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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mrs. WALDHOLTZ].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
March 21, 1996.

I hereby designate the Honorable ENID G. WALDHOLTZ to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

As the days lengthen and the Sun brightens our hours, so may we anticipate the renewal of the bounty of Your creation. When we see the blossoms of nature, may they recall for us the seasons of our own lives; as we await the warmth of the days, may we remember the warmth of Your grace that is ever with us. In all things, O God, may we experience the wonders of Your love and so live our lives with strength and hope. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. PALLONE led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with an amendment a bill of the House of the following title:

H.R. 3019. An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3019) ''An act making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. GORTON, Mr. MCCONNELL, Mr. MACK, Mr. BURNS, Mr. SHELBY, Mr. JEFFORDS, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. BYRD, Mr. INOUYE, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LEAHY, Mr. BUMPERS, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KERREY, Mr. KOHL, and Mrs. MURRAY to be the conferees on the part of the Senate.

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

S. 942. An act to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes;

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals;

S. Con. Res. 47. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; and

S. Con. Res. 48. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1997, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

The message also announced that pursuant to sections 276h–276k, of title 22, United States Code, the Chair, on behalf of the Vice President, appoints Mrs. HUTCHISON as the chairperson of the Senate delegation to the Mexico-United States Interparliamentary Union during the 2d session of the 104th Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain ten 1-minutes on each side.

VETO PRESIDENT POISED TO STRIKE AGAIN

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

Mr. LINDER. Madam Speaker, bowing to special interests, the veto President is poised to strike again. The President who stopped welfare reform, tax cuts, and a balanced budget announced this past weekend that he will veto a bipartisan legal reform bill.

As Governor of Arkansas, the President called for just this type of legislation to limit frivolous lawsuits and sky-high punitive damage awards. But

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as President, the special interest lobbying group of trial lawyers is a heavy contributor to his reelection campaign.

Democrat Senator JAY ROCKEFELLER said it best: ''Special interests and raw political considerations in the White House have overridden sound policy judgment.''

Raw political considerations drove the President to veto welfare reform after he promised to ''end welfare as we know it.'' Political considerations made the President veto tax cuts and a balanced budget after he promised both. It is time for Bill Clinton to consider the American people—and not special interest lobbyists—for a change.

ANOTHER CONTINUING RESOLUTION

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

Mr. PALLONE. Madam Speaker, here they go again. Again the Republican leadership is going to bring up today another one of these stopgap funding measures, the continuing resolution. I think many people have forgotten that the Government was closed down on two occasions, at least two occasions, by the Republicans in this last year, and they are still moving forward with these temporary spending measures, last week and now again this week, for 1 more week. What it means is a great deal of uncertainty back in our districts, particularly when it comes to education.

Many teachers are now getting pink slips and being told they are going to be laid off. The school boards do not know whether they are going to have funding for education because of the continual assault against education. They are proposing the largest cut in the history of this country in education, over $3 billion. It is not fair, because the American people have told us over and over again that education is a priority, that they want to prioritize in terms of funding here.

Why should we be cutting back on education funding at the Federal Government and making the local school boards have to pay more in their taxes, in their local property taxes? It is not fair. We should put a stop to it.

THE PRESIDENTIAL VETO THREAT

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

Mr. GEKAS. Madam Speaker, the vicious, vindictive veto looms over the American people once again, this time threatening the lives and health of 8 million Americans who right at this moment, because of their health problems, have medical devices in their bodies, heart valves, pacemakers, brain shunts, a whole host of things, knee replacements, hip replacements. But the availability of these medical devices is threatened by the veto that the President has threatened to issue because of some quarrel that he has with other elements of the Trial Lawyers Association, et cetera.

Now, the suppliers of these medical devices, elements of the medical devices, are going out of business, in many respects because they are being sued out of their existence. What we have tried to do with the measure that is about to be vetoed is to make sure that the suppliers will feel comfortable in sending these supplies for the medical devices to be made available to the American people.

CONTINUED ATTACK ON THE AMERICAN EDUCATION SYSTEM

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

Mr. MILLER of California. Madam Speaker, once again today we are going to have a continuing resolution. What is continuing about this resolution is the resolution of the Republicans to continue to attack the American education system.

In this continuing resolution, once again the Republican Party will put forth the largest cuts to education in the history of this country. They will put forth cuts in programs of title I to put in jeopardy those children in our school systems that most need an education. They will put forth cuts in the DARE Program, the program that brings our community police, our young children, and the campaign against drugs in schools and drugs in young people's lives together. They will cut that program. Over $3 billion in cuts will be in this continuing resolution, which continues their assault on our education system.

They do this at a time when more and more parents are revaluing education because they now understand how terribly important it is to the future of their children's success and our economic existence. The Republicans should stop this attack on the American education system.

LET US PUT AN END TO PARTISANSHIP

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

Mr. HAYWORTH. Madam Speaker, here we go again. As the American people look to this Congress to find innovative solutions, the guardians of the old order, those who tell us that big government is always the best answer, those who would confuse the process of education with the Washington bureaucrats in the Department of Education, seek to strike fear in the heart of every American.

We do not need to be involved in name calling. In fact, we need to get past partisanship. That is why, Madam Speaker, I noted with interest the comment of the junior Senator from the State of Nebraska in talking about the proposed budget of the President of the United States. ''The budget, this budget, is the same smoke and mirrors. It is ridiculous. They are just not serious.''

Madam Speaker, the fact is we will always have differences, but let us work together constructively, end the fear mongering, and solve problems for America.

AMERICA LOSING JOBS

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

Mr. TRAFICANT. Madam Speaker, the standard of living in America is going down. Family income dropped from $30,000 in 1989 to $27,000 in 1993. But economists still say ''Don't worry, NAFTA is creating jobs.''

Let us check out those jobs. One million jobs were created by temporary agencies; 800,000 jobs, restaurants and bars; 400,000 jobs, health clubs and casinos; 400,000 jobs in Government.

The truth is, the American worker is losing a factory job with full benefits and is now washing dishes and waiting on tables. But Government economists still tell us this is an unfair study, that 1989 was actually a boom year.

Boom year? Beam me up, Madam Speaker. The truth is, with economists like this, the only growth industry in America is our bars, restaurants, and Government, and we pay for all of it.

Madam Speaker, I yield back the balance of these jobs.

ENERGY SECURITY

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

Mr. WATTS of Oklahoma. Madam Speaker, as we note the fifth anniversary this month of the successful conclusion of the Persian Gulf war, we must also rededicate ourselves to achieving energy security. Five years after defeating Saddam Hussein's armies, America still depends on other nations to meet the majority of our petroleum needs. We as Americans face the prospect of depending on foreign nations, often unstable nations, to provide us with up to 68 percent of our oil supply within the next 20 years. That is a dependence on foreign oil that America should not be exposed to.

America does not lack for proven oil reserves. Today, the House Resources Committee has scheduled a hearing on America's oil and natural gas resource base and Federal initiatives to encourage domestic oil and gas exploration. I strongly urge my colleagues to pay close attention to this hearing. Experts from the industry will discuss the promise of oil and natural gas development in America. For example, did you

know we have over 60 years worth of proven oil and gas reserves waiting to be developed? Why are we not relying on our own resources rather than on unstable foreign resource?

Today at the Resources Committee we will hear answers from America's oil and natural gas industry on how we, as leaders of this Nation, can help make America more secure against the threat of oil supply disruptions. I strongly encourage my colleagues to listen.

CONTINUING RESOLUTIONS HURTING AMERICA'S CHILDREN

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

Mr. RICHARDSON. Madam Speaker, today House Republicans will bring up another temporary funding bill to keep the Government running for another week. Sound familiar? It should, because that is exactly what happened last week.

If enacted, this will be the 11th temporary spending bill to become law this year. Republicans are lurching from one temporary bill to the other, desperately clinging to their deep cuts in education and environmental protection.

It is almost halfway through the Federal fiscal year, and Republicans still have not funded major parts of the Government for the rest of the year. Among those paying the price for these budget games are local school districts. Many have already let teachers go because they still do not know if they will get enough funding to hire them for next year. This is unfair to our Nation's children, who will suffer from larger classes and less help with basic skills like reading and writing. But who asked for these deep education cuts? Certainly not working families, who overwhelmingly support funding for education.

Let us not hold education hostage to politics.

AMERICA TOO DEPENDENT ON FOREIGN OIL

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

Mr. THORNBERRY. Madam Speaker, those who do not learn from the mistakes of the past are condemned to repeat them. It has been 5 years since the gulf war, and yet the United States has not yet seemed to learn the dangers of being dependent on other for our energy needs.

In fact, the United States is more dependent on foreign oil than ever before. More than 50 percent of our oil is imported, with about 20 percent coming from the Persian Gulf. We continue to lose producing wells, independent exploration and producing companies, as well as expertise. Talk about downsizing and exporting jobs—more than 500,000 jobs have been lost in oil and gas. And yet we go right along—acting as though domestic energy production is a luxury rather than a necessity of life in an unstable world.

Madam Speaker, it's time we learned from the past and take steps now to put us on the road to energy independence.

ASSAULT ON PUBLIC EDUCATION

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

Mr. DOGGETT. Madam Speaker, still high on the agenda of this Gingrich Congress is the assault on public education. It began last year with school lunch. You will remember the Speaker's assault and attempt to destroy a program that had enjoyed 50 years of bipartisan support to assure and guarantee school lunches for our Nation's young people. Then it was on to college. Let us add $5,000, the Speaker said, to the cost of going to college for those families that have struggled to get their kids through public school.

This year it is back to our smallest children. It is the program of giving not a Head Start, but a wrong start, to millions of American children. In my hometown it means cutting prekindergarten for 2,300 children in half. That is the program of placing obstacles in the way of opportunity for America's young children.

I know Speaker GINGRICH was very gleeful yesterday at this microphone as he blocked educational opportunities for immigrant children. Well, what about all the people that have been here and spent all of their lives and generations in this country and the hopes and aspirations of their parents? Let us stand up against this assault on public education.

□ 1015

BIG GOVERNMENT AND EDUCATION

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

Mr. LEWIS of Kentucky. Madam Speaker, as we have heard this morning the rhetoric from the other side about education, let us talk about education in this country for just 1 second. Since the mid-1960's, the Great Society, billions of dollars thrown at education, and where are our kids today? Where are students today? Has money helped the education in this country coming from the Federal Government? I say no.

The SAT scores have gone down. Drugs have gone up. Illegitimacy has gone up. Where is education in this country today? Billions of dollars thrown at it from the Federal Government. I think it is time we give it back to the parents and the communities and let them give their children a good education.

WHICH REPUBLICAN MEMBERS TRUSTS HAMAS?

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

Mr. EDWARDS. Madam Speaker, this morning I saw one of the most blessed sights that any husband or parent could ever see: My wife, cuddling in her arms, our 3-month-old son, both of them happy, healthy, and safe. But as I left them, I was haunted by the words spoken by a Republican House Member on the floor in this House last Wednesday when that person said: ''I trust Hamas more than I trust my own Government.''

Madam Speaker, Hamas is a terrorist organization that proudly murders innocent women and children. Every parent and every person in America should be outraged that a Member of this Congress could place trust in terrorists that would destroy the lives of innocent children and the families who love them. The Republican Member of this House who made this extremist, morally repugnant statement owes it to his or her colleagues and the people of this Nation to admit his or her identity.

BIG GOVERNMENT AND OUR CHILDREN

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

Mr. LARGENT. Madam Speaker, we have heard this morning about the cruel Republicans cutting education. Let us talk about our children for just a minute. Less than a month ago, the President of the United States stood at that podium and said the era of big government is over. Now, everybody on this side of the aisle stood up and applauded when he said that, and nobody on this side said anything about it. They sat in their seats.

Why was that? Because nobody believed him when he said that. The era of big government is not over. Otherwise, why is the President asking for more and more money? Why is this a concern for our children? Why should parents be concerned about government continuing to spend more and more money? I will tell you why. A child born today will owe $187,109 over their lifetime just to pay their share of the interest on the national debt.

If we continue things, the status quo in Washington, they will face an effective tax rate of 84 percent in their lifetime; 84 cents of every dollar they earn will go to the government at one level. That is wrong. Let us do make the savings and think about our children and the future.

''WHO DO YOU TRUST?''

(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. Madam Speaker, the entire world has been shocked, appalled, and reviled by the latest wave of terrorist attacks by Hamas in Israel. More than 50 innocent men, women, and children have been killed by suicide bombings in Jerusalem and Tel Aviv.

So I was similarly shocked and reviled to hear a comment made on the House floor last week in the course of debate on the so-called antiterrorist bill. The gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary, said this: ''Early in the day standing back there, I heard a dear friend of mine, a great Republican say, 'I trust Hamas more than I trust my own Government.' ''

He went on to say those words hurt. Those words do hurt indeed. But who, Madam Speaker, who, Mr. HYDE, who on the Republican side really believed they could trust Hamas more than our own Government? Who among my colleagues truly believes they can trust a terrorist organization that sends suicide bombers to rob innocent children more than the U.S. Government?

Madam Speaker, the American people have a right to know who among their elected Representatives trusts Hamas more than the United States. Until that person steps forward, or is identified, a cloud hangs over each and every Republican Member of this House.

COLORECTAL CANCER

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

Mr. BURTON of Indiana, Madam Speaker, I yield to the gentleman from New York [Mr. TOWNS].

Mr. TOWNS. Madam Speaker, I rise today to discuss the health issue that is very important to a vulnerable population; namely, Medicare beneficiaries. This year, colorectal cancer will claim an estimated 54,000 lives. This is the second leading cancer killer in the United States; 134,000 new cases of colorectal cancer will be diagnosed this year, most of them in the elderly population. And we are talking about cutting Medicare.

Madam Speaker, we know that early detection will save lives and save money. The technology exists to eradicate more than 90 percent of colorectal cancer in this country. Let us work toward a Medicare package or preventative benefits, one which will include colorectal cancer screening. It makes good health sense, and it makes good economic sense.

I urge my colleagues to move forward in addressing this disease in the Medicare population, the group most vulnerable to colorectal cancer.

VOTE AGAINST REPEAL OF ASSAULT WEAPON BAN

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

Mr. MCDERMOTT. Madam Speaker, the Bible says, by your deeds ye shall know them. Now last week by amendment, the Republicans gutted the terrorism bill. Many people asked why did they take out the guts of that bill? By their own words, from the gentleman from Illinois [Mr. HYDE], we know the answer: Because Members on the Republican side trust Hamas more than they trust their own Government.

They were afraid that, if we put the power in the hands of the Government to deal with terrorism, we might turn our eyes away from the Middle East and come to look at some of the organizations in this country. People on this floor have forgotten Oklahoma City. People have forgotten what has happened.

Madam Speaker, we cannot allow our Government to be powerless in the face of terrorist organizations wherever they come from. Now, tomorrow we are going to add insult to injury. The police officers of this country want the assault weapon ban kept in place. But the Republicans, led by the Speaker, are going to bring out a repeal of that ban to this floor to put those guns on the street again.

I urge my colleagues to vote against that bill.

WE CAN FIGHT TERRORISM WITHOUT VIOLATING OUR CONSTITUTION

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

Mr. MCINNIS. Madam Speaker, I yield to my good friend, the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Madam Speaker, I thank the gentleman for yielding to me.

The so-called antiterrorism bill infringed upon the liberties, the constitutional rights of the people of this country. While we are concerned about law and order and fighting terrorism, we do not want to violate the Constitution and hurt the liberties that our forefathers gave to us.

My colleagues on the other side are saying because we did not vote for the terrorism bill the way they wanted it, that we are sanctioning the terrorist activities that took place in Israel where 50 or 60 people were killed by terrorist activities by the Hamas organization. That is a ludicrous argument. We hate that just as much as anybody. We deplore those actions. We want to see those people brought to justice, and our Government is doing everything possible to stop that terrorism, not only there but in the United States.

But in the process, we must not violate the constitutional rights and liberties of American citizens.

A REPUBLICAN MEMBER TRUSTS HAMAS

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

Ms. DELAURO. Madam Speaker, the fact of the matter is that the antiterrorism bill passed last week in this body allows Hamas to raise funds in the United States of America, to raise their funds to go out and to kill innocent men and women and children. We had one Member, a colleague from the Republican side of the aisle, say that it was he or she who trusted Hamas more than they trust their own government.

Let me tell my colleagues, how can any Member trust a despicable organization, a bloodthirsty and terrorist organization? The pain and the misery that Hamas has caused may be abstract for some of my colleagues, but it is not for me, and it is not for my constituents. Last year my constituent Joan Davenney of Woodbridge, CT, was in Israel. She was a teacher at the Ezra Academy on a fellowship in Israel studying ways to improve curriculum at her school, a decent, wonderful young woman. Let me say that she was on one of those buses. She was killed by the terrorist organization Hamas. A sad day indeed when Republicans can defend Hamas on this floor.

THE PRESIDENT WILL NOT ASK SECRETARY O'LEARY TO RESIGN

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

Mr. TIAHRT. Madam Speaker, Vice President GORE, in his national performance review, indicated that Clinton's Secretary of Energy, Secretary O'Leary, and the Department of Energy, was 40 percent inefficient in their environmental management and it is going to cost the taxpayers $70 billion over the next 30 years.

Madam Speaker, what does that mean to taxpayers or what is that like? What is the equivalent of being 40 percent inefficient? That is like filling your car with gasoline, putting 10 gallons of it in, or running 10 gallons out of the pump and 4 of it goes on the ground and 6 of it goes in your tank. That is like sitting down at a restaurant, for every five bites you attempt to take, two of them end up in your lap. That is like sending your child to school and expecting your child to sleep for more than 2½ hours every day.

Forty percent inefficient, I think that is too much for the taxpayers. Seventy billion dollars, too much of a burden for the taxpayers. Yet it is condoned by Mr. Clinton. He will not call for reforms. He will not abolish the waste. He will not ask Secretary O'Leary to resign.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 165, FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1996, AND WAIVING REQUIREMENT OF CLAUSE 4(B) OF RULE XI WITH RESPECT TO CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. MCINNIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 386 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 386

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee.

SEC. 2. The requirement of clause 4(b) of rule XI for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported from that committee before April 1, 1996, and providing for consideration or disposition of any of the following measures.

(1) A bill making general appropriations for the fiscal year ending September 30, 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(2) A bill or joint resolution that includes provisions making further continuing appropriations for the fiscal year 1996, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

(3) A bill or joint resolution that includes provisions increasing or waiving (for a temporary period or otherwise) the public debt limit under section 3101(b) of title 31, United States Code, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Colorado [Mr. MCINNIS] is recognized for 1 hour.

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

Mr. Speaker, House Resolution 386 is a closed rule providing for consideration in the House with 1 hour of debate equally divided between the chairman and ranking minority member of the Committee on Appropriations. The rule orders the previous question to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the minority leader or his designee.

Section 2 of the proposed rule merely waives the requirement of clause 4(b) of rule 11 for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House for resolutions reported from the Rules Committee before April 1, 1996, under certain circumstances.

This narrow waiver will only apply to special rules providing for the consideration or disposition of any measures, amendments, conference reports, or items in disagreement from a conference that make general appropriations for fiscal year 1996, include provisions making continuing appropriations for fiscal year 1996, or any bill, or joint resolution, that includes provision increasing or waiving the public debt limit. The Rules Committee recognized the need for expedited procedures to bring these legislative measures forward as soon as possible. Mr. Speaker, House Resolution 386 is straightforward, and it was reported by the Committee on Rules by voice vote.

In order to prevent a Government shutdown and provide the conferees on the omnibus continuing resolution adequate time to iron out the differences between the House, Senate, and administration, House Joint Resolution 165 is necessary. The legislation will keep the Government operating through March 29, and in the case of AFDC and the Foster Care Program through April 3. I urge my colleagues to support House Resolution 386 and the underlying legislation, House Joint Resolution 165.

□ 1030

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

Mr. Speaker, this rule is proof positive that the Republican majority cannot finish the job they were sent to Washington to do. It seems to me that in addition to bringing about the revolution they have spoken of so often in the past 15 months, their responsibility, as the majority party, is to make sure that the trains run on time. Well, Mr. Speaker, not only have the trains not run on time in this Republican Congress, we have had to live through two major train wrecks, and now, nearly 7 months into fiscal year, most of the train is still off the tracks.

But, Mr. Speaker, my Republican colleagues have added insult to injury by asking this House to once again impose martial law. And what does martial law do, Mr. Speaker? Quite simply, martial law allows a majority to disregard the rules that they once so vigorously defended when they were in the minority. For 4 continuous months the House has operated under procedures that, had they been imposed by the Democrats, my Republican friends would have screamed bloody murder.

Today the Republican leadership plans to bring up the sixth martial law resolution of the 104th Congress. The resolution allows the Speaker to bypass the regular committee process and bring legislation immediately to the House floor without the normal 1-day layoff period required by the rules of the House. Usually this extraordinary authority is granted only in the final days of a session as adjournment approaches. But under, Republican control, the House has operated under martial law continuously for 4 months, from November 15 through March 15. Today they plan to extend that authority again until April 1.

In the Democratic 103d Congress the House operated under martial law for a total of 5 days with no martial law resolution lasting more than 1 day. In this Republican Congress a single martial law resolution, House Resolution 330, lasted 50 days. In the Democratic 103d Congress each martial law resolution applied to only one bill. Under the Republican control all martial law resolutions have applied to entire classes of bills encompassing everything from spending bills to Bosnia.

So, Mr. Speaker, I am going to make an offer my Republican colleagues should not be able to refuse. Let us go back to regular order and use the rules which have in previous Congresses served both the majority and the minority. Let us not circumvent the rules and undercut the democratic process in an effort to cover up the fact that the Republican majority cannot do its job.

I intend to oppose ordering the previous question in order to be able to offer an alternative rule which strikes the martial law provisions recommended by the Committee on Rules Republicans. I think that after 7 months of delay, if the Republican majority is serious about finally funding the Federal Government, the very least the Republican majority can do is offer the Members of the House the opportunity to take the time to read the bill. Martial law does not give anyone, Republican or Democrats, such an opportunity.

So I would encourage those Members across the aisle who are serious about maintaining democratic, with a small ''d,'' principles to vote again the previous question and to support my alternative to the rule.

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

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

Mr. Speaker, I think initially here we need to clarify a couple of points.

Mr. Speaker, I think at the very initial stages here we need to correct or clarify some of the statements made by my respected friend, the gentleman from the State of Texas [Mr. FROST]. Circumvent the rules? I think the gentleman is confused. This is the rules. That is why we are down here today.

The gentleman and I were both in the Committee on Rules last night. The gentleman did not ask for two rules. We had a voice vote. I did not see this kind of vigorous debate in the Committee on Rules last night. This is kind of a blind side that we are getting down here.

What we are asking for is approval of a rule, and then from that rule let us

go into the debate. Let us talk about he comes up with this magic phantom word called martial law. Again, in due respect to the gentleman from Texas, I call it economic common sense. What does he want to do? Stop the Government?

Of course, some leadership on the Democratic party would like to stop the Government because this is an election year. This is a very convenient time to try to put blame on the Republicans, who have brought more economic sense to this Government than any governing part of this body has brought for 40 years.

We have got some tough decisions to make here. We have got to move this thing forward. We have got negotiations going on between the administration, the President of the United States, between the U.S. Senate and between the U.S. House. We need to allow them some continued time for these kind of negotiations.

We are changing, Mr. Speaker, the habits of this House. We are changing 40 years, in my opinion, of bad habits. We cannot do it overnight. My colleague has got to allow the parties good faith, and he has got to allow them time so that these good-faith negotiations can continue. I do not think it helps the negotiations, it certainly does not help the relations between the two parties on this House floor, to use some of the types of exaggerations that I have just seen in the previous statement.

I would urge my colleagues, look beyond the political aspect of this, put aside the fact that we are in an election year right now, and let us move toward the best interests of this country, and that is called economic common sense.

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

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

If I understand the previous speaker, he is generally making two points. One is that the ends justify the means; and, two, that democracy is a very dangerous thing. What law we are asking for is that this House follow the rules of this House that have been followed for years and years when Democrats were in the majority. The question is are we going to suspend the rules of the House and not require a 1-day layover, a simple 24-hour layover for the House to have a chance to read bills before bringing up a rule on the floor of the House. We very rarely did that when we were in the majority, and only at the end of a session, and only for 1 day at a time.

The new majority wants to suspend the rules of the House for 4 months. I guess they consider democracy very dangerous. The ends perhaps do justify the means in their view, not in mine.

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

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

Mr. Speaker, let us again address the points from the fine gentleman from the State of Texas. We have got to have a bill by Friday. Does my colleague want to shut the Government down? We have to have a bill by Friday.

Now, I am sorry we cannot allow for time through next week and the following week to read some of the things that the gentleman would like to read. The fact is this Government continues second by second.

Now, we can either allow it to continue on Friday, or we can shut it down.

Now, today is Thursday. That means we have less than 24 hours, or about 24 hours, to do something to keep this Government operating. It is the Republicans' priority to keep the Government on course, but to run it on an economic course that is going to make common sense to the average taxpayer in this country, and that is a balanced budget.

Furthermore, I think it is important to understand that the waiver that we have talked about here, the narrow waiver, it is allowed by the rules. Suspension of the rules is a rule. The gentleman from Texas [Mr. FROST] has many years of experience on the Committee on Rules; he is a very capable individual. He knows this is not undemocratic; that is how the rules are written. We are utilizing the rules. I would be called out of order, the Speaker would not allow me to continue this debate today, if it was not in the rules. If I am not authorized to be on this floor with this proposal, which, as the gentleman from Texas admitted, the Democrats used while they were in the majority, if I were not allowed to do that, it would not be in the rules. Of course it is allowed.

We have got to have this, Mr. Speaker. We have got to continue to allow this Government to operate in a fiscally sound manner.

Now, again it is a dramatic change in the last 40 years of leadership in this House. In the last 40 years of leadership in this House we have accumulated a debt that is about $38 million an hour. In other words, our Government right now is spending about $38 million an hour more than it is bringing in. We cannot do that. No country in the history of civilization, no free country in the history of civilization, has survived with the kind of economic factors that we now have in place the way this Government has been run the last 40 years.

The gentleman from Texas [Mr. FROST] knows it, the gentleman and the gentlewomen from all the 50 States in this Union know it. We have got to face up to fiscal reality, and that means that we have got to get some resolution, we have got to allow time for negotiations, and this rule allows it, and that joint resolution will allow the Government to operate in a commonsense, good judgment fashion.

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

Mr. FROST. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the Democratic whip.

Mr. BONIOR. I thank the gentleman from Texas [Mr. FROST] for yielding the time this morning.

Mr. Speaker, the distinguished political analyst, Kevin Phillips, has said that this is the most unproductive Congress in the last 50 years. I have been here 20 years, and I have never seen this place run so poorly, so inefficiently, and without care and deliberation.

What this resolution we have before us does is say to virtually all Members of the Congress, at least the House, and all of the public, ''You can't participate.''

Now, what do we mean when we say martial law? The gentleman from Texas [Mr. FROST] has referred to this word, martial law. It means that the Speaker and the majority leader can bring legislation to this floor without going through the committee structure, without hearings, without giving us even a day's notice, bring it right to the floor, and we vote on it, and, as Mr. FROST has said earlier, this is being done for the fourth month in a row. Seventy-three percent of all the bills that have been brought to the House floor have gone right to the floor without committee consideration or approval this year, 73 percent.

Mr. Speaker, we started this Congress by shutting down voices, by closing the Black Caucus, the Women's Caucus, the Hispanic Caucus, and then there was an attack on public television, there was an attack on the Endowment for the Arts, closing down those important voices in our society, and now it has gotten to the point where Members of this body cannot even participate in committee hearings or committee votes, everything dumped right on the floor.

Mr. Speaker, the tragedy with this is it is not getting anything done. It is not getting anything done. This is the sixth martial law resolution we have had on the floor. We are going to be into our 12th continuing resolution in a few minutes.

□ 1045

Yet, we still have not done five appropriation bills from the 1996 fiscal year. We are going backwards. We are not getting anything done. It is not me saying it, it is respected Republicans on the outside who are looking in and saying, ''What in God's name is going on up there?''

How does this affect the general public? When you stop and you go and you stop and you go in terms of these resolutions, you throw a lot of uncertainty out there into the public. School boards and school officials all across the country are trying to plan their school year in September. They are trying to figure out how many teachers they need next year, they are trying to figure out the curricula, they are trying to figure out class size. They cannot do that because we have not dealt

with the education budget of this Nation from a Federal perspective.

The cuts that have been proposed by the Republicans have been in the neighborhood of $3.3 billion, cuts in the DARE Program, the Safe and Drug-free Schools Program, cuts in the Title I Program, which is for math and reading; 40,000 to 50,000 teachers getting pink-slipped all over the country, because they have not done their business.

This is a Congress of do little and delay. They have done little and they have delayed, and they have delayed. My friend, the gentleman from Colorado [Mr. MCINNIS], has had the nerve to stand up here and talk about shutting down the Government. They shut down the Government twice at the cost of $1.5 billion. That is what it costs to shut the Government down, $1.5 billion.

Mr. Speaker, there is a better way to run this place. The fair way to do it is to let the public participate, the Members participate, have up and down votes, give us a chance to offer the amendments that are necessary to keep our schools open, to take care of our toxic waste sites. We have toxic waste sites that are not being dealt with because they have not provided the money.

There is a better way to do this, Mr. Speaker. I ask my colleagues to vote against this rule, and to look closely at what the gentlemen on the other side of the aisle and the gentlewomen on the other side of the aisle are offering us in the 12th continuing resolution, which is closed for debate and for consideration by most of the Members of this body and by the American people.

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

Mr. Speaker, it is obvious from the previous remarks that we are into an election year. Let us look at the remarks made by the gentleman from Michigan. First of all, clearly, none of this would have happened, and I do not believe the gentleman's statistics are right. If 50,000 or 40,000 teachers got their pink slips because we said the Government had to operate with a balanced budget, maybe, if in fact that many got pink slips as a direct result of the negotiations here, it happened because President Clinton vetoed and vetoed and vetoed and vetoed and vetoed the budgets that we have given to him.

We are trying to get cooperation from this President. I can tell the Members, we have moved the President a long ways. Did Members ever think we would see this President saying that the era of big Government is over? Did we ever think we would see this President talking about a balanced budget? Finally we have gotten him to that point in the negotiations, but this takes time.

Mr. Speaker, let me point out, too, to assist the gentleman from Michigan, we have a Webster's dictionary up here. He keeps using this words ''martial law,'' as if the gentleman knows what it says. He is not using it in its proper context. Let me talk about martial law, as given to us by the Webster's dictionary: ''Martial law,'' ''The law temporarily imposed upon an area by State or national military forces,'' military forces, ''when civil authority is broken down, or during wartime military operations.''

If the gentleman wants to continue to use the term ''martial law,'' then he should clearly stand up here at the podium and talk about, under his definition of martial law, the times the Democrats used it in 1993. I have it right here. House Resolution 61, February 3, 1993, they did exactly the same thing. It is allowed under the rules. House Resolution 111, March 3, 1993, allowed under the rules. House Resolution 142, March 30, allowed under the rules, the same exact thing.

Mr. Speaker, if the gentleman and the gentlewomen from the other side there are trying to continue this argument, which clearly is a diversion from what we need to do, that is to cooperate towards a balanced budget, to cooperate keep this Government operating, if they want to continue to divert attention by using these terms, they should apply them to themselves. We are learning from them. We are using the rules. I could go on and on with this.

I think it is critical to understand that while the President has continued to veto, veto, veto, veto, and veto, we must, as a result of those vetoes, continue to negotiate, negotiate, negotiate, and negotiate. Do Members know what is going to happen as a result of those negotiations? At some point we are going to reach a compromise, a compromise that is good for the American people.

I know the gentleman from Michigan [Mr. BONIOR], and I must say right off the bat, I am not educated at an Ivy League school. I went to a very small school in the mountains of Colorado. I think I am very capable, but not able to quote great scholars. He quotes a distinguished scholar about his analysis of what is happening here in the U.S. House.

Let me quote a couple of people: My buddy Al. He is a rancher, he is not an Ivy League graduate, but do you know what he analyzed? He said ''It is about time, it is about time that somebody insisted that this Government, that this Congress, run its budget like every average American citizen has to do. It is about time somebody had enough guts to stand up to the bureaucracy in Washington, D.C. and demand that a balanced budget be in place. It is about time somebody called the President on these vetoes after veto after veto.''

Those are the kinds of quotes I can give. I can talk about Linda, I can talk about Betsy. These are just common folk out there. They know what it means to have a balanced budget. They have to balance their checkbook. So let us not use these diversionary tactics, first of all, by using this term ''martial law,'' unless, of course, you want to apply it to yourselves, as you used it for the last several years.

Let us talk about unity in working towards a balanced budget to bring this Government to an economic, sensible, type of plan that will move us forward in a positive fashion.

Mr. Speaker, let me say that sometimes it is easy for people who observe us debating on this floor to go away with a pretty pessimistic attitude. I am optimistic about the future of this country. I think we have a great future ahead of us. But we do have some responsibilities that we have to carry forward, so the greatness of this country can continue. Those responsibilities right now center on fiscal responsibility. In order for us to get to that fiscal responsibility, we need to pass this rule.

Mr. Speaker, I should point out once again, and again, we can tell it is an election year. We were just in the Committee on Rules last night, so I have lost my memory on what occurred. We did not see this kind of rancor last night. We did not see this kind of debate in the Committee on Rules. In fact, this passed on a voice vote. Do Members know why? Because it is a procedure that has been used in the past, it is a procedure that is necessary to keep this Government from shutting down by tomorrow. I urge that Members support the rule. I urge that we support the House joint resolution.

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

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

Mr. Speaker, what we have before us today is conclusive proof that the governing Republican majority in this Congress is both incompetent and does not care about democracy. The gentleman just mentioned that Democrats suspended the rules during the last Congress. We did that for 5 days on five different occasions, 1 day at a time. They have done it for 4 months now, and they want to do it even longer than that. There is a basic disagreement on democracy, on how we should function as a democratic institution.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Speaker, the remarks of the gentleman from Colorado are irrelevant . . . He talks about the suspension of the rules, as if——

Mr. MCINNIS. Mr. Speaker, I ask that the words be stricken, the words of the gentleman be stricken.

Mr. NADLER. Mr. Speaker, I did not refer to the gentleman in any way. I said his remarks.

Mr. MCINNIS. The gentleman referred to the gentleman from Colorado. I ask that those words be stricken.

Mr. NADLER. Mr. Speaker, I said those remarks were . . . I did not say he was.

