of the President's Thousand Points of Light for his innovative I Have A Future Program to reduce teenage pregnancy. I look forward to the consideration of Dr. Foster's nomination by the Senate Labor Committee.

BINDING ARBITRATION TO SETTLE BASEBALL STRIKE

Mr. KENNEDY. Mr. President, yesterday, I introduced legislation proposed by President Clinton to require the major league baseball players and owners to submit to binding arbitration to settle the baseball strike.

Generally, Congress is reluctant to inject itself in labor disputes. All of us hope that the parties will find a way to end the impasse and settle their differences voluntarily. But there are rare instances in which Congress has a role to play in settling such disputes, and this may well be one of those times.

There is no doubt that Congress' constitutional authority to regulate interstate commerce gives us the power to enact legislation to settle this dispute. Many aspects of major league baseball affect commerce between the States. The strike has caused significant disruptions, especially in the cities where the 28 major league teams play and is about to cause significant additional disruption in Florida and Arizona where spring training is supposed to begin next week.

The U.S. Conference of Mayors estimates that the major league cities lost an average of $1.16 million per home game and 1,250 full- and part-time jobs because of the strike in 1994. Hard-pressed cities with substantial investments of tax dollars in municipal stadiums are losing substantial revenues. The cancellation of the 1994 league playoffs and the World Series was especially damaging to whichever cities would have hosted the playoff games and the World Series.

Obviously, Congress does not intervene in every labor dispute that burdens interstate commerce, but baseball is different and unique. It is more than a nationwide industry. It is our national sport. Baseball is part of American life.

We in Congress as representatives of fans throughout the country should not remain silent while baseball is damaged by a strike that the owners and players seem unable to resolve themselves. Clearly, Congress has the power to act. The question is who speaks for Red Sox and millions of other fans across America. At this stage in the deadlock, if Congress does not speak for them, it may well be that no one will.

For all these reasons, Congress can act and should be prepared to act. Legislation to end the strike would not set a precedent for injecting Congress into other labor disputes. There is still time for the owners and players to resolve this dispute on their own or to act voluntarily to establish a safety mechanism for doing so. The players union is willing to agree to voluntary binding arbitration. It is hard to see why the owners are not willing to do so as well. In that event, Congress would not have to be involved.

The parties can quickly agree to a process that would result in a settlement. If both sides are confident that the merits are on their side, they should be willing to submit to binding arbitration and do it now so that spring training can begin on schedule next week. If the parties do not agree on such a mechanism, it is reasonable and appropriate for Congress to act.

We in Congress may be the last and best hope to salvage the game that means so much to Red Sox fans of all ages in Massachusetts and to the fans of all the other teams in all parts of the Nation.

I ask unanimous consent that a table prepared by the U.S. Conference of Mayors on the economics of the strike may be printed in the RECORD.

There being no objection, the data were ordered to be printed in the RECORD, as follows:

BREAKDOWN OF ECONOMIC IMPACT BY MAJOR LEAGUE CITY

City, State	Team name	Total loss per game	Stadium revenues	Local taxes	Local business revenues	Jobs lost	Stadium ownership
Anaheim, CA	Angels	$1.9 million	$61,000	$441,000	$1.417 million	600	city.
Arlington, TX	Rangers	2 million	private	incl. in total	incl. in total	2,500	private.
Atlanta, GA	Braves	3 million	2 million	incl. w/stad	1 million	6,350	county.
Baltimore, MD	Orioles	1.2 million	100,000	incl. in total	1.1 million	2,000	commission.
Boston, MA	Red Sox	50,000	private	10,000	40,000	400	private.
Chicago, IL	Cubs	736,181	636,000	30,000	70,000	1,000	commission.
Chicago, IL	White Sox	852,038	780,000	39,000	33,157	1,000	commission.
Cincinnati, OH	Reds	700,000	76,416	10,138	640,700	600	city.
Cleveland, OH	Indians	2.04 million	1.2 million	600,000	240,000	2,000	commission.
Denver, CO	Rockies	2.04 million	43,000	39,600	1.96 million	1,944	city.
Houston, TX	Astros	1.04 million	400,000	40,000	600,000	1,000	county.
Kansas City, MO	Royals	540,740	265,000	23,456	250,000	350	commission.
Minneapolis, MN	Twins	922,600	282,600	366,000	640,000	900	commission.
New York, NY	Mets	2.06 million	2 million	52,500	incl. in total	850	city.
New York, NY	Yankees	2.06 million	2 million	62,500	incl. in total	850	city.
Oakland, CA	Athletics	986,197	32,395	9,358	944,444	438	county.
Philadelphia, PA	Phillies	250,000	125,000	42,000	83,000	500	state.
Pittsburgh, PA	Pirates	460,000	20,000	20,000	400,000	350	city.
St. Louis, MO	Cardinals	432,480	private	30,320	402,160	1,180	private.
Seattle, WA	Mariners	204,745	101,245	23,500	80,000	327	county.
San Diego, CA	Padres	203,000	18,000	5,000	180,000	825	city.
San Francisco, CA	Giants	1,766,000	535,000	136,000	1,095,000	800	city.

Cities not responding: Detroit, Los Angeles, Miami (Dade County), Milwaukee.
Canadian cities not surveyed: Montreal, Toronto.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DANGER OF RENEWED WAR IN CROATIA

Mr. PELL. Mr. President, I am very concerned about the situation in Croatia, where the Krajina Serbs have refused to consider an international peace plan for the country, and where President Tudjman has indicated that he will ask UNPROFOR troops to leave when their mandate expires in March. Last weekend in Munich, Bosnian Croats and Moslems, with the support of the Croatian Government, agreed to bolster their federation agreement. This good news is overshadowed, however, by dangerous developments in the Croatian peace process.

Last week, Serbian nationalists who control one-third of Croatia declined to consider a plan to resolve the status of Croatia's U.N.-protected area [UNPA's] prompting fears of a renewed Croatian war. The plan was developed by the Zagreb Four—or Z–4—consisting of the United States, Russia, the United Nations, and the European Union. It ought to have been the last step in an otherwise successful process to reduce tensions and normalize relations between Croatia and the Serbs living in the UNPA's.

I would particularly like to commend our Ambassador to Croatia, Peter Galbraith, the United States representative to the Z–4 process—who was a senior staff member with the Senate Committee on Foreign Relations during my tenure as chairman—for his efforts in this regard. A Z–4-negotiated ceasefire is in place, and the parties have agreed to confidence-building measures that include opening transportation and communications links between Croatia and the U.N. zones. These are important gains which I hope will not be lost by last week's setback with regard to a political settlement.

By all accounts, the Z–4 plan goes a long way to address the concerns of both the Croatian Government and the Krajina Serbs. It calls for the restoration of Croatian sovereignty to all the U.N areas, with considerable autonomy for the local Serbian population.

As I said, the Krajina Serbs have not even deigned to look at the plan; the Croatian Government has not yet responded to it. President Franjo Tudjman's decision not to renew the mandate for UNPROFOR, the 15,000-troop U.N. force in Croatia, has dangerous repercussions for the Z–4 process. The threat of withdrawal has provided a convenient, though unacceptable excuse for the Serbs to ignore the peace process.

To my mind, it would be a grave mistake for UNPROFOR to withdraw at this time. Frankly, I am concerned that the U.N. withdrawal will precipitate renewed fighting between the Serbs living in Croatia and the Croatian Government, and indeed, even between Serbia and Croatia. While the United Nations does not have a flawless record in Croatia, UNPROFOR's presence since early 1992 has prevented the reemergence of full-scale war. Without UNPROFOR to patrol the demilitarized zones, the current ceasefire negotiated by the Z–4 is likely to collapse. UNPROFOR's withdrawal could very well offer an opportunity for the Serbs to attack, and Croatia's intentions regarding Serb-controlled areas in the wake of a U.N. withdrawal are unclear.

A new war in Croatia, by all estimates would make the horror in Bosnia pale in comparison. Mr. President, I hope the parties to the conflict wake up; see the treacherous path on which they are headed; call off the U.N. withdrawal; and seriously consider the Z–4 peace plan.

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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUTTE, MONTANA

Mr. BAUCUS. Mr. President, this is my third statement this week on why Micron Technologies should come to Butte, MT.

I would like to talk this evening about a topic that is very dear to my heart; that is, fishing in the great State of Montana.

The first line in Norman Maclean's famous book ''A River Runs Through It'' reads: ''In our family, there was no clear line between religion and fly fishing.''

Our friend and former colleague Jack Danforth has always told me that he thought that was the most beautiful sentence in the English language. We all know that Senator Danforth is an ordained minister. But what many may not know is that he is also an avid fly fisherman.

And any avid fly fisherman knows that fishing in Montana's blue ribbon streams is something close to a religious experience. It is one of the things about Montana that makes it a truly special place to live.

Moreover, any successful business looking to relocate or expand puts a high quality of life at the top of their list.

Micron, being a successful company, wants its employees to be as productive as possible. And the best way to be productive in your job is to have a good quality of life.

For many Montanans, quality of life is measured by how many days they can fish. And the Butte area is right in the middle of some of the best trout fishing in the world. Rivers like the Big Hole, Ruby, Beaverhead, Missouri, and the Clark Fork are on any serious fisherman's wish list, and Butte is only an hour or so away from each of these rivers.

George Grant, a renowned fly-tier and lifelong resident of Butte, once wrote:

> In the nine great trout States of the Western United States it would be difficult to find a single stream that exceeds the overall quality of the Big Hole River. The Big Hole rises at high altitude and flows clear and cold through wide valleys and narrow canyons seldom presenting similar water or scenery throughout its entire 150 fascinating miles.

Having spent a little time on the Big Hole myself, I have got to agree.

Finally, the folks at Micron are used to the language of the semiconductor industry—words like D–RAMs, C–MOS, kilobits, dice, and E–PROM's.

Well, Montana fisherman have their own language. We talk about pupas, nymphs, emergers, and mayflies. We tell stories—and sometimes they are even true—about rainbows, browns and cutthroat hitting on PMD's, san juan worms, wooly buggers, and Joe's Hoppers.

Fortunately, the folks at Micron should not feel too intimidated. There are plenty of guides, fly shops and friendly locals in Butte who will help translate.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING SENATOR J. WILLIAM FULBRIGHT

Mr. PELL. Mr. President, the United States lost a great and distinguished citizen today with the death of former Senator J. William Fulbright.

Senator Fulbright was a giant in the Senate. He became a person of international reknown and reputation during the period of his chairmanship of the Committee on Foreign Relations from 1959 until his defeat in 1974. I came to know him very will after I joined the Committee on Foreign Relations in 1969 and came to admire very much his careful and thorough approach to issues of tremendous national importance, most especially the war in Vietnam.

William Fulbright was born in Missouri and grew up in Fayetteville, AR. He attended pubic schools, graduated from the University of Arkansas in 1925, as a Rhodes Scholar from Oxford University England in 1928, and from the Law Department of George Washington University in 1934. In 1939 he became president of the University of Arkansas—the youngest in its history. He served one term in the House of Representatives from 1943–1945 and went on to election to the Senate in 1944. He was reelected in 1950, 1956, 1962, and 1968.

William Fulbright brought to his political career a great love and understanding of the responsibilities of an educator. His experience as a Rhodes Scholar taught him the value of international exchanges and led him to conceive of the Fulbright Scholars Program in the period immediately following World War II, which he described as ''a modest program with an immodest aim.'' Since the program's establishment in 1946, more than 100,000 people from abroad have studied in the United States and more than 65,000 U.S. students and professors have studied overseas in what is undoubtedly the largest and most successful international exchange program in existence.

Earlier, as a freshman member of the U.S. House of Representatives, Senator Fulbright offered a resolution setting forth U.S. support for an international peacekeeping organization. This resolution, the first to be passed by the U.S. Congress since the League of Nations debacle following World War I, set the stage for establishment of the United Nations in 1945.

He was a maverick during much of his time in the Senate and was known for taking positions he believed in regardless of their level of popularity. For instance, in 1954, he cast the single Senate vote against funding Senator Joseph R. McCarthy's investigative subcommittee.

Senator Fulbright's period of greatest prominence was that of the Vietnam war. He introduced the Tonkin Gulf Resolution, which gave President Johnson virtually free rein in the early stages of the Vietnam war. Only two Senators opposed the resolution and Senator Fulbright later made it clear he wished it had been three, including himself. ''Not that it would have made the slightest difference in the course of affairs, but I'd feel better about myself.''

Senator Fulbright was one of the earliest critics of the war. Under his stewardship the Committee on Foreign Relations conducted extensive investigations of involvement in Vietnam, held numerous hearings and was the fountainhead of legislative initiatives beginning in 1969 to restrict United States activities in Vietnam. In 1973, a Fulbright-Aiken amendment stopped direct involvement of United States combat forces in Vietnam.

Through the committee's intensive work on the war, Senator Fulbright tried steadfastly to educate his colleagues, the Senate, the Congress, and the public as to the tremendous folly of the Vietnam involvement.

I can well remember watching Senator Fulbright facing down hostile witnesses while chairing hearings of great thoroughness and steadily and calmly posing questions until the truth of various problems was there for all to behold.

His widow, Harriett, recalled that the Senator deeply believed ''that in order to ensure prosperity for all members of a free country, those who live in a democracy must be educated,'' In fact, education ran through the heart of whatever he said and did. His speeches he wrote himself on yellow pads in pencil, full of lines through any fuzzy phrase. He worked them over until he was satisfied that every sentence was not only perfectly understandable but devoid of hyperbole. They were meant to clarify and persuade; in other words to educate—to educate audiences around the world as well as constituents.

One of the finest writers in the history of the Washington Post, the late Henry Mitchell, wrote a profile of William Fulbright in 1984. He pointed out that, despite Senator Fulbright's concerns over the arrogance of power:

> He does not say a nation can forget self-respect in the world or allow its citizens to be run over roughshod by others.
>
> ''But dignity has nothing to do with domination, nor is self-respect the same thing as arrogance. A nation can take pride in its accomplishments without taking on a missionary role in the world. . .
>
> ''Which is the greater legacy any generation of leaders can bequeath, a temporary primacy consisting of the ability to push other people around, or a well-run society of cities without violence of slums, of productive farms and of education and opportunity for all citizens?''
>
> To ask it is to answer it.

Mr. President, the Vietnam war made the Nation very much aware of the efforts of William Fulbright and of the Committee on Foreign Relations. To many in official Washington, he was anathema. But to others who saw Vietnam as a quagmire he was simply a hero. A leader who gave legitimacy, respectability and honor to opposition to the war and what it was doing to the United States. At the time there were many who were quite disdainful of William Fulbright and who disliked him intensely. I remember well how he would sometimes conclude that his sponsorship of a measure would cost votes rather than gain them. This was a price that he felt he had to pay.

In 1993 Senator Fulbright's fellow Arkansan, President Clinton, awarded the Medal of Freedom to the Senator. President Clinton said at that time ''Senator Fulbright has long been known as a patriot and a realist. He has never been one to waste time and energy cursing the darkness; he is far too busy seeking and finding lamps to be lit.''

William Fulbright has been gone from this body for over 20 years. The controversy surrounding him as certainly abated and many more have come to appreciate the intelligence and care he brought to his assessment of public issues. His reputation has grown over the past two decades rather than dwindled. And his term as chairman of the Committee on Foreign Relations is now regarded as a halcyon period for the committee and the Senate.

There were many challenges to be faced in the period of his chairmanship and he did not shirk from taking those challenges on and doing his best to meet them. His central interest was never personal aggrandizement but rather the discovery of the best way for the Nation to proceed. He is gone now but his legacy is powerful and he will live on as Fulbright Scholars are trained and educated and return to their countries and to the United States better able to play meaningful and productive roles.

Our deepest sympathy goes to his widow, Harriett and his family.

MEASURE TO BE HELD AT THE DESK

Mr. HELMS. Mr. President, if the Senator will yield, I would be so grateful.

I need under the rules to ask unanimous consent concerning holding of a bill until tomorrow.

Let me do it this way. I am advised we have to check with both sides. I think it would be agreeable to both sides, Mr. President. I send to the desk a bill, and I ask that it be appropriately referred tomorrow, and I send a statement herewith to that bill.

The PRESIDING OFFICER. Without objection, the bill will be received today and referred today.

Mr. HELMS. If the Chair will withhold, I have three unanimous-consents. One is required to be made orally. Let me do that.

I further ask unanimous consent that this bill be held at the desk until the close of Senate business tomorrow, February 10, so that Senators wishing to do so may become original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair, and I thank the Senator.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 1

Mr. HATCH. Mr. President, I ask unanimous consent that at 11 a.m. on Friday, February 10, there be 30 minutes remaining for debate on the pending motion to refer and amendments thereto, with the first 15 minutes under the control of Senator DASCHLE and the second 15 minutes under the control of Senator DOLE.

I further ask unanimous consent that at 11:30 a.m. on Friday, the Senate proceed to vote on or in relation to the second-degree amendment to the motion to refer, and that immediately following the disposition of the second-degree amendment, no further amendments be in order to the motion to refer, and the Senate proceed to then vote on the first-degree amendment, as amended, if amended, to be followed immediately by a vote on the motion to refer, as amended, if amended.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I reserve the right to object. It is my understanding that there will not be a vote before 5 p.m. on Monday next on or in relation to the Reid amendment and the committee funding resolution.

Mr. HATCH. That is my understanding. I believe the majority leader will agree to that; that there will be no vote on the Reid amendment before 5 p.m., but a time will be set either that evening or the next day for a vote on the Reid amendment.

Mr. REID. I withdraw the reservation.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 73

Mr. HATCH. Mr. President, I ask unanimous consent that, immediately following the disposition of the Dole motion to refer, the Senate temporarily lay aside House Joint Resolution 1 and proceed to the consideration of Calendar order No. 17, Senate Resolution 73, the committee funding resolution, and it be considered under the following time agreement:

One hour on the resolution, to be equally divided between Senators STEVENS and FORD, or their designees; that no amendments be in order to the resolution; that no motions to recommit be in order.

I further ask unanimous consent that, if a vote is requested on adoption of the resolution, that vote occur on Monday at a time to be determined by the majority leader after consultation with the Democratic leader.

Mr. REID. Reserving the right to object, Mr. President, based on our prior unanimous-consent agreement, the vote on the committee funding resolution would not occur before 5 p.m. on Monday?

Mr. HATCH. That is my understanding.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, it is so ordered.

ORDERS FOR FRIDAY, FEBRUARY 10, 1995

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. on Friday, February 10, 1995; that following the prayer, the Journal of proceeding be deemed approved to date and the time for the two leaders be reserved for their use later in the day; that there then be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak for not to exceed 5 minutes each, with the following Senators to speak for up to the designated times: Senator THURMOND, 15 minutes; Senator CAMPBELL, 10 minutes; and Senator ROBB, 5 minutes.

I further ask unanimous consent that at the hour of 10 a.m. the Senate resume consideration of House Joint Resolution 1, the constitutional balanced budget amendment, and at that time Senator PACKWOOD be recognized for up to 60 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, so ordered.

Mr. HATCH. Mr. President, for the information of all of my colleagues, under the previous order, there will be a rollcall vote at 11:30 a.m. tomorrow on the second-degree amendment to the motion to refer the balanced budget constitutional amendment.

RECESS UNTIL TOMORROW AT 9:30 A.M.

Mr. HATCH. Mr. President, if there is no further business to come before the Senate, and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 6:39 p.m., recessed until Friday, February 10, 1995, at 9:30 a.m..

EXTENSIONS OF REMARKS

THE POLICEMAN'S BILL OF RIGHTS

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. LIGHTFOOT. Mr. Speaker, I rise to offer an important piece of legislation, the policeman's bill of rights. It is fitting to offer a legislation at this time when the House is focused on the issue of crime control. If we are to successfully combat crime, there is no greater resource than the men and women who put their lives on the line everyday to protect their communities. I'm talking, of course, about our law enforcement officers. We owe it to them to give them every resource necessary to do their jobs well and with a certain level of security. That is the purpose of this bill.

This legislation guarantees basic due process rights to law enforcement officers who are charged with administrative disciplinary infractions. I want to stress this legislation does not apply to criminal matters. I also want to stress that the rights under this measure apply to all law enforcement officers. Furthermore, this measure does not apply to emergency situations where the police officer is suspected of committing a crime or where that officer is a threat to others.

But police officers should have the right to be informed of the charges against him or her, to respond to those charges, and to be represented by a lawyer. These are fundamental rights, and I think this legislation is the least we can give to those who risk their lives for us and I urge Members to support this legislation. Also, I would like to express my thanks to my colleague, BART STUPAK of Michigan for his work on this issue. I hope all Members will give this measure their support.

REPUBLICANS LEAVE WORKING AMERICANS BEHIND

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STARK. Mr. Speaker, yesterday, in the Ways and Means Committee, the contrast between the Democratic and Republican parties was made clear.

The purpose of yesterday's committee activity was to help expand the net of health insurance coverage to a few more Americans. What began as a bipartisan effort was turned into a purely partisan affair by the new Republican majority.

In vote after vote, the new Republican majority struck down on straight party-line votes measures that would bring fairness and assistance to working Americans. Some measures had no cost to the Government. Others that did were fully paid for.

One amendment I proposed would have removed the time limitations on COBRA health continuation coverage. This would have had no cost to the Government nor to employers, because under COBRA former employees and their family members pay full health insurance premium plus an administrative fee. Our amendment would allow individuals and families to continue coverage at a group policy rate rather than convert to an individual policy rate—the difference is often the difference between having and losing coverage. This was voted down by the Republican majority.

In the clearest example of how Republican partisanship operated without regard to the good of American workers and taxpayers, Republicans unanimously voted down an amendment offered by my colleague from Washington, Mr. MCDERMOTT, to extend deductibility of health insurance costs to employees when an employee is not eligible to participate in employer-sponsored health insurance coverage. Under the bill to be amended, self-employed individuals would be allowed to deduct 25 percent of the cost of health insurance. The cost of this assistance to working Americans was fully paid for—in large part by a change in tax law for individuals who renounce their U.S. citizenship in order to evade paying U.S. taxes.

How anyone can justify creating a new permanent entitlement for the benefit of employers and leave out employees is amazing. But it appears to be the new order of the Republican day.

I hope that before deliberations begin in the full House of Representatives on this bill, Republicans will have rethought their partisanship just long enough to allow the interests of all American workers to prevail.

FAMILY SERVICE ASSOCIATION OF WYOMING VALLEY CELEBRATES 100 YEARS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize the 100th anniversary of the Family Service Association of Wyoming Valley. I am pleased to join with the community in commending the professionals involved in this vital social service agency for 100 years of caring for those in need.

In 1895, a meeting was held at St. Stephen's Church in Wilkes-Barre in an effort to consolidate charity organizations in the area. The Charity Organization Society of Wilkes-Barre was formed, with George Riddle Wright as its first president. Membership dues were $1. A year later, the group changed its name to United Charities Society, calling it a refuge for the poor, and it undertook the task of feeding and housing the homeless. Moneys were raised by sending donation forms home with school children, a method which was the predecessor to the fair share pledge system used today by the United Way. A building was renovated to be used as its headquarters, and by 1914, electric lights were installed. By this time, the agency was providing lodging for women and children awaiting trial and, at the request of the county commissioners, added a room for wayward women.

In the early 1990's, the agency also obtained work for the unemployed, found foster homes for orphans, and actually oversaw the humane treatment of animals and the proper shoeing of horses. The influenza epidemic of 1918 brought normal operations to a near standstill and the floors of the building were literally lined with the ill and dying. Hundreds of children were orphaned. Over the following years, the agency provided almost every social service to those in need. When the Children's Service Center was formed in 1938, the agency was left with the family as its primary concern. In 1941, the agency became known as the Family Service Association. They moved into new quarters and began providing professional counseling services for members of the community, regardless of economic status.

Mr. Speaker, when the Susquehanna River spilled her banks following Hurricane Agnes in 1972, the need became clear for a central phone number where any and all information could be obtained. Family Services undertook this task and a 24-hour hotline was initiated. Now called Help Line, this division of Family Services handles more than 40,000 phone calls annually. The agency extended its services many times in the following years and today provides family education, assistance, and counseling to thousands each year.

Mr. Speaker, I am proud that the people of Northeastern Pennsylvania have a strong tradition of taking care of each other. From the very beginning, the community has joined together to help those less fortunate and those in need. The Family Service Association today employs the finest professional staff and is funded entirely by donations and foundation sources. This is a true example of the humanity of the American people and I send my sincere appreciation and congratulations to the board of trustees, directors, and the outstanding staff of this historic agency on the occasion of its 100th anniversary.

EFFECTIVE DEATH PENALTY ACT OF 1995

SPEECH OF

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 8, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 729) to control crime by a more effective death penalty.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of H.R. 729, the Effective Death Penalty Act. This legislation is long overdue. I am pleased that the House has moved so quickly to bring it to the floor.

A majority of Americans believes that certain crimes are so vicious and heinous that capital punishment is appropriate. Most of the States have enacted laws to conform with the Supreme Court's opinion on when capital punishment is constitutional.

In August 1989, a commission chaired by Justice Powell concluded that the Federal habeas corpus process ''has led to piecemeal and repetitious litigation,'' ''years of delay between sentencing and judicial resolution,'' and an ''undermining of public confidence in our criminal justice system.''

But the efforts of the States and the Congress to make capital punishment more than a paper tiger have been frustrated by endless habeas corpus appeals by prisoners on death row. The bill before us changes laws affecting the death penalty in an effort to crate consistent and fair procedures for its application and to streamline the appeals process.

Our current system doesn't work. There are endless and often frivolous appeals, with few limits on prisoners raising the same issues repeatedly. Today, prisoners on death row can appeal whenever there is a change in the law or a new Supreme Court ruling. This endless litigation costs the taxpayers millions of dollars and more importantly, denies justice to the victims of crime.

H.R. 729 establishes strict, but fair limits on appeals. It creates a 1-year limitation period for filing a Federal habeas corpus petition contesting a State court conviction and a 2-year limitation period for a Federal conviction. The bill outlines special habeas corpus procedures that States may adopt for capital cases and limits the granting of stays when prisoners have failed to file a timely appeal. The bill also directs the courts to accelerate the process, by imposing a 60-day deadline for Federal district courts to decide a habeas corpus petition and a 90-day deadline for appeals courts to decide an appeal. Finally, in keeping with this Congress' commitment to stop passing mandates on the States, H.R. 729 will help States pay for the costs of defending their convictions against habeas corpus claims in capital cases.

Mr. Chairman, this legislation is in line with the 1991 ruling of the Supreme Court that death row prisoners may file only one habeas corpus petition in Federal court unless there is a sound reason why any new constitutional claim was not raised the first time.

I note that the California District Attorneys Association unanimously adopted a resolution in support of H.R. 729, calling it a significant step in the right direction.

Let us heed the advice of those who know best—the district attorneys, the Powell Commission, and leading constitutional experts. Lets pass H.R. 729 and enact meaningful capital punishment reform.

SUPPORTING MOVEMENTS FOR FREEDOM, DEMOCRACY, AND HUMAN RIGHTS IN IRAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, it is fitting that today Iranians who hope for freedom and democracy in their own country stood at the Capitol Building of the United States—a symbol of democracy and freedom for millions of people all over the world—to remember that 16 years ago this Saturday the dreams and hopes for democracy and freedom in Iran were destroyed with the creation of the Islamic Republic of Iran.