The SPEAKER pro tempore. (Mr. BURTON of Indiana). The gentleman will suspend. The gentleman will be seated.

The Clerk will report the words.

□ 1055

Mr. NADLER. Mr. Speaker, rather than waste time, I will withdraw the remarks.

The SPEAKER pro tempore. Without objection, the gentleman withdraws the remarks.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York may proceed in order.

Mr. NADLER. Mr. Speaker, let me say that most of what the gentleman from Colorado was saying is irrelevant to the point that we are making. The relevance of the balanced budget, the merits of the economics of both sides of the House and of the President are not what is at issue here. What is at issue is an abuse of the rules of the House.

The procedure for suspending the rules and what we call martial law is for an emergency. Instead, it is being used for every single day of this Congress, every single day of this Congress, not to give Members the right to read the bills, to have a bill on the floor without a 1-day layover so we can read them and look at them, to take bills away from committees, put them on the floor without consideration. In an emergency, maybe. The gentleman says it is an emergency. The Government will shut down unless there is a continuing resolution.

No. 1, why do we not have a continuing resolution, instead of lasting a week or two, that lasts until a budget agreement is reached or for the balance of the year? But forgetting that, if that is the emergency, why does the gentleman not ask for a rule that suspends the 1-day rule for 1 day for this bill? Not for another few weeks and keep it going that way.

The gentleman says it is within the rules to suspend the rules. Of course. There is that emergency provision, but this is an abuse of it. Lots of things can be done legally. The Reichstag passed the Enabling Act to give certain powers to the chancellor legally. That was an abuse of an emergency provision. Look what it led to.

I do not compare this to that, but it is the same abuse that eliminates democratic procedures. There is no necessity for it. Let them have a 1-day suspension, if necessary, so we can do this continuing resolution that is made necessary by the irresponsibility of the Republicans by not bringing it up earlier and by refusing lengthy CR's.

But let us not let that excuse be used to say we need to suspend the rules so that the Speaker can at any time bypass the committee, bring brand new legislation to the floor without even a day for Members to read it and a day for the Members of the public to read it. That, sir is an abuse of the Members and of the public.

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

I certainly respect the comments from the gentleman from New York, and I think that his point is a valid point. It is that exact reasoning from the gentleman from New York that the Democrats, when they were running this House floor and they had control of the Rules Committee, used exactly what he is talking about, using the word ''emergency.''

Let me refer the gentleman from New York to House Resolution 111, this is March 3, 1993, relating to the emergency unemployment compensation. We can go on from there to House Resolution 150 on March 30, 1993, making emergency appropriations. We can move on from there to House Resolution 153, making emergency appropriations, so on and so forth.

Mr. Speaker, I am going to try and pull us back. I would love to engage in debate with the gentlemen from the other side of the aisle. I think it is exciting. But the fact is we have got to get on with business. The fact is we need to keep this Government up and operating. The fact is we need to operate this Government in an economic, fiscally sane way. So let us pull it back to where we are today.

What are we debating right now? We are debating a rule. This is not the first time that this rule has been debated. In the past this rule has been utilized when the Democrats controlled the chair up there, and now the Republicans intend to use this rule. We need to have it.

Yesterday we debated this rule in the Rules Committee. We did not see this kind of vigorous debate in the Rules Committee. The only time we have seen this kind of vigorous debate is when we are down here on the House floor. Because up in the Rules Committee, we know that we have got to cooperate to keep this Government open tomorrow. That is what we are down to. We are down to 1 day. We are down to 24 hours.

Some would say, well, why did you let it get this close? The fact is very simple. We have got good-faith negotiations going on right now between the administration, between the Senate and between the House.

We can shortcut those negotiations. If we do, it is going to shortcut all of us. It is going to fall way short of a goal that I think, once we put the politics aside, once we put the election year aside, a goal that we want, for this country to be fiscally sound.

We should support this rule. This rule is important for us to move on. As I said, and again I stress this, this rule has been used in the past when the Democrats headed the Rules Committee, and we are using it today. It is not a subversion of democratic procedure. It is an allowed rule up there. The reason for it is for the very kind of circumstances that we face today.

The option, of course, is to go ahead, vote down the rule, as has been proposed by some Members who have taken the opposite stance of mine, and close down the Government tomorrow. We do not think it is necessary to close down the Government tomorrow.

We think you should support this rule and help us keep the Government open. We think your idea of closing down the Government by voting down this rule is not a good idea. It does not make sense. Work with us on this. Help us keep this Government operating for the next few days while the negotiations continue.

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

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, the gentleman from Colorado movingly referred a moment or two ago to his friends in Colorado who speak common sense and my friends, Betsy and Al and others, are of much the same mind. They know a couple of things, too. They know people have to pay their bills on time, and they sure hate it when they lose their job because somebody else did not do their job. That is what this debate is about.

There is a lot of talk about martial law and whether it is an unusual remedy. It depends on the circumstances. Yes, Democrats did use it for 5 days over a 2-year period and then limited it to one bill at a time. In the Republican majority in this Congress, not yet finished, they have used it for 4 months and covered whole classes of bills.

The definition of an emergency is interesting. They are approaching the definition of emergency about as long as Fidel Castro and Chiang Kai-shek and Generalissimo Franco used their definitions of emergency.

Because what is this martial law resolution? It permits you to skip committees, it permits you to avoid 1-day layovers so Members can read bills. It sets up a situation so your representatives do not know what is in those bills when they vote on them. This is a very, very serious matter. Now they want another one, the 11th this year, to go until April 1, not 1 day, not one bill, April 1.

The gentleman from Colorado speaks about economic common sense. Let us talk about common sense, economic common sense. We are 6 months into the 1996 budget year. Incidentally, they are already trying to work up the 1997 budget even though we do not have a 1996 budget yet. We are 6 months into the 1996 budget year. There have been 11 temporary spending resolutions and another 2 weeks of uncertainty coming up. This is businesslike?

Because the Republican leadership cannot operate the House and cannot agree on a budget, others must suffer. When this next continuing resolution expires on April 1, the West Virginia school boards, 55 of them, will have had to have laid off 226 teachers, 90 aides and denied title I reading and math services to 6,500 students. That is economic common sense, I ask you?

The gentleman says that economic common sense is necessary. What kind of economic common sense is it that costs teachers, that costs parents, that

costs children these opportunities, and is only going to suffer more setbacks?

Let me talk about why they want martial law or why I believe that what happens because of martial law, because nobody knows what will be in the bills that come to the floor. Understandably, they do not know yet. They have not written them. They do not know yet what is in them. But I have to be honest, given what has come in the past, I would not want to know what is in them, either, because it is just better that way.

What finally bothers me is when I hear this analogy that somehow if we do not vote for this, we are 2 days away from the deadline and you are going to shut the Government down.

I tried that in my school, too. It does not matter what school you went to, we all tried the same thing. I would go to the teacher and I would say, ''You know, 2 days, I didn't have enough time.'' The teacher would say, ''Yeah, BOB, but you had 6 months to work on this budget.''

Actually you had a year because you were supposed to have started a year before. I am not impressed and I do not think the American people are impressed, either. That is why this martial law is not good for the Congress and not good for the democracy.

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

The gentleman from West Virginia is an excellent speaker. He presents his points well, but I think we need to look at the substance of the points.

First of all, one of the points that the gentleman from West Virginia says, ''Hey, we're 6 months into this process and we still don't have an agreement.'' I will tell you why we do not have an agreement, is because of that veto pen down there at the White House, veto, veto, veto, veto.

When you talk about the difficulties that we have had on a compromise up here, you should also point out, to be fair to all parties listening to this debate, that there are three parties in this negotiation: The administration, President Clinton; the U.S. Senate; and the U.S. House. On some occasions the U.S. House and the U.S. Senate have come to a compromise and it has been the administration which has vetoed these bills and caused this kind of delay.

But let me also say, in fairness to the economic history of the last 40 years, it does make economic sense, if necessary, to delay this process if we can move this country toward a balanced budget, if we can get this country to quit spending more than it brings in.

Sure, you can look at the record of the last 40 years and say there were not very many times, if any, and I do not know that history for sure, but even if there were not any times that they went 6 months beyond that deadline, take a look at the product that we got. The product that we have got is a government that spends $40 million an hour on its debt more than it brings in. The product we have got is it now requires every man, woman, and child in this country to pick up $18,000 on their share of what is going to be necessary to get us out of debt.

It is kind of like running a credit card. Most of us have credit cards. Sure, if you can continue to use the credit card and charge and charge and charge and charge, and nobody ever calls you on it or nobody ever forces you to pay up the bill, then it is pretty easy not to delay buying something because you do not have the money. You just go down and charge it. That is what has happened for 40 years. Now before we let you use the charge card, we are saying, ''Wait a minute. Look at how much we owe on the charge card.''

Certainly we are going to have to spend some money. Obviously education is a priority for all of us. Obviously we have to have a defense. But we need to spend the money more efficiently. Before we just go down and willy-nilly charge anything we want, we have got to be careful with that credit card. That is what we are saying. That is what these negotiations are about.

I think further, let me say to the gentleman from West Virginia, he continues to use the words ''martial law,'' but at least the gentleman from West Virginia also applied that term when the Democrats had the Rules Committee. I would venture to say to the gentleman from West Virginia, the Democrats did not use martial law when they utilized this rule. We are not using martial law by utilization of this rule.

I read the definition over here from Webster's dictionary, martial law, which involves military forces. It is the utilization of the rules to get us to a common point. That common point, which you are coming to very resistantly, and you are tugging and you are pulling getting to that point but you are moving to that point, is a balanced budget for this country. I think that is the essence of what we have to get to.

You say we misuse the title of emergency. Well, folks, we are going to have an emergency in 24 hours. The clock is ticking. It is ticking second by second. That clock right up there, 24 hours from today, if you do not cooperate with us, you are going to shut this Government down.

We do not want the Government shut down. We want a government that is going to operate in an efficient manner and we are asking for your cooperation to give us some more time for good-faith negotiations. Is that too much to ask from you? I do not think so.

Last night when we were in the Rules Committee, they did not think so. We did not have this kind of argument last night in Rules. Let us pass this rule, let us get a good, healthy debate on the floor and let us keep the Government open.

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

Mr. FROST. Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Well, you may not want it shut down this morning, but you were mighty proud to shut it down twice last year. You use this term ''civil disorder.'' You say that martial law is something that we bring into play when there is civil disorder.

Well, what better term to describe the mess that you have made of this Government? Coming to the American people and bragging about your power to shut down the Government, not once but twice, costing the American taxpayer $1.5 billion, frittered away by this Republican leadership, totally and completely wasted so that they could have their Government shutdowns. What do they propose today? Well, they want to erect a monument to the mismanagement, to the failures of this Gingrich Congress.

This year after those two Government shutdowns, what have they given us? Loud talk and long weekends. It took them 3 weeks to celebrate Valentine's Day, breaking from this Congress. They come in and they break a little after noon.

There are people across America that these Republican colleagues of ours simply do not understand. They are working families. They are facing a tough time trying to make ends meet. If they for 1 week were to handle their business in the total mismanagement fashion of our Republican colleagues, taking 5 and 6-day weekends, taking 3 weeks for Valentine's Day, working part-time, asking to be paid full time, and caring about the real problems of the American people no time, then those ordinary working families would be out without a job in their own situation.

At the same time, we find ourselves in these sputtering spurts of Government that occur here with the same kind of extremist rhetoric that we heard all of last year from day one. When Republicans over in the other body hear the cry of the American people and approve money so that we can keep Head Start going instead of giving our young children a wrong start, keep our teachers going with Federal support of education, the response from the House Republican leadership is that the Senate Republicans have somehow been spineless, rather than to commend them for their willingness to finally come around and listen to the American people.

There are programs for young people in this country that are going to be shut down unless this kind of extremism can be put to a halt. We got just this week another example of that same kind of extremism, where we have one Member of this body coming and saying that he heard right here in the House a great Republican say, '''I trust Hamas more than I trust my own government.' Those words hurt.''

They do indeed hurt, and they hurt not just the pride of this body. They

hurt ordinary working families across this country, because they are the ones that are being savaged, that are being impacted by this kind of extremism in the House that has the Government operating literally from 1 day to the next, without the planning that our local school boards need and our Government agencies need to do their job.

□ 1115

So what is proposed as a solution? What this rule does is to say they think the solution to it all is to do one thing: Give Speaker NEWT GINGRICH more power. I do not believe the American people think the Speaker needs more power. I think they view him as part of the problem instead of part of the solution.

This allows him to come forward with more sneak attacks, just like tomorrow. Every time the American people realize what is happening to them, they come up with some sneak attack and some distraction piece of legislation. There is only one good feature of this resolution that our Republican colleagues are offering, and that is this authority is going to expire on April 1. Yes, they quite appropriately picked April Fools' Day. I say the American people are not going to be fooled again by this kind of nonsense.

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

Mr. Speaker, I find it somewhat amusing that the gentleman defines a sneak attack as an attack that comes tomorrow. That is not too sneaky if it is coming tomorrow.

Second of all, the gentleman talks about how the Republicans have stretched Valentine's Day for 3 weeks. I would let the gentleman from Texas know, I actually got to spend Valentine's Day with my wife, and I wish I could have figured out how to stretch that for 3 weeks, because it was a wonderful day.

Let us get back to the rule here. You want to vote against this rule, then you want to shut down the Government. That is how simple the choice is. It is the bottom line. We can talk about quotes here and there, and we can bring in posters and jump up and down and talk about all these kind of things. But the fact is, if you want to vote against the rule, you vote to shut the Government down tomorrow. No way around it. It is that simple. If you vote against the rule, you shut down the Government tomorrow.

I do not think that is what you really want to do. I think what you really want to do is cause a little havoc, and that is certainly within the debate here. I do not think that is going to get us anywhere. I think we have to pull back, unify, and work towards a balanced budget. You talk about the word ''extreme,'' this word ''extreme.'' What I think most Americans would define as extreme is that you up here, some of you, decide to vote against a rule, this is a procedure, a procedure that has been used by the Democrats, a procedure used by the Republicans, that you would vote against a rule just to demonstrate a point to shut down the Government tomorrow.

Do not shut it down. You do not need to shut the Government down tomorrow. That would be an extreme move. I would hope that the gentleman from Texas votes for this rule, because if you do not vote for the rule, then I think the next logical step is using the definition of the word ''extreme.'' It shuts the Government down.

Again, let me remind my colleagues, last night when we were in the Committee on Rules, we did not have this kind of debate. The members of the Committee on Rules on both sides of the aisle understood that we need to continue to operate the Government. They understood that we can operate in a positive fashion. Now we have got a little insurgence, coming over here today saying, hey, this is a bad rule. For some reason, we could use the rule, but you cannot use the rule. We see all these kinds of words being used, ''extreme, extreme, extreme.''

I would suggest we use the words ''veto, veto, veto,'' and once we are through with that debate, let us get to the issue at hand, and that is to vote ''yes'' on this rule so we can keep the Government from closing down tomorrow.

This is serious business. If we do not pass this rule, this Government is shutting down tomorrow. So let me urge all of my colleagues, let me say to you, Democrats, if you really want to push it, you may win the battle, you may beat the rule, but you are going to lose the war. And who loses if you lose? We all lose. Tomorrow we have got to keep this Government operating. There is no reason. In the past there has been, I think, logical argument on both sides that you have to bring an operation to halt that is spending $38 million an hour more than it brings in. But tomorrow, you do not have that kind of justification. You do not need to shut this Government down. Vote ''yes'' on this rule and keep the Government in operation.

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

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

Mr. Speaker, my colleague on the other side of the aisle is a little confused. I have listened to him and listened to him and tried to understand what he is saying. He obviously is confused. Let me see if I can set it straight.

We are not suggesting that the CR should not be brought up. The CR will be brought up today, should be brought up today, even under what we are suggesting. The only thing that we are asking is that the martial law provision of this rule be stripped out. Strip that out, you still bring the CR up today, because the CR is laid over 24 hours. That is all we are asking.

The gentleman seems to be very, very confused. He seems to think that if we won the previous question and we were able to strip out the martial law provision, that the CR could not come up. That is not the case at all. The CR would come up. It would be the next order of business.

I guess perhaps the staff on the other side may explain that to the gentleman, that even if we win, that the CR will be voted on today. I know it is a little hard to follow, what goes on around this place sometimes, but we are not suggesting the CR should not be brought up. We are suggesting it should be brought up, voted on today, so the Government can stay open.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, today what we are seeing and what we are listening to is another consequence of the incompetence of those who run this House. The resolution that we debate will grant Speaker GINGRICH extraordinary powers to bypass the regular process of this body and to bring bills immediately to the floor. What does this mean? No time to read the bills, no time to understand what is being voted on, no time for committees to air the process.

It is a subterfuge, a way in which you want to hide what you truly want to do.

We have precedent here: The Medicare debate, its Medicare debate, one hearing on dismantling the Medicare Program, which serves 99 percent of the seniors in this Nation. However, we were able to expose what our Republican colleagues wanted to do about Medicare, and now they have backed off of that issue.

This is a subterfuge tactic to hide what they want to do. The incompetent management has consequences in the lives of working families. Medicare is an example. As we lurch now from one short-term spending bill to another, citizens, businesses, have no idea what the Federal Government is about. My State of Connecticut, the educators are contemplating cutting reading, writing, mathematics programs, for our kids, the programs that talk about making our schools safe for our kids, providing the opportunity for high school students through school to work to be able to move into a profession. College loans will be cut. They do not know in my State of Connecticut what the Federal Government wants to do in funding for education. They are unable to plan for the school year.

I say to my colleague from Colorado that your friend Al's children are in serious jeopardy. Let us not give NEWT GINGRICH any more powers. Let us do the people's business, pass a budget that reflects the values and priorities of this Nation.

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

Mr. Speaker, I do find the previous Speaker's comments entertaining, but I think it is important for us to address the comments of substance, and those

are the comments from the gentleman from Texas. The gentleman from Texas is correct, I am confused, because last night in the Committee on Rules, we offered two separate rules specifically to the gentleman from Texas. I remember his comments. I was there. I was right opposite him. We said to the gentleman from Texas, ''Mr. FROST, would you like two rules?'' The answer was no.

Now, why two rules? One rule, if you are having a problem with the waiver of the bill, then we will give you a separate rule on the continuing resolution which will stop the Government from shutting down tomorrow. Then you can have a separate rule on this debate on the waiver or on the procedure we are using.

The gentleman from Texas said no. Now I am confused. If he is not attempting to shut down the Government tomorrow, why did he not ask for separate rules last night? It is very clear. The fact is, there is a little game playing going on here. That is OK. We are in a debate. But it gets real, real serious here in about 24 hours. You are going to shut down that Government if you vote ''no'' on this rule.

Last night, if you were really serious about your objections to the waiver we have requested, you should have asked, you had the opportunity to ask, and you did not ask, for a separate rule. You could have had a separate rule. You did not ask. You did not go after it for the continuing resolution.

Then maybe some of the comments you would have made would have had more merit to me. As we stand right now, we are playing, again as I say, a very serious game with the lives of 240 million Americans when we do not need to. We do not need to shut down the Government tomorrow. We are not at that point in a crisis. We are not at that point in our negotiations where it requires a shutdown, where we walk off the job. Let us stay on the job. The way we stay on the job is you vote ''yes'' on this rule. If you want to shut down the Government, then go ahead with this game playing, vote ''no'' on the rule, and then we will see who is confused tomorrow night at about midnight.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, I rise today against this closed rule. This is just another example of this 2-year experiment, which we have to call the Republican control of Congress. I think in order to evaluate this experiment, we need certain things. We need to look at issues and numbers.

The first issue is priorities. This Republican Congress wants to cut $3 billion this year from education. Another number, 22. It has decided, this Republican Congress, to cut 22 percent of the environmental protection moneys. That is the protection for health for our children.

Another issue, failures. Another number, 11. This Republican Congress has tried to shut down the Government, or actually failed to keep the Government going, 11 times.

Now, in 208 years, that has never happened before. The U.S. Congress has never threatened to shut down the Government 11 times.

Another failure is five, and another number, five. That is the number of appropriations bills from last year that have not yet been passed this year.

Value, what about value? Well, there is the number 133,000. That is what Members of Congress get paid in order to run the Government, in order to do their job. Well, I would say that the Republican majority has not been able to do its job, so I would say that the American public really has not got their money's worth from this Republican control of Congress.

Mr. Speaker, I rise against this closed rule, another closed rule, and I rise against the priorities of this Republican Congress.

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

Mr. Speaker, to the gentlewoman, let me tell you, there is a big priority right here in front of you, it is in front of me, and it is in front of every one of our colleagues, and that is if you do not vote on this rule and we lose the rule and we shut down the Government tomorrow, that should not be the priority, the shutdown of the Government. We do not need it. The negotiations are not there.

Our priority, the Republican leadership's priority, is to try to keep this Government operating. Now we are trying to negotiate in good faith with the President. All we get is veto, veto, veto, veto, veto, veto, veto, but we think we can negotiate something. We think we should continue the good faith negotiation.

We do not think you need to shut down the Government tomorrow to prove your point that you are displeased with the Committee on Rules. If you are unhappy with the Committee on Rules, come up and have your representative on the Committee on Rules entertain a motion.

Certainly yesterday the members of the Democratic Party on the Committee on Rules had every right, they did not do it, they could have done it, but they did not do it, to offer a motion to have two separate rules. In fact, it was members of the Republican side of the aisle on the Committee on Rules that asked the gentleman from Texas [Mr. FROST], on the Democrat side, would they like two separate rules? The answer was no.

I will tell Members, the cooperation last night in the Committee on Rules was good. It was excellent. But you cannot hardly believe in less than 24 hours the cooperation we saw upstairs in the Committee on Rules has developed into this. There has not been any tough negotiations or disagreements between us in the last 12 hours. What brought this on?

Come on folks. We have got to keep this Government going. We can do it. Vote ''yes'' on this rule. It is absolutely essential if we want to keep the Government operating.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I sympathize with the gentleman from Colorado. He has been left all alone on his side to defend this latest trampling of open procedures, and he is a little testy because he apparently thought he had a nice deal worked out last night and democracy has broken out on the floor of the House. I understand that is unsettling, but he has to learn to live with it.

On the other hand, I want to give him credit. Some people think others do not learn things. Clearly he at least has learned that shutting down the Government is a terrible idea. He has several times today talked about how outrageous it is to shut down the Government. One would not infer from that he is part of the majority that made a habit of shutting down the Government as a deliberate tactic. People boasted about shutting down the Government.

Well, they have learned that was not a good thing and the gentleman from Colorado has the zeal of a convert against shutting down the Government. He has joined Government-shutters-down-anonymous. We are on a 12-step program. Unfortunately, it does not include democracy.

What we are being told here is you may not continue to debate these issues openly. You may not have the rules which say you got to wait a day so we can study this big thing. He says you better do this in a hurry or we will shut the Government down.

Why is that the case? Because the Republican majority has not been able to run the place sufficiently to give us enough time. So, yes, they have created an emergency from which they now want to profit.

They are asking us to sacrifice democratic procedures on the altar of their own incompetence. I agree, it is an imposing altar. I have never seen incompetence so dazzlingly displayed. But I do not think that is a justification for shutting down fair procedures.

What is their justification? ''Well, you guys did it, too. You guys did it.'' Every time we talk about one more procedural outrage, they go to the history books and they say ''Hey, the Democrats once did that.''

Well, as I recall, the Republicans ran in 1994 on a slogan of ''Throw the bums out. They have run the House unfairly, they have been undemocratic.'' Speaker GINGRICH, whe he was still Speaker, before he kind of deposed himself and put ARMEY in charge, he used to talk about that.

Now what do we have? Every time the Republicans get in a bind because

of their own incompetence, they decide to do some shortcut that they used to attack us for. So they used to run on the slogan ''Throw the bums out.'' Then they decided to take power and emulate us, and this year apparently their slogan for reelection will be, ''Keep the bums in.''

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

Mr. Speaker, I think there ought to be a new song and dance out there called veto and spend, veto and spend, veto and spend. The gentleman ought to mention a little of that in his comments, the gentleman from Massachusetts.

But let me also say to the gentleman from Massachusetts, I respect his compliment that I have unilaterally had to take on speaker after speaker after speaker here for the last hour. Bring on your best. I think I can handle it. I am ready for it.

The issue here is not whether or not we have had a great debate in the last hour, and I think we have. Certainly it has been somewhat entertaining. The fact is this: If we do not pass this rule, if we carry through with the gentleman's comments to vote no on this rule and this rule loses, we will close this Government down tomorrow.

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As I have said, there are times where it may be necessary to close down the Government for a temporary period of time. This is not one of those times. My colleagues do not need to bring this battle upon themselves. Do not do it. Do not do it to the American people.

Vote ''yes'' on this rule and keep that Government operating tomorrow. I can tell the Republicans intend to vote ''yes'' on this rule. We do not think it is time to close down the Government, and we urge them to reconsider their strategy of closing down the Government tomorrow. Do not do it. Vote ''yes'' on the rule.

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

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

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

Mr. VOLKMER. Mr. Speaker, today is another one of those sad days in the history of the 104th Congress. Today, once again, you are seeing the Democratic minority gagged basically by the Republican majority. They are going to, by passing this rule, be able to take up legislation in the foreseeable future all the way to the 1st of April, approximately, without going through the normal process of the rules of the House.

This is not new to the 104th Congress. This is a way that the 104th Congress, under Speaker GINGRICH, has operated for over a year. Yet, a little over a year ago in this well, the gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules, said that we were going to have openness in this Congress, we were going to have over 75 percent of the open rules. Where is the open rule?

So far this year, major legislation, the farm bill, antiterrorism, today we will finish immigration, all of those, major legislation, every one of them, closed rule, semi-closed rule. No open rule. Not letting Members who are elected by their constituents to this house, to this democratic body, any democracy at all, not letting them talk about their amendments and offer their amendments.

Mr. Speaker, no, there is no democracy in this great House of Representatives. This bulwark, this great light for every other nation, we do not have democracy. We have a dictatorship, a strong dictatorship, one that rules with an iron hand and tells Members they do not have to participate. In fact, we cannot even participate in the operation of this House and what legislation goes and what amendments are offered and even what debate is had.

They are limiting time. Even if we get to offer an amendment, opponents to it cannot get up and speak unlimited on it and discuss it. No, no, 10 minutes, 15 minutes for a major amendment. Why? Because they want to run this House with an iron hand, not with openness, not with democracy. There is no democracy in this House of Representatives.

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

It is awful hard not to like the gentleman from Missouri. His comments are amusing, but his comments certainly are not relevant here. He talks about the fact that I, as a representative of the majority party here today, am trying to gag the minority party. I think he probably had 20 speakers, I have spoken this entire time, he has had 20 speakers. There is no gagging going on here.

Let me just say that these comments are all fine, and it may play good for the liveliness of this debate because sometimes these rule debates get pretty boring; but the fact is this. Your President, our President, the President of the United States agrees with this continuing resolution. He does not want to shut down the Government tomorrow. So I urge my colleague to call his President, call our President, call the Democratic National Committee and say, should we really vote no on this rule and shut this Government down? Is this the right strategy to pursue, to shut down the Government tomorrow? It is a darned risky strategy. I do not think they are going to succeed.

Mr. Speaker, I am trying to offer some advice to the Democrats over there that are urging a ''no'' vote. Do not do it, it will backfire on you. Do not shut down the Government. Work with us on this rule. Cooperate with us. The President is going to sign it. It does not take a rocket scientist to figure this thing out. We have got to keep the Government operating tomorrow.

The gentleman talks about fairness and a gag, the minority leader has the right to offer the final amendment tomorrow to the gentleman from Missouri. We did not gag him. We did not gag any of them in the last hour. There is plenty of time for debate. But do not let that debate run the next 24 hours and shut this Government down. Because if they do, they are making a mistake. We do not need to shut the Government down.

Vote ''yes'' on this rule or take the option of shutting it down. Do not do the latter because it will hurt every man, woman, and child in this country.

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

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

(Mr. FROST asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. FROST. Mr. Speaker, I urge a ''no'' vote on the previous question. If the previous question is defeated, I shall offer an amendment to the rule which will provide an open rule for consideration of a clean continuing resolution without the martial law provisions. These extraordinary procedures would allow the House to bring up a series of budget bills without the normal 1-day layover period required by the rules. It's time to return to the regular order and live by the rule which protects the rights of Members on both sides of the aisle.

I include for the RECORD the text of the amendment I would offer if the previous question were defeated.

AMENDMENT TO H. RES. 386

On page 2, strike all after line 9 through the end of the resolution.

On page 1, strike lines 1 and 2 and insert:

''*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 joint reso-''

On page 2, line 4, after the period add the following:

''After general debate the joint resolution shall be considered for amendment under the five-minute rule. At the conclusion of consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendments as many 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 joint resolution.''

Explanation: The amendment to the resolution strips out the martial law provisions of the rule and provides on open rule for consideration of the short-term continuing resolution.

Mr. Speaker, every single rule the House has adopted this session has been a restrictive rule; yes, you heard that correctly, the Republican House has so far adopted 100 percent restrictive rules in this session. And if it is adopted, the rule before us will leave that 100 percent purely restrictive rules record intact.

This is the 62d restrictive rule reported out of the Rules Committee this Congress.

In addition more than 72 percent of the legislation considered this session has not been reported from committee—8 out of 11 measures brought up this session have been unreported.