Since then Iran has unleashed a reign of terror from the streets of Tehran to nations all over the world. Through their support, encouragement and perpetuation of international terrorism the Islamic Republic of Iran has burdened, maimed and stolen the lives of innocent citizens of the world community. In the last 16 years, the Iranian Government has held hostage United States, British, French and other foreign nationals. The government continues to hold its own entire nation hostage with millions of people paralyzed due to fear of imprisonment, torture and death.

The Iranian Government has one of the worst human rights records in the world. They have no desire to join the international community as nations move toward democratic reform and greater freedom and protection of human rights.

In Iran today there is a complete disregard for the dignity of human life. We can see this clearly in the area of religious liberty. A Shari'a court has ruled that the members of the minority Bahai community are ''unprotected infidels,'' not worthy of legal protections. They are described as ''misguided'' and the Iranian Government persecutes them in an effort to ''purify'' Islam.

The Christian minorities were shaken last year with the tragic deaths of Bishop Haik Mehr, Mehdi Dibaj, and Tateos Michaelian. All three were giants in Iran's small but vibrant Christian community. Eight converts from Islam were beaten and tortured in an effort to make them deny their Christian faith.

United States resident Hassan Shahjamali, a Christian visiting his family in Iran, was detained by security police and held incommunicado for several days last May. Only after the international community loudly protested and called for his release did the Iranian Government finally release him and allow him to return to the United States.

The Iranian Government's support of terrorism world wide has unleashed a wave of violence and fear. Each year thousands have died because of Iranian supported terrorist activities. Murders and bombings in Germany, Turkey, Switzerland, and Argentina; the direct attack on Americans on Pan Am Flight 103, at the United States Marine Barracks in Beirut and the bombing of the World Trade Center have all been traced to Teheran.

Yet after 16 years of terror, and repression; after 16 years of brutality and systematic abuse, the spirit of the real Iranian people lives on. Thousands of Iranian believers have not given up their dream of freedom and democracy. They continue to raise their voices and they challenge us to do the same.

Just days before his death last January Bishop Haik Mehr predicted his martyrdom. As he departed a conference in Pakistan in December he told Brother Andrew, the champion of religious freedom, justice, and tolerance that ''when they kill me it will not be because of my silence.'' On January 20, 1994 Bishop Haik's body was found. He had been tortured before he was killed. He knew the risks if he acted on his convictions—and he paid the price.

Today we stand with Bishop Mehr and the thousands of others of all faiths and walks of life who have raised their voices for freedom and justice in Iran. We honor them by supporting freedom, democracy and justice. We, too, look to a day when Iran will be free. Only then will the world have an opportunity for peace and stability, free from the fear of terrorism and tyranny.

IN RECOGNITION OF MR. CHESTER ''CHET'' ZABLOCKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Ms. KAPTUR. Mr. Speaker, I rise today to acknowledge an exemplary citizen who has earned the moniker of Mr. Polka in my northwest Ohio district, Mr. Chester ''Chet'' Zablocki. Chet has been an active leader in our community for many years and in the polka music industry since 1947. Allow me to share with my colleagues just a few of this remarkable and fine gentleman's accomplishments. His voice and name are synonymous with Toledo.

Chet became active in his community at the age of 15 by forming a polka band to entertain his family and friends. After serving in the Air Force, he married his childhood sweetheart, Helen Zdawczyk in 1942. Sharing his love for music, Chet and Helen began the ''Polish Festival'' radio show on the new local radio station, WTOD. In 1951, Chet recorded his first record for Continental Records, which featured him as the vocalist on ''Johnny from Poland.'' In 1963, Chet began a local polka newspaper called the Polka Star to inform the local patrons about the polka music and dance industry.

In 1968, part of the heart of the ''Helen-n-Chet's Polka Party,'' as the show was known then, was lost with the death of Helen. Chet continued to broadcast the show alone the next 5 years, with the occasional assistance of his sister, Carol. Chet was remarried in 1973 and the show became ''Sharon and Chet's Polka Party.'' The show continues to air every week over northwest Ohio's airwaves reaching into the hones of thousands of listeners.

Along with the radio show, Chet unselfishly conducts benefits for the American Cancer Society, the WTOD Penny Pitch, the Diabetes Foundation and the Polish American Festival. He also serves as the executive director of the Central Lagrange Senior Center. In August, Chet was inducted in the International Polka Association's Polka Hall of Fame in Chicago for his extensive work in our community and in the polka industry.

Mr. Speaker, I know my collleagues join me in recognizing the efforts of Mr. Chester Zablocki, a truly devoted individual who has enriched our lives with his love for his community, family, and the music which has lightened our hearts in northwest Ohio for nearly 50 years.

INTRODUCTION OF MARKET DISCOUNT BILL

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SHAW. Mr. Speaker, I have joined with my colleague, BEN CARDIN, to reintroduce legislation that would restore the capital gains tax treatment on the sale of market discount bonds. As a result of an amendment contained in the Omnibus Budget Reconciliation Act of 1993, the gain is taxed at the ordinary income rate rather than at the capital gains rate. This bill was originally introduced last June in response to the rise in interest rates that had precipitated, among other things, a noticeable loss of market liquidity for market discount bonds. Since that time, interest rates have continued to climb and there has been a corresponding increase in the volume of market discount bonds in the marketplace. The restoration of capital gains tax treatment for market discount bonds is an appropriate and timely way to reduce the borrowing costs to State and local issuers by improving market liquidity.

As a former mayor, I have a tremendous appreciation for tax-exempt municipal financing and the role bonds play in meeting public needs. In the State of Florida last year, there were over $7.6 billion in long-term bonds issued. Infrastructure requirements like secondary roads, bridges, water and sewer systems, airports, and public schools are all financed and built by State and local governments using tax-exempt municipal bonds. Bonds are used to leverage and argument Federal construction grants, revolving loans and other direct assistance programs. I believe tax-exempt bonds are an important tool in empowering States and localities to address public needs and consistent with the message of ''New Federalism'' contained in the Contract With America.

Prior to 1993, the proceeds from the sale of a bond purchased at discount were treated as capital gains. The 1993 Budget Reconciliation Act contained the provision that amended the tax treatment of municipal securities purchased at a market discount. As a result, when an investor sells market discount bonds, they now pay the ordinary income tax rates of up to 39.6 percent rather than the maximum capital gains rate of 28 percent.

The sharp rise in interest rates, beginning last February, lead to a dramatic increase in the amount of market discount bonds. Market discount generally exists when a bond is purchased on the secondary market at a price below par, or, in the case of bonds with an original issue discount, below the adjusted issue price. Market discount is the difference between the purchase price of a bond and its stated redemption price at maturity or its adjusted issue price. Since rules took effect in 1993, demand for discount bonds in the secondary market has suffered.

The change in the market discount rules adds significant complexity to reporting by bond dealers. For example, a single zero-coupon bond purchased at a discount could generate tax-exempt income, ordinary income, and a capital gain. Such complicated tax treatment poses problems for dealers and funds which must issue summary reports to the IRS and investors. The market discount rules also have a very real negative effect on market liquidity. For instance, certain tax-exempt mutual funds have simply stopped buying discounted bonds altogether.

In addition, the new market discount rules could result in higher capital costs for State and local municipal bond issuers, raise extremely complex financial consideration that repel investors, and provide little or no revenue gain to the Federal Government. For all of these reasons, I believe repeal of the new market discount rules is appropriate. Such a change would be consistent with efforts for overall capital gains reform.

I urge all of my colleagues to cosponsor this important municipal bond legislation.

NATIONAL LABORATORY EMPLOYEES INCENTIVE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. RICHARDSON. Mr. Speaker, I rise today to introduce legislation to provide a retirement incentive to national laboratory employees who are members of the public employees retirement system [PERS] of California.

These 450 men and women have each given over 30 years of service to the Department of Energy [DOE] and yet they were not offered a retirement incentive when DOE began downsizing staff at national laboratories administrated by the University of California.

The DOE funds three national laboratories through the University of California. From 1940 until October 1, 1961, national laboratory employees enrolled in the PERS of California. In 1961, the University of California established its own retirement system. As a result, employees hired at the national laboratories after October 1, 1961, were enrolled in the University of California Retirement Program [UCRP]. When the University of California established the new retirement system, national laboratory employees were given the option to transfer to the UCRP or remain with the PERS. Most chose to stay with the PERS because they had already accrued benefits in that system.

In 1993 when DOE began downsizing, national laboratory employees with UCRP were offered a retirement incentive package that added 3 years to retirement age, 3 years service credit, and 3 months pay. National laboratory employees with the PERS were not offered any incentive. The result of the University of California's decision to offer retirement incentives only to employees with UCRP was discriminatory against the most senior employees at the labs who were with the PERS of California.

As with any retirement incentive, this bill would have initial costs, but would generate millions of dollars in salary savings each year thereafter. For an initial investment of $14 million we could achieve $32 million in national laboratory salaries savings in the first year alone.

I urge my colleagues to join me in supporting this legislation which brings equality to the scientists and employees of our national laboratories and achieves significant downsizing at the DOE.

ECONOMIC CONDITIONS IN ISRAEL AND EGYPT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. HAMILTON. Mr. Speaker, the United States has a strong interest in the economic conditions and government policies aimed at promoting economic reform in Egypt and Israel. Every year since the signing of the Israeli-Egyptian Peace Treaty in 1979, the Congress has voted to provide these two countries with substantial economic and military assistance. Last year, Congress supported the administration's fiscal year 1995 request of assistance totaling over $5.2 billion. The administration had made the same assistance request to Congress for fiscal year 1996.

Given the importance of the economic conditions in Egypt and Israel to the United States, I would like to place in the CONGRESSIONAL RECORD the summary of USAID's Report on ''Economic Conditions in Egypt, 1993–94'' and the economic overview of the State Department's fiscal year 1994 Report to Congress on the ''Loan Guarantees to Israel Program and Economic Conditions in Israel.''

REPORT ON ECONOMIC CONDITIONS IN EGYPT, 1993–94 SUMMARY

During the past three years, Egypt has made progress implementing macroeconomic stabilization measures, such as reducing fiscal and current account deficits and liberalizing interest rates and foreign exchange regulations. It has made much less progress on the broader structural reforms necessary to promote increased economic efficiency and growth. The resultant slow economic growth has a number of explanations. Some reasons are temporary and although critical, should become less constraining over time. These factors include the sharp decline in Egypt's government spending over the last four years, high real interest rates, an overvalued exchange rate, and sluggish foreign demand for Egyptian products due to the uncompetitiveness of the Egyptian private sector.

Unfortunately, other constraints to growth are structural and cannot be changed quickly. Egypt adopted a socialistic and inward-looking approach to economic development in the 1950s. as a result, the country is burdened with public sector enterprises which are inefficient, unprofitable, and contribute very little to output. Millions of Egyptians have jobs with the Government or parastatals which they believe are theirs for life, regardless of the productiveness of the job. Legal, regulatory, and bureaucratic systems restrict business expansion and impose unnecessary costs on business. The judicial process is time-consuming and expensive. High levels of protection hinder international trade and competitiveness. The tax administration is cumbersome. Long term financing at reasonable rates is scarce. Government owned firms dominate the business sector, and they have proven incapable of generating jobs for the Egyptians entering the labor force each year. At this point in time, the private sector is too small to provide jobs for the new entrants to the labor markets.

Private investment and export orientation are the only realistic path to economic development. Unfortunately, Egypt's environment for the private sector is not sufficiently alluring to attract an adequate amount of investment funds from the international financial markets. The task for the Government of Egypt (GOE) is to prepare the private sector business environment so that Egypt can harness the energy of the private sector, direct it down the path of sustainable development, create jobs, and make it easier for Egypt to enhance its role as a model of stability, democracy and prosperity in the region.

Vice President Gore and Egyptian President Mubarak developed an Economic Growth Partnership that focuses precisely on this issue. The Gore-Mubarak Partnership is intended to spur equitable economic growth and job creation in Egypt, especially in the private sector. It is intended to strengthen links between the U.S. and Egyptian private sector, and increase trade and investment. The Partnership reflects a personal effort by the U.S. leadership to help Egypt improve the welfare of the Egyptian people. It reflects the special relationship which exists between the U.S. and Egypt.

STATE DEPARTMENT'S FISCAL YEAR 1994 REPORT TO CONGRESS ON THE LOAN GUARANTEES TO ISRAEL PROGRAM AND ECONOMIC CONDITIONS IN ISRAEL

OVERVIEW

The Loan Guarantees to Israel Program was established to assist Israel in its humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia, and elsewhere. The guarantees were authorized in recognition that the effective absorption of these immigrants within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. The legislation anticipates that the effect of U.S. loan guarantees will be bolstered by an Israeli economic strategy involving prudent macroeconomic policies, structural reforms designed to reduce direct government involvement in the Israeli economy and measures to promote private investment. Israel presently enjoys the basic preconditions for sustainable medium-term economic growth. These include a skilled and rapidly growing labor force, an environment of macroeconomic stability, and an improved geopolitical situation. A series of economic reforms begun in the late 1980s and early 1990s has continued under the Rabin Government, including measures discussed below to liberalize capital markets, relax restrictions on foreign currency transactions, lower trade barriers and reduce the budget deficit.

Nevertheless, much remains to be done: trade barriers—especially in the agricultural sector—continue to limit international competitiveness; progress has been very slow in privatizing 165 state-owned firms; and fiscal police must fall into step with tighter monetary policy in order to tame inflation. Inflation, an overvalued shekel, and a growing balance of payments gap present serious challenges for the government as it heads into the new year.

UNITED STATES-ISRAEL JOINT ECONOMIC DEVELOPMENT GROUP

Since the mid-1980s, the United States and Israel have engaged in periodic economic consultations under the auspices of the Joint Economic Development Group [JEDG]. This group has a mandate to examine and discuss Israeli economic policy. It played a key role in shaping the successful 1984 economic stabilization program for Israel. The Group is led on the U.S. side by the Under Secretary of State for Economic Affairs and on the Israeli side by the Director General of the Ministry of Finance.

In keeping with the intent of the Loan Guarantees to Israel legislation, the U.S. and Israel revived the JEDG in September 1993 to focus specifically on areas identified in the legislation: economic and financial measures, including structural and other reforms, that Israel should undertake during the duration of the loan guarantee program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that results from the program. The JEDG convened in 1994 on May 26 in Washington and again on October 3 in Madrid. Participants included senior officials of USAID, Commerce, the Council of Economic Advisors, Treasury, and in May, Stanley Fischer from the Massachusetts Institute of Technology. The group discussed in both sessions progress and plans in the areas of fiscal and monetary policy, privatization, trade liberalization, financial and capital markets, and labor markets.

MACROECONOMIC DEVELOPMENTS

Israel, with a population of 5.3 million and a GDP of $72.2 billion in 1993, has a per capita GNP of $13,471. The Government of Israel (GOI) has been relatively successful in stabilizing the economy in the face of a massive inflow of immigrants which has increased the population by over 12 percent since the end of 1989. The general economic picture is relatively good, despite the appreciation of the shekel, rising inflation and a growing trade deficit.

PROSPECTS FOR ECONOMIC GROWTH

The country is in the midst of a four-year economic expansion, with GDP growth expected at 6.5 percent by year-end 1994, and a growth rate of 4.9 percent predicted for 1995. Growth rates of 4–6 percent are projected for the remainder of the decade, relying as in previous years on the productivity of new immigrants (with 70,000 expected to arrive in 1994), structural reforms in the economy, and an opening of new export markets, mostly in Eastern Europe and Asia. In 1994–95, the government faces economic challenges associated with immigrant absorption, the peace process, and unique sectoral requirements. In dealing with the inflow of immigrants, the GOI has appropriately adopted a strategy of abstaining from direct intervention in the labor market and has instead focused on providing the immigrants with housing, subsistence grants and training while encouraging a more favorable environment for private sector investment and expansion.

EMPLOYMENT

Over the past four years, Israel's labor force grew rapidly with the addition of these immigrants and a baby boom generation. Although the rapid economic expansion and a moderation in wages resulted in an average 4 percent overall employment growth rate between 1990 and 1992, the unemployment rate nonetheless increased from 8.9 percent in 1989 to a peak of 11.2 percent in 1992. During 1993, however, despite the relative slowing in the economy, employment growth picked up to 6 percent and unemployment declined to 10 percent. Unemployment has further declined to 7.8 percent in 1994. Immigrant unemployment has fallen even more dramatically, from 38 percent in 1991, 29 percent in 1992, and 19 percent in 1993, to 12 percent in 1994.

BUDGETARY PRESSURES

In meeting the economic demands of the peace process and sectoral shortcomings, the government has met with less success. Indeed, a 5.6 billion New Israeli Shekel (NIS) supplemental budget ($1.87 billion) for 1994 was passed in November to cover public sector wage hikes and unanticipated expenses for implementation of the Declaration of Principles (DOP). The 1995 budget proposal is in keeping with recent fiscal policy, emphasizing investment in infrastructure and education. The GOI proposes $460 million to help cover defense industry losses, the labor federation Histadrut's health insurance fund, and kibbutzim debt rescheduling. The 1995 budget proposal projects a deficit of 2.75 percent of projected GDP, down from 1994's target of 3 percent.

INFLATION

Israel's track record on inflation is mixed. On the one hand, it succeeded in bringing inflation down from 420 percent in 1984 to 9.4 percent in 1992. On the other hand, the rapid increase in the money supply which took place at the end of 1993 marked the onset of an inflationary surge that reached 15.5 percent for 1994, and the Government has not coordinated its fiscal and monetary policies to control this problem. An annual increase of 25 percent in housing costs, and over 35 percent in fruit and vegetable prices, combined with higher than anticipated levels of private consumption and public sector wage raises, have thwarted the government's 8 percent target inflation rate. Furthermore, there is some fear that a new capital gains tax may cause a shift from stocks to real estate, with new demand again pushing housing costs higher.

Some question the need for expansionary policies when annual GDP growth rates averages 4–6 percent. Longstanding structural rigidities in the economy also contribute to inflationary pressures, which could be eased by steps to open the agricultural sector to international competition, deregulate the housing sector and increase the labor market's responsiveness and market forces.

EXCLUSIONARY RULE REFORM ACT OF 1995

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 666) to control crime by exclusionary rule reform.

Mr. FAZIO. Mr. Speaker, the fourth amendment to our Constitution prohibits unreasonable search and seizure by the government. It protects all Americans from arbitrary and unfounded government invasions into their homes.

The Supreme Court has held—in its ruling establishing what is known as the exclusionary rule—that any evidence seized in violation of the fourth amendment cannot be used as evidence at trial. In 1984, however, the Court created the good faith exception to the exclusionary rule, specifying that, if law enforcement officers in ''objective good faith'' believe they are conducting a constitutional search or seizure, then the evidence can be used at trial. The Court limited this exception to apply only to searches with warrants.

If H.R. 666, the Exclusionary Rule Reform Act, is enacted, the good faith exception to the exclusionary rule would be broadened to apply to searches both with and without warrants. As a result, evidence obtained in a search or seizure that violated constitutional protections

would not be excluded if the search or seizure were carried under an objectively reasonable belief that it was in conformity with the fourth amendment. In other words, the bill permits the use of evidence obtained without a search warrant in Federal proceedings, if law enforcement officers believe they were acting in good faith compliance with the fourth amendment.

The good faith exception to the exclusionary rule has been in effect since 1984. At that time, the Supreme Court ruled that, so long as evidence is seized in reasonable good faith reliance on a search warrant, that evidence is admissible, even if the warrant is subsequently found to be defective, so long as the officer's reliance is objectively reasonable. As a result, officers were given the leeway to discharge their duties in good faith, without having to check with a judge or magistrate. This good faith exception perseveres today.

I supported the amendment offered by my colleague from Michigan, Mr. CONYERS, which would enact into law the Court's ruling regarding the good faith exception for searches with warrants. It would also enact into law the Court's later ruling that extends the exception to evidence that is obtained in an officer's good faith reliance on a statute, even if that statute is later held to be unconstitutional.

Because the exclusionary rule protects all of our citizens against unreasonable searches and seizures and the invasion of privacy by law enforcement officers, I am concerned with attempts to erode its protections. Broadening the limited good faith by exception to include searches without warrants, as H.R. 666 does, would eviscerate the rule itself and leave Americans open to the very violations of our constitutional rights that the rule is designed to prevent. For this reason, I cannot support H.R. 666, as written.

The roots of the exclusionary rule were planted during the British occupation of the American colonies—when illegal search and seizure were commonplace. Our Founding Fathers enacted the fourth amendment to protect us from arbitrary and unjust searches of our homes and private property. Tampering with this fundamental American right is dangerous. Without the perfecting amendment which I support, H.R. 666 leaves average American citizens wide open to abuses of authority by overly zealous law enforcement officers who, in their eagerness to uphold the law, may find themselves violating the most basic rights of American citizens. I hope my colleagues will carefully weigh the far-reaching effects of creating such a broad loophole in the fourth amendment. If we seriously consider the intent of the Framers of our Constitution, we must ultimately decide to leave this basic, constitutional protection intact.

INTRODUCTION OF THE WOUNDED KNEE NATIONAL TRIBAL PARK ESTABLISHMENT ACT OF 1995

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. JOHNSON of South Dakota. Mr. Speaker, today I am introducing legislation to establish a Wounded Knee National Tribal Park in the State of South Dakota. The purpose of this memorial is to acknowledge the historic significance of the sites of the 1890 Wounded Knee tragedy.

In December of 1890, Chief Big Foot and his band of Minneconjou Sioux journeyed from the Cheyenne River Indian Reservation to the Pine Ridge Indian Reservation. A tragic incident ensued which claimed the lives of over 300 Lakota—Sioux—Indian men, women, and children, and 31 U.S. soldiers, marking the last military encounter of the Indian Wars period.

During the 101st Congress, the House adopted House Concurrent Resolution 386, which recognized the 100th anniversary of the Wounded Knee tragedy. This resolution also expressed support for the establishment of a suitable and appropriate memorial to those who were so tragically slain. This legislation will bring reality to those words of support.

The Wounded Knee National Tribal Park Establishment Act of 1995 will recognize the sites relating to the 1890 Wounded Knee tragedy and Ghost Dance Religion located on the Pine Ridge Indian Reservation and the Cheyenne River Indian Reservation. The act will establish appropriate national monuments at both units of the Wounded Knee National Tribal Park. In addition, the act will authorize feasibility studies to establish as a national historic trail the route of Chief Big Foot from the Cheyenne River Indian Reservation to Wounded Knee, and a visitor information and orientation center on the Cheyenne River Indian Reservation.

It is my hope that enhancing a national awareness of the Wounded Knee tragedy will promote a greater understanding between Indian and non-Indian cultures and people. This legislation is the culmination of years of study and input from the many interested parties, including the tribes and other supporters of this long-overdue recognition. I appreciate the fact that Congress has shown support for recognizing the historical importance of the Wounded Knee site over the past few years, and I look forward to the continued support of my colleagues and the Congress.

TRIBUTE TO MR. JOHN J. SULLIVAN

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mrs. KENNELLY Mr. Speaker, I rise today to recognize an outstanding citizen, constituent, and friend, John J. Sullivan, upon his selection as the 1995 Irishman of the Year for the central Connecticut, Greater Hartford area.

It has often been said that there are two kinds of people in the world—the Irish and those who want to be Irish. On Saturday, March 11, 1995, when John J. Sullivan leads the annual St. Patrick's Day parade down Main Street in my hometown of Hartford, we can all enjoy what it means to be Irish. It will be another reminder of the many blessings derived from the great Emerald Isle.

Over the years, John has served the Greater Hartford region as both community servant and friend to many. We have all witnessed his commitment and dedication to civic duty and community responsibility from his memberships on the Irish-American Home Society and the Manchester St. Patrick's Parade Committee; to his dedication to the Connecticut Special Olympics, and Leukemia Society; and to his service as a deputy sheriff.

He has been a member of the Democratic State Central Committee of Connecticut for more than 22 years, and the Manchester Democratic Town Committee for 37 years. John has dedicated himself to all these activities, and received the support of his wife Ada and their daughter Maureen.

Mr. Speaker, I, and all who know him, hold John in the highest regard. He gives tirelessly of himself and is a great citizen. It is only fitting that he lead the annual St. Patrick's Day parade in Hartford, since he has already led so many of us through his example.

MANAGED CARE: DOLLARS FOR MANAGERS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STARK. Mr. Speaker, managed care can be defined as a system that spends money on managers.

That's OK, if the managed care plans also deliver quality health care to the plan's enrollees. The problem is that we don't have enough consumer safeguards, protections, and information available to the consumer to help the public buy into a good plan. During the 104th Congress, we should enact managed care consumer protections and require disclosure of managed care plan information. Such legislation will help the industry in its dealings with the public and weed out those who are managing people to death through the denial of services.

Health care in America is in a state of tension. Fee-for-service medicine is subject to gross overutilization, abusive unnecessary testing and surgery, and runaway charges. Managed care medicine is subject to gross underutilization, denial of needed, life-essential services, and health care dollars drained away to pay managers, ad-men, and posh corporate overhead. What we need in America is moderation and a good middle ground in both fee-for-service and managed care. We need a system where fee-for-service cannot overutilize and where managed care can't deny necessary services. Achieving this balance will always be a tension and a difficult path to find.

The newest hot solution to the Nation's unacceptable health care inflation, of course, is managed care. Managed care firms have been growing like weeds. Following is a staff review of 15 managed care company financial reports, generally for calendar 1993, that shows the percent they spend on health for their patients, the percent they take for general and administrative expenses, and their profit levels. Roughly 20 percent of every health care dollar in these firms is going for overhead, managers, and profit.

I think the consumer should know how much of his health care dollar is spent on providing health care for himself, and how much is spent making sure he doesn't get unnecessary care—managing or controlling his or her access to doctors, nurses, and hospitals. Each consumer needs to decide for himself where the fine line is between medical efficiency and

cost savings versus denial of care and the loss of peace of mind.

These overhead figures are particulary troubling when compared to the overhead figures in a not-for-profit HMO like Kaiser—about 5 percent—and in Medicare—less than 3 percent.

Mr. Speaker, I will provide periodic updates to these figures. In the meantime, caveat emptor.