At this point I include the following information for the RECORD.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 101	To transfer a parcel of land to the Taos Pueblo Indians of New Mexico.	H. Res. 51	Open	N/A.
H.R. 400	To provide for the exchange of lands within Gates of the Arctic National Park Preserve.	H. Res. 52	Open	N/A.
H.R. 440	To provide for the conveyance of lands to certain individuals in Butte County, California.	H. Res. 53	Open	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; Waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a ''Queen of the Hill'' procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a ''Queen of the Hill'' procedure; All points of order are waived against the amendments.	5D; 26R.
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A.
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A.
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D.
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D.
H.R. 655	Hydrogen Future Act	H. Res. 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res. 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res. 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery to the State of Iowa.	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D; 1R.
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A.
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan.
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	N/A.
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan.
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A.
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A.
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. 173	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A.
H.R. 1944	Recissions Bill	H. Res. 175	Restrictive; Provides for consideration of the bill in the House; Permits the Chairman of the Appropriations Committee to offer one amendment which is unamendable; waives all points of order against the amendment.	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1868 (2nd rule)	Foreign Operations Appropriations	H. Res. 177	Restrictive; Provides for further consideration of the bill; makes in order only the four amendments printed in the rules report (20 min. each). Waives all points of order against the amendments; Prohibits intervening motions in the Committee of the Whole; Provides for an automatic rise and report following the disposition of the amendments.	N/A.
H.R. 1977 *Rule Defeated*	Interior Appropriations	H. Res. 185	Open; waives sections 302(f) and 308(a) of the Budget Act and cl 2 and cl 6 of rule XXI; provides that the bill be read by title; waives all points of order against the Tauzin amendment; self-executes Budget Committee amendment; waives cl 2(e) of rule XXI against amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1977	Interior Appropriations	H.Res. 187	Open; waives sections 302(f), 306 and 308(a) of the Budget Act; waives clauses 2 and 6 of rule XXI against provisions in the bill; waives all points of order against the Tauzin amendment; provides that the bill be read by title; self-executes Budget Committee amendment and makes NEA funding subject to House passed authorization; waives cl 2(e) of rule XXI against the amendments to the bill; Pre-printing gets priority.	N/A.
H.R. 1976	Agriculture Appropriations	H. Res. 188	Open; waives clauses 2 and 6 of rule XXI against provisions in the bill; provides that the bill be read by title; Makes Skeen amendment first order of business, if adopted the amendment will be considered as base text (10 min.); Pre-printing gets priority.	N/A.
H.R. 1977 (3rd rule)	Interior Appropriations	H. Res. 189	Restrictive; provides for the further consideration of the bill; allows only amendments pre-printed before July 14th to be considered; limits motions to rise.	N/A.
H.R. 2020	Treasury Postal Appropriations	H. Res. 190	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; provides the bill be read by title; Pre-printing gets priority.	N/A.
H.J. Res. 96	Disapproving MFN for China	H. Res. 193	Restrictive; provides for consideration in the House of H.R. 2058 (90 min.) And H.J. Res. 96 (1 hr). Waives certain provisions of the Trade Act.	N/A.
H.R. 2002	Transportation Appropriations	H. Res. 194	Open; waives cl. 3 Of rule XIII and section 401 (a) of the CBA against consideration of the bill; waives cl. 6 and cl. 2 of rule XXI against provisions in the bill; Makes in order the Clinger/Solomon amendment waives all points of order against the amendment (Line Item Veto); provides the bill be read by title; Pre-printing gets priority. *RULE AMENDED*.	N/A.
H.R. 70	Exports of Alaskan North Slope Oil	H. Res. 197	Open; Makes in order the Resources Committee amendment in the nature of a substitute as original text; Pre-printing gets priority; Provides a Senate hook-up with S. 395.	N/A.
H.R. 2076	Commerce, Justice Appropriations	H. Res. 198	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Pre-printing gets priority; provides the bill be read by title..	N/A.
H.R. 2099	VA/HUD Appropriations	H. Res. 201	Open; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; Provides that the amendment in part 1 of the report is the first business, if adopted it will be considered as base text (30 min.); waives all points of order against the Klug and Davis amendments; Pre-printing gets priority; Provides that the bill be read by title.	N/A.
S. 21	Termination of U.S. Arms Embargo on Bosnia	H. Res. 204	Restrictive; 3 hours of general debate; Makes in order an amendment to be offered by the Minority Leader or a designee (1 hr); If motion to recommit has instructions it can only be offered by the Minority Leader or a designee.	ID.
H.R. 2126	Defense Appropriations	H. Res. 205	Open; waives cl. 2(l)(6) of rule XI and section 306 of the Congressional Budget Act against consideration of the bill; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; self-executes a strike of sections 8021 and 8024 of the bill as requested by the Budget Committee; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1555	Communications Act of 1995	H. Res. 207	Restrictive; waives sec. 302(f) of the Budget Act against consideration of the bill; Makes in order the Commerce Committee amendment as original text and waives sec. 302(f) of the Budget Act and cl. 5(a) of rule XXI against the amendment; Makes in order the Bliely amendment (30 min.) as the first order of business, if adopted it will be original text; makes in order only the amendments printed in the report and waives all points of order against the amendments; provides a Senate hook-up with S. 652.	2R/3D/3 Bipartisan.
H.R. 2127	Labor/HHS Appropriations Act	H. Res. 208	Open; Provides that the first order of business will be the managers amendments (10 min.), if adopted they will be considered as base text; waives cl. 2 and cl. 6 of rule XXI against provisions in the bill; waives all points of order against certain amendments printed in the report; Pre-printing gets priority; Provides the bill be read by title.	N/A.
H.R. 1594	Economically Targeted Investments	H. Res. 215	Open; 2 hr of gen. debate. makes in order the committee substitute as original text	N/A.
H.R. 1655	Intelligence Authorization	H. Res. 216	Restrictive; waives sections 302(f), 308(a) and 401(b) of the Budget Act. Makes in order the committee substitute as modified by Govt. Reform amend (striking sec. 505) and an amendment striking title VII. Cl 7 of rule XVI and cl 5(a) of rule XXI are waived against the substitute. Sections 302(f) and 401(b) of the CBA are also waived against the substitute. Amendments must also be pre-printed in the Congressional record.	N/A.
H.R. 1162	Deficit Reduction Lock Box	H. Res. 218	Open; waives cl 7 of rule XVI against the committee substitute made in order as original text; Pre-printing gets priority.	N/A.
H.R. 1670	Federal Acquisition Reform Act of 1995	H. Res. 219	Open; waives sections 302(f) and 308(a) of the Budget Act against consideration of the bill; bill will be read by title; waives cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Pre-printing gets priority.	N/A.
H.R. 1617	To Consolidate and Reform Workforce Development and Literacy Programs Act (CAREERS).	H. Res. 222	Open; waives section 302(f) and 401(b) of the Budget Act against the substitute made in order as original text (H.R. 2332), cl. 5(a) of rule XXI is also waived against the substitute. provides for consideration of the managers amendment (10 min.) If adopted, it is considered as base text.	N/A.
H.R. 2274	National Highway System Designation Act of 1995	H. Res. 224	Open; waives section 302(f) of the Budget Act against consideration of the bill; Makes H.R. 2349 in order as original text; waives section 302(f) of the Budget Act against the substitute; provides for the consideration of a managers amendment (10 min.) If adopted, it is considered as base text; Pre-printing gets priority.	N/A.
H.R. 927	Cuban Liberty and Democratic Solidarity Act of 1995	H. Res. 225	Restrictive; waives cl 2(L)(2)(B) of rule XI against consideration of the bill; makes in order H.R. 2347 as base text; waives cl 7 of rule XVI against the substitute; Makes Hamilton amendment the first amendment to be considered (1 hr). Makes in order only amendments printed in the report.	2R/2D
H.R. 743	The Teamwork for Employees and managers Act of 1995	H. Res. 226	Open; waives cl 2(l)(2)(b) of rule XI against consideration of the bill; makes in order the committee amendment as original text; Pre-printing get priority.	N/A.
H.R. 1170	3-Judge Court for Certain Injunctions	H. Res. 227	Open; makes in order a committee amendment as original text; Pre-printing gets priority	N/A.
H.R. 1601	International Space Station Authorization Act of 1995	H. Res. 228	Open; makes in order a committee amendment as original text; pre-printing gets priority	N/A.
H.J. Res. 108	Making Continuing Appropriations for FY 1996	H. Res. 230	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	.....
H.R. 2405	Omnibus Civilian Science Authorization Act of 1995	H. Res. 234	Open; self-executes a provision striking section 304(b)(3) of the bill (Commerce Committee request); Pre-printing gets priority.	N/A.
H.R. 2259	To Disapprove Certain Sentencing Guideline Amendments	H. Res. 237	Restrictive; waives cl 2(l)(2)(B) of rule XI against the bill's consideration; makes in order the text of the Senate bill S. 1254 as original text; Makes in order only a Conyers substitute; provides a senate hook-up after adoption.	1D
H.R. 2425	Medicare Preservation Act	H. Res. 238	Restrictive; waives all points of order against the bill's consideration; makes in order the text of H.R. 2485 as original text; waives all points of order against H.R. 2485; makes in order only an amendment offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 2492	Legislative Branch Appropriations Bill	H. Res. 239	Restrictive; provides for consideration of the bill in the House	N/A.
H.R. 2491 H. Con. Res. 109	7 Year Balanced Budget Reconciliation Social Security Earnings Test Reform.	H. Res. 245	Restrictive; makes in order H.R. 2517 as original text; waives all pints of order against the bill; Makes in order only H.R. 2530 as an amendment only if offered by the Minority Leader or a designee; waives all points of order against the amendment; waives cl 5© of rule XXI (3/5 requirement on votes raising taxes).	1D
H.R. 1833	Partial Birth Abortion Ban Act of 1995	H. Res. 251	Closed	N/A.
H.R. 2546	D.C. Appropriations FY 1996	H. Res. 252	Restrictive; waives all points of order against the bill's consideration; Makes in order the Walsh amendment as the first order of business (10 min.); if adopted it is considered as base text; waives cl 2 and 6 of rule XXI against the bill; makes in order the Bonilla, Gunderson and Hostettler amendments (30 min.); waives all points of order against the amendments; debate on any further amendments is limited to 30 min. each.	N/A
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 257	Closed; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee.	N/A
H.R. 2586	Temporary Increase in the Statutory Debt Limit	H. Res. 258	Restrictive; Provides for the immediate consideration of the CR; one motion to recommit which may have instructions only if offered by the Minority Leader or a designee; self-executes 4 amendments in the rule; Solomon, Medicare Coverage of Certain Anti-Cancer Drug Treatments, Habeas Corpus Reform, Chrysler (MI); makes in order the Walker amend (40 min.) on regulatory reform.	5R
H.R. 2539	ICC Termination	H. Res. 259	Open; waives section 302(f) and section 308(a)	.....
H.J. Res. 115	Further Continuing Appropriations for FY 1996	H. Res. 261	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 2586	Temporary Increase in the Statutory Limit on the Public Debt	H. Res. 262	Closed; provides for the immediate consideration of a motion by the Majority Leader or his designees to dispose of the Senate amendments (1hr).	N/A.
H. Res. 250	House Gift Rule Reform	H. Res. 268	Closed; provides for consideration of the bill in the House; 30 min. of debate; makes in order the Burton amendment and the Gingrich en bloc amendment (30 min. each); waives all points of order against the amendments; Gingrich is only in order if Burton fails or is not offered.	2R
H.R. 2564	Lobbying Disclosure Act of 1995	H. Res. 269	Open; waives cl. 2(l)(6) of rule XI against the bill's consideration; waives all points of order against the Istook and McIntosh amendments.	N/A.
H.R. 2606	Prohibition on Funds for Bosnia Deployment	H. Res. 273	Restrictive; waives all points of order against the bill's consideration; provides one motion to amend if offered by the Minority Leader or designee (1 hr non-amendable); motion to recommit which may have instructions only if offered by Minority Leader or his designee; if Minority Leader motion is not offered debate time will be extended by 1 hr.	N/A.
H.R. 1788	Amtrak Reform and Privatization Act of 1995	H. Res. 289	Open; waives all points of order against the bill's consideration; makes in order the Transportation substitute modified by the amend in the report; Bill read by title; waives all points of order against the substitute; makes in order a managers amend as the first order of business, if adopted it is considered base text (10 min.); waives all points of order against the amendment; Pre-printing gets priority.	N/A.
H.R. 1350	Maritime Security Act of 1995	H. Res. 287	Open; makes in order the committee substitute as original text; makes in order a managers amendment which if adopted is considered as original text (20 min.) unamendable; pre-printing gets priority.	N/A.
H.R. 2621	To Protect Federal Trust Funds	H. Res.	Closed; provides for the adoption of the Ways & Means amendment printed in the report. 1 hr. of general debate.	N/A.
H.R. 1745	Utah Public Lands Management Act of 1995	H.Res. 303	Open; waives cl 2(l)(6) of rule XI and sections 302(f) and 311(a) of the Budget Act against the bill's consideration. Makes in order the Resources substitute as base text and waives cl 7 of rule XVI and sections 302(f) and 308(a) of the Budget Act; makes in order a managers' amend as the first order of business, if adopted it is considered base text (10 min)..	N/A.
H.Res. 304	Providing for Debate and Consideration of Three Measures Relating to U.S. Troop Deployments in Bosnia.	N/A	Closed; makes in order three resolutions; H.R. 2770 (Dorman), H.Res. 302 (Buyer), and H.Res. 306 (Gephardt); 1 hour of debate on each..	1D; 2R
H.Res. 309	Revised Budget Resolution	H.Res. 309	Closed; provides 2 hours of general debate in the House.	N/A.
H.R. 558	Texas Low-Level Radioactive Waste Disposal Compact Consent Act	H.Res. 313	Open; pre-printing gets priority	N/A.
H.R. 2677	The National Parks and National Wildlife Refuge Systems Freedom Act of 1995.	H. Res. 323	Closed; consideration in the House; self-executes Young amendment	N/A.
		PROCEDURE IN THE 104TH CONGRESS 2D SESSION		
H.R. 1643	To authorize the extension of nondiscriminatory treatment (MFN) to the products of Bulgaria.	H. Res. 334	Closed; provides to take the bill from the Speaker's table with the Senate amendment, and consider in the House the motion printed in the Rules Committee report; 1 hr. of general debate; previous question is considered as ordered. ** NR.	N/A.
H.J. Res. 134 H. Con. Res. 131	Making continuing appropriations/establishing procedures making the transmission of the continuing resolution H.J. Res. 134.	H. Res. 336	Closed; provides to take from the Speaker's table H.J. Res. 134 with the Senate amendment and concur with the Senate amendment with an amendment (H. Con. Res. 131) which is self-executed in the rule. The rule provides further that the bill shall not be sent back to the Senate until the Senate agrees to the provisions of H. Con. Res. 131. ** NR.	N/A.
H. R. 1358	Conveyance of National Marine Fisheries Service Laboratory at Gloucester, Massachusetts.	H. Res. 338	Closed; provides to take the bill from the Speakers table with the Senate amendment, and consider in the house the motion printed in the Rules Committee report; 1 hr. of general debate; previous quesetion is considered as ordered. ** NR.	N/A.
H.R. 2924	Social Security Guarantee Act	H. Res. 355	Closed; ** NR	N/A.
H.R. 2854	The Agricultural Market Transition Program	H. Res. 366	Restrictive; waives all points of order against the bill; 2 hrs of general debate; makes in order a committee substitute as original text and waives all points of order against the substitute; makes in order only the 16 amends printed in the report and waives all points of order against the amendments; circumvents unfunded mandates law; Chairman has en bloc authority for amends in report (20 min.) on each en bloc..	5D; 9R; 2 Bipartisan.
H.R. 994	Regulatory Sunset & Review Act of 1995	H.Res 368	Open rule; makes in order the Hyde substitute printed in the Record as original text; waives cl 7 of rule XVI against the substitute; Pre-printing gets priority; vacates the House action on S. 219 and provides to take the bill from the Speakers table and consider the Senate bill; allows Chrmn. Clinger a motion to strike all after the enacting clause of the Senate bill and insert the text of H.R. 994 as passed by the House (1 hr) debate; waives germaneness against the motion; provides if the motion is adopted that it is in order for the House to insist on its amendments and request a conference.	N/A.
H.R. 3021	To Guarantee the Continuing Full Investment of Social security and Other Federal Funds in Obligations of the United States.	H.Res 371	Closed rule; gives one motion to recommit, which if it contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	N/A.
H.R. 3019	A Further Downpayment Toward a Balanced Budget	H.Res. 372	Restrictive; self-executes CBO language regarding contingency funds in section 2 of the rule; makes in order only the amendments printed in the report; Lowey (20 min), Istook (20 min), Crapo (20 min), Obey (1 hr); waives all points of order against the amendments; give one motion to recommit, which if contains instructions, may only if offered by the Minority Leader or his designee. ** NR.	2D/2R.
H.R. 2703	The Effective Death Penalty and Public Safety Act of 1996	H. Res. 380	Restrictive; makes in order only the amendments printed in the report; waives all points of orer against the amendments; gives Judiciary Chairman en bloc authority (20 min.) on enblocs; provides a Senate hook-up with S. 735. ** NR.	6D; 7R; 4 Bipartisan.
H.R. 2202	The Immigration and National Interest Act of 1995	H. Res. 384	Restrictive; waives all points of order against the bill and amendments in the report except for those arising under sec. 425(a) of the Budget Act (unfunded mandates); 2 hrs. of general debate on the bill; makes in order the committee substitute as base text; makes in order only the amends in the report; gives the Judiciary Chairman en bloc authority (20 min.) of debate on the en blocs; self-executes the Smith (TX) amendment re: employee verification program..	12D; 19R; 1 Bipartisan.
H.J. Res. 165	Making further continuing appropriations for FY 1996	H. Res. 386	Closed; provides for the consideration of the CR in the House and gives one motion to recommit which may contain instructions only if offered by the Minority Leader; the rule also waives cl 4(b) of rule XI against the following: an omnibus appropriations bill, another CR, a bill extending the debt limit. ** NR.	N/A.

* Contract Bills, 67% restrictive; 33% open. ** All legislation 1st Session, 53% restrictive; 47% open. *** Legislation 2d Session. 91% restrictive; 9% open. **** All legislation 104th Congress 62% restrictive; 38% open. ***** NR indicates that the legislation being considered by the House for amendment has circumvented standard procedure and was never reported from any House committee. ****** Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103d Congress. N/A means not available.

Mr. FROST. Mr. Speaker, as I stated earlier, I am asking for a ''no'' vote on the previous question. This matter, we fully explored this matter today. I would only point out to the gentleman on the other side the concept of martial law really was a concept that was talked about by a Member on his side of the aisle during preceding Congresses, the gentleman from Pennsylvania, Mr. WALKER, who is still with us, and he may want to discuss that with Mr. WALKER some time. But it is Mr. WALKER, who when we were in the majority, stood up at that microphone when they were in the minority and railed against this procedure time and time again. I have not seen Mr. WALKER on the floor today.

Mr. Speaker, I would be interested to share his observations at this point because he was the leading proponent on your side of the aisle for not suspending the rules, for not doing what you are doing today and have done for 4 months now. I urge my colleagues to vote down the previous question and to proceed with the consideration of this measure in an orderly manner.

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

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

Mr. Speaker, let us first start out by advising the gentleman from Texas that the gentleman from Missouri [Mr. GEPHARDT] is the one who first utilized this rule in this fashion. Second of all, I do consider the gentleman from Texas a professional friend. We have had a good working business relationship. But let me offer a little advice. Do not shut down the Government in a battle over this rule. It is not right. It is not going to work, and it is going to backfire on you.

Now, from a political viewpoint, maybe it would benefit the Republicans for you to take the hit on this deal, but you do not need to take the hit. I am putting myself above that partisanship and worrying about 250 million people, 230 million people in this country. We

do not need to shut the Government down. That is exactly what you are doing by urging what is, in essence, a ''no'' vote on the rule. Let us pass the rule. Let us get some more negotiating time for the good-faith negotiations that are going on between the President, the U.S. Senate and the U.S. House.

Mr. Speaker, on this issue of the rule, the gentleman from Texas [Mr. FROST] had the opportunity last night to entertain the type of motions that he is now having introduced into the RECORD. In fact, he did not bring it up on his own initiative, as certainly he had in the past, but he did not bring it up last night. I am not being critical of that point. The point I am making is the chairman of the committee, the Republican chairman, offered to the gentleman from Texas the opportunity to do exactly what he is attempting to do today on the floor.

Mr. Speaker, now they have revised their strategy, and I think their strategy is headed straight for a Government shutdown as that hand moves 24 hours on that clock. We do not want to close this Government down. We should not want to close this Government down. Let us keep the Government open. Let us vote ''yes'' on the rule.

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 SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on ordering the previous question.

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

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

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

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 234, nays 187, not voting 10, as follows:

[Roll No. 80]

YEAS—234

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

NAYS—187

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

NOT VOTING—10

Collins (IL)
Forbes
Johnston
Moakley
Radanovich
Scarborough
Stark
Stokes
Waters
Williams

□ 1159

Ms. RIVERS and Mr. COYNE changed their vote from ''yea'' to ''nay.''

Mr. GILMAN changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. SCARBOROUGH. Mr. Speaker, on rollcall No. 80, I was unavoidably detained and was unable to vote. Had I been present, I would have voted ''yea.''

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the resolution.

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

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 237, noes 183, not voting 11, as follows:

[Roll No. 81]

AYES—237

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)

Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—183

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Wise
Woolsey
Wynn
Yates

NOT VOTING—11

Collins (IL)
Cox
Farr
Johnston
Moakley
Radanovich
Solomon
Stark
Stokes
Waters
Williams

□ 1208

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1972

Ms. FURSE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1972.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Oregon?

There was no objection.

REPEALING TEA IMPORTATION ACT OF 1897

Mr. KLUG. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2969) to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897 and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

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

There was no objection.

The Clerk read the bill, as follows:

H.R. 2969

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 ''Federal Tea Tasters Repeal Act of 1996''.

SEC. 2. REPEAL OF TEA IMPORTATION ACT OF 1897.

The Tea Importation Act (21 U.S.C. 41 et seq.) is repealed.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KLUG] is recognized for 1 hour.

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

Mr. Speaker, I rise in support of H.R. 2969, the Federal Tea Tasters Repeal Act of 1996. This bipartisan legislation repeals the Tea Importation Act of 1897 by eliminating the Federal Board of Tea Experts. It was favorably reported by the Committee on Ways and Means on February 29.

This bill ends the antiquated and outdated requirement that each lot of imported tea meet taste standards recommended to the Secretary of Health and Human Services by the Federal Board of Tea Experts.

The bill also ends the imposition of a Customs Service fee on tea imports that partly finances tea quality inspections. The cost to the taxpayer for matching teas to the quality standards of the Tea Board is over $170,000 each year. Tea is the only food or beverage for which the Food and Drug Administration samples every lot upon entry for comparison to a quality standard recommended by a Federal board.

I believe there is no justification for tea being held to a higher Federal standard on behalf of the tea industry, which should assume responsibility for the competitive quality of its products. The Board of Tea Experts is outdated and the taxpayer's money could be more efficiently used elsewhere.

Under the Federal Food, Drug, and Cosmetic Act of 1938, the FDA will continue to examine and sample imported tea for compliance with health and safety standards. The FDA will ensure that tea is held to the same high level of safety and quality as every other food and beverage entering the United States.

I applaud the sponsors of this bill for introducing a measure which strikes a blow for good government by reducing an unnecessary regulatory burden on American industry and the lives of American citizens.

I urge my colleagues to support passage of the bill.

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

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

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—RETURNING TO THE SENATE S. 1518, REPEALING TEA IMPORTATION ACT OF 1897

Mr. CRANE. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 387) returning to the Senate the bill S. 1518, and ask for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 387

Resolved, That the bill of the Senate (S. 1518) to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1897, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United

States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

Mr. CRANE (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The resolution constitutes a question of privilege.

The gentleman from Illinois [Mr. CRANE] is recognized for 30 minutes.

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

Mr. Speaker, this resolution is necessary to return to the Senate the bill S. 1518, because it contravenes the constitutional requirement that revenue measures shall originate in the House of Representatives. S. 1518 would repeal an import restriction found in current law, and therefore contravenes this constitutional requirement.

S. 1518 proposes to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897. Under the act, it is unlawful to import to the United States tea which is substandard, and the importation of all such tea is prohibited, except as provided in the Harmonized Tariff Schedule of the United States.

The repeal of this provision would have a direct effect on customs revenues. The proposed change in our tariff laws is a revenue-affecting infringement on the House's prerogatives, which constitutes a revenue measure in the constitutional sense. Therefore, I am asking that the House insist on its constitutional prerogatives.

There are numerous precedents for the action I am requesting. For example, on July 21, 1994, the House returned to the Senate S. 729, prohibiting the import of specific products which contain more than specified quantities of lead. On February 25, 1992, the House returned to the Senate S. 884, requiring the President to impose sanctions, including import restrictions, against countries that fail to eliminate large-scale driftnet fishing. On October 31, 1991, House returned to the Senate S. 320, including provisions imposing, or authorizing the imposition of, a ban on imports in connection with export administration.

I want to emphasize that this action does not constitute a rejection of the Senate bill on its merits. Adoption of this privileged resolution to return the bill to the Senate should in no way prejudice its consideration in a constitutionally acceptable manner.

The proposed action today is procedural in nature, and is necessary to preserve the prerogatives of the House to originate revenue matters. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on a revenue bill, and for the Senate to accept it or amend it as it sees fit.

□ 1215

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

The SPEAKER pro tempore (Mr. BURTON of Indiana). Does any Member on the minority side seek recognition?

Mr. CRANE. Mr. Speaker, I have no further requests for time, 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.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 165 and that I may include tabular and extraneous material.

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

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to House Resolution 386, I call up the joint resolution (H.J. Res. 165) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 165 is as follows:

H.J. RES. 165

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is further amended by striking out ''March 22, 1996'' in sections 106(c), 112, 126(c), 202(c), and 214 and inserting in lieu thereof ''March 29, 1996'', and that Public Law 104–92 is further amended by striking out ''March 22, 1996'' in section 106(c) and inserting in lieu thereof ''April 3, 1996''.

The SPEAKER pro tempore. Pursuant to House Resolution 386, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

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

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

Mr. LIVINGSTON. Mr. Speaker, I come before the House again today regarding funding for the remaining fiscal year 1996 appropriations bills. I do hope that we will have everyone's help to prevent a Government shutdown and allow the House and the Senate conferees on the omnibus wrap-up continuing resolution time to close out this fiscal year and get on with the business of the Congress.

On Tuesday evening, the Senate concluded action on H.R. 3019, the omnibus continuing resolution, making a further downpayment toward a balanced budget. This was a big bill in the House because it addressed big problems. In the Senate it became a bigger bill because they added funding for the District of Columbia as well as providing additional funding, with some offsets, for programs in education and the environment.

We have begun analyzing the differences between the House and the Senate bill, and I might add that the Senate amendment is some 933 pages long, so it has taken us some effort to do so, and we are trying to find out additional offsets to pay for these program increases without exceeding our budget allocations. I have talked with Senator HATFIELD, distinguished chairman of the Appropriations Committee in that body, and it is our intention to get together informally this afternoon to begin the process of working out the differences between the two bodies on the omnibus bill. Both of us are asking the administration to join with us in concluding the business of fiscal year 1996 so that we can indeed move on to the pending budget for fiscal year 1997.

I might just point out that regardless of what happens on this bill or subsequent ones, by December 31, 1996, this year, the 104th Congress ceases to exist. It is going to be over. And in the interim we have about 4 months that are going to be predominantly taken up by the election season, if you will. So that really only leaves between now and the middle of September for active, ongoing effort to conclude the business of Congress.

We have got lots of policy initiatives to deal with from the authorizing committees, and we have to conclude the fiscal year 1997 appropriations process, which entails 13 bills which must pass the House, pass the Senate, go to conference, pass both Houses again, and be ultimately sent to the President and signed by the President. That means we have a great deal of business to do for fiscal year 1997, and here we are still contemplating the effort in fiscal year 1996, primarily because the President vetoed three of the bills under consideration and because the fourth bill, the Labor-Health bill, languished in the Senate for some 9 months because our liberal friends over there decided to just filibuster it and keep it from coming up for consideration.

In addition, the District of Columbia bill, which should have been sent to the President a month or two ago, was not because of some few Members' concern about a little $3 million school voucher program which would allow poor youngsters to go to private schools. They do not want to take on the NEA, the National Education Association, and all of those great stalwart protectionist organizations which protect the

great quality education provided by our public schools today, or lack thereof; they just do not want to let the camel's nose get under the tent, and have opposed the possibility of poor youngsters going to quality schools. As a result, the District of Columbia bill has been hung up, and now the Senate has included that bill in this omnibus wrap-up effort which we are going to be considering in conference over the next 8 days.

But obviously since the Senate did not complete their business until Tuesday, and here it is Thursday, and for the last 24 hours we have been evaluating the 933 pages of additions that the Senate put on our effort, we need some time for the conference to do its work. We begin today, we will work through the next 8 to 10 days, and we hope to be concluded before the close of business on Friday next. If we are, we will be delighted, because that will wrap up the fiscal year 1996 season. Then we can go on to the fiscal year 1997 season.

I regret that we have to be here today, but our work is not yet completed. I do believe that we have to keep Government open. We tried doing the other in the past, and that was not a pleasant experience for anybody. So we come here to try to keep Government open while Congress does its business on the remaining stages of the process for fiscal year 1996.

The bill I bring before the Members today keeps Government operational through March 29 with the exception of two programs, the AFDC and the foster care program, which we carry through into law through April 3 to allow continuity of the bureaucratic effort to make sure that people who are entitled to the benefits under those programs actually get those benefits.

But we really must have this extension. I expect some prolonged debate here today, much as we had last week on a similar 1-week extension. I would like to think that despite whatever debate we have, the issue is not that controversial, that the vast majority of our Members will ultimately vote for this bill, and that we can go about the business of the conference and conclude fiscal year 1996 once and for all.

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

Mr. OBEY. Mr. Speaker, I yield 6 minutes to the gentleman from Michigan [Mr. BONIOR], the distinguished minority whip.

Mr. BONIOR. Mr. Speaker, I thank my friend from Wisconsin for yielding me the time. Let me just say, with due respect to my friend from Louisiana, that this is indeed controversial, at least it is on our side of the aisle, and I will tell the Members why.

We had a rather interesting, heated and enlightening debate on the rule that governs the discussion of this resolution. The objection from this side of the aisle is that we are continuing stop-and-go Government. Stop-and-go Government is not good for this country, it is not good for this Congress, and we are doing it under such a closed procedure. We are in our sixth martial law resolution right now.

What does that mean? That means basically that the folks out there in the country have been shut out from the process, from testifying at hearings, from having their input into legislation. Members of this body have been shut out from their committee work. This is all being done out of the leader's and the Speaker's office, coming right to the floor. We have been at it now for 4 months like this. Seventy-three percent of all legislation that has come to the floor this year has bypassed the committees, come right to the floor. Why have a committee structure?

Mr. Speaker, this is distressing because it runs roughshod over the rules and the traditions of this great institution. This is supposed to be a deliberative body. It is supposed to look at legislation, discuss it, have people come and give witness to whether it is on-track or off-track. Yet here we are jamming through another resolution.

The reason we are doing this, the gentleman from Louisiana is correct in this, is to give a little bit more space so they can do the work that they were supposed to have gotten done 6 months ago. The budget was supposed to be finished 6 months ago. Here we are with five appropriation bills unfinished.

That is maybe all well and good in terms of discussion in this institution, and people are saying, ''Well, what does that have to do with me out there in America?'' What it has to do with people out there in America is that it gives them no sense of where this country is going, where their school district is going to in terms of education. Let me use education as an illustration of the incompetence of this do-nothing and delay Congress that we are in now.

Mr. Speaker, when is this assault on education going to end? For 15 months now you have been talking about giving our kids a better life. You have come to the well, you have made that case, but time and again you have denied our children in this country the skills that they need to have a better life.

You started off the beginning of this Congress by cutting school lunch, and then you attacked student loans. You wanted to take $17 billion out of student loans, so kids could climb that ladder of success? No, you have brought that ladder up and you have said, ''We can't afford it.''

Then, after the student loan debate, you have gone after a very important program called DARE, safe and drug-free school program. We are talking about cuts of $3 billion plus in this fiscal year in education as a result of this inaction and this stop-and-go. DARE is just one of the programs that is going to be affected. It is a great program. It deals with drug abuse in our schools and for our children.

What these cuts will do, Mr. Speaker, is put approximately 13,000 DARE officials out of work. It will deny literally millions of our kids the opportunity to get the education they need to say no to drugs.

□ 1230

In addition to that, title I, a program that helps our young people in math and science, is going to be cut. It is going to be cut by $1 billion, if you take this over the course of the full year.

Now, school districts across the country right now are trying to plan for September. They are making decisions about how large the classes are going to be, they are making decisions about how many teachers they are going to have. Across this Nation, this week and next week, 40,000 to 50,000 teachers are going to get pink slips and classes are going to be enlarged because you cannot get your act together to let us know where the budget is going to be on education.

Now, the Speaker likes to refer to public education as subsidized public dating. He actually said that. This is much more than subsidized public dating. This is about the best investment that we can make in this country, investing in our young people today, and they know that. They know what they earn will depend upon what they learn.

This is the 12th time in 5 months that we have had a stopgap continuing resolution, the 12th time. You cannot run a government that way. You cannot do it. It does not work, and it has proved it does not work.

Mr. Speaker, I encourage my colleagues this afternoon to vote against this resolution. It denies us the opportunity to restore those education funds, to restore those cuts in the Environmental Protection Agency, to restore those Superfund cuts so we can clean up our toxic waste sites and our dumps and disposal sites. We need to have that opportunity, so we can get on with the business of this country.

I urge my colleagues to vote against this resolution.

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

Mr. Speaker, I am absolutely astounded. I just heard the distinguished whip from the minority party say he wants to vote against this simple bill to keep Government going for 1 week. He gives a lot of reasons, but basically instead of allowing the committee to do its business and go ahead and go to conference and work out the bigger issues by a week from Friday, he wants to shut the Government down. He would totally shut the 9 departments, I think, maybe 10 departments, and the entire District of Columbia down, because he is frustrated about a program that he says works.

I would like to comment on the DARE Program. First of all, I would like to make this point: He says we have not done our job. We are talking about the labor-health-education-human services bill that passed this

House at the end of July 1995. It passed this House, and whoever is responsible dutifully took it from the House of Representatives over to the Senate and delivered it to them. Every time someone wanted to bring it up for discussion in the other body, the Democrats stood up and objected and filibustered it.

Now, I want it to be clear that the gentleman is accusing the majority of creating a situation whereby this bill was not funded.

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

Mr. LIVINGSTON. I yield to the gentleman from Wisconsin. I am just replying to the minority whip, if I might.

Mr. OBEY. Mr. Speaker, I thank my good friend for yielding, but I would suggest if you are going to point out the history of the Senate, that you point out the complete and accurate history of the Senate. The fact is that there were objections to consideration of that bill from both sides of the aisle, not just once, but many times more than once, on both sides of the aisle, as we both well now know.

Mr. LIVINGSTON. Mr. Speaker, reclaiming my time, the issue of striker replacement was repugnant to the liberals on the other side. I personally turned on the television and watched the proceedings and watched one of the liberal Democrats object to the bringing up of this bill.

The fact is it is the normal process for the House to pass a bill and the Senate to pass a bill and to meet in conference. This bill has never been conferenced, because the bill never got out of the Senate. Now, it is absolutely impossible to draw the conclusion that anybody in the House of Representatives, Republican or Democrat, is responsible for that state of affairs.

Mr. Speaker, if I might go on, the DARE Program, it is Safe and Drug-Free Schools. As I pointed out last week, this is a program that has got a wonderful name, an absolutely fantastic name, until you start to understand that in the implementation of that program, it often goes terribly awry. In Talbot County, VA, they spent grant money on disc jockeys and guitarists for a dance, lumber to build steps for an aerobics class, and school administrators spent over $175,000 on a retreat to a St. Michaels resort. I think that is in Maryland on the Eastern Shore. Nice place.

Additionally, a single school district in Texas, the Alomar independent school district, received a grant of $13. How many bureaucrats had to get together and huddle in a room for how many weeks to figure out that we have got to give this district a $13 grant? And all for a good cause, mind you, to promote the advocacy of Safe and Drug-Free Schools, to discourage children from using drugs.

What is the history during the entire Clinton administration. After the Clinton administration decimated its own drug abuse office in the White House by 85 percent of its budget, what is the history? Drug abuse among teenagers went up, not down. This program does not work.

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

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I would hope that we can cut through the bull gravy and focus on what is really happening here today. The fact is that this proposal really represents the majority party's determination to keep Government running on the installment plan. They do not have enough gas in the tank to get the car down the road apiece, so what they are doing is driving the Government about a block and then they have to get renewed authority and fill up the gas tank to get the Government to go down another block. That is no way to drive a car, it is no way to run a railroad, it is certainly no way to run a government.

What you really are doing, by extending the ability to operate on a week-to-week basis, is you are playing weekly Russian roulette with local school districts, with veterans, with recipients of government assistance and a wide variety of programs. It is an immature way to run a government, and it ought to stop.

This is the 12th time, the 12th time, that we have now had a temporary continuing resolution before us. In 2 weeks we will be one-half of the way through the fiscal year, and yet 70 percent of the domestic appropriations will still not be in law.

Now, why is that? It is because the majority in this House insisted on passing through this House an extreme ideological agenda under which you slashed funding for education by 15 percent, you slashed job training by 18 percent, you slashed environmental cleanup enforcement by one-third. You attached a laundry list of special interest legislative riders to these appropriations bills, and to protect the public interest the President vetoed a number of the bills.

The Education and Labor proposal was so extreme that the Republican-dominated Senate added more than $3 billion to at least partially restore the draconian cuts that you made in education, in manpower training, in summer jobs, and the like.

Because of the extreme nature of that bill, we have not even yet been able to get to conference. The chairman just says ''Why don't you let the committee do its work and go to conference?'' Why does the committee not bring up the motion to appoint conferees? You cannot even have a conference until conferees are first appointed. The last time I looked, there is a dispute between the majority leader and the Speaker about process on the floor, so we cannot even officially get to conference because of yet another internal division within the Republican Party leadership in this House.

Meanwhile, what is happening? What is happening is because they cannot get the decisions made, they are saying ''OK, let us run the Government on a reduced funding basis a week at a time.'' So they are funding education at a low level, which is going to require the layoff of a good many teachers and teachers' aides. They are preventing us from continuing to clean up all of the Superfund sites that we ought to be cleaning up, and then what do they do? They gin up a smokescreen. And the gentleman says, ''well,'' he justifies the cuts in drug free schools by pointing out something that some idiotic administrator did at the local level in a city or two to justify cutting back by a huge amount in that entire program.

I would like to take just a minute to run through some of the arguments the gentleman is making. He argues, for instance, about what has happened to drug free schools. Let me say to the chairman of the committee, I will have unanimous-consent requests at the proper time to remove funding for virtually any of these items that you name. If you do not like the fact, for instance, as the gentleman indicated, that we had cosmetology schools being funded under the Student Aid Program, fine. I will ask unanimous consent to strike all funding for cosmetology schools.

You mentioned last week you did not like the fact that there were massage schools being funded. I will have the unanimous-consent request to eliminate all funding for massage schools. I hope the gentleman will support that unanimous-consent request.

I will have a number of other unanimous-consent requests.

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

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, while the gentleman is in the business of asking for unanimous-consent requests, would he join with me in asking for a unanimous-consent request that might obviate the need for continuing to come back in this manner? Would he join with me in just striking the date March 29 and inserting the date September 30 on the issue pending before us here today? That way we would not have to come back. We would not have to go to conference. We would go ahead and be done with this whole doggone thing.