The table follows:

COMPANIES PROVIDING MANAGED CARE SERVICES

[Dollar amounts in thousands]

Name and period	Enrollees	Gross this yr.	Prior yr.	Net this yr.	Prior yr.	In percent					
						G&A		Health		Profit	
						This yr.	Prior	This yr.	Prior	This yr.	Prior
1. FHP—7/1/93–6/30/94	1.7M	$2,472,958	$2,005,854	$59,310	$44,166	13.4	13.4	83.2	83.8	2.4	2.2
2. Oxford—1/1/93–12/30/93	217,300	311.938	155,722	14,900	11,289	21.8	21.0	69.8	70.2	4.8	7.2
3. Physicians Health Svcs—1/1/93–12/30/93	158,984	280,230	268,895	11,891	8,561	12.0	10.6	80.7	83.4	4.2	3.2
4. Value Health (9 months)—1/1/94–9/30/94	41M	706,931	499,769	34,009	23,529	10.4	11.6	78.7	78.4	4.8	4.7
5. Foundation Health Corp—7/1/93–6/30/94	3.5M	1,717,821	1,517,339	83,153	61,908	11.6	11.0	77.3	75.9	4.5	4.1
6. Wellpoint—1/1/93–12/31/93	2.3M [1] 2.5M [2]	2,449,175	2,275,155	165,384	174,758	11.2	12.1	73.0	63.6	6.7	7.7
7. Employees Benefit Plan 1/1/93–12/31/93	1.1M	251,618	240,071	5,656	(10,571)	36.9	31.2	56.1	61.5	5.4	(4.6)
8. Caremark—1/1/93–12/31/93	([3])	1,783,200	1,461,200	77,700	27,300	10.8	10.6	77.9	78.2	4.4	1.9
9. Sierra Health Svcs, Inc.—1/1/93–12/31/93	138,356	258,724	234,373	17,433	13,603	20.8	20.2	72.3	74.3	6.7	5.8
10. MidAtlantic Medical Svc—1/1/93–12/31/93	950,000	646,777	579,355	24,833	13,460	8.4	7.5	86.4	90.0	3.9	2.3
11. Maxicare—1/1/93–12/31/93	308,000	440,186	414,454	5,588	(3,071)	9.3	9.2	89.7	87.5	1.3	−.7
12. Healthwise—1/1/93–12/31/93	90,000	119,395	63,526	4,828	3,283	13.2	9.2	76.1	75.6	4.0	5.2
13. United Health Care—1/1/93–12/31/93	36M	2,527,325	1,759,865	194,574	125,657	16.1	17.8	80.8	81.4	12.1	11.1
14. Wellcare—1/1/93–12/31/93	70.2M	75,915	41,380	4,648	2,215	12.7	14.9	77.0	76.3	6.1	5.4
15. Physician Corp of America—1/1/93–12/31/93	472,000	545,967	354,342	40,094	14,437	15.0	14.0	72.8	79.4	7.4	4.1

[1] Medical. [2] Pharm. and dental. [3] Not reported.

QUOTES FROM COMPANIES PROVIDING MANAGED CARE SERVICES

1. FHP International Corp, Fountain Valley, CA:

p. 10: ''Take Care's percent of revenue spent on health care *imporved* from 82.2% to 80.9%.'' (emphasis added)

p. 29: ''The cost of health care, however, improved to 82.6% as a percent of revenue in the 4th quarter of fiscal year 1993 . . .''

2. Oxford Health Plans, Inc., Norwalk, CN:

p. 22: ''The medical loss ratio declined because revenue per member per month increased at a greater rate than medical expenses per member per month. Per member per month revenue increased 8.5% . . . and per member per month medical expenses increased 6.1%.''

3. Physicians' Health Services, Trumbull, CN:

p. 16: ''Health care expenses as a percentage of premium revenue decreased to 82.9% . . . due to the combined impact of premium rate increases and decreases in inpatient hospital utilization.''

5. Foundation Health:

p. 18: ''The improvement in the company's HMO medical loss ratio from FY 1992 to FY 1993 resulted from strict underwriting controls and appropriate setting of premium rates, strong utilization review controls and favorable provider reimbursement rates, including an increase in capitation arrangements with physicians.'' (p.18)

10. Mid Atlantic Medical Services, Rockville, MD:

p. 2: ''To this end, we began a review of M.D.IPA's groups and their profitability. Those groups that were marginally profitable or unprofitable were either brought up to par, or not renewed.'' (M.D. IPA is their federally qualified HMO)

14. The Wellcare Management Group, Kingston, NY:

p. 16: ''Medical expenses increased . . . representing a 3.3% increase on a member per month basis, but decreased as a percentage of premiums earned (the medical loss ratio) to 80.2% in 1993...primarily as a result of favorable medical utilization and cost controls.''

15. Physician Corporation of America, Miami, FL:

p. 29: ''This 5% increase in the weighted average medical costs per member was due to (i) medical cost increases of 7% for commercial members, 27% for Medicare members, and a 6% decrease for Medicaid members, and (ii) the significant increase in Medicaid membership as a percentage of overall membership which has lower per member medical costs than the Company's other membership. As a result of these factors, the Company's medical loss ratio improved to 72.8% from 79.4%'' (emphasis added).

TEMPLE B'NAI B'RITH OF WILKES-BARRE CELEBRATES 150TH ANNIVERSARY

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. KANJORSKI. Mr. Speaker, it is my distinct pleasure to recognize the sesquicentennial of the Temple B'nai B'rith of Wilkes-Barre. I am pleased to join in the celebration commemorating the congregation's 150 years of leadership and community participation in the Wyoming Valley.

Although historical records cannot determine the exact organizational beginning of the temple, it is known that the first Jewish families emigrated to the Wyoming Valley as early as the 1830's. Because the records show its founding to be somewhere between 1840 and 1848, B'nai B'rith has chosen to observe its founding year as 1845. With the support of all denominations, the first temple was erected in Wilkes-Barre and dedicated in 1884. It was northeastern Pennsylvania's first permanent synagogue. An orthodox temple until 1860, the B'nai B'rith became a pioneer in reform Judaism in the United States.

In 1960, a new temple was built across the river in Kingston with modern architecture and furnishings. In 1972, along with most of the Wyoming Valley, the building was devastated by the floods of Hurricane Agnes. The sanctuary was filled with more than 8 feet of water. Many irreplaceable records and objects were lost. Luckily, temple members saved the sacred Torahs just before the Susquehanna River spilled its banks. As was the case throughout the Wyoming Valley following the disaster, the community joined together and helped rebuild and refurbish the temple.

Mr. Speaker, I am extremely proud of the ecumenical unity and spirit which has become a tradition in northeastern Pennsylvania. B'nai B'rith is an active participant in the many interfaith projects which promote the understanding and tolerance for which our area is known. As we pay tribute to B'nai B'rith's founders during this celebration, we also pay tribute to its 275 families who continue to strengthen the tradition of Reform Judaism and who play an active role in the ecumenical spirit and community in the Wyoming Valley.

VICTIM RESTITUTION ACT OF 1995

SPEECH OF

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 7, 1995

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 665) to control crime by mandatory victim restitution.

Mr. CUNNINGHAM. Mr. Chairman, I rise in strong support of H.R. 665, the Victim Restitution Act. This bill, which is part of our Contract With America, will help to bring real justice to the millions of Americans victimized by crime each year.

Too often, our criminal justice system ignores the victims of crime. Americans are justifiably outraged by a system that guarantees cable television and other creature comforts to criminals, while leaving the victims of crime facing recuperation from injuries or massive financial loss. Insurance rates are increased by a need to provide health care for victims of crime or compensating victims for losses from theft. Meanwhile, no mechanism exists to insure that criminals bear a financial penalty for their actions. This bill will change Federal criminal proceedings to insure that the victims are compensated by their assailants.

The Bureau of Justice Statistics has reported that from 1973 through 1991, there were 36.6 million people injured as a result of violent crime. In 1992, almost 34 million Americans were victims of crime. Crime against people and households resulted in an estimated $19.1 billion in losses in 1991. Each year, injuries from crime cause some 700,000 days of hospitalization. The human costs of crime are real and growing.

While we have seen a growing awareness of this problem in recent years, we still fail to adequately compensate the victims of crime. This bill requires full financial restitution.

H.R. 665 instructs Federal courts to award restitution to crime victims and allows courts to order restitution to people harmed by unlawful conduct. Although victims may receive temporary relief from insurance, the criminal must ultimately pay the amount. If a victim receives compensation from a civil suit, that amount must be reduced by the amount of the restitution order.

For the first time, we establish that criminals must comply with restitution orders made by the court as a condition of probation, parole, or supervised release. H.R. 665 gives judges the authority and leeway to take any action necessary to insure that victims receive proper compensation.

Under H.R. 665, Federal judges must order compensation when sentencing for convictions of Federal crimes. The judge may also order compensation to any other person who was physically, emotionally, or financially harmed by the unlawful conduct.

Judges are given the leeway to consider indirect costs to victims, such as lost income, child care, and other expenses arising from the need to be in court. The judge is not to consider the income or resources of the offender or victim when determining the amount of compensation.

Mr. Chairman, H.R. 665 is an important component in our battle to restore commonsense to our judicial system. It will act as a deterrent to crime and more importantly, shows that Congress is serious about recognizing and addressing the needs of the victims of crime. I urge passage by the House.

TURKEY ESCALATES WAR ON FREE EXPRESSION

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. SMITH of New Jersey. Mr. Speaker, last October, a Helsinki Commission delegation met with Turkish officials and others in Ankara. With one exception, each and every official, including the Speaker of Parliament, produced a copy of the pro-Kurdish newspaper Ozgur Ulke and waved it in the air as proof that, despite what critics alleged, free expression was alive and well in Turkey.

Last week, Mr. Speaker, Turkish officials decided that the costs of allowing the paper to air its pro-Kurdish sentiments outweighed its value as a token of free expression. On February 3, a Turkish court forced the paper to shut down. This blatant assault on free speech comes within a week of the decision to prosecute Turkey's most widely known author, Yasar Kemal, for publicly stating his thoughts on the government's handling of the Kurdish situation. He now faces charges of separatist propaganda, and now, even those who favor the government's uncompromising hardline towards the Kurds are beginning to question whether the government hasn't gone too far.

Mr. Speaker, Ozgur Ulke's closure culminates an orchestrated campaign which began as soon as the newspaper appeared to fill the void left when a likeminded predecessor was forcibly closed. Censorship of the paper included violent attacks that left 20 reporters and distributors killed by unidentified death squads. At least four others have been kidnapped. The tortured, bullet-ridden body of one reporter was found weeks after he had disappeared. At least 35 journalists and workers of the newspaper have been imprisoned and 238 issues seized. The campaign against the newspaper went into high gear on November 30, 1994, when Prime Minister Ciller issued a secret decree, which was leaked and published, calling for the complete elimination of the newspaper. On December 3, 1994, its printing facility and headquarters in Istanbul and its Ankara bureau were bombed. One person was killed and 18 others were injured in the explosions.

On January 6, 1995, policemen started to wait outside the printing plant to confiscate the paper as soon as it was printed. Copies were taken directly to a prosecutor who worked around the clock to determine which articles were undesirable. Often some three to four pages of the paper, mostly articles about security force abuses, were censored and reprinted as blank sections. Since December, five reporters, who were detained and later released, spoke of being tortured by police attempting to force confessions against the newspaper's editorial board.

Mr. Speaker, last week, the State Department issued its annual human rights report, and only China had as many pages devoted to it as Turkey. While the report indicated that human rights conditions in Turkey had worsened significantly over the past year, the publication of Ozgur Ulke was cited as a positive example of press freedom. Responding to the report, an official spokesperson dismissed its report as biased and based on one-sided information. The spokesperson, repeating assertions made whenever Turkey is criticized for human rights violations, insisted that significant improvements had taken place and other important reforms were being undertaken. Given the countless times we have heard such assertions, it is a wonder that Turkey is not a model of freedom and democracy.

Mr. Speaker, now that Turkish officials do not have copies of Ozgur Ulke to wave at visiting delegations, they will likely search for other props to convince skeptics of their good intentions. I would suggest, Mr. Speaker, that instead of tolerating certain types of expression in order to placate foreign observers, Turkish officials should take real steps to bring policies in line with stated human rights commitments. Free expression and other rights cannot be viewed simply as products of public relations campaigns. If Turkish officials are unwilling to work seriously towards implementing such rights to bring their laws into conformity with international standards, then they cannot expect their pronouncements on human rights to be viewed sympathetically. In this context, Turkish denunciations of the State Department human rights report are as puzzling as they are absurd.

TRIBUTE TO LAWRENCE J. SCHWARTZ

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a good friend and community leader who passed away this week—Lawrence Schwartz, or Larry to all of his many friends.

I count Larry as one of my closest personal friends and mentors. He was, first and foremost, an educator—like myself, a history professor. He taught U.S. history and political science at San Diego City College from 1966 to 1987, when he left to become president of the San Diego Community College Guild, Local 1931, of the American Federation of Teachers.

As the nation's chief negotiator, Larry established a degree of civility in negotiation that has carried through to today. Faculty salaries at San Diego community colleges increased by 40 percent between 1987 and 1991, due in large part to Larry's rapport and negotiation with administrators.

He never lost touch with students, however. They recognized that Larry's deep involvement with the issues of the day gave depth, conviction, and meaning to his teaching. They responded to the substance of Larry's courses precisely because he gave life to traditionally dry and purely academic exercises.

We both had roots in New York, and our lives converged again in the 1960's when we joined the civil rights movement. Larry was active for years in Democratic political campaigns and served as a delegate to the National Democratic Convention in 1972. He served on the local executive board of the American Civil Liberties Union. He led protests against the Vietnam war.

He was held in high esteem by his students, well respected by his peers, and recognized statewide for his work. He was dearly loved by his friends and his family. My thoughts and prayers are with his wife, Rosalie, and his children.

Educator, union negotiator, activist, husband, father, and friend—Larry had a special bond with everyone he met. He believed, as I do, that one person can make a difference—and his life was a living example of that belief.

We need many more people like Larry Schwartz. He will be missed.

HONORING MORRIS L. SIMON

HON. VAN HILLEARY

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. HILLEARY. Mr. Speaker, I rise today to honor the memory of Mr. Morris L. Simon, cofounder of the Tullahoma News in Tullahoma, TN, and honorary lifetime vice chairman of the University of Tennessee Space Institute Support Council. It is both an honor and a privilege to ask that this body join me in tribute to Morris L. Simon, an extraordinary man who made a very significant impact on the lives of numerous people in middle Tennessee and who served his fellowman so admirably through the years.

Morris L. Simon was born in Bristol, TN, on June 12, 1911. Mr. Simon originally planned to become a lawyer and entered the University of Tennessee at Knoxville when he was 18 years old. But times were rough in east Tennessee and throughout the country, and the Great Depression dealt Morris' father Mr. Jake Simon, a Bristol merchant, a bitter hand.