Mr. OBEY. Mr. Speaker, reclaiming my time, let us take a look at what the effect of that would be on the local school districts. You would require local school districts to lay off 40,000 teachers. Am I going to support a unanimous-consent request for that? Absolutely not.

It means you would nail in the large reductions in Federal support for School to Work programs. Am I going to support a unanimous-consent request to do that? Absolutely not.

It means you would nail in the huge reductions in enforcement for environmental cleanup. You think I am going to support a unanimous-consent request to do that? Absolutely not.

I will offer a unanimous-consent request to eliminate some of the abuses of funding which the gentleman claimed he was concerned about last week, but I am not going to support a unanimous-consent request that will tell schoolteachers that 40,000 of you are going to get pink slips so you can continue to provide tax cuts in your budget for very wealthy people making over $200,000 a year. If you want to offer a responsible unanimous-consent request, I will be happy to entertain it. But it is not responsible to suggest that local school districts should lay off 40,000 teachers because you've got a political dispute within the leadership of the Republican Party in this House. That is not responsible and the gentleman knows that.

So let me simply say that what is at stake here is whether or not we are going to vote for a continuing resolution which cooperates in the strategy by which we tell working families, for instance, that we are going to raise the cost of their getting student loans by $10 billion over the next 7 years.

□ 1245

We are not going to cooperate in that kind of an agenda. What ought to happen here is very simple. Instead of bringing these silly, stop-and-go, week-by-week extensions to the floor, what my colleagues ought to do is go into that conference and recognize they need to restore funding for the NLRB, they need to more fully restore funding for education. They need to fully restore more funding for environmental cleanup.

They need to buy into some of the offsets that the administration has suggested to pay for those programs. They need to drop the extraneous special interest language which is going to let timber companies rip up the Tongass Forest, which is going to allow other special interests to get away with murder in the environmental field. And they need to rip up some of the other special interest language that they have attached to these appropriation bills.

Mr. Speaker, that is what the President is asking for. That is the rational thing to do. That is what they ought to do rather than running the risk every week that the Government is going to shut down again.

Mr. LIVINGSTON. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. PORTER], the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

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

Mr. PORTER. Mr. Speaker, I feel like I have walked into the middle of the same movie I was in a week ago. Why are we debating this matter? This is the same thing we did last week. Mr. Speaker, we might as well just play the tapes of last week's debate. All the same things are being said all over again.

Mr. Speaker, the gentleman from Wisconsin, I think he has got that ''tax cuts for the rich'' down like a mantra. He says it over and over again and cannot remember what the words are, they just pour out the same way.

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

Mr. PORTER. I yield to the gentleman from Wisconsin.

Mr. OBEY. Is the gentleman making a unanimous-consent request to play the tape again so we can stop going through this charade?

Mr. PORTER. Mr. Speaker, I will make that unanimous consent.

Mr. OBEY. Mr. Speaker, I would agree to that request.

Mr. PORTER. Why do we not yield back the balance of the time and vote then? Would the gentleman agree to that?

Mr. Speaker, what we are having here in Washington lately is about 70 percent politics and about 30 percent substance. While politics are always going to be a part of it, I think what the American people expect of us is 30 percent politics and 70 percent substance, or even more.

We have to reverse all of this. There is way too much politics involved.

Mr. Speaker, the President has just sent to the Congress a budget that is 90 percent politics and 10 percent substance. It ramps up spending in a lot of areas. I agree with the gentleman on some of the areas he mentioned earlier and some of the special interests that are not contributing at all to deficit reduction and ought to. But the President very easily ramps up spending and plays to every special interest group in our country saying we are going to do better for you in this, better for you in that, better for you in another thing. And he does it without any responsibility for the bottom line, and that is for the country as a whole.

Mr. Speaker, he sends up a budget that has in it cuts that are made only in the last 2 years after he is constitutionally out of office that he knows very well would be impossible to be made because they are so huge and they are in the discretionary spending side alone. He plays the same old game of playing to seniors and farmers and union people and the like with no responsibility for where the money is coming from to pay for it.

Where is it coming from? Well, it is coming from adding to the deficit, that is where it is coming from. We were asking future generations to pay our bills. That is the old way of doing it in Washington. It has been done for years, and here we are attempting again apparently to do it all over again.

The fall election, Mr. Speaker, is going to be about whether we are going to continue to do business in the old way and play the special interest politics game or not. Whether we are going to change to a new way, to take responsibility for the country, to ask people not what they get out of the process but what they are willing to give to the process to make it work for all the American people, to look at everything that Government does to ensure that it is worth doing in the first place. That it is something that has to be done through Government in Washington and can only be done there, to decide our priorities and to make certain that the money is spent to get results for people.

That is what has been failing to happen over and over and over again in Washington. It is money that is shoveled out the door to serve interests rather than getting results for people. It is time that we change this process and that we make Government work for people and that we stop playing the special interest game and the political games that are so evident throughout the President's budget and throughout all of these debates.

It is time that we get control of this process. It is time that we behave responsibly. It is time that we work budgets within a framework of fiscal responsibility and not ask people in the future to pay for what we receive from Government today.

So I would say to the gentleman from Wisconsin, yeah, let us just play the tape. It is all the same old stuff over and over again. It is all the same old banter. It is all the class warfare and playing the special interest game. Let us get on with it. Let us get this job done. Let us get the substance done. That is what the American people expect of us and not just politics as usual.

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

Mr. Speaker, we do not have either the President's budget or the Republican budget before us today. What we have before us is a proposition which continues the reduced funding levels of education and environmental protection which will threaten the environmental future of the country and the educational future of our children. That is what is before us today.

But if we are going to mention the President's budget, let me simply point out the gentleman can say all he wants about how too many of the budget cuts in the President's budget are in the outyears.

Mr. Speaker, let me simply point out that in the seventh year of the budget which my colleague voted for, the budget reductions in the seventh year in the Republican budget are larger in the seventh year than they are in President Clinton's. Now, my colleague may not know that fact, but that is a fact.

So I would suggest that, if he is concerned about reliance upon outyear cuts, I think he ought to look in the mirror because the budget that he supported has deeper cuts in the seventh year than the President has.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 1 minute and 30 seconds.

Mr. Speaker, the point was made earlier that this practice of a lot of continuing resolutions coming directly to the floor and not going to committee, is highly unusual. I think it is important to point out for the record that in fact it is not unusual. In 1985, when the Democrats controlled the House of Representatives, we had three continuing resolutions that went directly to the floor. In 1986, there were six continuing resolutions that went directly to the floor; two in 1987; five in 1991; three in 1993.

The point is nobody likes the process that we have engaged in, but we are where we are because the President vetoed three of the major appropriations bills just before Christmas, prompting the expulsion of thousands of Federal employees from their jobs at Christmas time. And the other bill, the labor HHS bill, was hung up in the Senate because it was filibustered for 9 months until really now.

So as distasteful as this whole process is, it has been done before. It will be done again. The old adage that you do not look at sausage and laws being made because it is troublesome is painfully apparent in this particular process we are working our way through. I think for the Democrats, the minority's position seems to be to vote against this bill and close down Government because they do not like provisions that are being discussed in the conference in H.R. 3019; that is ludicrous. It just does not even make sense.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. REGULA], the distinguished chairman of the Subcommittee on Interior.

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

Mr. REGULA. Mr. Speaker, just a few comments on the interior portion of the omnibus bill that will be coming before us in the near future in the form of a conference report.

Obviously, it was very difficult to meet all the needs with the allocation that we had. The final product that we put out was $1.7 billion under the President's request. Now, that is $1.7 billion that we are not loading on to future generations. What that means is that, when young people in the next century, soon to be upon us, want to borrow money to buy a house, it will be at a reasonable interest rate instead of an inflated rate. If we can reduce the deficit and ensure to the marketplace that we are going to achieve a balanced budget over the next 7 years, I think we would see a dramatic decrease in interest rates. Even now, of course, that translates into jobs, as people start businesses, as they expand businesses, as we gain a larger share of the export market because the cost of production is reduced by not having the high overhead of interest rates, and I remember the late 1970's when we were up at something like 21 percent. So the potential benefits are enormous.

Mr. Speaker, in structuring the interior bill, we did all that we could to make our contribution. We divided our responsibilities into must-do's, need-to-do's and nice-to-do's. On the must-do's, we kept the funding for the parks flat, a little bit of increase but relatively flat, and said manage it better. They are doing that.

We did the same thing with the forests. The cut of timber we allowed was at the President's number. So it was not a case of cutting below in that instance because we recognized that the availability of timber is very important, wood for housing. When we had the bill on initially, I had a piece of 2-by-4 to illustrate what has happened to prices for lumber, and this affects of course the price that young people need to pay when they build or buy a house.

So I think what we tried to do was recognize that the agencies that dealt with people, the parks, the forests, fish and wildlife facilities, BLM, and they also have a lot of facilities that are used by people on a multiple use basis, we kept that funding level so they would have the people and the ability to respond.

We eliminated the Bureau of Mines. I noticed in the President's 1997 budget he takes credit for eliminating Bureau of Mines, which we have done already in 1996. He has become a budget cutter.

What we did is took care of the things that we had to do on the must-do's. We finished facilities that were under way because that was important. If there was a repairs, for example, we put—and this has just been recently—$2 million in the CR to take care of the C&O Canal because thousands of people enjoy that every week. Those sorts of things are must-do's.

Now when we got the nice-to-do's, build new visitor centers, buy more land, we did not do it because let us take care of what we have.

Mr. Speaker, all I am saying is that we are trying to be responsive and be reasonable and to get the job done but not do it at the expense of loading an enormous burden of debt on future generations. I think they will thank us for it when they go to buy that house and maybe get a mortgage at 5 percent instead of 8, 9, or 10 percent. They will thank us when they are not saddled with all the costs that go with the debt burden that this Government has.

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

Mr. Speaker, the previous speaker just gave a wonderful speech on the reasons to have debt reduction and deficit reduction. The problem is that has nothing whatsoever to do with this bill and nothing whatsoever to do with the budget that the gentleman voted for.

If the gentleman will check the numbers, he can talk about bringing interests rates down all he wants, but the budget that he is trying to foist onto the American people ha a deficit which goes up next year. It does not go down. If he can explain to me how interest rates are going to go down as the deficit goes up, he is a whole lot smarter than Alan Greenspan.

□ 1300

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

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

I took the floor last week when we had this debate and said I felt like I was at the Groundhog Day movie. My colleagues know how every morning the alarm went off, the guy gets out of bed, and they run through the same day. But even in the Groundhog Day movie they did not do it 12 times, because they figured the audience could not even take that. And here we are with the 12th time.

Now the gentleman from Louisiana says continuing resolutions are not new, we have had those in prior Congresses. He is right; we have. But it seems to me the other side seems to think we have to hit our full 40-years score in one 6-month period. Our colleagues are about to throw as many continuing resolutions up on the scoreboard as it took us to accumulate over 40 years, and I want to say that is not something we were proud of. We tried to have as few as possible.

I think the reason is because it is impossible to manage, it is impossible to plan, when we have this lurching, and jerking, and week to week, and will it continue, will it shut down?

But the real bottom line is we now have out there school boards all over America trying to decide whether they give teachers pink slips, whether 40,000 teachers are going to get a pink slip, because we are going to slash education at such a low level.

As my colleagues know, my concept had always been the family was the seat of virtue in this country. That is where we plant the seeds of virtue, in the family, and our job is to try and help that family raise that child, and one of the ways we try and help through the Federal level is with some supplemental money to education so that we have safe schools, drug-free schools, we have remedial education and math and science and reading. Those are key things that school districts need extra help with, and I cannot stand here and say it is a great idea to gut that, nor can I stand here, as spring has broken out over America, and say it is a great idea to cancel many of the environmental programs and, while America is going green, we are going to go brown.

That is why this is happening, and I think the time has come to end this.

Mr. LIVINGSTON. Mr. Speaker, I yield 3 minutes and 30 seconds to the distinguished gentleman from New York [Mr. BOEHLERT].

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

Mr. BOEHLERT. Mr. Speaker and my colleagues, I rise in support of this continuing resolution and to correct some

of the implications of comments that have been made about its impact on the environment.

First, let us put a lot of politicking aside. This continuing resolution is for 1 week, 7 days. It is not permanent policy, although I think much of it would be reasonable policy for the rest of the year.

We need another week's continuing resolution because until recently, and very candidly, the administration has not been willing to bargain, and bargaining, the last time I checked, did not mean simply holding out until the other side capitulates.

So now real bargaining seems possible, and we ought not to shut down the Government while that negotiation continues. Again, this is only about 1 week. Not even Congress can cause much damage in that time.

Concerning the environment, this resolution is obviously not perfect, but it moves responsibly in the right direction pending further negotiations. It provides more dollars to the Environmental Protection Agency than either the House or the Senate passed, not enough, but a good start until the President comes to the negotiation table.

Similarly, with the riders. I prefer no riders. Maybe that is where we will end up. But by and large, these are not the kind of damaging riders that the House debated last year.

Take the Tongass, for example. The Tongass rider in this bill is a compromise that I helped negotiate with the Alaskan delegation and other concerned parties that allows the scientific planning process to continue. Let me stress that: That allows the scientific planning process to continue, and it will not increase actual timbering in that important national forest.

So let us not waste a lot of time trying to score political points when we are on the verge of serious negotiations. Let us pass this harmless 1-week bill. We can do so in good conscience.

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

Mr. BOEHLERT. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the gentleman is exactly wrong about the Tongass because the Tongass provision still contains a waiver of ANILCO and NEPO as far as environmental safeguards are concerned. All it has is the safeguards provided in a contract, which were not nearly as much as provided for.

Mr. BOEHLERT. Reclaiming my time, my distinguished colleague from Illinois knows full well the budget realities, the dollars and cents of it all. There will not be an increased timber cut in the Tongass. That is something that I strongly believe is the right policy. I do not want that. I think my distinguished colleague, the gentleman from Ohio [Mr. REGULA], has worked very well and very diligently on this.

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

Mr. BOEHLERT. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Speaker, I just want to point out on the Tongass that the allowable cut with the money we put in is less than has been true in the fiscal year 1995 and fiscal 1994. We have actually reduced the cut, recognizing, of course, some of the differences of opinion. But I think that is an important fact that ought to be brought out here.

Mr. BOEHLERT. And I am so glad the gentleman did, Mr. Speaker, and I want to thank him publicly for the outstanding work he has done and all the help he has given us to try to fashion a responsible compromise that was environmentally sensitive, and that is very important.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

I simply note that earlier in the year we were told, ''Let's just pass a 45-day continuing resolution. That will give us enough time to work out the long-term budget problems.'' That expired. Then they brought to the floor another continuing resolution. Then last week they brought to the floor another one, saying, ''Let's pass one to keeping the Government going for a week. That will be enough time to work out our problems.'' Now they are here saying the same thing they said the previous week, ''Just give us another week. We will work out the problems.''

Meanwhile, I still see no indication that the gentlemen on that side of the aisle are willing to back away from the environmental riders that are holding us up on the Interior bill. I see no indication that they are willing to restore the funding the President has asked so that we do not have to lay off 40,000 teachers.

The problem is that every week that they continue with this ''government on the installment plan'' they push local school districts further and further to the point where they have to lay off teachers. We do not want that done. We want them to get down to the business now, deal with the regular long-term CR rather than continuing this ''let's pretend'' extension of the Government under which you are continuously week by week squeezing the guts out of education and squeezing the guts out of our ability to enforce the law when it comes to environmental cleanup.

That is the problem we face here today. And we believe sincerely that the way that you are running this House is going to greatly increase and enhance the likelihood that, in fact, they are going to either have to come up with another CR next week or else they are going to have to shut the Government down next week.

I mean every week it is the same thing. When are we going to get serious and simply resolve the differences on the long-term resolution. Otherwise they are using that as an opportunity to gouge every local school district in the country.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just want to clear up a point. The gentleman from New York who was in the well was saying that the Tongass provisions, the rape and ruin of America's only temperate rain forest, have not been corrected. In fact, what they have done under this legislation is put in place a harvest plan for that forest that has already been found to be flawed scientifically, that is unsustainable and will lead to the overcutting of that rain forest, and then they put hurdles in the place of replacing that. So, in fact, they have gone from having a plan for 2 years to having a plan that essentially is in perpetuity that will lead to the overharvesting and the stripping of that forest and its resources. It is the only temperate rain forest that we have in North America, and it ought to be protected, and it ought to be harvested in a scientifically acceptable and understandable fashion.

Mr. Speaker, that is not what this legislation does. It overrides the scientists, puts in place a plan that was rejected already by the scientists, and then says that is the method by which we will harvest the Tongass Forest. That is why it continues to be unacceptable to the administration, to the American people, and to those of us who care about reasonable forest practices.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. I thank the gentleman from Wisconsin [Mr. OBEY] for yielding this time to me.

To put it crudely, my colleagues, this is indeed a lousy way to do the people's business. These weekly CR's are Government by political hiccup. It is atrocious that ideology, and stubbornness, and extremists, and extremism and hostage-taking have been substituted for what in previous Congresses had been a rational and timely consideration of and passage of the Nation's budget and appropriations process. These CR's come weekly, many of them. This is the 12th, as we have heard, the 12th continuing resolution.

The gentleman from Wisconsin [Mr. OBEY] and a couple of others have mentioned what I know each of my colleagues has heard in their own offices, and that is that school boards are apoplectic about this situation. Many teachers do not know if they are going to have their contracts renewed or at what salary levels.

It is not true that the environment is not suffering. Public lands acquisition has been put on hold. Necessary construction on public lands has been put on hold. EPA enforcement has been slowed in some areas almost to a stop. There has been disruption in the

Superfund work, and I can tell my colleagues, in that I have two great national parks, all or part within my State of Montana, that the morale of Park Service workers is the lowest I have ever seen it, and that may be true throughout the Federal system.

Let me say in closing, what I said at the beginning. Crudely put, this is a lousy way to do the people's business. It is perhaps no wonder that for 40 years the American people kept the current majority in the minority. If this is the way they do the public's business, they will probably be put in the minority again with good reason.

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, this is indeed the same speeches and same thing this Congress did last week, and the month before, and the week before, and the weekend before that, but there really is something different: It is a week later, and another week of cuts, significant cuts in education, and the environment, and important other areas. One week, Mr. Speaker, 1 week, 45 days.

I voted for the 45-day temporary spending bill because I thought that it was fair to give time to work this out, and so I voted ''yes'' for those 45 days of cuts. But yet now, it is another week, and another week, and another week. At some point, we say ''no.''

As my colleagues know, education and the environment, like Caesar, can die by 100 cuts just as easily as 1, and the impact is very clear, Mr. Speaker. In West Virginia, when this temporary spending bill expires, and they are asking for another one, 226 teachers will have gotten their pink slips, 90 aides; 6,500 students that benefit from the math and reading programs that are so important will no longer be eligible.

Mr. Speaker, whether it is the environmental cleanup, the toxic waste cleanup, the education programs, the job training programs, this is no way to do business.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from Wisconsin for yielding this time to me.

Mr. Speaker, this is an unfortunate procedure. This is an unfortunate year. This is an unfortunate Congress.

I agree with the gentleman from Montana who spoke that the judgment that will have been made of this Congress, is that it is probably the worst-run Congress in 50 years. That is the sentiment expressed by Kevin Phillips, a very conservative Republican columnist; not my view, but I share that view. And today we see another result of that.

□ 1315

I do not believe, frankly, that the chairman of the committee would want this to happen. I have said that before. I do not think the Chair of any of our subcommittees would want that to happen. I am speaking of the Republican chairs. I frankly think it is central management that is to blame for this, but I want to say that I supported the last continuing resolution, a CR, as we call it, or perhaps ''completely ridiculous,'' as the American public must view it.

I supported it because obviously I want to see the 56,000 Federal employees that I represent remain on the job doing the work that America expects of them, and being paid for that work. But the fact of the matter is I am going to oppose this resolution, because what is happening is, in my opinion, part strategy and part an admission of failure; strategy to the extent that it is, as the gentleman from West Virginia, said, death by a thousand cuts; just drip, drip, drip, drip; cut, cut, cut, cut, education, environment, energy assistance for old people and poor people; drip, drip, cut, cut.

Mr. Speaker, this is not a responsible action to take. The Contract With America talked about personal responsibility. I have said it before, but in point of fact, we have abrogated our responsibility to the American public to handle the finances of this Nation responsibly. This is not responsible management of the Congress.

Mr. Speaker, these 1-week CR's are unprecedented. This is the 12th extension, because we cannot get our business done in this Congress. Mr. Speaker, it is not because the President is vetoing so many bills. In fact, this President has vetoed fewer bills than either George Bush or Ronald Reagan. Let us be responsible. Let us fund at least the balance of this fiscal year, halfway through it.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LEWIS], chairman of the Subcommittee on VA, HUD, and Independent Agencies of the Committee on Appropriations.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I must say my colleague, the gentleman from Maryland, very much was helping us all focus upon the point. There is little doubt that the American public knows full well that we need to reduce the rate of growth of Government, because the past rate of growth of Government has taken us to a deficit that is pushing $5 trillion. The American public further knows that in their own households they have to be able to pay their bills, and if consistently they do not pay their bills, they eventually declare bankruptcy.

Mr. Speaker, some suggest that a $5 trillion deficit has a tremendously negative impact upon our economy. The problem is not the result of cuts, but rather the result of spend, spend, spend, spend. This Congress, dominated by one party for 40 years, moved us toward this horrendous condition. In the short time the gentleman from Maryland and I have been together on this committee, the majority, the former majority: spend, spend, spend. Never could they find a program that was not working, never cancel a program whenever you create one, but expand it; spend, spend, spend, spend; tax, tax, tax, tax. Mr. Speaker, that is not the way to solve the problems of our people or our Government. Indeed, it is time for a change.

If the President would work with us instead of vetoing bills, we would not have to be here today. Indeed, Mr. Speaker, it is time for a change.

Mr. LIVINGSTON. Mr. Speaker, I reserve the balance of my time, and I reserve the right to close.

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

Mr. Speaker, we have a simple choice here today. We can continue to pass 1-week continuing resolutions, which will force our school districts within the next 3 or 4 weeks to begin laying off 40,000 teachers; we can continue in place the policy of the majority party that will make it much more difficult for 1 million kids to learn how to read and how to deal with math; we can continue the process of cutting deeply into the school-to-work program, which largely enables kids who are not planning to go to college to get some help in transitioning from high schools to the world of work; we can continue to cripple the ability of the Government to protect the public interest from environmental damage by continuing the very large reductions in environmental cleanup that we have in the bill; or we can decide that we have had enough of that, and we are going to ask that those funds be restored.

This issue is not about how much will be spent, because the President has offered offsets to every single dollar he wants to put back in this budget for education and for environment. The majority party simply made a decision that they want to buy twice as many B–2 bombers as the Pentagon asked for, and then they want to pay for it by taking it out of education and out of worker training and out of environmental cleanup. We think those are dumb priorities.

Mr. Speaker, the gentleman can talk all he wants. He invents this fictitious list of about 760 Federal programs that are supposedly for education. If the gentleman wants to take out air traffic controller training, he is the chairman of the committee. Why does he not do it? He is not a helpless victim. If he wants to eliminate NIH kidney research, which they ludicrously count as an education program, if he wants to eliminate NIH heart research, which he ludicrously counts as an education program, if he wants to eliminate FBI advanced police training, go ahead, offer the motion. He is the chairman of the committee. He has the power to do so. We do not think it is a good idea to eliminate those things.

The President's budget recommends the consolidation or elimination of 70 education programs so we can focus

our money where it is needed most in the education area. Yet, we get this smokescreen pointing to some little silly action here or there at the local level to justify the fact that they are trying to impose on this country the largest reduction in support for education in the history of the country.

We do not think that is a good way to help middle-class families raise their living standards and help give their kids decent jobs. We do not think it is a good idea to raise the cost of getting student loans by $10 billion over the next 7 years. We think we ought to get about the business of keeping the Government open full time, rather than this week-to-week nonsense.

Mr. Speaker, I urge Members to end the nonsense and vote against this silly piece of legislation.

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

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

Mr. LIVINGSTON. Mr. Speaker, I think it is interesting to hear my friend, the gentleman from Wisconsin, talk about how we could do this or how we could do that. The fact is, we tried to take out all those programs and zero them out. The gentleman voted against the bill.

Now the gentleman says, well, he is willing to stand up and give me a unanimous consent request to get rid of such screwy things as an Ounce of Prevention Council, that funds 2 billion dollars worth of a glossy magazine, because they have not done anything else. Hopefully he will join with us in reducing the extremely dumb grants of $175,000 for school administrators to go on a St. Michael's resort retreat under safe and drug-free schools, or buy lumber for the steps of aerobics classes. Hopefully he would like to join with us and strike the good old President's favorite AmeriCorps Program, which, in Baltimore, the average cost per participant of a volunteer is some $50,000.

Mr. Speaker, he said that he wants to strike the unnecessary and wasteful, yet never have I heard him offer one single cut, ever. He always wants to spend more money, more programs, tax the American people. We have got 726 education programs, each with their own bureaucracy, each with their own beneficiaries. it does not matter how duplicative, wasteful, unnecessary, or redundant they may be.

The point is, the gentleman talks a good game, but the fact is, all he wants to do is tell the American taxpayer to pay more money so he can tell them how it can best be spent.

This is a simple request to keep the Government working so the conference can go into action between the House and Senate and we can send the President a final bill. Mr. Speaker, they would close down the Government. They are hoping to vote unanimously against this and get a few Republican votes and just close down the Government so they can say, ''I told you so.'' Is that the answer? Does that help all the beneficiaries of the various programs the gentleman is concerned about? I think not.

The point is, Mr. Speaker, they do not have a leg to stand on, because the American people have caught on to their game. They have said, ''We have paid enough taxes, and you have misspent it time and time and time again, and the time has come to quit, to streamline, to strike the redundant and the necessary programs, to try to make government work as efficiently as business works, to downsize the government, the bureaucratic conglomerate that Washington has created.''

He talks about the harm that would happen to education if our downsizing goes through. The fact of the matter is 30 years ago the Federal Government did not give $1 to education. It was always the State and local responsibilities. Now the Federal Government pays between $20 and $30 billion in education, and we pile on the regulations, we pile on the restrictions, we pile on the bureaucracy, we extract the money from the American people and tell them what we did for them, and the quality of education goes down. Look at the charts. Look at the statistics. American pupils, students throughout America, are going lousy today compared with what we did 20 years ago.

When are we ever going to restore common sense to the American budget? never, if the gentleman from Wisconsin has his way.

Mr. STOKES. Mr. Speaker, I rise in opposition House Joint Resolution 165, the 12th short-term continuing resolution for the current fiscal year. Where will it end? How many stopgap measures will it take for our Republican colleagues to realize that this is not the way to operate the Government?

After two GOP-politically contrived shutdowns, which cost the American people over a billion dollars, action is still pending on five major appropriations bills. This week-to-week, piecemeal, and part-time management of the Nation's Government must end. Funding for nine critical Federal agencies is in jeopardy including the Departments of Education, Housing and urban Development, Labor, Health and Human Services, and Veterans Affairs. These agencies Provide vital services upon which families across the country depend.

Mr. Speaker, this needless and continuing disruption of the lives of the American people is irresponsible. This is the 12th continuing resolution in less than 6 months. Our Nation's children are among the hardest hit by the Republicans' budget. While hard-working parents are raising their children, telling them to study hard, play by the rules, and you will succeed, our colleagues on the other side of the aisle are destroying the very foundation upon which that philosophy was built.

I know the children and families in my district, in Cleveland, OH, as well as those throughout the State, and across the country will suffer as a result of the Republicans' mean spirited budget. Over $3 billion is gutted from education, the largest cut in history. Where will our disadvantaged children, who need and want to learn, turn for teaching assistance in basic reading, writing, and arithmetic, when the GOP-measure cuts over a billion dollars from title I alone? Approximately 40 thousand teachers would be eliminated. In Ohio, 1,300 title I teachers would be removed from the classroom, 32,000 children would suffer.

School systems across the country would suffer from the $266 million cut in the Safe and Drug-free Schools Program. Ohio's students would suffer from an over $8 million cut. This would make it nearly impossible to maintain effective violence and substance-abuse prevention programs. Most programs would be destroyed. Children must be provided a safe, crime-free environment in which to learn.

Communities and States would be denied the funding they need to provide youth and adults vocational education training. This program would be devastated by the Republicans' $185 million cut. Ohio's students would suffer tremendously from the loss of $7 million in basic grant funding alone.

Mr. Speaker, the cuts in education coupled with those in critical employment training programs including the elimination of the Summer Jobs Program, and the $362 million cut in dislocated workers' assistance would threaten the quality of life for hundreds of thousands of hard-working families across the country.

The elimination of the Summer Jobs Program alone means that over 600,000 students would be denied the opportunity to gain the skills they need to enter the work force. The cut in the dislocated workers' program means that workers who have been laid-off through no fault of their own would be denied the assistance they need to reenter the work force. It is estimated that over 20 million workers will be permanently laid-off in 1996 alone.

Mr. Speaker, the American people need and want to work. Our children and their families must not be denied the resources necessary to help them achieve their highest academic and economic potential. In this era of escalating global competitiveness, the American people must be equipped with the knowledge and skills necessary to earn a living wage.

Furthermore, this short-term fix still does not dismiss the fact that what is ultimately being proposed by our colleagues on the other side would: Jeopardize the welfare of millions of veterans, who are dependent upon a certain level of interaction from the Secretary of Veterans Affairs, by restricting the Secretary's travel; threaten the security of millions of elderly and low-income Americans who, without adequate Federal assisted housing, are at-risk of going homeless; add to the growing ranks of persons living in the streets as a result of their appalling reductions to homeless programs; endanger the environment by cutting EPA funding for programs that maintain clean air and keep our drinking water safe; and imperil the public's health by reducing Superfund efforts to clean up hazardous waste sites.

Mr. Speaker, America must protect and invest appropriately in her No. 1 resource, the American people—to do otherwise is fiscally irresponsible. I strongly urge my colleagues to stand up for children, and to stand up for families. Let's go back to the budget negotiation table and restore the Nation's investment in human capital including education, summer jobs, health care services, employment training, veterans's services, the environment, and housing. Vote ''no'' on House Joint Resolution 165.

The SPEAKER pro tempore. All time has expired.

REQUEST TO OFFER AMENDMENT

Mr. OBEY. Mr. Speaker, in light of the express concern of the chairman of the committee about retreats or administrative personnel, student vacations, cosmetology schools, et cetera, I offer an amendment, and I ask unanimous consent that notwithstanding the operation of the previous question on this amendment, that I be permitted to offer the amendment at this point, which would read as follows:

At the end of the joint resolution, add the following new section:

SEC. 101. Notwithstanding any other provision of law—

(a) none of the funds made available under this Act for the Safe and Drug Free Schools Program and the Title 1 Compensatory Education Program for Disadvantaged Students shall be used to pay the costs of disc jockeys, aerobics classes, retreats for administrative personnel, and student vacations; and

(b) none of the funds made available under this Act may be used to administer any program subsidizing massage therapy and cosmetology schools.

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

Mr. LIVINGSTON. Reserving the right to object, Mr. Speaker, the fact is that I probably will object to this in a second, but I want to point out that the gentleman will have ample opportunity in the conference that begins today informally and will be more formalized as we go through the next 10 days, so he will have an opportunity to strike these programs.

If he is sincere, if he really means what he says, I will join with him to strike the money for this waste and this inefficiency. But Mr. Speaker, I would point out that the gentleman is grandstanding here. The request before the House of Representatives is simply to extend the existing CR's for 1 week.

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

Mr. LIVINGSTON. Mr. Speaker, this gentleman is constrained to object, because the gentleman from Wisconsin [Mr. OBEY] will have his opportunity later on.

The SPEAKER pro tempore. Objection is heard.

Pursuant to House Resolution 386, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

□ 1330

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is the gentleman opposed to the joint resolution?

Mr. OBEY. Mr. Speaker, I most certainly am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the joint resolution, H.J. Res. 165, to the Committee on Appropriations with instructions to report the resolution back promptly with an amendment to provide the necessary funding during the period of the joint resolution to avert all layoffs of instructional school personnel whose salaries are paid in whole or in part by programs of the Department of Education for the 1996–1997 academic year.

Mr. LIVINGSTON. Mr. Speaker, I reserve a point of order on the gentleman's amendment. We have just now received it and I would like to have a chance to read it.

The SPEAKER pro tempore. The gentleman from Louisiana reserves a point of order.

The gentleman from Wisconsin [Mr. OBEY] is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, let me explain what we have just seen and let me explain this motion. The majority party is insisting that we pass a resolution which continues in place lower funding levels that cut some $3 billion out of education and continue very savage reductions in environmental cleanup legislation.

They argue the necessity to do that because the chairman has pointed out the abuse of a few programs. I just tried to offer a motion directed to eliminating every single abuse the gentleman just mentioned. I asked unanimous consent that they eliminate under safe and drug-free schools the ability to fund programs such as the gentleman just objected to. I also asked that under this bill we eliminate all funding for schools of cosmetology and massage therapy because the gentleman has objected to those.

The gentleman then accuses me of a smokescreen for responding to the criticisms he has made in existing programs. He said, ''Why don't we fix it when we go into conference?'' Why do we not fix it right now? I would suggest what is really at stake here is they are desperately trying to hang onto the money they are cutting out of education so they can funnel it into their tax cuts for very wealthy people. And I do not think we ought to lay off 40,000 teachers so they can give a gift to their rich contributors.

So what I am saying is simply this. In this recommit motion, we are simply asking the committee to go back into committee and to restore all of the funds necessary so that no local school district has to lay off any teaching personnel.

What this motion does is ensure that those local school districts will have the Federal funds they need to pay for the teachers and other instructional personnel to provide the reading and math classes for disadvantaged kids, to hire guidance counselors, to provide antidrug abuse and drug prevention education to both teachers and students, to retain teachers and counselors to help students make a successful transition from schools to jobs, and to the jobs they need.

What this simply says is, do not fund your tax cuts by cutting the guts out of personnel in the local school districts. That is what it says. I urge a vote for the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 5 minutes in opposition to the motion.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation and speak in opposition to the motion to recommit.

The fact is that if the gentleman's motion to recommit were granted and were adopted by this House, the entire guts of the bill before us would be virtually obviated, would be wiped out, and we would be forced to either report today a conference agreement on the overall four bills that remain outstanding, actually five counting the District of Columbia, or else Government would shut down.

I do not think that the other side is serious when they say that they want the Government to shut down. But the fact is if they all vote in unison for this motion to recommit and some of our Members vote for it, the likelihood is that the Government could indeed shut down with respect to those departments which are covered by the five outstanding bills.

I think that that would be a terrible thing to happen.

I know, I hear all of the pleas of mercy for the beneficiaries of the multitudinous numbers of redundant, unnecessary, and crazy programs that the taxpayers have been forced to fund under the outstanding bills, but the fact is that the same beneficiaries would be really in trouble if we were to create a procedural vote, adopt their motion to recommit, and just close the Government down.

In 1 week, the Department of Education would not be able to figure out the cost of impact of the Obey amendment. So all those teachers we heard about, and I question the figures that they were using, but all those teachers that we heard about, that they say they are concerned about, would be automatically not getting any Federal funding and that would be ludicrous. That would be absolutely absurd.

So if you want to close the Government down, go ahead and vote for the Obey motion to recommit. If you want to keep an orderly process and show that Government can operate, albeit no matter how ugly the process sometimes gets, then we would urge that you vote against the motion to recommit, vote for this 1-week extension, and hopefully by the end of the next week, a week from tomorrow, we will, in fact, have a conference agreement which will wrap up and conclude action for fiscal year 1996 on all of the outstanding bills.

That is my fondest hope, it is my desire, and I am going to work every hour that I can to make sure that comes to pass. But we need a ''no'' vote on the motion to recommit or else this Government is going to shut down.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

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

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

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The vote was taken by electronic device, and there were—yeas 192, nays 230, not voting 9, as follows:

[Roll No. 82]

YEAS—192

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn
Yates

NAYS—230

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

NOT VOTING—9

Collins (IL)
Johnston
Moakley
Radanovich
Roukema
Stark
Stokes
Waters
Zeliff

☐ 1354

Mr. TIAHRT, Mr. SCHIFF, and Mrs. CUBIN changed their vote from ''yea'' to ''nay.''

Mr. DOGGETT changed his vote from ''nay'' to ''yea.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the passage of the joint resolution.

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

RECORDED VOTE

Mr. LIVINGSTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 244, noes 180, not voting 7, as follows:

[Roll No. 83]

AYES—244

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz

Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—180

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Scarborough
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

NOT VOTING—7

Collins (IL)
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

□ 1406

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR ALL COMMITTEES TO SIT TODAY AND THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

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

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

The Clerk read as follows:

Mr. ARMEY moves pursuant to clause 2(i) of rule XI that for today and the balance of the week all committees be granted special leave to sit while the House is reading a measure for amendment under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

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

Mr. Speaker, we have a good deal of important business ahead of us, both on the floor and in the committees, during this week and the next. It is, of course, out of consideration for the Members on the floor and in the committees relative to their pending district work period that I make this request. I want to appreciate for a moment the Members of the body on both sides of the aisle for their cooperation with me with respect to this request.

Mr. Speaker, for purposes of debate only, I am happy to yield 5 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I first wish to thank the gentleman from Texas for yielding the time.

Mr. Speaker, the gentleman from California has now just arrived, and I was waiting until he got here.

Mr. FAZIO of California. Mr. Speaker, will the gentleman yield?

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

Mr. FAZIO of California. Mr. Speaker, I want to thank the gentleman from Missouri not only for yielding but for that introduction.

Mr. VOLKMER. Mr. Speaker, I will be frank about it. I really have nothing to say about this. We are going to let the gentleman from California speak for a few minutes and tell the Members about what happened.

Mr. FAZIO of California. Mr. Speaker, would my friend from Missouri yield for a second?

Mr. VOLKMER. Mr. Speaker, I yield to the gentleman all the time I have.

Mr. FAZIO of California. That is what I wanted to know, how much time he was yielding to me.

The SPEAKER pro tempore. Without objection, the gentleman from Missouri [Mr. VOLKMER] yields 5 minutes to the gentleman from California [Mr. FAZIO].

There was no objection.

Mr. FAZIO of California. Mr. Speaker, we had an interesting session this morning, however brief it may have been. Interesting in the sense that it, I think, is perhaps too typical of the kind of hearings that we are seeing here in the House of Representatives. Unfortunate in that it did not include a balanced presentation on a very important issue to Members of this House.

In fact, I think to the country at large, and that is how we deal with the question of voter education, how we deal with the issue of expenditures that are made outside the Federal election process. We had invited almost 25 groups from all across the spectrum, from Common Cause and the Sierra Club to the Christian Coalition and Citizens for a Sound Economy. Yet, when it came time to hold the hearing, the only people who were brought to the witness table, theoretically, they chose not to come. In my view that was the right decision, those people representing working men and women, organized labor.

Mr. Speaker, now, it is easy to demonize our foes in this area, and both parties certainly have a preponderance of friends from one side of the spectrum to the other which they often like to demonize. But if we are going to hold hearings that really get to the root cause of how we can reform our political system, we cannot play favorites. We cannot just hold up those people representing the interest of working people because they have priorities and they have concerns that do not know in the direction the majority wants to go in.

We have seen too much of this when the AARP was brought up before a Senate committee because they were standing up for Social Security, or critical of some of the Medicare reform proposals. I just simply wanted my colleagues to know, and I think I speak for every member of our committee, that this behavior of the Committee on House Oversight today is going to inflame passions here, is going to create an impossible environment for us to work this most important issue of campaign finance reform in.

There are many, many groups spending hundreds of millions of dollars without limitation, without any attribution to any individual, no disclosure at all, who are working hand in glove with the majority in this House to affect its agenda. We were not willing or able to hear any of the testimony that might have enlightened us about that. It was only to go after people who in the minds of, I guess, the majority of that committee, were associated with the Democratic Caucus. I feel very much compelled to object to that process.

Every member of our committee absented ourselves from the hearing today because we felt it was an inquisition. It was a kangaroo court designed to embarrass people who are merely spending, legally, their dues to put across a point of view to help educate their members and hopefully to impact on the Members in this body before they make a number of mistakes.

Mr. Speaker, I would simply close by saying this side of the aisle is prepared to work on these issues as long as we come to the table in a bipartisan manner. I am told in the aftermath of our decision to leave that we were told the room was not big enough, the table was not large enough to bring all the various interests together to discuss this. We only had to select one. Well, I think that is a metaphor that concerns me. The table ought to be big enough for all of the interest groups and all the points of view in this country to be heard.

When we single out people, then we make enemies of people. Then I think

we are doing a lot of damage to this process. As long as the working people of this country want to be heard in this institution legally through their organizations that they pay dues to, we ought to listen to them and we ought to accommodate them. We ought not to single them out and take vengeance on them simply because they have another point of view that is unpopular with the majority.

□ 1415

Mr. ARMEY. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Speaker, I thank the majority leader for yielding me this time, and I want to thank my colleague from California for once again letting the chairman know of his interest in making sure that there is no hearing in which labor unions have to present any testimony about anything at all. Today's hearing was, in fact, the fourth hearing in a series of hearings, which are the most extensive in the history of this Congress on the campaign finance bills that were passed in the 1970's.

Our hearings started off in a bipartisan way. We had the Speaker of the House and the minority leader of the House talk about their vision of where they wanted to go. We also had all of the Members who have introduced legislation who want to see change in campaign finance laws. In fact, there were so many Members, we had to carry some over to the second hearing.

In the second hearing we heard from corporations, we heard from people who believe constitutionally they have a right to form political action committees, we heard from labor unions about the narrow segment of union political activity under the Federal Election Commission.

In our third hearing we had national chairmen of both the Democratic and Republican Parties talking about how the law unnecessarily hamstrings political parties, in their opinion, vis-a-vis labor unions and other groups who are able to participate in the process far beyond political parties, and on a bipartisan basis those leaders urged us to look at changing the law affecting political parties.

This is the fourth hearing in our series of hearings. It seemed entirely appropriate since less than 1 week from now labor unions are meeting here in Washington to discuss increasing their dues to put more than $35 million into the political arena, which they have, and I will not yield at this time because I would like to finish my statement, in which the workers who are paying for this have no knowledge under the law, either under the FEC, or the Labor Department, or the NLRB, National Labor Relations Board, as to where and how much money is spent in the political process. The people who participate in elections, the voters, do not under the law have any understanding, or idea, of how much money because it simply is not required under current law to be reported. We invited the president of the AFL–CIO, the president of the Teamsters, and the secretary-treasurer of the AFL–CIO to provide us with some understanding of this involvement in the political process. We fully intend to go forward with additional hearings to hear from other groups.

What was the response of the minority to yet one more hearing to get a full, complete understanding of participation in this process? Either within or outside the law? Either through sheer arrogance or fear the union leaders decided they would not show up and the Democrats would not participate in the hearing.

Who did we have testifying that made it so slanted, so misrepresentative? We had two individuals from the Congressional Research Service, individuals who are pledged in their testimony to be fair and bipartisan; in fact, so much so that every opening statement of a witness from the Congressional Research Service has to state as much. We had professors of economics and labor to help us to understand that under the law, in an incomparable way, labor unions can participate in the political process without any, without any, requirement to disclose to the public when and how that money is spent, but, even more fundamentally, to the people who contribute the money themselves. That information is so shocking, so important to the Democrats, that they have to walk out of a committee and refuse to have people come to the committee so that the American people can understand when and how labor unions influence elections.

Mr. ARMEY. Mr. Speaker, I thank the two gentlemen from California for that scintillating debate, and, if I might, I would like to thank the gentleman from Missouri for having made it possible.

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

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The motion was agreed to.

A motion to reconsider was laid on the table.

IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Pursuant to House Resolution 384 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2202.

□ 1420

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 further consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes with Mr. BONILLA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 20, 1996, amendment No. 18 printed in part 2 of House Report 104–483, offered by the gentleman from California [Mr. DREIER] had been disposed of.

It is now in order to consider amendment No. 19 printed in part 2 of House Report 104–483, as modified by the order of the House of March 19, 1996.

AMENDMENT, AS MODIFIED, OFFERED BY MR. CHRYSLER

Mr. CHRYSLER. Mr. Chairman, I offer an amendment, as modified, made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. CHRYSLER: Strike from title V all except section 522 and subtitle D.

The CHAIRMAN. Under the rule, the gentleman from Michigan [Mr. CHRYSLER] and a Member opposed, the gentleman from Texas [Mr. SMITH], each will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CHRYSLER].

Mr. CHRYSLER. Mr. Chairman, I yield 15 minutes to the gentleman from California [Mr. BERMAN], and I ask unanimous consent that he be able to control that time.

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

There was no objection.

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

Mr. Chairman, let me first start out by addressing some unfortunate distortions concerning our amendment. Our amendment does not increase immigration levels, and it does not touch the welfare restrictions in the bill. It does keep families together. Our amendment will simply restore the legal immigration categories that are defined under current law, strike the cuts in permanent employer-sponsored immigration, and keep refugees' admission at the current annual limit.

It is simply wrong that this immigration reform bill prohibits adult children, brothers, sisters, and parents from immigrating to the United States. That is right. Under this bill,

no American citizen will be able to apply for a visa for their close family members. The excuse being used for the closing the door on the families of American citizens is that we need to give more family visas to former illegal aliens who were granted amnesty in 1986. Mr. Chairman, slamming the door on immediate family members of U.S. citizens in order to give former illegal immigrants more visas for their families is unconscionable.

I also have a difficult time with the bill's definition of family as only spouses, minor children, and parents with health insurance coverage. I believe that brothers, sisters, parents without long-term health care coverage, and children over the age of 21 are all part of the nuclear family. In the interests of families and keeping families together, our amendment will restore the current definition of ''family'' to include spouses, children, parents, and siblings.

Mr. Chairman, in a country of 260 million people, 700,000 legal immigrants is not an exorbitant amount. There is simply no need to cut legal immigration, people who play by the rules and wait their turn, to 500,000. We are all immigrants and descendants of immigrants. In fact, 12 percent of the Fortune 500 companies were started by immigrants.

There are numerical caps on family immigration, per-country limits, and income requirements placed on sponsors. My amendment does not change any of these requirements.

In addition, title 6 in this bill will place restrictions on immigrants from receiving welfare benefits as well as increase the income requirement on sponsors to 200 percent of the poverty level. I fully support these requirements, and my amendment does not change these provisions in the bill.

Immigrants who go through all of the legal channels to come into this country should not be lumped into the same category as those who choose to ignore our laws and come into our country illegally. I agree with most of the illegal immigration reforms that are included in the bill, and I would like to vote for an immigration reform bill that cracks down on illegal immigration. But I cannot justify voting for drastic cuts in legal immigration because of the problems of illegal immigration. These are clearly two distinct issues that must be kept separate.

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

Mr. SMITH of Texas. Mr. Chairman, I rise in opposition to the amendment, and I yield 5 minutes of my time to the gentleman from Texas [Mr. BRYANT], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

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

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are many reasons why over 80 percent of the American people want legal immigration reform, and there are many reasons why this legislation has attracted such widespread support, such as from organizations like the National Federation of Independent Business, the Hispanic Business Roundtable, the Traditional Values Coalition, United We Stand America, and, as of today, our endorsement by the United States Chamber of Commerce.

The reasons to support immigration reform and oppose this killer amendment are these: First, now is the time to reform legal immigration. Four times in the past 30 years Congress has acted to substantially increase legal immigration. There was the Immigration Act of 1965, the Refugee Act of 1980, the Immigration Reform and Control Act of 1986, and the Immigration Act of 1990.

The Commission on Immigration Reform has recommended a permanent legal immigration system of 550 admissions per year plus an additional 150,000 per year for 5 years to reunify close families. This bill is very close to those recommendations. In fact, it actually exceeds those recommendations and, for that reason, is very generous.

Second, this amendment hurts American families and workers. A fundamental problem in our current immigration system is that more than 80 percent of all illegal immigrants are now admitted without reference to their skills or education. Thirty-seven percent of recent immigrants lack a high school education, compared to just 11 percent of those who are native born. Experts agree that this surplus of unskilled immigrants hurts those Americans who can least afford it, those at the lowest end of the economic ladder.

The Commission on Immigration Reform said, ''Immigrants with relatively low education skills compete directly for jobs and public benefits with the most vulnerable of Americans particularly those who are unemployed and under employed, and they total 17 million today.''

□ 1430

The Bureau of Labor Statistics estimates that low-skilled immigration accounted for up to 50 percent of the decline in real wages among those Americans who dropped out of high school. The bill addresses this problem by reducing the primary source of unskilled immigration, eliminating the unskilled worker category in employment-based immigration, but the bill actually increases the number of visas available for high-skilled and educated immigrants. Mr. Chairman, this amendment eliminates these reforms. This is the last thing we need to do, hurt Americans who work with their hands and are struggling in today's economy.

Third, this amendment will continue the crisis in illegal immigration. This status quo amendment will continue to drive illegal immigration. The myth is that millions of people are waiting patiently for their visas outside of the United States. The reality is very different. Large numbers of aliens waiting in line for visas are actually present in the United States illegally. This amendment will do absolutely nothing to solve this problem. The backlogs will increase, as will the numbers of those backlogged applicants who decide not to wait and instead choose to enter the United States illegally. Meanwhile, we can expect the backlogs to continue to grow.

Setting priorities means making choices. The elimination of the category for siblings was proposed as early as 1981 by the Hessburgh Commission on Immigration Policy, and the elimination of all categories for adult children and siblings was recommended by the Jordan Commission.

Today, a 3-year-old little girl and her mother could be separated, a continent away, from the father living in the United States as a legal immigrant. Meanwhile, in the same city, in the same country, we would be admitting a 50-year-old adult brother of a U.S. citizen.

The amendment is immigration policy as usual. It is a decision not to make a decision, not to set priorities, and not to have a real debate over what level of immigration is in the national interest. These extended family members, more than any other, contribute to the phenomenon of chain migration, under which the admission of a single immigrant over time can result in the admissions of dozens of increasingly distant family members. Without reform of the immigration system, chain migration of relatives who are distantly related to the original immigrant will continue on and on and on.

We need to remember that immigration is not an entitlement, it is a privilege. An adult immigrant who decides to leave his or her homeland to migrate to the United States is the one who has made a decision to separate from their family. It is not the obligation of U.S. immigration policy to lessen the consequences of that decision by giving the immigrant's adult family members an entitlement to immigrate to the United States.

One point raised by the gentleman from Michigan I want to respond to. That is in regard to the question, Does the bill favor the families of former illegal aliens over the families of citizens. The answer is no. The backlog clearance provisions of the bill give first preference to those who are not relatives of legalized aliens. These will be the first family members under the backlog clearance.

Last, this amendment allows continued abuse of the diversity program. Currently, diversity visas are often

given to illegal aliens, those who deliberately have chosen not to wait in line, but to break our immigration law. The diversity program has turned into a permanent form of amnesty for illegal aliens.

The bill eliminates the eligibility for illegal aliens and reserves diversity visas to those who have obeyed our laws. It also raises the educational and skills standards for diversity immigrants so we are not admitting still more unskilled and uneducated immigrants.

Mr. Chairman, I want to close by saying to an overwhelming majority of Americans, we hear you. We understand why we need to put the interests of families and workers and taxpayers first. To the National Federation of Independent Business, the Hispanic Business Round Table, the United We Stand America, the Traditional Values Coalition, and the United Chamber of Commerce, thank you for our endorsement.

Mr. Chairman, today we have the opportunity of a generation. We have the opportunity to reform a legal immigration system, but to do so we must vote no on this status quo amendment, we must vote no to kill legal immigration reform.

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

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

Mr. Chairman, I would like to just say that the report that the gentleman referred to on the Bureau of Labor Statistics was done by a graduate student and it had a BLS disclaimer on it, and also the comment was made that ''I think we made a mistake on this one.''

Mr. Chairman, I yield 30 seconds to the gentlewoman from Connecticut [Mrs. JOHNSON], the distinguished chairman of the Committee on Standards of Official Conduct.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment. The case has not been made for reform of our legal immigration system. The backlog is the result of the past immigration reform effort and will be taken care of by the system. Any abuse of the welfare system by legal aliens will be taken care of by the strengthening of the sponsors obligations in this bill and the provision in the welfare reform bill.

Mr. Chairman, I rise in strong support of the Chrysler-Berman amendment, and I urge my colleagues to vote likewise.

Mr. Chairman, I appreciate the hard work and leadership of my colleague from Texas, LAMAR SMITH, and strongly support the provisions in the bill that would stem the flow of illegal aliens that now impose unfair financial burdens on many States.

Increasing the number of border patrol agents, improving border barriers, and cracking down on document fraud are all forceful steps in the right direction. In addition, limiting the number of public benefits available to illegal aliens—while still allowing emergency medical care and school lunches for children—should help States reduce the now truly overwhelming costs of providing public benefits for illegal aliens.

But while I agree that illegal immigration is a problem that must be addressed by Congress, I am not convinced that our legal immigration program needs reform, and I am concerned that our hard working legal immigrants have been unfairly criticized during debate on this issue. Most immigrants come to this country in search of a better life for themselves and their families, not to receive a welfare check. The strong work ethic of immigrants has fueled American economic strength throughout our history and will continue to do so. These immigrants deeply cherish the freedoms and opportunities of their adopted country, having left behind family, friends, and the familiarity of their native land to come here.

H.R. 2202 would significantly restrict the admission of parents of U.S. citizens, admit only a small number of adult children, and eliminate the current preference categories for adult children and brothers and sisters of U.S. citizens. Some say we need to do this because immigrants are more prone to use welfare benefits. Though there are areas of concern, particularly in regard to the elderly immigrant and the refugee populations, welfare use among working age immigrants is about the same as in the nonimmigrant population. It's especially illogical to reduce legal immigration on the grounds of welfare use, when other parts of the bill will address the matter by strengthening the obligation of sponsors to support immigrants and when our welfare reform bill will reduce access to benefits by limiting the eligibility for benefits of legal aliens and illegal immigrants.

You will also hear supporters of restricting legal immigration say that people enter the country legally with tourist and student visas and then overstay them. This is true and a legitimate problem—however, it has nothing to do with our family based immigration system. Those who overstay their visas are nonimmigrants, not family sponsored immigrants. Do we punish family members overseas who are patiently waiting to enter the country through legal methods because this country is not able to adequately track temporary visitors and students who have overstayed their time here? Of course we shouldn't. The provision that pilots a new tracking program to make sure that visitors return to their country of origin is far more appropriate.

Finally, you will hear that we must limit legal immigration in order to reduce the backlog of family-sponsored immigrants now waiting to enter this country. This backlog does exist and does need to be addressed but we do not need to eliminate the visas for the adult children and siblings of U.S. citizens in order to do so. The backlog is due to our one-time Amnesty Program in the 1980's overtime is will be cleared. We do not have to give out extra visas in the name of backlog reduction at the expense of the family-sponsored immigrants now on the waiting lists. These are people who have chosen to wait patiently for years in order to come to America through the proper and legal methods. Do we punish them by denying them admittance when their perseverance and values prove that they are just the kind of people who would thrive given the opportunities America has to offer?

I met with legal immigrants in my district who have been the best citizens a country could hope for—bright, hard working, and raising children who will continue in their footsteps. It pains and angers them to know that legal immigrants like themselves might not be able to reunite their families, see their siblings, their parents, or their adult children as their neighbors.

Finally, I want to acknowledge a teach in Connecticut named Jean Hill who was recognized in the 1995 Connecticut Celebration of Excellence Program for a lesson she taught in her elementary school class. It's a lesson from which we all could learn. Titled ''We Came To America, Too'' foreign students study the Pilgrim's voyage to America and then compare that experience to their own voyage to the United States and Connecticut. They learn that they are no different from our Nation's first immigrants—immigrants who went on to create the country we know today. We are a nation of immigrants, each with the potential to make this country a better place. So I ask my colleagues, when you find yourself swept up in the tide of antilegal immigration fervor this week—stop—remember your own heritage—and that we came to America, too.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this debate is really about one's vision of America. I think it is fundamentally wrong to take the justifiable anger about our failure to deal with the issue of illegal immigration and piggyback on top of that anger a drastic, in 5 years, 40 percent cut in permanent legal immigration, a cause and a force that has been good for this country; 8 out of 10 Americans polled say, ''Deal with the problem of illegal immigration before you touch legal immigration.''

I hereby reaffirm my commitment to participate when the Senate, as they will, sends us over a legal reform mechanism, to participate and support legal reforms; not these drastic and draconian reforms, but reforms that deal with situations in the legal immigration system that can be changed. But do not make it part of this bill. Build a base for this. Legal immigration has been good for this country. Preserve that existing system. Do not tear it apart. Do not tear family unification apart.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, what is really at stake in the consideration of the Chrysler-Berman amendment is whether we are going to do anything meaningful with regard to numbers in this whole debate.

The fact of the matter is that legal immigration accounts for about 1 million people a year coming into the country. Illegal immigration, which we all want to stop, accounts for about 300,000 a year. If Members are concerned, as I am, about the fact that in about 4 years we are going to have twice as many people in this country as we had at the end of World War II, and by the year 2050 we are going to have 400 million people, it is conservatively estimated to be that, and we do

not want to see our country have that many people in it, and I do not, then we have to stand up and face the need to deal with the question of legal immigration, because that is where the numbers are.

If we do not, we will have skipped that opportunity to really deal with the problem, and we will then have a situation where there will be a bunch of Members going around there beating their breasts, talking about how tough they got on illegal immigrants, but they avoided the tough question where the interest groups are putting the pressure on everybody; that is, the question of legal immigration.

Mr. Chairman, I submit to the Members, that is not in the national interest. We will have made the decision, if we vote for the Chrysler-Berman amendment, not to set priorities, not to set levels of immigration in the national interest, and not to address the problem of chain migration, all of which were addressed in the Jordan Commission, which recommended significant cuts, bringing us back below the 1991 levels of legal immigration.

I would point out once again, from 1981 to 1985 we had about 2.8 million legal immigrants coming to the country. From 1991 to 1995, we had 5 million come into the country. We have to deal with the question of legal immigration, or admit to the country that we are afraid to act.

Mr. CHRYSLER. Mr. Chairman, I would just point out that the GAO proved that, on average, it takes 12 years for an immigrant to bring over the next immigrant.

Mr. Chairman, I yield 2 minutes to my good friend, the gentleman from Kansas [Mr. BROWNBACK], the cosponsor of this amendment.

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

Mr. BROWNBACK. Mr. Chairman, I would like to recognize the gentleman from Michigan [Mr. CHRYSLER], the gentleman from California [Mr. BERMAN], and also the gentleman from Texas [Mr. SMITH], for the excellent work they have done on the issue of immigration.

Mr. Chairman, I would like to point out a couple of things. I rise in strong support of the Chrysler amendment. I think the bill as it is currently written would cut legal immigration far too far. According to the State Department, and I have a chart up here showing the numbers from the State Department, it would cut legal immigration a minimum of 30 percent, and maybe as much as 40 percent. That is simply too much.

The Chrysler amendment has broad support from the Christian Coalition to the AFL–CIO, from the Wall Street Journal editorial page to the L.A. Times. It has broad support because it just simply goes too far, the current bill does.

Mr. Chairman, the Senate has split this legislation already, legal and illegal immigration. We should pass this amendment, deal with illegal immigration aggressively, as the gentleman from Texas [Mr. SMITH] has dealt with illegal immigration very aggressively, and then take up the issue of legal immigration with the Senate bill.

Finally, I would just like to plead with my fellow Members, we are a Nation of immigrants. Congress should preserve this proud tradition and not threaten it. Ronald Reagan, in his final address to the Nation, spoke often and spoke then of America being a shining city on a hill, and in his mind it was a city that was teeming with people of all kinds, living in peace and harmony. Then he went on to say, ''And if this city has walls, the walls have doors, and the doors are open to those with the energy and the will and the heart to get in. That is the way I saw it, that is the way I see it,'' is what Ronald Reagan said then. That is the way we should see it. Support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would simply point out that State Department speculation is fine, but facts are better. If individuals will look at the bill and add up the figures, they will see that we average 700,000 for each of the next 5 years.

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

Mrs. MEYERS of Kansas. Mr. Chairman, I rise in opposition to the amendment and in strong support of the reform of our legal immigration system contained in H.R. 2202.

The bill would allow an average of 700,000 legal immigrants annually for the next 5 years, then 570,000 per year. This is comparable to the average number of legal immigrants coming to this country every year since the 1965 Immigration Act was enacted—600,000. This doesn't close America's doors.

What it does do is put more priority on immigrants with skills that American employers need. We will continue to accept the same number of employment-based immigrants. It also puts more priority on admitting spouses and minor children of immigrants, thus reunifying nuclear families.

The reduction in immigration is primarily in the area of adult relatives of immigrants. Under current law, these all get preference over immigrants with skills but no relatives already here. This misallocation of priorities will be changed by the bill. In most cases those grown-up children don't continue to live with their parents. We just have to make a decision as to what is more important, reuniting 10 year olds with their parents, or 30 year olds? In some cases, a sibling will be brought to this country, go home and marry, thus reuniting a family that was never disunited.

On the other hand, this amendment will increase legal immigration to the United States by 500,000 over 5 years. This is not what the American people want. This amendment will keep all that is wrong with our current legal immigration system. We need to make changes. Let us make them now.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, No. 1, the last comment of the gentlewoman is simply inaccurate. The author of the bill knows that. There was a technical correction made in the rules, and this bill simply returns to existing law.

Second, the State Department says it is not 1 million people a year coming in now, it is 800,000 coming in through permanent legal immigration.

Third, the gentleman from Kansas [Mr. BROWNBACK] was right, and the gentleman from Texas [Mr. SMITH] is wrong. His bill will result in a cut of 30 percent, and a 40-percent cut in overall numbers.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I rise today to express my strong support for the Chrysler-Berman amendment. This amendment will repeal the antifamily, antigrowth provisions of the underlying bill.

While I support H.R. 2202's attempts to control illegal immigration, I believe that the issue of legal immigration should be addressed at a later time by separate legislation. The issues of legal and illegal immigration are separate and distinct issues, and should be addressed in separate bills.

As the bill is currently drafted, after a 5-year transition period, H.R. 2202 cuts legal immigration by 40 percent—a level unprecedented in the last 70 years. In one fell swoop, H.R. 2202 slashes family immigration by approximately one-third. In addition to arbitrarily reducing the number of family members admitted each year, the bill completely eliminates major eligibility categories. H.R. 2202 not only eliminates visa categories for adult children and siblings but would also unfairly wipe out the corresponding backlogs of visa applications. Individuals who have played by the rules, paid necessary fees, and waited patiently for as many as 15 years would be summarily rejected for legal immigration.

The bill also places nearly insurmountable obstacles for parents and adult children who are attempting to legally reunite with family members. H.R. 2202's restrictive family based immigration policies undermine American families and American family values.

In addition to my concerns regarding family based immigration, H.R. 2202 is an antigrowth bill. As our economy grows, the job base expands. Both the Wall Street Journal and the Washington Times editorial pages have noted that the U.S. economy benefits from legal immigration. In fact, in a recent Cato Institute study, not one economist surveyed believed that reducing legal immigration would increase economic growth. In addition, not one

economist believed that reducing the level of legal immigration would increase Americans' standard of living.

As drafted, H.R. 2202 is an antifamily and antigrowth bill. I urge Members to support the Chrysler-Berman-Brownback amendment so that we can address the issues of illegal and legal immigration thoroughly and responsibly through separate pieces of legislation.

□ 1445

Mr. BRYANT of Texas. Mr. Chairman, I yield myself 30 seconds, simply to say that I think it is extremely unfair and extremely inaccurate for the advocates of this amendment to describe the bill as antifamily. It is not antifamily.

What it does is recognize what the Jordan Commission observed, and that is that we have chain migration and we cannot continue forever allowing everyone who is allowed to come into the country legally to bring in brothers and sisters. That is really what is at stake here. The same recommendation was made in 1981 by Father Hessburgh's commission. It is not a radical proposal. What is radical is the idea of doing nothing, which is what they advocate, and letting the population increase to 500 million people in this country.

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

Let me just add that I do not know anyone who does not consider their brothers and sisters extended family.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. CRANE], a cosponsor of the amendment.

Mr. CRANE. I thank the gentleman for yielding me the time, and I compliment him on his amendment.

Mr. Chairman, I think there are many good provisions of H.R. 2202 dealing with illegal immigration, and adding approximately 6,000 people to monitoring our borders certainly can address that problem. But what we are proposing in the current language, unless the Chrysler amendment is adopted, to me runs contrary to all our values.

Just stop and think where your ancestors came from. Why did they join the cosmic race here? It was for the same reasons that we enjoy being Americans. It is the land of opportunity and the home of the brave, and we enjoy a degree of personal liberty that is unprecedented. Looking at the historic figures, the first time we deviated from our traditional policy was with the Chinese Exclusion Act in 1882. We locked Chinese out for a decade. Then in 1924 we started establishing quotas and we discriminated against the Orient in that package.

This kind of thing is inconsistent with our historic tradition. Our percentage of immigrants in this country today is infinitely lower than it was for the first 150 years. I urge Members to support the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to some of my friends on the other side of the issue, they may not be aware that the new figures for the 1995 immigration levels are in. The 1995 level was 715,000. Under this bill we average 700,000 each for the next 5 years. I might concede a 2-percent reduction at most.

Mr. COX of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Texas. I yield to the gentleman from California.

Mr. COX of California. Mr. Chairman, I just wanted to briefly ask the gentleman from Texas a question. That is, having listened to the comments of the gentleman from California [Mr. DOOLEY], with which I generally agree, that is, that kind immigration and illegal immigration are rather separate subjects and for various purposes deserve to be discussed separately. It is the case that this amendment merely splits the two so that they can be discussed separately, or is it rather the case that the effect of the amendment would be to strike out all of the parts of the bill for good that deal with legal immigration?

Mr. SMITH of Texas. Mr. Chairman, that is an excellent question by my friend from California. In point of fact the whole thrust behind this amendment is not to reform legal immigration. In fact, it is to kill any reform that we have in legal immigration. There is no separate legal immigration reform bill on the House side as there is on the Senate side. The gentlemen who have put forth this amendment to my knowledge have not proposed one amendment to reform legal immigration. I think that is very regrettable.

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

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Chairman, I rise in strong support of the Berman-Chrysler amendment.

Proponents of H.R. 2202 have argued that it is profamily. On the contrary, this legislation would eliminate whole categories of family sponsored immigration.

Let me talk if I can for one moment about Mary Ward. Mary Ward emigrated to America at the turn of the century from County Down, Ireland. Mary Ward became a citizen in her late 50's and raised a family and worked as a domestic, passing on the very values that we cherish and honor in this Nation. Mary Ward was as patriotic as any American in this institution, and loved the opportunities that it brought to her family.

Our goal here should be to separate legal from illegal immigration. Legal immigration serves this Nation very well. We acknowledge that illegal immigration is a problem. But where I live there are thousands of Polish-Americans and Russian-Americans and Franco-Americans and Italian-Americans and Irish-Americans and Asian-Americans. They add to the fiber and fabric and strength of this country. They do not subtract from it. In many instances they are more patriotic and more loyal than those who have been here for decades and decades and decades, and we should not forget about that in this debate.

In our haste to address this crisis, let us not make the mistake of penalizing those who love the notion and idea that someday they might be called an American.

Think as you vote on this about Mary Ward from County Down, Ireland. Mary Ward was my grandmother.

Mr. BRYANT of Texas. Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. BEILENSON].

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. BEILENSON].

The CHAIRMAN. The gentleman from California [Mr. BEILENSON] is recognized for 4 minutes.

Mr. BEILENSON. Mr. Chairman, I thank the gentlemen for yielding me the time.

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

Supporters of eliminating the bill's reductions in legal immigration argue that legal and illegal immigration are separate and distinct issues, and therefore ought to be dealt with in separate bills. But we all know that if these provisions are dropped now, the chances of the House acting on legal immigration reform this year are very slim indeed.

The fact is, legal and illegal immigration are related because they both affect the size of our country's population. And, we are letting too many people into our country.

What Congress does with regard to both types of immigration will determine how many newcomers our communities will have to absorb, how fierce the competition for jobs will be, and how much the quality of life in the United States will change in the coming decades.

Fueled by both legal and illegal immigration, the population of the United States is growing faster than that of any other industrialized country. By the end of this decade—less than 4 years from now—our population will reach 275 million, more than double its size at the end of World War II. Unless we reduce our high rate of immigration—the highest in the world—our population will double again in just 50 years.

Middle-range Census Bureau projections show our population rising to nearly 400 million by the year 2050, an increase the equivalent of adding 40 cities the size of Los Angeles.