Eager to help with the family's finances, Morris walked into the newsroom of the Knoxville News-Sentinel and informed the editors that he wanted to learn to be a reporter. Sorry, they said, they were not hiring.

''You don't understand,'' the young Simon said. ''I said I want to learn to become a reporter.'' They agreed he could go to work, but without pay. As a green reporter, Simon was given night assignments. A lack of sleep and an increasing work load forced him to abandon his studies at UTK after about 2 years.

While at the News-Sentinel, Simon earned a reputation for being an aggressive and competent reporter. By 1945 he was acting managing editor. In spite of his success, he was restless, and the next year he and J. Ralph Harris founded the Tullahoma News, a twice-weekly newspaper that would become the flagship paper of several weeklies started by Simon.

Simon was hard-nosed about news coverage, but he was known as a staunch supporter of projects benefiting the Tullahoma area. After the Air Force established the Arnold Engineering Development Center [AEDC] on the outskirts of town, several efforts were made to establish a graduate school and research institute there. In 1956, UT began a graduate program at AEDC for employees. The success of this program provided the basis for what became the UT Space Institute on September 24, 1964.

When efforts to raise private funds for an institute had failed, Simon became a strong advocate for State involvement. He worked closely with his friend, the late Dr. B.H. Goethert, and community leaders to garner public and political support for the Space Institute. It was Simon's idea to create the UTSI Support Council. He was the group's first vice chairman and now holds the honorary position of lifetime vice chairman.

In addition to supporting the Space Institute financially—he contributed enthusiastically to the establishment of a chair of excellence at UTSI and helped make the B.H. Goethert Professorship a reality—Simon has tirelessly championed causes to foster UTSI's growth and autonomy. In the early 1970's Simon convinced the Tennessee Higher Education Commission to complete the final phase of UTSI's Industry/Student Center. He led efforts in 1975–76 to have the institute recognized as a distinct funding entity within the State's budget process. And in the late 1980's he argued that the institute should be granted full campus status within the university system and that it's chief executive officer be deemed a vice president. in 1987 the UT Board of Trustees approved elevating the institute's chief officer to vice president rank.

UTSI has honored Morris Simon many times over the years. Most recently, the institute's faculty recognized his leadership and vision by contributing more than $20,000 toward establishment of the Morris L. Simon Fellowship. The fellowship announcement at a lecture on November 12, 1993, took Simon by surprise. he accepted the applause in silence, prompting old friends to remark that it was the first time they had seen him speechless. After recovering himself, Simon said simply, ''You could not have done anything to please me more.''

Mr. Speaker, I thank you for this opportunity to bring to the attention of the House the accomplishments of Mr. Morris L. Simon, a truly extraordinary individual whose legacy runs deep in the State of Tennessee.

THE LAW ENFORCEMENT OFFICERS' BILL OF RIGHTS OF 1995

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 9, 1995

Mr. STUPAK. Mr. Speaker, today, Congressman JIM LIGHTFOOT and I are introducing the Law Enforcement Officers' Bill of Rights.

It will surprise some to find that the same law enforcement officials who lay their lives on the line every day in protecting the rights of American citizens are denied many of these same rights in their workplace. Further, the absence of a standard for investigating police officers for non-criminal activities has, in some cases, subjected law enforcement officials to threats and coercion by superiors or internal affairs divisions, and to arbitrary and unfair remedies to any charges.

Mr. LIGHTFOOT's and my bill is very simple: it would set the time and location for interviews regarding violations; it would require the appointment of counsel to represent the officer under investigation; it would mandate that only one interrogator be allowed to question the suspect during any single session—to avoid the questioning method known as Good Cop/Bad Cop; it would mandate that no questions be asked about an officer's family or financial status; it would put forth a system for reviews; and it would require that the officer being investigated be made aware of the charges he or she is facing, among other fundamental due process rights. Again, this legislation would only apply to officers being investigation for noncriminal offenses.

As noncriminal disciplinary procedures vary widely from State to State, I believe that this important piece of legislation will go a long way to ending these ad hoc approaches to such proceedings and the often arbitrary and misplaced remedies that officers face. Under this legislation, States will have a guide path for such investigations and the rights of an officer, guilty or innocent, will be insured.

Mr. Speaker, this bill could not have been introduced today without the hard work of the Fraternal Order of Police and the National Association of Police Organizations, our country's two largest organizations representing law enforcement officials. Their hard work in this effort reiterates the need and widespread support for such an initiative. Furthermore, President Clinton, as Governor of the State of Arkansas, signed similar legislation into law to apply to officers in Arkansas; and Attorney General Janet Reno testified in the Senate in 1993 that such a bill is working effectively in her home State of Florida and that she has seen no disadvantages to it at all.

In a bipartisan effort, Senators MCCONNELL, from Kentucky, and BIDEN, from Delaware, have introduced this proposal in the Senate. Congressman LIGHTFOOT and I are continuing this bipartisan support in the House of Representatives. This is not a partisan issue. This is a constitutional issue. Law enforcement officials facing disciplinary actions deserve the same fundamental protections granted to every American and I believe that the Law Enforcement Officers' Bill of Rights of 1995 will go a long way to ensuring that these rights are protected.

H.R.—

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 ''Law Enforcement Officers' Bill of Rights Act of 1995''.

SEC. 2. RIGHTS OF LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by adding at the end the following new section:

''RIGHTS OF LAW ENFORCEMENT OFFICERS

''SEC. 819. (a) DEFINITIONS.—In this section—

'''disciplinary action' means the suspension, demotion, reduction in pay or other employment benefit, dismissal, transfer, or similar action taken against a law enforcement officer as punishment for misconduct.

'''disciplinary hearing' means an administrative hearing initiated by a law enforcement agency against a law enforcement officer, based on probable cause to believe that the officer has violated or is violating a rule, regulation, or procedure related to service as an officer and is subject to disciplinary action.

'''emergency suspension' means temporary action imposed by the head of the law enforcement agency when that official determines that there is probable cause to believe that a law enforcement officer—

''(A) has committed a felony; or

''(B) poses an immediate threat to the safety of the officer or others or the property of others.

'''investigation'—

''(A) means the action of a law enforcement agency, acting alone or in cooperation with another agency, or a division or unit within an agency, or the action of an individual law enforcement officer, taken with regard to another enforcement officer, if such action is based on reasonable suspicion that the law enforcement officer has violated, is violating, or will in the future violate a statute or ordinance, or administrative rule, regulation, or procedure relating to service as a law enforcement officer; and

''(B) includes—

''(i) asking questions of other law enforcement officers or nonlaw enforcement officers;

''(ii) conducting observations;

''(iii) evaluating reports, records, or other documents; and

''(iv) examining physical evidence.

'''law enforcement agency' means a State or local public agency charged by law with the duty to prevent or investigate crimes or apprehend or hold in custody persons charged with or convicted of crimes.

'''law enforcement officer' and 'officer'—

''(A) mean a member of a law enforcement agency serving in a law enforcement position, which is usually indicated by formal training (regardless of whether the officer has completed or been assigned to such training) and usually accompanied by the power to make arrests; and

''(B) include—

''(i) a member who serves full time, whether probationary or nonprobationary, commissioned or noncommissioned, career or noncareer, tenured or nontenured, and merit or nonmerit; and

''(ii) the chief law enforcement officer of a law enforcement agency.

'''summary punishment' means punishment imposed for a minor violation of a law enforcement agency's rules and regulations that does not result in suspension, demotion, reduction in pay or other employment benefit, dismissal, or transfer.

''(b) APPLICATION OF SECTION.—

''(1) IN GENERAL.—This section sets forth rights that shall be afforded a law enforcement officer who is the subject of an investigation.

''(2) NONAPPLICABILITY.—This section does not apply in the case of—

''(A) a criminal investigation of a law enforcement officer's conduct; or

''(B) a nondisciplinary action taken in good faith on the basis of a law enforcement officer's employment related performance.

''(c) POLITICAL ACTIVITY.—Except when on duty or acting in an official capacity, no law enforcement officer shall be prohibited from engaging in political activity or be denied the right to refrain from engaging in such activity.

''(d) RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.—When a law enforcement officer is under investigation that could lead to disciplinary action, the following minimum standards shall apply;

''(1) NOTICE OF INVESTIGATION.—A law enforcement officer shall be notified of the investigation prior to being interviewed. Notice shall include the general nature and scope of the investigation and all departmental violations for which reasonable suspicion exists. No investigation based on a complaint from outside the law enforcement agency may commence unless the complainant provides a signed detailed statement. An investigation based on a complaint from outside the agency shall commence within 15 days after receipt of the complaint by the agency.

''(2) NOTICE OF PROPOSED FINDINGS AND RECOMMENDATION.—At the conclusion of the investigation, the person in charge of the investigation shall inform the law enforcement officer under investigation, in writing, of the investigative findings and any recommendation for disciplinary action that the person intends to make.

''(e) RIGHTS OF LAW ENFORCEMENT OFFICERS PRIOR TO AND DURING QUESTIONING.—When a law enforcement officer is subjected to questioning that could lead to disciplinary action, the following minimum standards shall apply:

''(1) REASONABLE HOURS.—Questioning of a law enforcement officer shall be conducted at a reasonable hour, preferably when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

''(2) PLACE OF QUESTIONING.—Questioning of the law enforcement officer shall take place at the offices of the persons who are conducting the investigation or the place where the law enforcement officer reports for duty, unless the officer consents in writing to being questioned elsewhere.

''(3) IDENTIFICATION OF QUESTIONER.—The law enforcement officer under investigation shall be informed, at the commencement of any questioning, of the name, rank, and command of the officer conducting the questioning.

''(4) SINGLE QUESTIONER.—During any single period of questioning of the law enforcement officer, all questions shall be asked by or through a single investigator.

''(5) NOTICE OF NATURE OF INVESTIGATION.—The law enforcement officer under investigation shall be informed in writing of the nature of the investigation prior to any questioning.

''(6) REASONABLE TIME PERIOD.—Any questioning of a law enforcement officer in connection with an investigation shall be for a reasonable period of time and shall allow for reasonable periods for the rest and personal necessities of the law enforcement officer.

''(7) NO THREATS OR PROMISES.—Threats against, harassment of, or promise of reward shall not be made in connection with an investigation to induce the answering of any question. No statement given by the officer may be used in a subsequent criminal proceeding unless the officer has received a written grant of use and derivative use immunity or transactional immunity.

''(8) RECORDATION.—All questioning of any law enforcement officer in connection with the investigation shall be recorded in full, in writing or by electronic device, and a copy of the transcript shall be made available to the officer under investigation.

''(9) COUNSEL.—The law enforcement officer under investigation shall be entitled to counsel (or any other one person of the officer's choice) at any questioning of the officer, unless the officer consents in writing to being questioned outside the presence of counsel.

''(f) DISCIPLINARY HEARING.—

''(1) NOTICE OF OPPORTUNITY FOR HEARING.—Except in a case of summary punishment or emergency suspension discribed in subsection (h) if an investigation of a law enforcement officer results in a recommendation of disciplinary action, the law enforcement agency shall notify the law enforcement officer that the law enforcement officer is entitled to a hearing on the issues by a hearing officer or board prior to the imposition of any disciplinary action.

''(2) REQUIREMENT OF DETERMINATION OF VIOLATION.—No disciplinary action may be taken unless a hearing officer or board determines, pursuant to a fairly conducted disciplinary hearing, that the law enforcement officer violated a statute, ordinance, or published administrative rule, regulation, or procedure.

''(3) TIME LIMIT.—No disciplinary charges may be brought against a law enforcement officer unless filed within 90 days after the commencement of an investigation, except for good cause shown.

''(4) NOTICE OF FILING OF CHARGES.—The law enforcement agency shall provide written, actual notification to the law enforcement officer, not later than 30 days after the filing of disciplinary charges, of the following:

''(A) The date, time, and location of the disciplinary hearing, which shall take place not sooner than 30 days and not later than 60 days. after notification to the law enforcement officer under investigation unless waived in writing by the officer.

''(B) The name and mailing address of the hearing officer.

''(C) The name, rank, and command of the prosecutor, if a law enforcement officer, or the name, position, and mailing address of the prosecutor, if not a law enforcement officer.

''(5) REPRESENTATION.—During a disciplinary hearing an officer shall be entitled to be represented by counsel or nonattorney representative.

''(6) HEARING BOARD AND PROCEDURE.—(A) A State shall determine the composition of a disciplinary hearing board and the procedures for a disciplinary hearing.

''(B) A disciplinary hearing board that includes employees of the law enforcement agency of which the officer who is the subject of the hearing is a member shall include at least 1 law enforcement officer of equal or lesser rank to the officer who is the subject of the hearing.

''(7) ACCESS TO EVIDENCE.—A law enforcement officer who is brought before a disciplinary hearing board shall be provided access to all transcripts, records, written statements, written reports, analyses, and electronically recorded information pertinent to the case that—

''(A) contain exculpatory information;

''(B) are intended to support any disciplinary action; or

''(C) are to be introduced in the disciplinary hearing.

''(8) IDENTIFICATION OF WITNESSES.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, or his attorney if he is represented by counsel, not later than 15 days prior to the hearing, of the name and addresses of all witnesses for the law enforcement agency.

''(9) COPY OF INVESTIGATIVE FILE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall provide to the law enforcement officer, at the law enforcement officer's request, not later than 15 days prior to the hearing, a copy of the investigative file, including all exculpatory and inculpatory information but excluding confidential sources.

''(10) EXAMINATION OF PHYSICAL EVIDENCE.—The disciplinary advocate for the law enforcement agency of which the officer who is the subject of the hearing is a member shall notify the law enforcement officer, at the officer's request, not later than 15 days prior to the hearing, of all physical, nondocumentary evidence, and provide reasonable date, time, place, and manner for the officer to examine such evidence at least 10 days prior to the hearing.