But many demographers believe it will actually be much worse, and alternative Census Bureau projections agree. If current immigration trends continue—and that's what we're debating here—our population will exceed

half a billion by the middle of the next century—a little more than 50 years from now.

Immigration now accounts for half our—and that rate of growth—proportion is growing. Post-1970 immigrants, and their descendants have been responsible for U.S. population increases of nearly 25 million—half the growth of those years.

In other words, much of what demographers consider our natural growth rate is actually the result of the large number of immigrants in our country—and the great majority of them have come here legally.

As recently as 1990, the Census Bureau predicted that the population of the United States would peak, and then level off, a few decades from now. Since 1994, however, because of unexpectedly high rates of legal immigration, the Bureau has changed its projections, and now sees our population growing unabated into the late 21st century—when it will reach 700 million, 800 million, a billion Americans—unless we start acting now to lower our levels of legal immigration.

Those of us who represent communities where large numbers of immigrants settle have long felt the effects of our Nation's high rate of immigration. Our communities are already being overwhelmed by the burden of providing educational, health, and social services for the newcomers.

With a population of 500 million or more, our problems, of course, will be much, much greater. With twice as many people, we can expect to have at least twice as much crime, twice as much congestion, and twice as much poverty.

We will also face demands for twice as many jobs, twice as many schools, and twice as much food. At a time when many of our communities are already straining to educate, house, protect, and provide services for the people we have right now, how will they cope with the needs and problems of twice as many people or more?

Without a doubt, our ability in the future to provide the basic necessities of life, to ensure adequate water and food supplies, to dispose of waste, to protect open spaces and agricultural land, to control water and air pollution, to fight crime and educate our children, is certain to be tested in ways we cannot even imagine.

But however we look at it, our current rate of population growth clearly means that future generations of Americans cannot possibly have the quality of life that we ourselves have been fortunate enough to have enjoyed.

The reductions in legal immigration in this bill are very reasonable, and humane. They are based on the well-thought-out recommendations of the Jordan Commission, whose purpose was to develop an immigration policy that serves the best interests of our Nation as a whole. These proposed changes are designed to enhance the benefits of immigration, while protecting against the potential harms.

Reducing the rate of legal immigration, as the bill in its current form would do, constitutes a modest, but absolutely essential, response to the enormous problems our children and grandchildren will face in the next century if we do not reduce the huge number of new residents the United States accepts each year, beginning now.

I strongly urge Members to reject the Chrysler-Berman-Brownback amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

I would just like to point out that the Senate split their immigration bill, so there will be a separate legal immigration bill that will come before the House.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. GILMAN], the distinguished chairman of the Committee on International Relations.

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

Mr. GILMAN. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in strong support of the Chrysler-Berman-Brownback amendment to separating the unique concerns of legal and illegal immigration.

Proponents of deep cuts in legal immigration are blurring this distinction in order to make it difficult for us to vote against sorely needed illegal immigration reform. They know that their cuts in legal immigration cannot pass on merit alone.

Immigrant bashers argue that America needs to take a time out and limit or provide a moratorium. In the 1920's, they say, we experienced unprecedented economic growth the last time the United States had such a policy.

Mr. Chairman, in response to those specious arguments: One, that was no time out. That was a policy based on xenophobia and racism.

Two, moreover, when our Nation endured an unprecedented depression in the 1930's, the same restrictive immigration policy was in place.

I am disappointed with the anti-immigration forces who have denied us a chance to address the restrictive asylum and humanitarian parole provisions that were included in H.R. 2202.

Accordingly, I urge my colleagues to support this important Chrysler-Berman-Brownback amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BILBRAY], whom I understand is the only Member of Congress who can see the southern border from his home.

Mr. BILBRAY. Mr. Chairman, my mother happened to be the first Australian war bride to become a U.S. citizen. She emigrated in 1944. I have cousins who would love to emigrate to the United States right now. But let me tell Members, I am sworn to represent the people of my district here in America, and I am not sworn to represent my cousins in Australia or to represent certain businesses that would love to be able to bring my cousins in to work for them. I am sworn to represent the general population of the 49th District of the great State of California.

□ 1500

I think that we ought to be up front about this. Who are we serving here with the Chrysler amendment, who is going to benefit from this, and is it going to be the people of the United States?

Mr. Chairman, it is not only our right to have an immigration policy for the good of the American national interests, it is our responsibility as Members of Congress to make sure our decisions on immigration are for the good of America, and America first. In the words my mother said to me when I asked her loyalty between Australia and the United States, she said ''America, America must take care of America first and that will help the rest of the world.''

Mr. BERMAN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, U.S. law does not allow you to petition for your cousins, your uncles, your nieces, your nephews. It would not under this bill, it does not under existing law, and it never has. Bogus arguments should be dispensed with quickly.

Second, the gentleman from Texas [Mr. BRYANT] says 1 million people a year come in, to show how bad it is. The gentleman from Texas [Mr. SMITH] says ''I just got information, 715,000 a year come in. Our bill only cuts by 15,000.''

The gentlemen from Texas [Mr. BRYANT] and [Mr. SMITH] are right about the number. What they do not say is that for the first 5 years, his bill allows 700,000, and it then has a massive 30 percent drop in legal immigration to far below that. That is the accurate story.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Chairman, I rise today as the daughter of immigrants in favor of removing the poorly designed and unfairly restrictive legal immigration provisions from the bill before us. I strongly support and have cosponsored the tough measures in this legislation to crack down on illegal immigration. But, like most Americans, although not some that we have just heard from, I believe that legal immigration is the lifeblood of this country, enriching our Nation economically and culturally.

We should, of course, be open to reasonable reforms in our legal immigration policy, but H.R. 2202 goes too far. By the year 2002, as we have already heard, the bill will cut legal immigration by 40 percent, and the bill's cap on refugee admissions, which, fortunately, has already been removed, would effectively have ended our historical commitment to helping those who, like my

father, who grew up in Nazi Germany, flee oppression and genocide.

H.R. 2202 includes important and effective tools for fighting illegal immigration. Let us not bind those changes to the unacceptable legal immigration cuts in title IV.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. DAVIS], a cosponsor of this amendment.

Mr. DAVIS. Mr. Chairman, I thank my friend for yielding.

Mr. Chairman, first of all I want to commend the gentleman from Texas for taking on a tough issue. I rise reluctantly to oppose his position on this and support this amendment.

This amendment continues the current level of immigration. It allows children and the brothers and sisters of immigrants to apply for immigration. Otherwise they are barred for the most part.

This amendment does not affect the changes in this bill regarding immigrant eligibility for public benefits and it does not affect the provisions relating to illegal immigration, but family reunification has long been a principal purpose of U.S. immigration policy. This bill's provisions barring adult children in particular turns that principle on its head by ensuring that many families will never become whole.

Why would a child who turns 26 automatically be considered extended family and not allowed to immigrate under his parents' sponsorship? Many of these adult children are exactly the type of Americans this country needs. They help in their prime working years, working many cases in family-owed businesses, helping them to prosper. They save, invest, and give back to their communities.

I see the pioneer spirit in this country alive and well in the shops in my district where you have much of this. They also help care for their elderly parents and reduce the elderly's use of social services.

Mr. Chairman, I ask approval of this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise today in opposition to the Berman-Chrysler-Brownback amendment to H.R. 2202.

This bill was drafted in response to concerns echoed across this Nation about the influx of immigrants in this country, both legal and illegal. However, a vote for this amendment is a vote to kill any attempt to pass legal immigration reform in the 104th Congress.

We are a country of immigrants. Our ancestors came here for the promise of a better life and a better place to raise their families. They wanted the American dream. This bill does not deny this dream to anyone. Contrary to what has been said about this bill, it maintains America's historic generosity toward legal immigration and places a priority on uniting families.

Our current system of legal immigration is clearly flawed. There is currently a backlog of 1.1 million spouses and young children of legal immigrants who are forced to wait years to join their families. H.R. 2202 provides for the highest level of legal immigration in 70 years, averaging 700,000 per year over the next 5 years.

People should not be fooled into believing the rhetoric that only illegal immigration needs reform. The unfortunate fact is that the majority of illegal immigrants in this country entered the country legally with tourist visas. But our Government gives them every incentive to stay here illegally after their temporary visa has expired. Just by virtue of being here, they are automatically entitled to generous Government assistance for health care, food stamps, and education benefits. Where is the incentive to leave?

We can put up bigger fences, hire more border patrol agents, and establish a fool-proof system to detect fraudulent documents. However, until we reform legal immigration, we will continue to face the same problems.

The Berman-Chrysler-Brownback amendment will kill legal immigration reform. H.R. 2202 fairly and generously reforms legal immigration, and I encourage all of my colleagues to vote ''no'' on this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, with respect to the population projections, I just want to remind everyone of the demographer Malthus, who looked at population projections in the early 19th century and concluded that by the end of the 19th century, there is no way in the world there would be enough food in the world to feed the people.

I have great faith in the capacity of technology and the economy to grow, and I believe that is going to deal with the particular issue of our future ability to handle the population.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BECERRA], my friend on the Committee on the Judiciary.

Mr. BECERRA. Mr. Chairman, I support the efforts of the Chrysler amendment to try to have a reasoned debate on legal immigration separate from the very impassioned debate on illegal immigration. I would urge Members to support that particular amendment.

Let me say that the whole issue here is about family-based immigration. That is all we are talking about here. In order for someone to be able to come into this country under the provisions being debated, you must have an American petition to have that particular individual come to the country. This issue of chain migration is a false one. By the time you have someone come into this country, it usually takes 12 to 13 years before that individual can then petition to have anyone who is an immediate relative—not a distant relative—come into this country. So this issue of chain migration is really a quarter century long before you see any additional relatives possibly having the chance to come in, if even that soon.

There is no chain migration. What we do have though, if we continue to go this course with H.R. 2202, is a lack of family-based immigration, where brothers, sisters, children, and parents will not have an opportunity to join their U.S. citizen relatives.

Mr. Chairman, I urge a ''yes'' vote on this particular amendment.

Mr. CHRYSLER. Mr. Chairman, I yield myself 10 seconds.

Mr. Chairman, I would just point out that there are provisions in the illegal portion of the bill dealing with the problems of visa overstayers and they are not entitled in title IV.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT], a member of the Committee on the Judiciary.

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

Mr. CHABOT. Mr. Chairman, I rise in very strong support of the Chrysler amendment, because I deeply value the fundamental character of this Nation as a land of hope and opportunity and because I cherish our unique American heritage as a country of immigrants, united by shared values, a strong work ethic, and a commitment to freedom. Let us not tarnish that heritage or ignore our greatest strength, which is our people.

Our legal immigration system doubtless could use reform, and other titles of this bill will make some useful changes, but I do not believe the rush to do something about the very real problems of illegal immigration should cloud our treatment of people who play by the rules and who come here legally and add to our human capital.

Should we crack down on illegal immigration? Yes. Absolutely. Let us, for example, not let welfare be a magnet for illegal immigrants to come here, and let us beef up our border patrols. But legal immigration is a separate and distinct issue. Let us split the issues of legal and illegal immigration and let each be determined upon its merits.

Mr. Chairman, I urge a vote for American family values, and I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL of Georgia. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I think that there are two great political issues that face this country. One is welfare reform and the other is immigration reform. Unfortunately, the two of them are inextricably linked together. When you consider the fact that 21 percent of all immigrant households receive some form of assistance, when you consider that for

the 12-year period between 1982 and 1994 that the applications for SSI by immigrant families increased some 580 percent compared with only a 49-percent increase for native Americans, then you have to say that the two are linked together. Unfortunately, if we do not address one, it is going to be almost impossible to address and solve the other.

So I would urge that we defeat the amendment that is before the House.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, this amendment does not touch title VI of the bill. Title VI requires before any legal immigrant can participate in any variety of public benefit programs, including Medicaid, AFDC, SSI, that you have to deem the family sponsor's income. Our amendment does not touch that particular reform.

Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, the guiding principle in our Nation's immigration policy should be to reward controlled legal immigration and dissuade illegal immigration.

As an American-born son of legal immigrants, I can tell you this bill sends the wrong message. Instead of saying to potential immigrants that if you play by the rules, wait your turn, and follow the law, you will benefit by becoming a permanent resident, we say, we're going to treat you just about the same as an illegal immigrant.

The cuts in legal immigration hurt family reunification efforts and show the hypocrisy of a Congress that promotes family values.

Why does this ''family friendly'' Congress want to prohibit the adult sons, daughters, brothers and sisters of U.S. citizens from entering the country? Legal immigration reinforces family structure, upholds family values, and benefits the Nation.

Creating a hardship for U.S. citizens by permanently separating them from their close family members does not promote family values. It disintegrates the fabric of American values and jeopardizes the Nation's future. We can fight illegal immigration and preserve family-centered legal immigration by supporting this amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise in support of this amendment. Legal immigration is a basic building block in the cultural development of our United States. The family is an American tradition. When we talk about our families, we do not simply speak of our spouse or our young children. The tradition extends to our grown children, our parents, our brothers and sisters.

For years we have told new immigrants that if they play by the rules, their family members will be able to join them. Now, as many as 2 million people may be told that they are no longer qualified family members.

Having a visa petition approved may not be a guarantee that a person will actually receive the visa. However, there was an implicit act of good faith when INS approved the petitions and the people began their wait. To break faith with such a strong American tradition sends a strong message and does not address the real concerns of illegal immigration.

Our immigrant population strengthens the diversity upon which our great country is built. As a former immigrant and naturalized American, I urge us to stand up for our families, our traditions, and strike the cuts in legal immigration.

□ 1515

Mr. SMITH of Texas. Mr. Chairman, I just want to point out that the reason we have the record percentage, 21 percent of all legal immigrants on welfare today, is because we admit over 80 percent of all legal immigrants with absolutely no regard to their education or skill levels. That is the reason we have the problem.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM].

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

Mr. MCCOLLUM. Mr. Chairman, I do not think there is any question that we need and must face both legal immigration reform and illegal reform. If we vote for this amendment today, we are going to kill legal immigration reform in this Congress.

Why do we need it? Why do we need to attack and change family unification principles that have been in the law for quite some time? I will tell my colleagues why, because the system is broken, because we have a backlog. Millions of close family ties, people who we would like to see be able to come over here have to wait up to 20 years to come over. The system is not working. The brothers and sisters cannot continue to be brought in under the kind of preference we have today and leave any room for seed immigrants, that is, those who can provide skills and special things we would like to see but who have no relatives here at all.

Why should just being a relative be the primary reason you get to come here? We have to have balance in our system. The current legal immigration system is imbalanced, out of whack. We need to change it.

Now, there is nothing draconian about the legal reforms we have here today. If we look at what happened in 1990, we increased legal immigration in a bill that passed this Congress and went and was signed into law by 40 percent. This bill reduces it by 20 percent. So we are kind of compromising.

Over the next 5 years under this bill we will add 3½ million new legal immigrants to this Nation which, except for the legalization years that we had right after 1986, will be the greatest increase in legal immigration in American history in the last 70 years.

This is a very generous legal immigration bill that the gentleman from Texas [Mr. SMITH] has crafted. But what it is doing is extremely important. It is trying to give us an opportunity which business and all of us should be pleased with to get more seed immigrants since almost none can come in today who have no family ties but who have skills and things they can offer America and should be allowed to come to this country and get rid of the backlog of those people who are close family relatives who really should come here, the children and spouses and so forth, instead of having the broken system we have today.

So I implore my colleagues to vote against the amendment. As well-meaning as it may be, it is not a good amendment. Keep legal immigration in this bill and allow it to exist, because a vote for this amendment kills legal immigration reform.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Of the 500 fastest growing companies in this country, 12 percent are headed by legal immigrants. They are, again, a source of economic strength, the creation of jobs, the growth of our economy.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, this amendment deals with striking the family immigration sections of the bill in order to address these issues in a more seemly and deliberative manner, and I agree with that. If we are for family values, we need to value families; and that is what the Berman amendment would do. However, disapproval of the Berman amendment will also have implications for the business community.

I recently received a letter from a Mr. Yao, who lives in Mountain View, CA. I cannot read his whole letter, but I can excerpt from it. He is a senior scientist at his company, an American company, and is originally from China. When he started with the company, it was a very small company, but it has since experienced rapid growth and expansion. Its products are well received. In fact, the company received an award for outstanding achievement from the White House.

The major reason why the company has done so well is that Mr. Yao has designed all of the antennas that the company sells and in fact is the holder of a number of patents. However, a few years ago, he missed his daughter in China so much that he was going to take his patients and go home to China. However, the company, fearing to lose him and to lose their business, petitioned to make him a permanent resident so that his daughter could come here. He wrote to me to say that

she is now 30 years old, and he is desperate to see her, but she cannot come for a visit because of the pending application.

Mr. Chairman, I guess the upshot is that, if the Smith bill passes without the Berman amendment, Mr. Yao can take his patents and go home to China. Then we can have the opportunity to compete with a Chinese company that he founds instead of dominating our economic adversaries abroad.

I think it is worth noting that one of the fastest growing companies in our country, Intel, was founded by an immigrant. Sun Microsystems was founded by immigrants. The Java computer technology that is taking off on the Internet was devised by an immigrant. We are shooting ourselves in the foot if we fail to adopt the Berman amendment, economically, and also hurting families.

Mr. BRYANT of Texas. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the Bureau of Labor Statistics reports that the high level of immigration is responsible for 50 percent of the decline in real wages for America's lowest skilled workers, that is, those who did not complete high school. Yet, Members stand on the floor of the House and tell us that we have an obligation to continue a system of chain migration in which, when immigrants decide to bring their spouse and children and come to the United States, they also are allowed later to bring in their adult children and their brothers and their sisters.

Well, I submit that 20 years of experts recommending that we change this ought to give us a heads up about something, and that is simply this. If you do not want to leave your brothers and sisters and do not want to leave your adult children, then do not leave them. The American people have no obligation to tell all the people of the world that when you immigrate here you can bring family members other than one's spouse, minor children, and parents. We cannot continue to allow new arrivals to bring brothers and sisters and adult children with them as well, and expect to maintain a manageable population size.

What about our high school dropouts? What about our low-wage workers? It is not fair to continue driving down their wages with an immigration policy that disregards the interests of low skilled American workers.

Mr. CHRYSLER. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, the backlog the gentleman from Florida was referring to is the 1 million former illegal aliens that were granted amnesty in 1986. Giving extra visas to former illegal aliens instead of U.S. citizens is unconscionable.

Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise in strong support of the Chrysler amendment and in support of legal immigration. America is a nation of immigrants. My grandfather came to America from Norway when he was 16 years old. Like most immigrants, he sought a better life for himself and his family. Three years after becoming a citizen, he was drafted, and served with distinction in the battle of the Argonne in World War I. And his story is one of only millions of immigrant stories, of hope and opportunity, and of service to our Nation.

If someone is in our country legally, and paying taxes, they should be able to receive the benefits that their tax dollars pay for.

Legal immigrants are hardworking, taxpaying contributors to our society. Legal immigrants most often have intact families, college degrees, and are working. Overall, immigrants generate $25 to $30 billion a year in tax revenues—far more than the cost of services they may consume.

There is a problem with illegal immigration in our country. We need to take strict steps to reduce and eliminate illegal immigration. But let's not destroy what has contributed to America's greatness for past centuries. Let's not treat legal immigrants as though they had broken the law, when they are law abiding.

In his farewell address to the Nation, President Ronald Reagan recalled his favorite metaphor of America as a shining city. President Reagan stated that ''If there had to be city walls, the walls had doors and the doors were open to anyone with the will and heart to get here. That's how I saw it and see it still.'' I share Ronald Reagan's vision of immigration; the same vision that brought my grandfather to these shores and ancestors for generations to come.

Mr. SMITH of Texas. Mr. Chairman, first I want to say to my colleague, the gentleman from California [Mr. BERMAN], that I appreciate what he said about the ownership of businesses by immigrants, and I trust that he will feel better about the bill when I remind him that we are actually increasing the number of skilled immigrants whom we admit in the country under H.R. 2202. We want immigrants who are going to come here to work, to produce and contribute to our communities and to own and operate businesses.

Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. GALLEGLY], the chairman of the task force on immigration reform.

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

Mr. GALLEGLY. Mr. Chairman, as someone that has dealt with the issue of illegal immigration in this great House for the last 10 years, I have focused my energy on trying to find ways to stop the unchecked flow of illegal immigration.

Initially I was opposed to having legal and illegal immigration combined, but the more I have studied this issue, the more I realize that we cannot deal with one without the other. We are a very generous nation. We allow more people to legally immigrate to this country every year than all of the rest of the countries in the world combined. This bill continues to provide that ability for those to continue to immigrate here. I ask you to oppose this amendment and let us address the issue of immigration once and for all in a way that will stop illegal immigration and we cannot do it without addressing legal as well.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman very much, and I would like to place, Mr. Chairman, a personal face on this whole question of legal immigration.

I rise in support of the separation in this legislation of legal immigration from illegal immigration. Claudia Gonzales left her family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school.

Mr. Chairman, under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21, hard-working sons and daughters. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father said, who has lived here since 1967: I have worked hard here and pay taxes. What am I going to say to my son 21 and my daughter who is 23?

Mr. Chairman, that is the real face of legal immigrants, hard-working taxpayers. I offered a bill that would have allowed parents to be brought here. Now we have a situation where parents and children cannot be united.

Mr. Chairman, I clearly think with all respect to those who worked so hard on this issue, we would do well to pay respect to hard-working legal immigrants and to acknowledge that it is now time to separate the legislation and treat illegal immigration separately.

Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback-Crane-Dooley-Davis amendment, which would strike the parts of title V–subtitles A, B, and C—that would virtually prevent American citizens from sponsoring their adult children, siblings, and parents; reduce America's support for refugees; and place additional experience requirements that will complicate companies' ability to hire skilled foreign scientists and engineers.

The current legal immigration system is specifically designed to strengthen families by reuniting close family members and fueling prosperity by attracting hardworking individuals. We must not abandon these principles. At a time when strong family bonds are more important than ever, restrictions in family based immigration will hurt legal immigrant families in America.

It is disturbing to think that Government policy will keep such families, even parents and their children, apart just because a child is older than 21 years of age. Energetic young people, about to enter the work force, are exactly the type of new Americans that complement the existing work force. Not only will they fuel our economy along with our existing population, but they will be here to care for their aging parents. Most Americans do not think that their children, at any age, are ever distant family members.

I recently read about a family in my hometown of Houston who would be affected if this legislation became law. Claudia Gonzales left here family in Houston as a teenager to care for her grandparents in Mexico. She rejoined her family in Houston at age 23 where she has begun a new job and is attending school. Under this bill, legal residents would be prohibited from sponsoring their sons and daughters over the age of 21. The adult children could be deportable or have no preferential treatment in gaining legal residency. Claudia's father, who has lived here since 1967, said: ''I've worked hard here and paid taxes. What am I going to say to my son, who is 21, and my daughter, who is 23, if they have to leave this country? I will respect every single day the laws of this country. But this one would be unjust and I denounce this law that would hurt many families.''

Similarly, barring entry of brothers and sisters of U.S. citizens because of the current backlog in that visa category is especially unfair to the citizens and their siblings who have followed the rules and waited patiently in line—some for 15 years or more.

H.R. 2202 imposes nearly insurmountable obstacles for U.S. citizens seeking to bring their own mothers and fathers to the United States. The legislation enables the U.S. Government to control and overrule the decisions of families by requiring that U.S. citizens purchase high levels of insurance for their parents and lowers the priority for the parents' visa category. This category will only receive visas if any are left over from other categories. The State Department projects that within 3 years after the law takes effect no visas will be available for parents.

In addition, H.R. 2202 would require citizens and legal residents to show that their income will be 200 percent above the poverty line in order to bring their parents, minor children, or spouses to the United States. More than 35 percent of Americans—over 91 million people—have incomes below 200 percent of the poverty line. The bill will have a devastating impact on American families who will be barred from living in the United States with their own husbands, wives, and children.

The centerpiece of U.S. immigration policy is, and should be, family reunification. It is consistent with our Nation's values when we allow U.S. citizens to reunite with their spouses, children—both minors and adults—their parents, and their siblings. This policy is good not only for the individuals involved, but for the Nation as a whole. Our policy of family reunification brings in energetic, committed new Americans who work hard, pay their taxes, and enrich the country economically and socially. There is little rationale for limiting opportunities for family reunification, when the end results are so positive for everyone involved.

Since when is America not big enough for the parents of its citizens? A recent CNN USA Today poll shows that immigrants come with strong family values and a strong work ethic. These are values we ought to be promoting, not undermining.

Proposed restrictions in employment-based immigration will hurt the U.S. economy. It is crucial that the American workplace reflects the international character of its customers and responds to both domestic and international competitive pressures. Achieving such a work force requires looking beyond the U.S. labor market. Employees, researchers, and professors possessing both innovative technical skills and multicultural competence ensures our economic viability in world markets.

Placing a cap on the number of refugees admitted to the United States ignores the leadership role of this country in providing protection and safe harbor to those fleeing political and religious persecution. Strict levels of refugee admissions ignore the changing and urgent nature of refugee situations. U.S. policy should maintain the flexibility to respond appropriately to emergency situations.

Mr. Chairman, today, and throughout history, immigrants have come to the United States in pursuit of the American dream, to make a better life for themselves and their children. They come to the United States to join the work force and their families, to educate their children and contribute to the communities where they live, their professions and the American economy. They enrich us with their diverse cultures and languages, and with their skills, education, business, and artistic talents. The United States, a nation of immigrants, has welcomed individuals from around the world who came here seeking better economic futures or fleeing political persecution. We must not abandon this history. I urge my colleagues to support their amendment.

Mr. CHRYSLER. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I want to thank my good friend for yielding time to me and especially thank him for his leadership.

Mr. Chairman, I strongly support the Chrysler-Berman-Brownback amendment, which will help keep the focus where it belongs, on the real danger of illegal immigration, not on orderly legal immigration by close relatives of U.S. citizens. I am particularly troubled by the provision in the current bill that would cut off eligibility for so-called adult children unless they meet a series of new tests, including economic dependency. Ironically, supporters justify these restrictions by suggesting that we somehow protect nuclear families by excluding other relatives. Most Americans I think would be surprised, perhaps shocked comes closer to describe it, to know that if their 21-year-old daughter or son gets a job, he or she is no longer a member of your nuclear family and can never live with you again.

The present language in the bill also virtually eliminates the Attorney General's power to use the humanitarian parole to deal with compelling cases at the margins of our immigration laws. Most congressional offices have had to deal with cases in which an American family has adopted an orphan overseas or wishes to sponsor a relative for a sick family, only to run up against a brick wall. Humanitarian parole is gone.

Mr. Chairman, I urge support for the Chrysler amendment.

Mr. SMITH of Texas. Mr. Chairman, I just want to remind the gentleman from New Jersey that the bill actually has an additional 10,000 visas for humanitarian purposes that the Attorney General can disseminate.

Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a former practicing immigration attorney.

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

Mr. Chairman, as he noted, I did practice immigration law, am proud of the fact I helped people from more than 70 countries immigrate to the United States during my career as an immigration lawyer, all law-abiding citizens and hard working. Many people here have noted how important it is that we maintain our Nation as a nation of immigrants. Most of us can go back just a few generations and find family members who immigrated to this country, my grandfather, my wife's parents.

Mr. Chairman, there is no question that with this bill, we are going to continue to do that, continue to be the most generous nation on earth in terms of our immigration policy. But if this amendment is passed, it does not simply split legal immigration reforms, which are needed, both to help the immigration process and to limit it from illegal immigration, it will kill it outright. We have got to defeat this amendment because of the fact that our legal immigration process needs to be reformed.

We need to help immediate family members be reunified more quickly. Young married couples with young children, they need to be able to come here more quickly when one member qualifies for a visa than to have that separation taking place for years, as it does now. How do we pay for that? By breaking immigration chains that have very remote connections.

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Now, my colleagues say, how can a brother or sister be a remote connection? The fact of the matter is it takes 20 years now for a member of a family to come to this country and go through the process it takes to petition for another member to come. So we are not talking about a situation where the family member got left behind last year and we want to bring them to this country. It is a matter of having to reform this process to be fair to everybody and fair to everyone in this country.

This chart shows the problem. First, the highest line shows the immigration trend over the next 55 years under current law. The second line shows the trend with the reforms in this bill. Forty million people is the difference involved there.

My colleagues, we need reasonable immigration reform. We will still be very generous. Oppose this amendment and support the bill.

Mr. BERMAN. Mr. Chairman, I yield 30 seconds to the gentleman from Rhode Island [Mr. KENNEDY].

(Mr. KENNEDY of Rhode Island asked and was given permission to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Chairman, this debate can more appropriate be called debate over discrimination, not a debate over immigration. What we are seeing in collecting both legal and illegal immigrants is that we are going to treat legal immigrants as if they are illegal aliens. To me, this is no more than policy by prejudice and analysis by anecdote.

Mr. Chairman, I ask my colleagues to support the Berman amendment so we can differentiate between the two issues here.

I rise today in support of the Chrysler-Brownback amendment and in support of the generations of immigrants who have built this country into the great Nation that it is today.

This debate can be more appropriately called a debate over discrimination—not immigration. H.R. 2202 places drastic restrictions on legal immigrants—essentially treating them like second-class citizens who do not deserve the rights and privileges that are afforded native-born Americans.

This short-sighted action is a part of the unfortunate antiimmigrant fervor that has swept up this House and swept across the Nation. This is of great concern to me as the land of liberty, freedom, equality, and hope will have the image of being an unwelcoming closed nation. This is a troubling image—one that goes directly against the cornerstone principles of America.

It is a travesty that in an effort to curb illegal immigration, the authors of this bill have chosen to blatantly discriminate against those individuals who are in this country legally. Not only do the legal immigrant provisions make it extremely difficult for families to be reunited, but they also deprive parents and children of assistance should they fall upon hard times. Under this bill, more than one third of all Americans will be unable to sponsor a family member—simply because they are not wealthy enough. No longer will a grown child, a brother or sister be able to join their family here in the United States. Could any of you imagine being separated from family members so close? I certainly cannot.

These provisions will only hinder many new Americans who are trying to put the right foot forward and adapt to a new country. While I agree that measures must be taken to encourage individuals to stay off the welfare rolls, denying taxpayers assistance simply because they weren't born in this country is reprehensible.

In our rush to ensure that we are not allowing foreigners to sneak across our borders and live off the fruits of our labor, we have lost sight of what ''America'' means. Have we forgotten the foundation that this great Nation was built upon? The dreams, hopes, and aspirations that embody America were first envisioned by our forefathers who immigrated here in search of freedom and prosperity.

I am also deeply troubled at the tone that this debate has taken. Rather than looking broadly at the problem of illegal immigration, we have chosen to fixate on one source of our problem—our southern border. Have we forgotten that we have a border to the north? That we have two long coasts with many harbors and ports? Are not these open doors to Canadians? To Irish? But there is silence here, while the debate is filled with sound and fury over the menace to our south. This is not right. It is blind and unfair. It fans the flames of prejudice. It makes it possible for a bill to deal so callously with our legal immigrants.

My State of Rhode Island is enriched by the many people who have brought their cultures and traditions to this great Nation to build a life for themselves and for future generations. I am proud of these hard-working Americans, who each day go to work, pay taxes, and make their contribution toward creating a stronger United States.

The Chrysler-Berman amendment is a vote for equity for all Americans—new and old. It will ensure that hard-working, tax-paying legal residents of this country are treated with decency and fairness. We owe them at least this much.

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

Mr. Chairman, this amendment is important to restore the rights to U.S. citizens to petition for their brothers and sisters and adult children to come to America.

There are currently provisions to prevent immigrants from becoming public charges, and there are additional welfare restrictions in this bill. The amendment does not change these welfare restrictions.

In addition, the Senate split their immigration bill. So we will see legal immigration reform this year in the House.

I ask my colleagues to support this profamily amendment and vote ''yes'' for this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I just want to point out to my friend, the gentleman from Michigan [Mr. CHRYSLER], who just spoke, that the reason we have the record level 21 percent of all legal immigrants on welfare is because we do admit over 80 percent without any regard to skills or education.

The problem with this amendment is that it will continue the status quo. The bill tries to increase the percentage of individuals who are admitted on the basis of skills and education. This amendment would leave us right where we are, and over 80 percent would be admitted without any regard to that.

Mr. Chairman, I would like to cite some studies that have been done on the question of how legal immigrants, competition with legal immigrants, depresses wages and costs jobs, and I just do not see how the proponents of this amendment can ignore these studies when we know we are dealing with real lives and real hardship.

According to the Bureau of Labor Statistics, immigration was responsible for 50 percent of the decline in real wages for America's lowest scale workers, those who did not complete high school. A recent study by the Economic Policy Institute says that in the high-immigration States of Arizona, California, Florida, New York, and Texas, that men's wages were 2.6 percent and women's wages 3.1 percent below the average for other States that were not high-immigration States.

Dr. Frank Morris, the immediate past president of the Council of Historically Black Graduate Schools, said there can be no doubt that our current practice of permitting more than 1 million legal and illegal immigrants per year into the United States, into our already difficult low-skilled labor markets, clearly leads to both wage depression and the de facto displacement of African-American workers with low skills.

The Urban Institute says this. The immigration reduces the weekly earnings of less-skilled African-American men and women and also that group most clearly and severely disadvantaged by newly arrived immigrants is other recent immigrants. A 10-percent increase in the number of immigrants reduces other immigrants' wages by 9 to 10 percent.

Finally, in a book by Julian Simon, the patrol saint of the open-borders proponents, he says this: ''There is no doubt that workers in some industries suffer immediate injury from the addition of immigrant workers in these same categories.''

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

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry. Could it please be indicated who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. SMITH] has the right to close.

Mr. BERMAN. And how much time is remaining?

The CHAIRMAN. The gentleman from California [Mr. BERMAN], has 2 minutes remaining; the gentleman from Michigan [Mr. CHRYSLER] has 30 seconds remaining, and the gentleman from Texas [Mr. SMITH] has 1 minute and 15 seconds remaining.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. WYNN].

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

I rise in strong support of the Chrysler-Berman-Brownback amendment. It is a refreshingly bipartisan amendment, and that is because it is the right thing to do.

This bill is well intentioned. It talks about the legitimate problem, which is illegal immigration. Unfortunately, it goes too far because it tries to make changes in legal immigration. We do not have a problem with legal immigration, and as I listened to the debate, I have not heard one articulated.

The fact of the matter is we are all immigrants. We are all the descendants

of immigrants, some voluntary, and some, like myself, on an involuntary basis. But the point is we all came to America.

America is a beacon to immigrants. But this bill would reduce legal immigration by 40 percent over 5 years, and yet there has been no rationale presented to justify why we should shut people out of our country, why we should pull families apart.

Why are we doing this?

This bill is not trying to increase immigration. I realize we cannot accept everyone, but there is no reason to significantly reduce the level of immigration.

There are those who want to suggest immigrants are a burden on our society. Not legal immigrants. They earn $240 billion, they pay $90 billion in taxes. They only consume $5 billion in benefits. Clearly, we need legal immigrants. We ought to vote for this amenement.

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

Mr. Chairman, I would just like to say that there is not a fixed number of jobs in America, as an American businessman for 25 years. Job totals have more than doubled from 1960 to 1995, so immigrants do not take jobs, jobs from natives and actually the bill does, indeed, cut legal immigration from 775,000 to 542,000 in 2002, and I think that is unconscionable because I think we are going to need all the workers we can get as we move into a growth opportunity that we are going to have in this country.

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

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

Mr. Chairman, Abe Lincoln used to say calling a tail a leg does not make it one. No matter how many times you cite 21 percent of legal immigrants on welfare, it is wrong. Saying it a lot of times does not make it true.

The Urban Institute says 7 percent less than the average American who did not come here as a legal immigrant relies on welfare, 7 percent less than the average.

Second, you can cite a graduate student who is working at the Bureau of Labor Statistics for a survey, Manhattan Institute, a survey, top economists in the country of all ideologies and persuasions. Eighty-one percent said legal immigration is very helpful to the economy. The other 19 percent said it is slightly helpful to the economy. No one said it hurts the economy.

We have put together a coalition on this amendment, with the great work of my colleagues, the gentleman from Michigan [Mr. CHRYSLER] and the gentleman from Kansas [Mr. BROWNBACK] and the gentleman from California [Mr. DOOLEY] and the gentleman from Virginia [Mr. DAVIS] and the gentleman from Illinois [Mr. CRANE], that includes the AFL–CIO, the Leadership Conference on Civil Rights, the Christian Coalition, the Americans for Tax Reform, a whole slew of organizations that believe in economic growth, family values and family reunification.

I urge that the Committee of the Whole adopt this amendment.

Mr. SMITH of Texas. Mr. Chairman I yield such time as she may consume to the gentlewoman for New Jersey [Mrs. ROUKEMA].

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

Mrs. ROUKEMA. Mr. Chairman, I rise in strong opposition to this gutting amendment. This amendment would destroy this bill's ability to reform our notoriously deficient immigration laws.

No one will argue that immigrants have not formed the backbone of our country. Immigrants from all over the world have helped make this great Nation what it is today. And, they will continue to bring America forward in the 21 century.

But, we can no longer espouse an open border/open port immigration policy. In the face of increasing corporate mergers, downsizing, and technological advancement, our economy cannot absorb greater numbers of immigrants, let alone provide jobs to those people who have been laid off or can't find work.

This is a gutting amendment that refuses to recognize the problems that legal immigration causes for our country and hard-working American taxpayers.

Over half of the 400,000 illegal aliens who come to the United States every year come here legally and overstay their visas. Over 80 percent of all admitted legal immigrants are low skilled and uneducated which has resulted in a drop of 50 percent in real wages for those who never graduate from high school. Legal immigrants receive $25 billion more in public benefits than they pay in taxes, including a 580 percent surge in their SSI payments over the past 12 years.

Mr. Chairman, these figures are startling and totally unacceptable. They are a direct result of our misguided immigration policies of 1986 and 1990 which first granted amnesty to 2.7 million illegal aliens, and second almost tripled employment-based visas and removed limits on family-related categories for immediate relatives.

Consequently, legal immigration and sponsorship have ballooned. They continue to drain our welfare system and slow our economy by taking away jobs from those already here. We can no longer idly sit by and watch this happen when our own citizens are living below the poverty level, without health care, without jobs.

That is why we must restructure our current legal immigration system now. H.R. 2202 does this fairly and sensibly: By offering preference to nuclear families—spouses, minor/dependent children up to age 25, and parents whose health care is prepaid—and highly skilled workers, by allowing entrance to at least 50,000 annual backlogged nuclear family members, and by keeping categories for refugees and diversity visas. Even with the bill's numerical limits, we will still be admitting 600,000 to 700,000 legal immigrants annually. Could anyone say that these levels are not generous? I think not.

Mr. Chairman, it is impossible to implement immigration reform without tackling legal immigration. Legal immigration feeds illegal immigration, and feeds on our welfare system. This amendment would not only gut this legislation, but it would perpetuate both of these problems. We cannot let this happen.

I urge my colleagues to oppose this amendment.

Mr. SMITH of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Mark Twain said, ''First you get your facts straight, then you can distort them all you want.'' I am afraid that we have heard some of that just a minute ago. In point of fact, when we consider both cash and noncash benefits, there is 21 percent, a record high percentage, of legal immigrants on welfare.

The point, though, of this amendment is, it is a motion to kill, it is not just a motion to strike. There is no separate legal immigration reform bill on the House side, and, as I mentioned awhile ago, the proponents have not offered any amendments to try to improve our legal immigration system.

This amendment simply makes a bad situation worse. It will keep the status quo. It will keep the huge backlogs. It will keep the long waits, and, in fact, it will allow them to grow larger and longer.

Legal immigration drives illegal immigration. Today almost half of the illegal immigrants in the country today actually came over here on legitimate visa, typically tourist visas, and then overstayed, and that is the result of these huge backlogs and long waits, which is what the bill fixes and what the amendment ignores.

Also, Mr. Chairman, I have to say that one of the worst reasons to go back to the status quo is because we have a broken legal immigration system that depresses wages and costs jobs. The American people know immigration can hurt them because they have to compete with them. This amendment ignores the wishes of the vast majority of the American people: 83 percent want us to control immigration including a majority of African-Americans and Hispanics.

Mr. Chairman, I appreciate the fact that the National Federation of Independent Business, the Chamber of Commerce, United We Stand, Hispanic Business Roundtable and Traditional Values Coalition have all endorsed this bill.

Mr. LAZIO of New York. I rise today in support of the Chrysler-Brownback amendment which separates the issue of legal and illegal immigration. Without a doubt, we need to tackle illegal immigration in this country. Hundreds of thousands of illegal immigrants pour across our border every year, and quite frankly, people have a right to be angry. Illegal aliens are after all illegal and their presence is a reflection of the Federal Government's inability to address the problem. According to the INS, there are an estimated 4 million illegal aliens in the United States. New York's share of this figure is 449,000, or 13 percent. This bill gets tough on illegal immigration, and I commend Chairman SMITH for his hard work and diligence in tackling this issue.

But I remain unconvinced that we need to target those who play by the rules, work within the process, and legally immigrate to this country. Those who are illegal aliens are breaking the law. There are tens of thousands of family members who have obeyed the law and are within the legal immigration process who would have the door slammed in their faces should this provision remain in the bill.

I have heard many of my colleagues talk about how we are a Nation of immigrants, and then in the same breath argue that we need to cut the number of legal immigrants. Although it is argued that the decrease is modest, the question is whether it is really necessary. I have heard the argument that this reduction in legal immigration is profamily. But I find it ironic that many of the groups that I have heard from in New York that would be most affected, such as Irish, Italian, and Jewish groups, among others, have told me that this would divide families, not unite them.

Some have argued that legal family-based immigrants have less to contribute, and there is always the threat that they will become a public charge. But keeping families—including extended families—intact, is culturally and empirically, a way to keep people off the public dole, especially among many foreign cultures from which these individuals come. Besides, there are other provisions in the bill which address this without excluding these individuals.

As someone who grew up in the shadow of the Statue of Liberty, and, like most of us, is a descendant of immigrants, I believe that legal immigration enriches our country, rather than pulling it down. Those who have come to this country to make a better life for themselves, and their families, have given our Nation its strength and its unique character. It is simply unfair to punish those who follow the rules for the sins of those who do not. I urge a ''yes'' vote on this amendment.

Mr. MATSUI. Mr. Chairman, much of the debate that we have had over the last 2 days is a discussion of what steps we should take to address the serious illegal immigration problem facing our Nation. That is an important debate, and I welcome it. There may be differences in this Chamber about what steps will be most effective in addressing the problem of illegal immigration, but we are in agreement that we must act and act quickly.

We should complete the illegal immigration debate and send legislation to the President. I rise in strong support of the amendment being offered by Mr. CHRYSLER, Mr. BERMAN, and Mr. BROWNBACK because I firmly believe that we should separately address the far more controversial and questionable contention that legal immigration is having a negative impact on the United States. The House should affirm, as the Senate Judiciary Committee has, that it is absolutely inappropriate to view legal immigration as a part of the same problem as illegal immigration.

When we talk about legal immigrants, we are talking about individuals who have waited patiently to enter our Nation, who have come here and contributed a tremendous amount to our society, our economy, and our tax base. I would call my colleagues' attention to observations made by the chairman of the Federal National Mortgage Association, James Johnson, in assessing the results of a recent survey by the association. Mr. Johnson wrote the following about legal immigrants in the Wall Street Journal:

> [T]hey are optimistic about our Nation's future; and they are willing to work and save to buy a home. That desire translates into millions of American jobs—in homebuilding, real estate, mortgage banking, furniture and appliance manufacturing, and the dozens of other industries that are dependent on a strong housing market. They hold significant economic power which, if realized, translates into jobs for Americans and prosperity for our Nation. . . . Before Congress enacts legislation to further restrict immigration, it should consider what the costs of ''people protectionism'' are likely to be for neighborhoods, job creation and the democratic ideals upon which our Nation was founded.

While opponents of this amendment will argue that there is a demand for legal immigration reform, a prominent Republican pollster has found that 80 percent of Americans believe that we should address the problem of illegal immigration first. This polling also suggests that seven of every eight Americans oppose penalizing those who have played by the rules in applying to immigrate to the United States. Yet this bill would slam the door on many individuals who have done exactly that—applied for visas and waited as long as 17 years to legally enter the United States.

We ought to reserve judgment on the question of whether changes are warranted in our legal immigration policy until we have taken effective steps to address illegal immigration. Let us move forward with that work before taking radical and unwarranted steps such as denying our citizens the right to reunite with their siblings, adult children, or parents.

I thank Mr. BERMAN, Mr. CHRYSLER, and Mr. BROWNBACK for offering this important amendment, and I strongly urge all of my colleagues to support it.

Mr. REED. Mr. Chairman, I rise in support of this amendment. I do so as someone who believes strongly in immigration reform. In fact, I was one of three Democrats who voted in support of H.R. 2202 when it was considered by the Judiciary Committee.

However, I believe the House should address the very different issues of legal and illegal immigration in separate legislation.

I support reasonable restrictions on legal immigration: the United States has the right and responsibility to ensure that only those who are likely to become productive citizens may immigrate to our shores. I would not support this amendment if I thought it was an effort to derail these initiatives.

But the issues of legal immigration should not be considered in the context of the emotionally charged debate on illegal immigration. Addressing illegal immigration involves criminal laws, border enforcement, deportation issues, and workplace enforcement. The policy decisions to be made regarding legal immigration are completely different and by being thrown in with what is essentially a law enforcement debate have been, I believe, distorted.

For example, the House ought to consider more carefully the impact of redefining 'family member' for immigration purposes in a way that excludes parents of U.S. citizens, as well as most children over age 21. Most Americans do not believe that any of their children, regardless of how old they are, are distant family members. The bill arbitrarily denies millions of U.S. citizens who have played by the rules and waited in line, in many cases for as long as a decade after having paid fees and gotten applications approved, the opportunity to sponsor and reunite with an overseas family member.

Again, I am not an opponent of reducing the levels of immigration or of ensuring that immigrants who are admitted are able to support themselves.

But Mr. Chairman, legal immigrants pay their taxes and abide by our laws. They are integral parts of our communities. We should give them the respect they deserve and treat the issues of legal and illegal immigration separately.

Ms. PELOSI. Mr. Chairman, I rise in support of the Berman, Brownback and Chrysler amendment, which strikes the provisions in this legislation which reduce and restrict legal immigration.

I agree with my colleagues that we must curb illegal immigration responsibly and effectively. However, as the Berman, Brownback and Chrysler amendment recognizes, the issue of legal immigration is clearly distinct and separate.

Legal immigration is currently tightly controlled and regulated. Yet this legislation proposes the largest cut in immigration in nearly 70 years.

Lawful and orderly family reunification contributes to strengthening American families. Yet almost ¾ of the bill's reductions in the number of legal immigrants admitted come in family-related categories.

Provisions in this legislation make it impossible for legal immigrants to be united with some family members. Under this legislation, virtually no Americans would be able to sponsor their parents, adult children or siblings for immigration. Not all Americans subscribe to the restrictive definition of family imposed in the bill—nor should they.

America has long been a haven for refugees seeking freedom from political, religious and gender persecution. Yet this bill would cut in half our current ability to offer asylum to people in dire need.

Immigrants today who come to our country through legal means are not at all different from immigrants of generations past—our parents or grandparents. They should have every opportunity to reunite their families. They should have every opportunity to contribute to our economy and culture. They have played by the rules. They should not be punished.

I urge my colleagues to recognize the extraordinary benefits to our country of legal immigration and support the Berman, Brownback, and Chrysler amendment.

Mr. UNDERWOOD. Mr. Chairman, I rise today in support of the Chrysler-Berman-Brownback amendment to H.R. 2202.

In its current form, H.R. 2202 dramatically reduces family-related immigration. About three-fourth of the bill's reductions in the number of legal immigrants come in the family-related category. It eliminates the current preference category for brothers and sisters of U.S. citizens. The bill limits the number of adult children immigrants admitted to include only those who are financially dependent upon their parents, unmarried, and between the ages of 21 and 25. It also allows parents of citizens to be admitted only if the health insurance is prepaid by the sponsor.

What practical effect will these provisions have on law-abiding Americans who want to reunite with members of their immediate nuclear family? According to this legislation, virtually no American would be able to sponsor

their parents, adult children or brothers and sisters for immigration. If your only son or daughter turns 21 then he or she ceases to be a part of your ''nuclear'' family and would never be able to immigrate once he or she turns 26. If you have a brother or sister, they're not part of your nuclear family either. And if you cannot afford the type of health and nursing home care required in the bill then your mother and father are not part of your nuclear family either.

While the Chrysler-Berman-Brownback amendment would strike these provisions, I would point out that there is one area which it does not cover. Unfortunately, this amendment does not deal with the so-called 200% rule. Another title of the bill requires that an individual sponsoring an immigrant must earn more than 200 percent of the poverty line. This provision effectively means that about 46 percent of all Americans cannot sponsor a relative to enter the United States. The message this sends to all Americans is that in the future we will continue to be a Nation of immigrants, but only rich immigrants.

On Guam, we put a high premium on the role of families, which includes mothers, fathers, sons, daughters, and brothers. In our community, supporting families means helping them stay together. That's what we consider family values.

If this bill becomes law, it will have a definite practical effect on many families, particularly those of Filipino descent, on Guam. It will prevent many of them from reuniting with their brothers and sisters, even though in some cases they have waited for upwards of 10 to 15 years. Furthermore, it will shut out all future family reunification, even in categories that were not eliminated, for many immigrants on Guam because they do not earn over 200 percent of the poverty line or cannot afford to pay for their parents' health insurance.

In each of the cases of sponsoring families, you are talking about people who have played by the rules. They have worked through the system and petitioned to be reunited with their nuclear family. They have waited patiently. Now we will turn our backs on them.

These proposed restrictions and eliminations of entire categories is unwarranted and unnecessary. The Chrysler-Berman-Brownback amendment would strike these restrictions and restore the current system which supports family-based reunification.

I urge my colleagues to vote in favor of the Chrysler-Berman-Brownback amendment to restore the family categories and reject these arcane provisions. While I regret that it does not cover the 200 percent rule, I believe that its passage will make the bill better than what we have in the current bill.

Mr. KIM. Mr. Chairman, I rise in support of the Brownback-Chrysler-Berman amendment. As one of the few first generation legal immigrants in Congress, I am offended by the merging of the initiatives to combat illegal aliens with legal immigration reform. While I strongly support legislative efforts to both eliminate illegal immigration and substantially reform legal immigration, there is a significant difference between these two issues.

Illegal aliens have knowingly and willingly violated the law by entering the United States without permission. They defraud the taxpayer. On the contrary, legal immigrants have patiently waited, paid all the requisite fees and deposits, and followed all the rules and regulations for resettling in the United States. They will soon be proud, patriotic citizens. They dutifully pay their fair share of taxes. They join current citizens in totally opposing illegal aliens and their criminal actions. Thus, to consider the status of these two, totally opposite groups in the same bill is both unfair and an insult to legal immigrants.

The Brownback amendment gives this House the opportunity to deal with illegal and legal immigration issues separately—as they should be.

Without reservation, I strongly endorse the tough, anti-illegal immigration provisions in H.R. 2202. As a member of the Republican Task Force on Immigration Reform, I helped craft some of these very provisions and I am committed to enacting them into law and enforcing them in the field. Mr. Chairman, we have the votes to pass these important barriers to illegal immigration and thereby help stem the tide of illegal immigration that is engulfing my State of California. Let's do it now.

The Brownback-Chrysler amendment does not affect in any way our anti-illegal alien initiatives. Furthermore, I disagree and challenge the validity of the claims by critics of the Brownback-Chrysler amendment that it is nothing more than a back door attempt to scuttle legal immigration reform. From my perspective, it is not.

I agree fully with immigration Subcommittee Chairman Lamar Smith that our country's legal immigration system and priorities are in desperate need of reform. And, while I do not agree with every, single legal immigrant-related provision in H.R. 2202, overall I support the bill's priority for immediate family unification and I understand the need to slow down the current rate of immigration by reducing the number of annual visas. I am ready and willing to consider and pass comprehensive legal reform legislation today. It is needed.

But, I again stress, that we should deal with legal immigration independently of legislation combating illegal aliens so as to ensure that these two very different issues are not confused. The Brownback-Chrysler amendment affords us this opportunity and I urge its passage.

Mr. ORTIZ. Mr. Chairman, I rise in support of the Chrysler, Berman, Brownback amendment and ask unanimous consent to revise and extend my remarks. This provision would enable the bill to be divided into separate legislation to deal with illegal and legal immigration reform. This is the key aspect to the immigration debate.

The greatest danger to an immigration debate in this country is the merging and confusing of issues concerning legal and illegal immigration. In truth they have nothing to do with one another. Legal immigrants strengthen America. They should not be linked with those who come here illegally.

Illegal immigration on the other hand is a matter that has reached enormous proportions and which Congress must pursue earnestly. I strongly support efforts to halt illegal immigration by strengthening our borders. I also strongly support increasing the number of border patrol agents along our borders and providing them with the resources needed to get the job done.

Those who enter this country illegally exert strain on our economy and Nation. As Representative of a border district, I am uniquely aware of the burden that illegal immigration poses on local communities. Illegal immigration must be curtailed but it is a mistake to link this important goal with legal immigration.

For these reasons, I urge my colleagues to vote in support of the Berman, Brownback, Chrysler amendment.

Mr. RICHARDSON. Mr. Chairman, almost all Americans realize the value of past immigration. They look with pride at their ancestors, who came to this country full of energy with empty pockets and were able to succeed and improved the quality of life of all Americans.

Yet, many people doubt the value of immigration today. Too many Americans wrongly believe that today's immigrants drain our economy and use far more welfare than native-born citizens. There is nothing further from the truth.

Today's immigrants come to this country with the same desire, energy, and enthusiasm to succeed and looking for opportunities, not guarantees.

I have one of these immigrants working in my office. A legislative fellow now on my office staff arrived in this country only 7 years ago without knowing English and with only a ninth grade education.

In only 5 years, this young woman managed to learn English, get a high school diploma and graduate from the School of Foreign Service at Georgetown University. She, like many of those immigrants who came to this country within the past 100-plus years, came with empty pockets and a tremendous desire to succeed and take advantage of the opportunities that America still offers.

The Chrysler, Berman, and Brownback amendment would keep the doors open to law abiding immigrants, who like the fellow in my office, come to this country not only looking for a better life, but also bring with them the desire and energy that has made America a great Nation.

The CHAIRMAN. All time has expired on this amendment.

The question is on the amendment, as modified, offered by the gentleman from Michigan [Mr. CHRYSLER].

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

RECORDED VOTE

Mr. SMITH of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 183, not voting 10, as follows:

[Roll No. 84]

AYES—238

Abercrombie	Brown (FL)	Danner
Ackerman	Brown (OH)	Davis
Allard	Brownback	de la Garza
Andrews	Bunn	DeLauro
Armey	Camp	Dellums
Baesler	Campbell	Deutsch
Baldacci	Cardin	Diaz-Balart
Barcia	Chabot	Dicks
Barrett (WI)	Chapman	Dingell
Becerra	Christensen	Dixon
Bentsen	Chrysler	Doggett
Berman	Clay	Dooley
Bishop	Clayton	Doyle
Blute	Clyburn	Dunn
Boehlert	Collins (MI)	Durbin
Bonilla	Condit	Edwards
Bonior	Conyers	Engel
Borski	Costello	English
Boucher	Coyne	Ensign
Browder	Cramer	Eshoo
Brown (CA)	Crane	Evans

Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frisa
Frost
Furse
Gejdenson
Gephardt
Gilman
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hayworth
Hefner
Hilliard
Hoekstra
Holden
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
LaFalce
LaHood
Lantos
LaTourette
Lazio
Levin
Lewis (CA)
Lewis (GA)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McHugh
McInnis
McIntosh
McKinney
McNulty
Meehan
Meek
Menendez
Mica
Miller (CA)
Miller (FL)
Mink
Mollohan
Moran
Morella
Murtha
Myrick
Nadler
Neal
Oberstar
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Ros-Lehtinen
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Souder
Spratt
Studds
Stupak
Tejeda
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker
Walsh
Ward
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
White
Williams
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOES—183

Archer
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bono
Brewster
Bryant (TN)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chenoweth
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Deal
DeFazio
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Ehrlich
Emerson
Everett
Ewing
Fawell
Fields (TX)
Foley
Fowler
Franks (CT)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hefley
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kingston
Kolbe
Largent
Latham
Laughlin
Leach
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Longley
Lucas
Martini
McCollum
McCrery
McDade
McKeon
Metcalf
Meyers
Minge
Molinari
Montgomery
Moorhead
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Oxley
Packard
Parker
Petri
Pickett
Pombo
Pomeroy
Quillen
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Smith (TX)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Traficant
Vucanovich
Wamp
Watts (OK)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Zeliff

NOT VOTING—10

Collins (IL)
Johnston
Moakley
Radanovich
Rose
Stark
Stockman
Stokes
Waters
Wise

□ 1600

Mr. LUCAS, Mrs. CHENOWETH, and Mr. KASICH changed their vote from ''aye'' to ''no.''

Messrs. DE LA GARZA, MCINTOSH, and WELDON of Florida changed their vote from ''no'' to ''aye.''

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. CHAIRMAN. It is now in order to consider amendment No. 20 printed in part 2 of House Report 104–483.

Does the gentleman from Texas [Mr. BRYANT] wish to offer this amendment?

Mr. BRYANT of Texas. Mr. Chairman, the preceding amendment having been adopted, the Bryant amendment as listed is rendered moot. I do not wish to offer it at this time.

The CHAIRMAN. It is now in order to consider amendment No. 21 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. 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. ROHRABACHER: Amend section 808 of the bill to read as follows:

SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF INDIVIDUALS NOT LAWFULLY PRESENT IN THE UNITED STATES.

(a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255), as added by section 506(b) of the Department of State and Related Agencies Appropriations Act, 1995 (Public Law 103–317, 108 Stat. 1765), is amended—

(1) in paragraph (1), by inserting ''pursuant to section 301 of the Immigration Act of 1990 is not required to depart from the United States and who'' after ''who'' the first place it appears; and

(2) by adding at the end of paragraph (2) the following: ''For purposes of subparagraph (A), the ground of inadmissibility described in section 212(a)(9) shall not apply.''.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a)(1) shall apply to applications for adjustment of status filed after September 30, 1996.

(2) The amendment made by subsection (a)(2) shall take effect on the title III–A effective date (as defined in section 309(a)).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. ROHRABACHER] and a Member opposed, the gentleman from Texas [Mr. BRYANT], will each control 5 minutes.

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

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

Mr. Chairman, my amendment will close an immigration loophole opened 2 years ago by a rider to the fiscal year 1995 Commerce-State-Justice appropriations bill. This loophole, which was put into the bill by Senator KENNEDY, rewards many illegal aliens who are in the United States illegally. Let me repeat that. This only deals with people who are in the United States illegally by allowing them to apply for permanent resident status and remain here while their applications are pending. That was the loophole that was put into that bill by Senator KENNEDY.

While waiting for their applications to be adjudicated, these illegal aliens are considered PRUCOL, Persons Residing Under Color of Law. Those individuals that we are talking about are here illegally, but they are then eligible for several taxpayer-funded government benefits.

This loophole also has serious repercussions for the security of our Nation. Under the Kennedy loophole, certain people who sneak across our border or illegally overstay their visas can apply for permanent resident status at the local INS office. That is right, right here in the United States, in their local communities, at the local INS office.

Even these aliens who have flagrantly violated our immigration laws are now able to avoid an examination by the State Department officials in their home countries because they are applying to the INS here locally. In their home countries may be, however, the only place where information such as criminal records or terrorist activities can be found. Thus, the INS does not have the availability of that information when looking at this request, but the State Department would have had that information.

Allowing these lawbreakers to apply for permanent status in the United States, rather than having to return to their home countries to do so, circumvents a screening process that has been carefully established to protect our country's security. If the records are in their native countries, how can the INS employees whose job it is to look at this request thoroughly investigate the backgrounds of these illegal aliens?

Last year I asked the General Accounting Office to investigate the impact of this new law. During the first 5 months this loophole was in effect, nearly 80,000 illegal aliens used it to stay in the United States. INS officials anticipated that that number would double by the end of 1995.

This means that possibly as many as 160,000 illegal aliens now have access to

public assistance benefits who otherwise would not have had access had this loophole not been snuck into the law. We must stretch even further our overstrained welfare system to cover these people who broke our law to come here in the first place.

This new provision of law is an absolute travesty. To reward those who have consciously violated our immigration law is an insult not only to the citizens of this country but to those persons in foreign countries who have obeyed our laws and are now waiting in line for their turn.

I hope Members will join the gentleman from Texas [Mr. SMITH] and myself in supporting this amendment to close this loophole which rewards people who have flagrantly violated our laws, people who are here illegally, and also puts our country at a security risk.

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

Mr. BRYANT of Texas. Mr. Chairman, I yield such time as she may consume to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I rise in strong opposition to the Rohrabacher amendment.

Mr. Chairman, I guess to some extent I am a little mystified as to why this would even be proposed. Years ago before I ran for Congress, I taught immigration law, at the University of Santa Clara. At the time I pointed out to my students that the provision that this amendment would reinstate made absolutely no sense whatsoever.

The correction that is now part of current law makes a lot of practical sense. For people who are here, who entered the United States legally and who have become legal residents under the current law, there is absolutely no reason to force them to buy an airplane ticket, go to an American consulate overseas and then reenter the United States. The correction that the Rohrabacher amendment seeks to undo recognizes that.

I will give an example, a circumstance where this might happen. You have a student who legally enters the United States under an F visa to attend graduate school. The individual receives their Ph.D. in physics. They graduate, and for two days they are not employed until they receive a temporary visa to do research in a high-tech Silicon Valley company. Later they fall in love and get married, and the U.S. citizen spouse decides to petition for the individual to make them a permanent resident.

Under the current law, you can pay a penalty fee to the U.S. Treasury and have your paperwork done here so long as you did not work in an unauthorized capacity. However, the Rohrabacher amendment would say, ''No, no, you can't do that. Instead you have to buy an airplane ticket, go to the overseas consulate, get your visa there, and then come back.''

There is no benefit to the U.S., there is no benefit to the integrity of our immigration laws. There is no benefit to anyone. There is no benefit to the U.S. citizen spouse, the company or anyone else. The only one who benefits are the travel agents and United Airlines. I would rather have the money go to the Immigration and Naturalization Service in the form of fees.

This has nothing to do with illegal immigrations. It has nothing to do with anything but having a sensible, pragmatic approach to having our immigration laws work smoothly.

I would add that for the business community in particular, they were strong advocates of this change in the law, because having an individual pulled out of a company to do paperwork abroad can disrupt the flow of important high-tech work, and when there is no good reason for the U.S. Government to do this, it makes no sense.

I strongly urge opposition to the Rohrabacher amendment.

Mr. ROHRABACHER. Mr. Chairman, who has the right to close?

The CHAIRMAN. The gentleman from Texas [Mr. BRYANT] has the right to close.

Mr. ROHRBACHER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman from Texas [Mr. SMITH] joins me in supporting this amendment because it closes a loophole which, although it has been presented today by my colleague from California as being somewhat innocent, means that 160,000 illegal aliens who otherwise would have to go to their home countries in order to have their status readjusted now can remain in the United States.

What does that mean? What that means is during that time period when it may take years, maybe 5 or 6 years, those people are eligible for government benefits. The questions we have to ask ourselves, if someone did overstay their visa, even if it was a graduate student from a university, why should that person who violated our law be provided a status in which they would be able to partake from government benefits?

Also that graduate student, for all we know, is a criminal in his home country. The loophole that we are closing permits the State Department to thoroughly investigate the background of those people because they have those resources in the person's home country. For security's sake, for the sake of a strained budget, I would propose that we close this loophole.

□ 1615

Mr. BRYANT of Texas. Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. BECERRA].

The Chairman. The gentleman from California [Mr. BECERRA] is recognized for 2 minutes.

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

Mr. Chairman, let me make sure I make this as clear as I can: Section 245(i) within the Immigration and Naturalization Act, which this amendment by the gentleman from California [Mr. ROHRABACHER] would repeal, does not permit anyone to gain lawful permanent residence who would otherwise be disqualified. So if you are someone who crossed over our border without documents, you cannot qualify for adjustment to status to be a permanent resident. This only applies in the cases where people would otherwise qualify. You cannot be eligible for this program unless you meet the criteria.

What this particular provision in the code currently does is it just takes away the fiction of having someone fly back home just to submit an application to the U.S. consulate office in that country of origin and then come back here, because the person will be entitled to come back. These are people who will be entitled to gain lawful permanent resident status.

Let me give you a quick example. If an engineer is working on a project that terminates prematurely, and this person cannot line up new employment immediately and fill out all the immigration paperwork quickly enough, the engineer would need to make a planned trip back home to the country of origin to get the green card that he or she is entitled to get. That would disrupt work, school, other things in lining up the new employment, but the person would ultimately qualify. What 245(i) was meant to do within the act was to take care of this situation.

We charge these particular individuals much higher sum to apply for permanent residency status. The reason we do that is we say to them rather than pay for the airline ticket to go back and submit paperwork to the consulate office, which is already overworked, give the money directly to the INS and let them use it immediately. That is one of the reasons why we got close to $100 million last year to do work for the INS, for border enforcement activities, for filling out paperwork for those naturalizing, and also helping people become U.S. citizens who are lawful permanent residents and have the right to be here.

This is a good provision in the law. It does not allow those who are crossing illegally to come in. This is not a good amendment. Defeat the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 22 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. POMBO

Mr. POMBO. 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. POMBO:

Subtitle B—Guest Worker Visitation Program

SEC. 821. SHORT TITLE.

This subtitle may be cited as the ''Temporary Agricultural Worker Amendments of 1996''.

SEC. 822. NEW NONIMMIGRANT H–2B CATEGORY FOR TEMPORARY AGRICULTURAL WORKERS.

(a) ESTABLISHMENT OF NEW CLASSIFICATION.—Section 101(a)(15)(H)(ii) (8 U.S.C. 1101(a)(15)(H)(ii)) is amended by striking ''or (b)'' and inserting ''(b) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States pursuant to section 218A to perform such agricultural labor or services of a temporary or seasonal nature, or (c)''.

(b) NO FAMILY MEMBERS PERMITTED.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended by striking ''specified in this paragraph'' and inserting ''specified in this subparagraph (other than in clause (ii)(b))''.

(c) DISQUALIFICATION IF CONVICTED OF OWNERSHIP OR OPERATION OF A MOTOR VEHICLE IN UNITED STATES WITHOUT INSURANCE.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following:

''(l)(1) An alien may not be admitted (or provided status) as a temporary worker under section 101(a)(15)(H)(ii)(b) if the alien (after the date of the enactment of this subsection) has been convicted of owning (or knowingly operating) a motor vehicle in the United States without having liability insurance that meets applicable insurance requirements of the State in which the alien is employed or in which the vehicle is registered.

''(2) An alien who is admitted or provided status as such a worker who is so convicted shall be considered, on and after the date of the conviction and for purposes of section 241(a)(1)(C), to have failed to comply with a condition for the maintenance of status under section 101(a)(15)(H)(ii)(b).''

(d) CONFORMING REDESIGNATION.—Subsections (c)(5)(A) and (g)(1)(B) of section 214 (8 U.S.C. 1184) are each amended by striking ''101(a)(15)(H)(ii)(b)'' and inserting ''101(a)(15)(H)(ii)(c)''.

SEC. 823. ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROCESS USING ATTESTATIONS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 218 the following:

''ALTERNATIVE AGRICULTURAL TEMPORARY WORKER PROGRAM

''SEC. 218A. (a) CONDITION FOR THE EMPLOYMENT OF H–2B ALIENS.—

''(1) IN GENERAL.—No alien may be admitted or provided status as an H–2B alien (as defined in subsection (n)(4)) unless—

''(A) the employment of the alien is covered by a currently valid labor condition attestation which—

''(i) is filed by the employer, or by an association on behalf of the employer, for the occupation in which the alien will be employed;

''(ii) has been accepted by the qualified State employment security agency having jurisdiction over the area of intended employment; and

''(iii) states each of the items described in paragraph (2) and includes information identifying the employer or association and agricultural job opportunities involved; and

''(B) the employer is not disqualified from employing H–2B aliens pursuant to subsection (g).

''(2) CONTENTS OF LABOR CONDITION ATTESTATION.—Each labor condition attestation filed by or on behalf of, an employer shall include the following:

''(A) WAGE RATE.—The employer will pay H–2B aliens and all other workers in the occupation not less than the prevailing wage for similarly employed workers in the area of employment, and not less than the applicable Federal, State or local statutory minimum wage.

''(B) WORKING CONDITIONS.—The employment of H–2B aliens will not adversely affect the working conditions with respect to housing and transportation of similarly employed workers in the area of employment.