''(11) SUMMONSES.—The hearing board shall have the power to issue summonses to compel testimony of witnesses and production of documentary evidence. If confronted with a failure to comply with a summons, the hearing officer or board may petition a court to issue an order, with failure to comply being subject to contempt of court.

''(12) CLOSED HEARING.—A disciplinary hearing shall be closed to the public unless the law enforcement officer who is the subject of the hearing requests, in writing, that the hearing be open to specified individuals or the general public.

''(13) RECORDATION.—All aspects of a disciplinary hearing, including prehearing motions, shall be recorded by audio tape, video tape, or transcription.

''(14) SEQUESTRATION OF WITNESSES.—Either side in a disciplinary hearing may move for and be entitled to sequestration of witnesses.

''(15) TESTIMONY UNDER OATH.—The hearing officer or board shall administer an oath or affirmation to each witness, who shall testify subject to the applicable laws of perjury.

''(16) VERDICT ON EACH CHARGE.—At the conclusion of all the evidence, and after oral argument from both sides, the hearing officer or board shall deliberate and render a verdict on each charge.

''(17) BURDEN OF PERSUASION.—The prosecutor's burden of persuasion shall be by clear and convincing evidence as to each charge involving false representation, fraud, dishonesty, deceit, or criminal behavior and by a preponderance of the evidence as to all other charges.

''(18) FINDING OF NOT GUILTY.—If the law enforcement officer is found not guilty of the disciplinary violations, the matter is concluded and no disciplinary action may be taken.

''(19) FINDING OF GUILTY.—If the law enforcement officer is found guilty, the hearing officer or board shall make a written recommendation of a penalty. The sentencing authority may not impose greater than the penalty recommended by the hearing officer or board.

''(20) APPEAL.—A law enforcement officer may appeal from a final decision of a law enforcement agency to a court to the extent available in any other administrative proceeding, in accordance with the applicable State law.

''(g) WAIVER OF RIGHTS.—A law enforcement officer may waive any of the rights guaranteed by this section subsequent to the time that the officer has been notified that the officer is under investigation. Such a waiver shall be in writing and signed by the officer.

''(h) SUMMARY PUNISHMENT AND EMERGENCY SUSPENSION.—

''(1) IN GENERAL.—This section does not preclude a State from providing for summary punishment or emergency suspension.

''(2) HEALTH BENEFITS.—An emergency suspension shall not affect or infringe on the health benefits of a law enforcement officer or the officer's dependents.

''(i) RETALIATION FOR EXERCISING RIGHTS.—There shall be no penalty or threat of penalty against a law enforcement officer for the exercise of the officer's rights under this section.

''(j) OTHER REMEDIES NOT IMPAIRED.—Nothing in this section shall be construed to impair any other legal right or remedy that a law enforcement officer may have as a result of a constitution, statute, ordinance, regulation, collective bargaining agreement or other sources of rights.

''(k) DECLARATORY OR INJUNCTIVE RELIEF.—A law enforcement officer who is being denied any right afforded by this section may petition a State court for declaratory or injunctive relief to prohibit the law enforcement agency from violating such right.

''(l) PROHIBITION OF ADVERSE MATERIAL IN OFFICER'S FILE.—A law enforcement agency shall not insert any adverse material into the file of any law enforcement officer, or possess or maintain control over any adverse material in any form within the law enforcement agency, unless the officer has had an opportunity to review and comment in writing on the adverse material.

''(m) DISCLOSURE OF PERSONAL ASSETS.—A law enforcement officer shall not be required or requested to disclose any item of the officer's personal property, income, assets, sources of income, debts, personal or domestic expenditures (including those of any member of the officer's household), unless—

''(1) the information is necessary to the investigation of a violation of any Federal, State or local law, rule, or regulation with respect to the performance of official duties; and

''(2) such disclosure is required by Federal, State, or local law.

''(n) STATES' RIGHTS.—This section does not preempt State laws in effect on the date of enactment of this Act that confer rights that equal or exceed the rights and coverage afforded by this section. This section shall not be a bar to the enactment of a police officer's bill of rights, or similar legislation, by any State. A State law which confers fewer rights or provides less protection than this section shall be preempted by this section.

''(o) MUTUALLY AGREED UPON COLLECTIVE BARGAINING AGREEMENTS.—This section does not preempt existing mutually agreed upon collective bargaining agreements in effect on the date of enactment of this Act that are substantially similar to the rights and coverage afforded under this section.''.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. preceding 3701) is amended by inserting after the item relating to section 818 the following new item:

''Sec. 819. Rights of law enforcement officers.''.

Thursday, February 9, 1995

Daily Digest
Senate

Chamber Action

Routine Proceedings, pages S2345–S2433

Measures Introduced: Six bills were introduced, as follows: S. 377–382. **Page S2399**

Balanced Budget Constitutional Amendment: Senate continued consideration of H.J. Res. 1, proposing a balanced budget amendment to the Constitution of the United States, taking action on amendments proposed thereto: **Pages S2358–92, S2394–98**

Pending:

Reid Amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations. **Pages S2358–92, S2394–97**

Dole Motion to refer H.J. Res. 1, Balanced Budget Constitutional Amendment, to the Committee on the Budget, with instructions. **Page S2397**

Dole Amendment No. 237, as a substitute to the instructions (to instructions to the motion to refer H.J. Res. 1 to the Committee on the Budget). **Pages S2397–98**

Dole Amendment No. 238 (to Amendment No. 237), of a perfecting nature. **Page S2398**

A unanimous-consent time agreement was reached providing for further consideration of the pending motion and amendments pending thereto, on Friday, February 10, 1995, with votes to occur thereon. **Page S2433**

Senate will resume consideration of the resolution on Friday, February 10, 1995.

Committee Funding—Agreement: A unanimous-consent time agreement was reached providing for the consideration of S. Res. 73, authorizing biennial expenditures by committees of the Senate, on Friday, February 10, 1995. **Page S2433**

Messages From the President: Senate received the following messages from the President of the United States:

Received on Wednesday, February 8, 1995, after the recess of the Senate:

Transmitting the report of a draft of proposed legislation entitled ''Major League Baseball Restoration Act''; to the Committee on Labor and Human Resources. (PM–14). **Page S2398**

Received today:

Transmitting the report of the National Endowment for the Humanities for calendar year 1994; to the Committee on Labor and Human Resources. (PM–15). **Page S2398**

Transmitting the report of a draft of proposed legislation entitled ''The Omnibus Counterterrorism Act of 1995''; to the Committee on the Judiciary. (PM–16). **Pages S2398–99**

Messages From the President: **Pages S2398–99**

Measures Referred: **Page S2399**

Measures Held at Desk: **Pages S2432–33**

Communications: **Page S2399**

Statements on Introduced Bills: **Pages S2399–S2420**

Additional Cosponsors: **Page S2420**

Amendments Submitted: **Page S2421**

Authority for Committees: **Page S2421**

Additional Statements: **Pages S2421–42**

Recess: Senate convened at 9:15 a.m., and recessed at 6:39 p.m., until 9:30 a.m., on Friday, February 10, 1995. (For Senate's program, see the remarks of the Acting Majority Leader in today's RECORD on page S2433.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—FOREIGN ASSISTANCE

Committee on Appropriations: Subcommittee on Foreign Operations held hearings on proposed budget estimates for fiscal year 1996 for foreign assistance programs, focusing on political and economic reform in the New Independent States of the former Soviet Union, receiving testimony from Strobe Talbott, Deputy Secretary of State.

Subcommittee will meet again on Thursday, February 16.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee held hearings on proposed legislation authorizing funds for fiscal

year 1996 for the Department of Defense and the future years defense program, receiving testimony from William J. Perry, Secretary of Defense; Gen. John M. Shalikashvili, USA, Chairman, Joint Chiefs of Staff; and John J. Hamre, Comptroller, Department of Defense.

Committee will meet again on Tuesday, February 14.

ENERGY BUDGET

Committee on Energy and Natural Resources: Committee concluded hearings on the President's proposed budget request for fiscal year 1996 for the Department of Energy and the Federal Energy Regulatory Commission, after receiving testimony from Hazel R. O'Leary, Secretary of Energy; and Elizabeth A. Moler, Chair, Federal Energy Regulatory Commission.

RETIREMENT SAVINGS PLANS

Committee on Finance: Committee held hearings on S. 287, to expand individual retirement accounts (IRA's) for spouses, and on proposals to expand IRA's, 401(k) plans, and other savings arrangements, receiving testimony from Senator Hutchison; and Paul Yakoboski, Employee Benefit Research Institute, Daniel Halperin, Georgetown University Law Center, Matthew P. Fink, Investment Company Institute, and John J. Motley III, National Federation of Independent Business, all of Washington, D.C.

Hearings were recessed subject to call.

CONGRESSIONAL TERM LIMITS

Committee on the Judiciary: Committee ordered favorably reported, with amendments, S.J. Res. 21, proposing a constitutional amendment to limit congressional terms.

EMPLOYEE INVOLVEMENT PROGRAMS: (TEAM) ACT

Committee on Labor and Human Resources: Committee concluded hearings on S. 295, to permit workers to meet with supervisors to address issues of mutual concern, including quality and productivity issues, after receiving testimony from Don Skiba, Julie Smith, Johnny Albertson, and Angie Cowan, all of the TRW Plant, Cookeville, Tennessee; Lori Garrett and Kevin King, both of the Eastman Chemical Company, Kingsport, Tennessee; Chester McCammon, Universal Dynamics Inc., Woodbridge, Virginia; Harold P. Coxson, Coleman, Coxson, Penello, Fogleman & Cowen, and David M. Silberman, AFL–CIO, both of Washington, D.C.; and Berna Price, Electromation Inc., Elkhart, Indiana.

AMERICAN INDIAN YOUTH

Committee on Indian Affairs: Committee concluded oversight hearings to examine the challenges that American Indian youth face in today's society, after receiving testimony from Letha Mae Lamb, Akimel O'Odham/Pee-Posh Youth Council, Gila River Indian Community, Arizona; Sleepy Eye LaFromboise, Akron, New York, on behalf of the National Indian Education Association; Justin Deegan, Fort Berthold Indian Reservation, Parshall, North Dakota; Michael Killer, Cherokee Nation Tribal Youth Council, Tahlequah, Oklahoma; Wilpita L. Bia, Native American Youth Leadership Council, Chinle, Arizona; J.R. Cook, United National Indian Tribal Youth, Inc., Oklahoma City, Oklahoma; Billy Mills, Sacramento, California, on behalf of Running Strong For American Indian Youth; Valora Washington, W.K. Kellogg Foundation, Battle Creek, Michigan; Barbara D. Finberg, Washington, D.C., on behalf of the Carnegie Corporation of New York; Joseph A. Myers, National Indian Justice Center, Petaluma, California; Walter Ahhaitty, Hacienda Heights, California; Michael N. Martin, Buffalo, New York; and Shauna Smith, Nixon, Nevada.

House of Representatives

Chamber Action

Bills Introduced: Sixteen public bills, H.R. 872–887; and eleven resolutions, H. Res. 67, 68, 70–78, were introduced. **Pages H1554–55**

Report Filed: The following report was filed as follows: H. Res. 69, providing for the consideration of H.R. 668, to control crime by further streamlining deportation of criminal aliens (H. Rept. 104–26). **Page H1554**

Violent Criminals Incarceration: House completed all general debate and began consideration of amendments H.R. 667, to control crime by incarcerating violent criminals; but came to no resolution thereon. Consideration of amendments will resume on Friday, February 10. **Pages H1479–H1530**

Agreed To:

The Canady of Florida amendment that further defines ''relief'', when part of provisions regarding litigation to remedy prison conditions, to mean all relief in any form to be granted or approved by the court except a settlement agreement the breach of which is not subject to any court enforcement other than reinstatement of the civil proceeding which such agreement settled; **Pages H1488–89**

The Traficant amendment that provides that when a person convicted of a serious violent felony is to be released from prison, releasing authorities be required to notify victims of the crime, the families of such, the local media, and the convicting court of such release; **Pages H1491–92**

The Weller amendment, as amended by the Doggett amendment, that permits a State or unit of local government located within a State, to use funds to build, expand, and operate juvenile correction facilities or pretrial detention facilities, provided that a State certifies to the Attorney General that exigent circumstances exist that warrant such a use of funds; **Pages H1506–08**

The Canady of Florida amendment that permits States to use their prison grants to build, expand, and operate youth correction facilities; provides that, beginning in fiscal year 1998, fifteen percent of grants would be withheld from any State that does not have a system of increasingly severe ''consequential sanctions'' for repeat juvenile offenders; **Pages H1508–10**

The McCollum amendment that requires that the first $650 million of authorized funds for State ''truth-in-sentencing'' prison grants be reserved for the purpose of reimbursing States for the costs of incarcerating criminal aliens, beginning in fiscal year 1996 and continuing until fiscal year 2000; **Pages H1510–19**

The Gallegly amendment that changes the way funds are allocated from a ratio relative to the general population to a percentage of violent crimes reported to the Federal Bureau of Investigation, thus intending that such funds go to a State based on actual need; **Pages H1519–20**

The Burton of Indiana amendment that adds a requirement that any funds used to carry out the building and expansion of correctional facilities represent the best value for State governments at the lowest possible cost, employing the best available technology; **Pages H1520–21**

The McCollum amendment, as amended by the Conyers amendment as modified, that provides any remaining unallocated funds which have been available for more than two fiscal years be made available for expenses of the Immigration and nationalization Service for investigators and for expenses of the Bureau of Prisons, the Federal Bureau of Investigation, and the United States Attorneys for activities and operations related to the investigation, prosecution and conviction of persons accused of a serious violent felony, and the incarceration of persons convicted of such offenses, including the national Institute for Justice for law enforcement technology programs; **Pages H1521–25**

The Zimmer amendment that provides that the Attorney General establish standards regarding conditions in the Federal prison system that provides prisoners the least amount of amenities and personal comforts consistent with constitutional requirements and good order and discipline in Federal prison; and **Page H1529**

The Scott amendment that provides that a State receiving funds shall require that the appropriate public authorities report promptly to the Attorney General the death of each individual who dies in custody while in a municipal or county fail, State prison, or other similar place of confinement. **Pages H1529–30**

Rejected:

The Chapman amendment that sought to prohibit the expenditure of any prison grant funding, including funding for the general prison grant program and the truth-in-sentencing incentive grant program, until and unless the Attorney General certifies that at least fifty percent of States meet truth-in-sentencing requirements (rejected by a 169 ayes to 261 noes, Roll No. 110); **Pages H1489–91**

The Schumer amendment that sought to eliminate the prison grant programs, including the general prison block grant program and the truth-in-sentencing incentive grant program; consolidate the violent offender and truth-in-sentencing grant programs into a single prison block grant program; provide that each State would receive a prison block grant based on the number of violent crimes among the States; provide that the block grant would be funded at the same annual level as the total State funding provided in the 1994 Crime Control Act; and provide that States that failed to use their allocated grant funding within two years would be required to refund unused moneys to the Federal Government for later distribution to States (rejected by a recorded vote of 179 ayes to 251 noes, Roll No. 111); and **Pages H1492–H1506**

The Scott amendment that sought to require that one-tenth of one percent of all prison grant funding authorized be set aside each year for evaluation and research on the effectiveness of prisons on controlling and reducing crime. **Pages H1525–27**

The Watt of North Carolina amendment was offered, but subsequently withdrawn, that would have required States to actually demonstrate declining

crime rates since 1993 in order to qualify for general prison grants. **Pages H1527–29**

H. Res. 63, the rule under which the bill is being considered, was agreed to earlier by a voice vote. **Pages H1472–79**

Presidential Messages: Read the following messages from the President:

National Endowment for the Humanities: Message wherein he transmits the 29th Annual Report of the National Endowment for the Humanities—referred to the Committee on Economic and Educational Opportunities; and **Page H1530**

Counterterrorism: Message wherein he transmits proposed legislation entitled the ''Omnibus Counterterrorism Act of 1995''—referred to the Committee on the Judiciary and ordered printed (H. Doc. 104–31). **Page H1530**

Committees to Sit: It was made in order that the following committees and subcommittees be permitted to set on Friday, February 10, during proceedings of the House under the five-minute rule: Agriculture, Banking and Financial Services, Commerce, Government Reform and Oversight, Science, Small Business, and Transportation and Infrastructure. **Pages H1530–31**

Bill Re-Referred: It was made in order that titles V, VI and section 4003 of H.R. 9, Job Creation and Wage Enhancement Act, be re-referred to the Committee on Small Business as an additional committee on jurisdiction. **Page H1531**

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on pages H1556–57.

Quorum Calls—Votes: Two recorded votes developed during the proceedings of the House and appear on pages H1491 and H1505–06. There were no quorum calls.

Adjournment: Met at 10 a.m. and adjourned at 8:50 p.m.

Committee Meetings

REFORMING THE PRESENT WELFARE SYSTEM

Committee on Agriculture: Subcommittee on Department Operations, Nutrition and Foreign Agriculture continued hearings on reforming the present welfare system. Testimony was heard from John Petraborg, Deputy Commissioner, Department of Human Services, State of Minnesota; and public witnesses.

Hearings continue February 14.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on the ICC. Testimony was heard from Gail C. McDonald, Chairwoman, ICC.

VA—HUD AND INDEPENDENT AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Veterans Affairs, HUD, and Independent Agencies held a hearing on restructuring Government. Testimony was heard from public witnesses.

OVERSIGHT PLANS; U.S. AND INTERNATIONAL RESPONSE TO THE MEXICAN FINANCIAL CRISIS

Committee on Banking, and Financial Services: Approved oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight.

The Committee also held a hearing regarding the U.S. and international response to the Mexican financial crisis. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System; Robert E. Rubin, Secretary of the Treasury; Robert B. Reich, Secretary of Labor; and Peter Tarnoff, Under Secretary, Political Affairs, Department of State.

Hearings continue tomorrow.

ADMINISTRATION'S BUDGET

Committee on the Budget: Held a hearing on the Administration's Budget proposals for fiscal year 1996. Testimony was heard from Laura D'Andrea Tyson, Chair, Counsel of Economic Advisers; and public witnesses.

Hearings continue tomorrow.

JOB CREATION AND WAGE ENHANCEMENT ACT; COMMITTEE BUDGET

Committee on Commerce: On February 8, the Committee ordered reported amended Title III, Risk Assessment and Cost/Benefit Analysis for New Regulations of H.R. 9, Job Creation and Wage Enhancement Act.

The Committee also approved the Committee Budget.

CLEAN AIR ACT AMENDMENTS—IMPLEMENTATION AND ENFORCEMENT

Committee on Commerce: Subcommittee on Oversight and Investigations held a hearing on the implementation and enforcement of the Clean Air Act Amendments of 1990. Testimony was heard from Carol M. Browner, Administrator, EPA; and the following Governors: George F. Allen, Virginia; John Engler, Michigan; and Pete Wilson, California.

BLOCK GRANT/CONSOLIDATION OVERVIEW

Committee on Economic and Educational Opportunities: Subcommittee on Oversight and Investigations held a hearing on Block Grant/Consolidation Overview. Testimony was heard from Linda G. Morra, Director, Education and Employment Issues, Division of Health, Education, and Human Services, GAO; Steve Bartlett, Mayor, Dallas, Texas; Freeman Bosley, Jr., Mayor, St. Louis, Missouri; and Michael J. Horowitz, former General Counsel, OMB.

CLOSED BRIEFING—CONCERNS IN CENTRAL, WEST, AND NORTH AFRICA

Committee on International Relations: Subcommittee on Africa met in executive session to receive a closed briefing on U.S. foreign policy concerns in Central, West, and North Africa. The Subcommittee was briefed by the following officials of the Department of State: George E. Moose, Assistant Secretary, African Affairs; and Robert H. Pelletreau, Assistant Secretary, Near Eastern Affairs.

FOREIGN POLICY IN ASIA CHALLENGES

Committee on International Relations: Subcommittee on Asia and the Pacific held a hearing on Challenges to U.S. Foreign Policy in Asia. Testimony was heard from the following officials of the Department of State: Winston Lord, Assistant Secretary, East Asian and Pacific Affairs; and Robin L. Raphel, Assistant Secretary, South Asians Affairs.

CLOSED BRIEFING

Committee on International Relations: Subcommittee on Western Affairs held a closed briefing on the Border Conflict: Between Ecuador and Peru. The Subcommittee was briefed by departmental witnesses.

REVIEW FINANCIAL MANAGEMENT—NATIONAL PARK SERVICE AND NATIONAL PARK SERVICE REORGANIZATION

Committee on Resources: Subcommittee on National Parks, Forests and Lands and the Subcommittee on Interior and Related Agencies of the Committee on Appropriations held a joint oversight hearing to review financial management in the National Park Service and the National Park Service Reorganization Plan. Testimony was heard from the following officials of the Department of the Interior: Joyce N. Fleischman, Deputy Inspector General, and Roger Kennedy, Director, National Park Service; James Duffus III, Director, Natural Resources Management Issues, Resources, Community, and Economic Development Division, GAO; and a public witness.

CRIMINAL ALIEN DEPORTATION IMPROVEMENT ACT

Committee on Rules: By a nonrecord vote, granted an open rule providing 1 hour of debate on H.R. 668, Criminal Alien Deportation Improvement Act of 1995. The rule waives section 302(f) of the Budget Act (prohibiting consideration of measures that would cause the appropriate subcommittee level or program-level ceilings to be exceeded) and section 303(a) of the Budget Act (prohibiting consideration of budgetary legislation prior to the adoption of the budget resolution) against consideration of the bill. The rule makes in order the Judiciary Committee amendment in the nature of a substitute as modified by the amendment printed in section 2 of the resolution (striking section 11 of the committee amendment) as an original bill for the purpose of amendment. Each section of the Committee amendment in the nature of a substitute, as modified, shall be considered as read. Priority in recognition will be given to Members who have pre-printed amendments in the CONGRESSIONAL RECORD prior to their consideration. Finally, the rule provides one motion to recommit, with or without instructions.

JOB CREATION AND WAGE ENHANCEMENT ACT; OVERSIGHT PLANS

Committee on Science: On February 8, the Committee ordered reported amended Title III, Risk Assessment and Cost/Benefit Analysis for new regulations of H.R. 9, Job Creation and Wage Enhancement Act of 1995.

The Committee also approved oversight plans for the 104th Congress for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight.

Committee recessed subject to call.

COMMITTEE ORGANIZATION

Committee on Standards of Official Conduct: Met for organizational purposes.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY BOARD REVIEW

Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on the Metropolitan Washington Airports Authority Board of Review. Testimony was heard from Senator McCain; Representatives Morella, Wolf, and Moran; Robert Tardio, Chairman, Metropolitan Washington Airports Authority; and public witnesses.

FEDERAL WATER POLLUTION CONTROL ACT REAUTHORIZATION

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment held a hearing on the reauthorization of the Federal

Water Pollution Control Act. Testimony was heard from Steve Bartlett, Mayor, Dallas, Texas; Stephen F. John, member, City Council, Decatur, Illinois; and public witness.

Hearings continue February 16.

ADMINISTRATION'S BUDGET PROPOSALS

Committee on Ways and Means: Concluded hearings on the Administration's fiscal year 1996 budget proposals. Testimony was heard from Alice M. Rivlin, Director, OMB; and Robert D. Reischauer, Director, CBO.

Joint Meetings

VETERANS PROGRAMS

Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs to examine the legislative recommendations of various veteran organizations, after receiving testimony from Richard Grant, Paralyzed Veterans of America, and David H. Hymes, Jewish War Veterans of the USA, both of Washington, D.C.; Charles R. Jackson, Non-Commissioned Officers Association of the U.S.A., and Lt. Commander Virginia Torsch, MSC, USNR, Retired Officers Association, both of Alexandria, Virginia; and John Molino, Association of the United States Army, Arlington, Virginia.

COMMITTEE MEETINGS FOR FRIDAY, FEBRUARY 10, 1995

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Budget, to hold hearings on the President's proposed budget request for fiscal year 1996 for the Department of Defense, 9:30 a.m., SD–608.

Committee on the Judiciary, to hold hearings on the national drug control strategy, 9 a.m., SD–226.

Committee on Small Business, to hold hearings on the future of the Small Business Administration, 10 a.m., SR–428A.

House

Committee on Appropriations, to consider the following: Defense Supplemental Appropriations for Fiscal Year 1995; and Rescission for Fiscal Year 1995, 9:30 a.m., 2360 Rayburn.

Committee on Banking, and Financial Services, to continue hearings regarding the U.S. and international response to the Mexican financial crisis, 9:30 a.m., 2128 Rayburn.

Committee on the Budget, to continue hearings on the Administration's Fiscal Year 1996 Budget, 10 a.m., 210 Cannon.

Committee on Commerce, Subcommittee on Telecommunications and Finance, to continue hearings on Title II, Reform of Private Securities Litigation, of H.R. 10, Common Sense Legal Reform Act, 9:30 a.m., 2123 Rayburn.

Committee on Government Reform and Oversight, to mark up the following: Reauthorization of H.R. 830, Paperwork Reduction Act of 1995, and H.R. 450, Regulatory Transition Act of 1995, 9 a.m., 2154 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, hearing on protecting private property rights with regulatory takings, 10 a.m., 2226 Rayburn.

Subcommittee on Courts and Intellectual Property, to continue hearing on issues related to the Legal Reform Issues in the Contract With America, 9:30 a.m., 2237 Rayburn.

Committee on Resources, Subcommittee on National Parks, Forests and Lands and the Subcommittee on Resources Conservation, Research, and Forestry of the Committee on Agriculture, joint oversight hearing on Forest Health and Emergency Salvage Sales, 10 a.m., 1324 Longworth.

Committee on Rules, to consider H.R. 728, Local Government Law Enforcement Block Grants Act of 1995, 10 a.m., H–313 Capitol.

Committee on Science, to mark up H.R. 655, Hydrogen Future Act of 1995, 12:30 p.m., 2318 Rayburn.

Committee on Small Business, hearing on amendments to strengthen the Regulatory Flexibility Act, 10 a.m., 2359A Rayburn.

Committee on Transportation and Infrastructure, Subcommittee on Public Buildings and Economic Development, hearing on the Economic Development Administration and the Appalachian Regional Commission, 8:30 a.m., 2253 Rayburn.

Subommittee on Railroads, hearing on Amtrak's Current Situation, 10 a.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Health, to continue hearings on Medicare related issues, 10 a.m., B–318 Rayburn.

Subcommittee on Trade, hearing on H.R. 553, Caribbean Basin Trade Security Act, 11 a.m., 1100 Longworth.

Next Meeting of the SENATE

9:30 a.m., Friday, February 10

Senate Chamber

Program for Friday: After the recognition of three Senators for speeches and the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of H.J. Res. 1, Balanced Budget Constitutional Amendment.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, February 10

House Chamber

Program for Friday: Complete consideration of H.R. 667, the Violent Criminal Incarceration Act; and

Consideration of H.R. 668, the Criminal Alien Deportation Act (open rule, 1 hour of general debate).

Extensions of Remarks, as inserted in this issue

HOUSE

Cunningham, Randy ''Duke'', Calif., E307, E312
Fazio, Vic, Calif., E310
Filner, Bob, Calif., E313
Hamilton, Lee H., Ind., E309
Hilleary, Van, Tenn., E313
Johnson, Tim, S. Dak., E311
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Smith, Christopher H., N.J., E308, E313
Stark, Fortney Pete, Calif., E307, E311
Stupak, Bart, Mich., E314

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