''(C) LIMITATION ON EMPLOYMENT.—An H–2B alien will not be employed in any job opportunity which is not temporary or seasonal, and will not be employed by the employer in any job opportunity for more than 10 months in any 12-consecutive-month period.

''(D) NO LABOR DISPUTE.—No H–2B alien will be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout or work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(E) NOTICE.—The employer, at the time of filing the attestation, has provided notice of the attestation to workers employed in the occupation in which H–2B aliens will be employed.

''(F) JOB ORDERS.—The employer will file one or more job orders for the occupation (or occupations) covered by the attestation with the qualified State employment security agency no later than the day on which the employer first employs any H–2B aliens in the occupation.

''(G) PREFERENCE TO DOMESTIC WORKERS.—The employer will give preference to able, willing and qualified United States workers who apply to the employer and are available at the time and place needed, for the first 25 days after the filing of the job order in an occupation or until 5 days before the date employment of workers in the occupation begins, whichever occurs later.

''(3) ESTABLISHMENT AS PILOT PROGRAM; RESTRICTION OF ADMISSIONS TO PILOT PROGRAM PERIOD.—

''(A) IN GENERAL.—The program under this section is deemed to be a pilot program and no alien may be admitted or provided status as an H–2B alien under this section except during the pilot program period specified in subparagraph (B).

''(B) PILOT PROGRAM PERIOD.—

''(i) IN GENERAL.—Subject to clause (ii), the pilot program period under this subparagraph is the period (ending on October 1, 1999) during which the employment eligibility verification system is in effect under section 274A(b)(7) (as amended by the Immigration in the National Interest Act of 1995).

''(ii) CONSIDERATION OF EXTENSION.—If Congress extends such verification system, Congress shall also extend the pilot program period under this subparagraph for the same period of time.

''(C) ANNUAL REPORTS.—The Comptroller General shall submit to Congress annual reports on the operation of the pilot program under this section during the pilot program period. Such reports shall include an assessment of the program and of the need for foreign workers to perform temporary agricultural employment in the United States.

''(4) LIMITATIONS ON NUMBER OF VISAS.—

''(A) IN GENERAL.—In no case may the number of aliens who are admitted or provided status as an H–2B alien in a fiscal year exceed the numerical limitation specified under subparagraph (B) for that fiscal year.

''(B) NUMERICAL LIMITATION.—The numerical limitation specified in this subparagraph for—

''(i) the first fiscal year in which this section is applied is 250,000; and

''(ii) any subsequent fiscal year is the numerical limitation specified in this subparagraph for the previous fiscal year decreased by 25,000.

''(b) FILING A LABOR CONDITION ATTESTATION.—

''(1) FILING BY EMPLOYERS—Any employer in the United States is eligible to file a labor condition attestation.

''(2) FILING BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—An agricultural association may file a labor condition attestation as an agent on behalf of its members. Such an attestation filed by an agricultural association acting as an agent for its members, when accepted, shall apply to those employer members of the association that the association certifies to the qualified State employment security agency are members of the association and have agreed in writing to comply with the requirements of this section.

''(3) PERIOD OF VALIDITY.—A labor condition attestation is valid from the date on which it is accepted by the qualified State employment security agency for the period of time requested by the employer, but not to exceed 12 months.

''(4) WHERE TO FILE.—A labor condition attestation shall be filed with such agency having jurisdiction over the area of intended employment of the workers covered by the attestation. If an employer, or the members of an association of employers, will be employing workers in an area or areas covered by more than one such agency, the attestation shall be filed with each such agency having jurisdiction over an area where the workers will be employed.

''(5) DEADLINE FOR FILING.—An employer may file a labor condition attestation at any time up to 12 months prior to the date of the employer's anticipated need for workers in the occupation (or occupations) covered by the attestation.

''(6) FILING FOR MULTIPLE OCCUPATIONS.—A labor condition attestation may be filed for one or more occupations and cover one or more periods of employment.

''(7) MAINTAINING REQUIRED DOCUMENTATION.—

''(A) BY EMPLOYERS.—Each employer covered by an accepted labor condition attestation must maintain a file of the documentation required in subsection (c) for each occupation included in an accepted attestation covering the employer. The documentation shall be retained for a period of one year following the expiration of an accepted attestation. The employer shall make the documentation available to representatives of the Secretary during normal business hours.

''(B) BY ASSOCIATIONS.—In complying with subparagraph (A), documentation maintained by an association filing a labor condition attestation on behalf of an employer shall be deemed to be maintained by the employer.

''(8) WITHDRAWAL.—

''(A) COMPLIANCE WITH ATTESTATION OBLIGATIONS.—An employer covered by an accepted labor condition attestation for an occupation shall comply with the terms and conditions of the attestation from the date the attestation is accepted and continuing throughout the period any persons are employed in an occupation covered by such an accepted attestation, whether or not H–2B aliens are employed in the occupation, unless the attestation is withdrawn.

''(B) TERMINATION OF OBLIGATIONS.—An employer may withdraw a labor condition attestation in total, or with respect to a particular occupation covered by the attestation. An association may withdraw such an attestation with respect to one or more of its members. To withdraw an attestation the employer or association must notify in writing the qualified State employment security agency office with which the attestation was filed of the withdrawal of the attestation. An employer who withdraws an attestation, or

on whose behalf an attestation is withdrawn by an association, is relieved of the obligations undertaken in the attestation with respect to the occupation (or occupations) with respect to which the attestation was withdrawn, upon acknowledgement by the appropriate qualified State employment security agency of receipt of the withdrawal notice. An attestation may not be withdrawn with respect to any occupation while any H–2B aliens covered by that attestation are employed in the occupation.

''(C) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by the employer under any other law or regulation as a result of recruitment of United States workers under an offer of terms and conditions of employment required by the H–2B program is unaffected by withdrawal of a labor condition attestation.

''(c) EMPLOYER RESPONSIBILITIES AND REQUIREMENTS FOR EMPLOYING H–2B NONIMMIGRANTS.—

''(1) REQUIREMENT TO PAY THE PREVAILING WAGE.—

''(A) EFFECT OF THE ATTESTATION.—Employers shall pay each worker in an occupation covered by an accepted labor condition attestation at least the prevailing wage in the occupation in the area of intended employment. The preceding sentence does not require employers to pay all workers in the occupation the same wage. The employer may, in the sole discretion of the employer, maintain pay differentials based on experience, tenure with the employer, skill, or any other work-related factor, if the differential is not based on a criterion for which discrimination is prohibited by the law and all workers in the covered occupation receive at least the prevailing wage.

''(B) PAYMENT OF QUALIFIED STATE EMPLOYMENT SECURITY AGENCY DETERMINED WAGE SUFFICIENT.—The employer may request and obtain a prevailing wage determination from the qualified State employment security agency. If the employer requests such a determination, and pays the wage determined, such payment shall be considered sufficient to meet the requirement of this paragraph if the H–2B workers—

''(i) are employed in the occupation for which the employer possesses an accepted labor condition attestation, and for which the employer or association possesses a prevailing wage determination by the qualified State employment security agency, and

''(ii) are being paid at least the prevailing wage so determined.

''(C) RELIANCE ON WAGE SURVEY.—In lieu of the procedures of subparagraph (B), an employer may rely on other information, such as an employer generated prevailing wage survey and determination, which meets criteria specified by the Secretary by regulation. In the event of a complaint that the employer has failed to pay the required wage, the Secretary shall investigate to determine if the information upon which the employer relied complied with the criteria for prevailing wage determinations.

''(D) ALTERNATE METHODS OF PAYMENT PERMITTED.—

''(i) IN GENERAL.—A prevailing wage may be expressed as an hourly wage, a piece rate, a task rate (described in clause (ii)), or other incentive pay system, including a group rate (described in clause (iii)). The requirement to pay at least the prevailing wage in the occupation and area of intended employment does not require an employer to pay by the method of pay in which the prevailing rate is expressed. However, if the employer adopts a method of pay other than the prevailing rate, the burden of proof is on the employer to demonstrate that the employer's method of pay is designed to produce earnings equivalent to the earnings that would result from payment of the prevailing rate.

''(ii) TASK RATE.—For purposes of this subparagraph, a task rate is an incentive payment based on a unit of work performed such that the incentive rate varies with the level of effort required to perform individual units of work.

''(iii) GROUP RATE.—For purposes of this subparagraph, a group rate is an incentive payment system in which the payment is shared among a group of workers working together to perform the task.

''(E) REQUIRED DOCUMENTATION.—The employer or association shall document compliance with this paragraph by retaining on file the employer or association's request for a determination by a qualified State employment security agency and the prevailing wage determination received from such agency or other information upon which the employer or association relied to assure compliance with the prevailing wage requirement.

''(2) REQUIREMENT TO PROVIDE HOUSING AND TRANSPORTATION.—

''(A) EFFECT OF THE ATTESTATION.—The employment of H–2B aliens shall not adversely affect the working conditions of United States workers similarly employed in the area of intended employment. The employer's obligation not to adversely affect working conditions shall continue for the duration of the period of employment by the employer of any H–2B aliens in the occupation and area of intended employment. An employer will be deemed to be in compliance with this attestation if the employer offers at least the benefits required by subparagraphs (B) through (D). The previous sentence does not require an employer to offer more than such benefits.

''(B) HOUSING REQUIRED.—

''(i) HOUSING OFFER.—The employer must offer to H–2B aliens and United States workers recruited from beyond normal recruiting distance housing, or a housing allowance, if it is prevailing practice in the occupation and area of intended employment to offer housing or a housing allowance to workers who are recruited from beyond normal commuting distance.

''(ii) HOUSING STANDARDS.—If the employer offers housing to such workers, the housing shall meet (at the option of the employer) applicable Federal farm labor housing standards or applicable local or State standards for rental, public accommodation, or other substantially similar class of habitation.

''(iii) CHARGES FOR HOUSING.—An employer who offers housing to such workers may charge an amount equal to the fair market value (but not greater than the employer's actual cost) for utilities and maintenance, or such lesser amount as permitted by law.

''(iv) HOUSING ALLOWANCE AS ALTERNATIVE.—In lieu of offering housing to such workers, at the employer's sole discretion on an individual basis, the employer may provide a reasonable housing allowance. An employer who offers a housing allowance to such a worker under this subparagraph shall not be deemed to be a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) merely by virtue of providing such housing allowance.

''(v) SECURITY DEPOSIT.—The requirement, if any, to offer housing to such a worker under this subparagraph shall not preclude an employer from requiring a reasonable deposit to protect against gross negligence or willful destruction of property, as a condition for providing such housing.

''(vi) DAMAGES.—An employer who offers housing to such a worker shall not be precluded from requiring a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(C) TRANSPORTATION.—If the employer provides transportation arrangements or assistance to H–2B aliens, the employer must offer to provide the same transportation arrangements or assistance (generally comparable in expense and scope) for other individuals employed by the employer in the occupation at the place of employment who were recruited from beyond normal commuting distance.

''(D) WORKERS' COMPENSATION.—If the employment covered by a labor condition attestation is not covered by the State workers' compensation law, the employer must provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the workers' employment which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(E) REQUIRED DOCUMENTATION.—

''(i) HOUSING AND TRANSPORTATION.—No specific documentation is required to be maintained to evidence compliance with the requirements of subparagraphs (B) and (C). In the event of a complaint alleging a failure to comply with such a requirement, the burden of proof shall be on the employer to show that the employer offered the required benefit to the complainant, or that the employer was not required by the terms of this paragraph to offer such benefit to the complainant.

''(ii) WORKERS' COMPENSATION.—The employer shall maintain copies of certificates of insurance evidencing compliance with subparagraph (D) throughout the period of validity of the labor condition attestation.

''(3) REQUIREMENT TO EMPLOY ALIENS IN TEMPORARY OR SEASONAL AGRICULTURAL JOB OPPORTUNITIES.—

''(A) LIMITATIONS.—

''(i) IN GENERAL.—The employer may employ H–2B aliens only in agricultural employment which is temporary or seasonal.

''(ii) SEASONAL BASIS.—For purposes of this section, labor is performed on a seasonal basis where, ordinarily, the employment pertains to or is of the kind exclusively performed at certain seasons or periods of the year and which, from its nature, may not be continuous or carried on throughout the year.

''(iii) TEMPORARY BASIS.—For purposes of this section, a worker is employed on a temporary basis where the employment is intended not to exceed 10 months.

''(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the employment meets such requirement.

''(4) REQUIREMENT NOT TO EMPLOY ALIENS IN JOB OPPORTUNITIES VACANT BECAUSE OF A LABOR DISPUTE.—

''(A) IN GENERAL.—No H–2B alien may be employed in any job opportunity which is vacant because its former occupant is involved in a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(B) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirement of subparagraph (A). In the event of a complaint, the burden of proof shall fall on the employer to show that the job opportunity in which the H–2B alien was employed was not vacant because the former occupant was on strike, locked out, or participating in a

work stoppage in the course of a labor dispute in the occupation at the place of employment.

''(5) NOTICE OF FILING OF ATTESTATION AND SUPPORTING DOCUMENTATION.—

''(A) IN GENERAL.—The employer shall—

''(i) provide notice of the filing of a labor condition attestation to the appropriate certified bargaining agent (if any) which represents workers of the employer in the occupation (or occupations) at the place of employment covered by the attestation; or

''(ii) in the case where no appropriate bargaining agent exists, post notice of the filing of such an attestation in at least two conspicuous locations where applications for employment are accepted.

''(B) PERIOD FOR POSTING.—The requirement for a posting under subparagraph (A)(ii) begins on the day the attestation is filed, and continues through the period during which the employer's job order is required to remain active pursuant to paragraph (6)(A).

''(C) REQUIRED DOCUMENTATION.—The employer shall maintain a copy of the notice provided to the bargaining agent (if any), together with evidence that the notice was provided (such as a signed receipt of evidence of attempt to send the notice by certified or registered mail). In the case where no appropriate certified bargaining agent exists, the employer shall retain a copy of the posted notice, together with information as to the dates and locations where the notice was displayed.

''(6) REQUIREMENT TO FILE A JOB ORDER.—

''(A) EFFECT OF THE ATTESTATION.—The employer, or an association acting as agent for its members, shall file the information necessary to complete a local job order for each occupation covered by an accepted labor condition attestation with the appropriate local office of the qualified State employment security agency having jurisdiction over the area of intended employment, or with the State office of such an agency if workers will be employed in an area within the jurisdiction of more than one local office of such an agency. The job orders shall remain on file for 25 calendar days or until 5 calendar days before the anticipated date of need for workers in the occupation covered by the job order, whichever occurs later. The job order shall provide at least the minimum terms and conditions of employment required for participation in the H–2B program.

''(B) DEADLINE FOR FILING.—A job order shall be filed under subparagraph (A) no later than the date on which the employer files a petition with the Attorney General for admission or extension of stay for aliens to be employed in the occupation for which the order is filed.

''(C) REQUIRED DOCUMENTATION.—The office of the qualified State employment security agency which the employer or association provides with information necessary to file a local job order shall provide the employer with evidence that the information was provided in a timely manner as required by this paragraph, and the employer or association shall retain such evidence for each occupation in which H–2B aliens are employed.

''(7) REQUIREMENT TO GIVE PREFERENCE TO QUALIFIED UNITED STATES WORKERS.—

''(A) FILING 30 DAYS OR MORE BEFORE DATE OF NEED.—If a job order is filed 30 days or more before the anticipated date of need for workers in an occupation covered by a labor condition attestation and for which the job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who apply to the employer and who will be available at the time and place needed for the job opportunities covered by the attestation until 5 calendar days before the anticipated date of need for workers in the occupation, or until the employer's job opportunities in the occupation are filled with qualified United States workers, if that occurs more than 5 days before the anticipated date of need for workers in the occupation.

''(B) FILLING FEWER THAN 30 DAYS BEFORE DATE OF NEED.—If a job order is filed fewer than 30 days before the anticipated date of need for workers in an occupation covered by such an attestation and for which a job order has been filed, the employer shall offer to employ able, willing, and qualified United States workers who are or will be available at the time and place needed during the first 25 days after the job order is filed or until the employer's job opportunities in the occupation are filled with United States workers, regardless of whether any of the job opportunities may already be occupied by H–2B aliens.

''(C) FILING VACANCIES.—An employer may fill a job opportunity in an occupation covered by an accepted attestation which remains or becomes vacant after expiration of the required preference period specified in subparagraph (A) or (B) of paragraph (6) without regard to such preference.

''(D) JOB-RELATED REQUIREMENTS.—No employer shall be required to initially employ a worker who fails to meet lawful job-related employment criteria, nor to continue the employment of a worker who fails to meet lawful job-related standards of conduct and performance, including failure to meet minimum productivity standards after a 3-day break-in period.

''(E) REQUIRED DOCUMENTATION.—No specific documentation is required to demonstrate compliance with the requirements of this paragraph. In the event of a complaint, the burden of proof shall be on the complainant to show that the complainant applied for the job and was available at the time and place needed. If the complainant makes such a showing, the burden of proof shall be on the employer to show that the complainant was not qualified or that the preference period had expired.

''(8) REQUIREMENTS OF NOTICE OF CERTAIN BREAKS IN EMPLOYMENT.—

''(A) IN GENERAL.—The employer (or an association in relation to an H–2B alien) shall notify the Service within 7 days if an H–2B alien prematurely abandons the alien's employment.

''(B) OUT-OF-STATUS.—An H–2B alien who abandons the alien's employment shall be considered to have failed to maintain nonimmigrant status as an alien described in section 101(a)(15)(H)(ii)(b) and shall leave the United States or be subject to deportation under section 241(a)(1)(C)(i).

''(d) ACCEPTANCE BY QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The qualified State employment security agency shall review labor condition attestations submitted by employers or associations only for completeness and obvious inaccuracies. Unless such an agency finds that the application is incomplete or obviously inaccurate, the agency shall accept the attestation within 7 days of the date of filing of the attestation, and return a copy to the applicant marked 'accepted'.

''(e) PUBLIC REGISTRY.—The Secretary shall maintain a registry of all accepted labor condition attestations and make such registry available for public inspection.

''(f) RESPONSIBILITIES OF THE QUALIFIED STATE EMPLOYMENT SECURITY AGENCIES.—

''(1) DISSEMINATION OF LABOR MARKET INFORMATION.—The Secretary shall direct qualified State employment security agencies to disseminate nonemployer-specific information about potential labor needs based on accepted attestations filed by employers. Such dissemination shall be separate from the clearance of job orders through the Interstate and Intrastate Clearance Systems, and shall create no obligations for employers except as provided in this section.

''(2) REFERRAL OF WORKERS ON QUALIFIED STATE EMPLOYMENT SECURITY AGENCY JOB ORDERS.—Such agencies holding job orders filed by employers covered by approved labor condition attestations shall be authorized to refer any able, willing, and qualified eligible job applicant who will be available at the time and place needed and who is authorized to work in the united States, including H–2B aliens who are seeking additional work in the United States and whose eligibility to remain in the United States pursuant to subsection (h) has not expired, on job orders filed by holders of accepted attestations.

''(g) ENFORCEMENT AND PENALTIES.—

''(1) ENFORCEMENT AUTHORITY.—

''(A) INVESTIGATION OF COMPLAINTS.—The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting an employer's failure to meet a condition specified in subsection (a) or an employer's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organizations (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) WRITTEN NOTICE OF FINDINGS AND OPPORTUNITY FOR APPEAL.—After an investigation has been conducted, the Secretary shall issue a written determination as to whether or not any violation described in paragraph (2) has been committed. The Secretary's determination shall be served on the complainant and the employer, and shall provide an opportunity for an appeal of the Secretary's decision to an administrative law judge, who may conduct a de novo hearing.

''(2) REMEDIES.—

''(A) BACK WAGES.—Upon a final determination that the employer has failed to pay wages as required under this section, the Secretary may assess payment of back wages due to any United States worker or H–2B alien employed by the employer in the specific employment in question. The back wages shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(B) FAILURE TO PAY WAGES.—Upon a final determination that the employer has failed to pay the wages required under this section, the Secretary may assess a civil money penalty up to $1,000 for each failure, and may recommend to the Attorney General the disqualification of the employer from the employment of H–2B aliens for a period of time determined by the Secretary not to exceed 1 year.

''(C) OTHER VIOLATIONS.—If the Secretary, as a result of an investigation pursuant to a complaint, determines that an employer covered by an accepted labor condition attestation has—

''(i) filed an attestation which misrepresents a material fact; or

''(ii) failed to meet a condition specified in subsection (a),

the Secretary may assess a civil money penalty not to exceed $1,000 for each violation. In determining the amount of civil money penalty to be assessed, the Secretary shall consider the seriousness of the violation, the good faith of the employer, the size of the

business of the employer being charged, the history of previous violations by the employer, whether the employer obtained a financial gain from the violation, whether the violation was willful, and other relevant factors.

''(D) PROGRAM DISQUALIFICATION.—

''(i) 3-YEARS FOR SECOND VIOLATION.—Upon a second final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from the employment of H–2B aliens for a period of 3 years.

''(ii) PERMANENT FOR THIRD VIOLATION.—Upon a third final determination that an employer has failed to pay the wages required under this section, the Secretary shall report such determination to the Attorney General and the Attorney General shall disqualify the employer from any subsequent employment of H–2B aliens.

''(3) ROLE OF ASSOCIATIONS.—

''(A) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf a labor condition attestation is filed by an association acting as its agent is fully responsible for such attestation, and for complying with the terms and conditions of this section, as though the employer had filed the attestation itself. If such an employer is determined to have violated a requirement of this section, the penalty for such violation shall be assessed against the employer who committed the violation and not against the association or other members of the association.

''(B) VIOLATION BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing a labor condition attestation on its own behalf as an employer is determined to have committed a violation under this subsection which results in disqualification from the program under paragraph (2)(D), no individual member of such association may be the beneficiary of the services of an H–2B alien in an occupation in which such alien was employed by the association during the period such disqualification is in effect, unless such member files a labor condition attestation as an individual employer or such an attestation is filed on the employer's behalf by an association with which the employer has an agreement that the employer will comply with the requirements of this section.

''(h) PROCEDURE FOR ADMISSION OR EXTENSION OF H-2B ALIENS.—

''(1) ALIENS WHO ARE OUTSIDE THE UNITED STATES.—

''(A) PETITIONING FOR ADMISSION.—An employer or an association acting as agent for its members who seeks the admission into the United States of H–2B aliens may file a petition with the District Director of the Service having jurisdiction over the location where the aliens will be employed. The petition shall be accompanied by an accepted and currently valid labor condition attestation covering the petitioner. The petition may be for named or unnamed individual or multiple beneficiaries.

''(B) EXPEDITED ADJUDICATION BY DISTRICT DIRECTOR.—If an employer's petition for admission of H–2B aliens is correctly filled out, and the employer is not ineligible to employ H–2B aliens, the District Director (or the Director's designee) shall approve the petition within 3 working days of receipt of the petition and accepted labor condition attestation and immediately (by fax, cable, or other means assuring expedited delivery) transmit a copy of the approved petition to the petitioner and to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(C) UNNAMED BENEFICIARIES SELECTED BY PETITIONER.—The petitioning employer or association or its representative shall approve the issuance of visas to beneficiaries who are unnamed on a petition for admission granted to the employer or association.

''(D) CRITERIA FOR ADMISSIBILITY.—

''(i) IN GENERAL.—An alien shall be admissible under this section if the alien is otherwise admissible under this Act and the alien is not debarred pursuant to the provisions of clause (ii).

''(ii) DISQUALIFICATION.—An alien shall be debarred from admission or being provided status as an H–2B alien under this section if the alien has, at any time—

''(I) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(II) has otherwise violated a term or condition of admission to the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(E) PERIOD OF ADMISSION.—The alien shall be admitted for the period requested by the petitioner not to exceed 10 months, or the remaining validity period of the petitioner's approved labor condition attestation, whichever is shorter, plus an additional period of 14 days, during which the alien shall seek authorized employment in the United States. During the 14-day period following the expiration of the alien's work authorization, the alien is not authorized to be employed unless the original petitioner or a subsequent petitioner has filed an extension of stay on behalf of the alien.

''(F) ISSUANCE OF IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—

''(i) IN GENERAL.—The Attorney General shall cause to be issued to each H–2B alien a card in a form which is resistant to counterfeiting and tampering for the purpose of providing proof of identity and employment eligibility under section 274A.

''(ii) DESIGN OF CARD.—Each card issued pursuant to clause (i) shall be designed in such a manner and contain a photograph and other identifying information (such as date of birth, sex, and distinguishing marks) that would allow an employer to determine with reasonable certainty that the bearer is not claiming the identity of another individual, and shall—

''(I) contain a fingerprint or other biometric identifying data (or both);

''(II) specify the date of the aliens authorization as an H–2B alien;

''(III) specify the expiration date of the alien's work authorization; and

''(IV) specify the alien's admission number or alien file number.

''(2) EXTENSION OF STAY.—

''(A) APPLICATION FOR EXTENSION OF STAY.—If a petitioner seeks to employ an H–2B alien already in the United States, the petitioner shall file an application for an extension of stay. The application for extension of stay shall be accompanied by a currently valid labor condition attestation.

''(B) LIMITATION ON FILING AN APPLICATION FOR EXTENSION OF STAY.—An application may not be filed for an extension of an alien's stay for a period of more than 10 months, or later than a date which is 2 years from the date of the alien's last admission to the United States as a H–2B alien, whichever occurs first. An application for extension of stay may not be filed during the pendency of an alien's previous authorized period of admission, nor after the alien's authorized stay in the United States has expired.

''(C) WORK AUTHORIZATION UPON FILING AN APPLICATION FOR EXTENSION OF STAY.—An employer may begin employing an alien already in the United States in H–2B status on the day the employer files its application for extension of stay with the Service. For the purpose of this requirement, the term 'filing' means sending the application by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of receipt of the application. The employer shall provide a copy of the employer's application for extension of stay to the alien, who shall keep the application with the alien's identification and employment eligibility card as evidence that the extension has been filed and that the alien is authorized to work in the United States. Upon approval of an application for extension of stay, the Service shall provide a new employment document to the alien indicating a new validity date, after which the alien is not required to retain a copy of the application for extension of stay.

''(D) LIMITATION ON EMPLOYMENT AUTHORIZATION OF H–2B ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY CARD.—An expired identification and employment eligibility card, together with a copy of an application for extension of stay, shall constitute a valid work authorization document for a period of not more than 60 days from the date of application for the extension of stay, after which time only a currently valid identification and employment eligibility card shall be acceptable.

''(3) LIMITATION ON AN INDIVIDUAL'S STAY IN H–2B STATUS.—An alien having status as an H–2B alien may not have the status extended for a continuous period longer than 2 years unless the alien remains outside the United States for an uninterrupted period of 6 months. An absence from the United States may break the continuity of the period for which an H–2B visa is valid. If the alien has resided in the United States 10 months or less, an absence breaks the continuity of the period if its lasts for at least 2 months. If the alien has resided in the United States 10 months or more, an absence breaks the continuity of the period if it lasts for at least one-fifth the duration of the stay.

''(i) TRUST FUND TO ASSURE WORKER RETURN.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund (in this section referred to as the 'Trust Fund') for the purpose of providing a monetary incentive for H–2B aliens to return to their country of origin upon expiration of their visas under this section.

''(2) WITHHOLDING OF WAGES; PAYMENT INTO THE TRUST FUND.—

''(A) IN GENERAL.—Employers of H–2B aliens shall—

''(i) withhold from the wages of their H–2B alien workers an amount equivalent to 25 percent of the wages of each H–2B alien worker and pay such withheld amount into the Trust Fund in accordance paragraph (3); and

''(ii) pay to the Trust Fund an amount equivalent to the Federal tax on the wages paid to H–2B aliens that the employer would be obligated to pay under the Federal Unemployment Tax Act and the Federal Insurance Contributions Act.

Amounts withheld under clause (i) shall be maintained in such interest bearing account with such a financial institution as the Attorney General shall specify.

''(3) DISTRIBUTION OF FUNDS.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(i), and interest earned thereon, shall be paid by the Attorney General as follows:

''(A) REIMBURSEMENT OF EMERGENCY MEDICAL EXPENSES.—To reimburse valid claims for reimbursement of emergency medical services furnished to H–2B aliens, to the extent that sufficient funds are not available on an annual basis from the Trust Fund pursuant to paragraphs (2)(A)(ii) and (4)(B).

''(B) PAYMENTS TO WORKERS.—Amounts paid into the Trust Fund on behalf of a worker, and interest earned thereon, less a pro rata reduction for any payments made pursuant to subparagraph (A), shall be paid by the Attorney General to the worker if—

''(i) the worker applies to the Attorney General (or the designee of the Attorney General) for payment within 30 days of the expiration of the alien's last authorized stay in the United States as a H–2B alien;

''(ii) in such application the worker establishes that the worker has complied with the terms and conditions of this section; and

''(iii) in connection with the application, the worker tenders the identification and employment authorization card issued to the worker pursuant to subsection (h)(1)(F) and establishes that the worker is identified as the person to whom the card was issued based on the biometric identification information contained on the card.

''(4) ADMINISTRATIVE EXPENSES AND EMERGENCY MEDICAL EXPENSES.—The amounts paid into the Trust Fund and held pursuant to paragraph (2)(A)(ii), and interest earned thereon, shall be paid by the Attorney General as follows:

''(A) ADMINISTRATIVE EXPENSES.—First, to the Attorney General, the Secretary of Labor, and the Secretary of State in amounts equivalent to the expenses incurred by such officials in the administration of section 101(a)(15)(H)(ii)(b) and this section.

''(B) REIMBURSEMENT OF EMERGENCY MEDICAL SERVICES.—Any remaining amounts shall be available on an annual basis to reimburse hospitals for emergency medical services furnished to H–2B aliens as provided in subsection (k)(2).

''(5) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this subsection.

''(j) INVESTMENT OF TRUST FUND.—

''(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Trust Fund as is not, in the Secretary's judgement, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

''(A) on original issue at the price; or

''(B) by purchase of outstanding obligations at the market price.

The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the Trust Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

''(2) SALE OF OBLIGATION.—Any obligation acquired by the Trust Fund (except special obligations issued exclusively to the Trust Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

''(3) CREDITS TO TRUST FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

''(4) REPORT TO CONGRESS.—It shall be the duty of the Secretary of the Treasury to hold the Trust Fund, and (after consultation with the Attorney General) to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year. Such report shall be printed as both a House and a Senate document of the session of the Congress to which the report is made.

''(k) REIMBURSEMENT OF COST OF EMERGENCY MEDICAL SERVICES.—

''(1) IN GENERAL.—The Attorney General shall establish procedures for reimbursement of hospitals operated by a State or by a unit of local government (or corporation owned or controlled by the State or unit) for the reasonable cost of providing emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services) in the United States to H–2B aliens for which payment has not been otherwise reimbursed.

''(2) SOURCE OF FUNDS FOR REIMBURSEMENT.—Funds for reimbursement of hospitals pursuant to paragraph (1) shall be drawn—

''(A) first under subsection (i)(4)(B), from amounts deposited in the Trust Fund under subsection (i)(2)(A)(ii) after reimbursement of certain administrative expenses; and

''(B) then under subsection (i)(3)(A), to the extent that funds described in subparagraph (A) are insufficient to meet valid claims, from amounts deposited in the Trust Fund under subsection (i)(2)(A)(i).

''(l) MISCELLANEOUS PROVISIONS.—

''(1) APPLICABILITY OF LABOR LAWS.—Except as provided in paragraphs (2), (3), and (4), all Federal, State, and local labor laws (including laws affecting migrant farm workers) applicable to United States workers shall also apply to H–2B aliens.

''(2) LIMITATION OF WRITTEN DISCLOSURE IMPOSED UPON RECRUITERS.—Any disclosure required of recruiters under section of 201(a) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1821(a)) need not be given to H–2B aliens prior to the time their visa is issued permitted entry into the United States.

''(3) EXEMPTION FROM FICA AND FUTA TAXES.—The wages paid to H–2B aliens shall be excluded from wages subject to taxation under the Federal Unemployment Tax Act and under the Federal Insurance Contributions Act.

''(4) INELIGIBILITY FOR CERTAIN PUBLIC BENEFITS PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), any alien provided status as an H–2B alien shall not be eligible for any Federal or State or local means-tested public benefit program.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following:

''(i) EMERGENCY MEDICAL SERVICES.—The provision of emergency medical services (as defined by the Attorney General in consultation with the Secretary of Health and Human Services).

''(ii) PUBLIC HEALTH IMMUNIZATIONS.—Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

''(iii) SHORT-TERM EMERGENCY DISASTER RELIEF.—The provision of non-cash, in-kind, short-term emergency disaster relief.

''(m) CONSULTATION ON REGULATIONS.—

''(1) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Agriculture, and the Attorney General shall approve, all regulations dealing with the approval of labor condition attestations for H–2B aliens or enforcement of the requirements for employing H–2B aliens under an approved attestation.

''(2) REGULATIONS OF THE ATTORNEY GENERAL.—The Attorney General shall consult with the Secretary of Agriculture on all regulations dealing with the approval of petitions for admission or extension of stay of H–2B aliens or the requirements for employing H–2B aliens or the enforcement of such requirements.

''(n) DEFINITIONS.—For the purpose of this section:

''(1) AGRICULTURAL ASSOCIATION.—The term 'agricultural association' means any nonprofit or cooperative association of farmers, growers, or ranchers incorporated or qualified under applicable State law, which recruits, solicits, hires, employs, furnishes, or transports any agricultural workers.

''(2) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity included within the provisions of section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or section 3121(g) of the Internal Revenue Code of 1986 and the handling, planting, drying, packing, packaging, processing, freezing, or grading prior to delivery for storage of any agricultural or horticultural commodity in its unmanufactured state.

''(3) EMPLOYER.—The term 'employer' means any person or entity, including any independent contractor and any agricultural association, that employs workers.

''(4) H–2B ALIEN.—The term 'H–2B alien' means an alien admitted to the United States or provided status as a nonimmigrant under section 101(a)(15)(H)(ii)(b).

''(5) QUALIFIED STATE EMPLOYMENT SECURITY AGENCY.—The term 'qualified State employment security agency' means a State employment security agency in a State in which the Secretary has determined that the State operates a job service that actively seeks to match agricultural workers with jobs and participates in a multi-State job service program in States where significant supplies of farm labor exist.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

''(7) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen, a United States national, or an alien, who is legally permitted to work in the job opportunity within the United States other than aliens admitted pursuant to this section.''

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218 the following new item:

''Sec. 218A. Alternative agricultural worker program.''.

At the end of section 308(g)(10), add the following:

(H)(i) Section 214(l)(2), as added by section 822(c), is amended by striking ''241(a)(1)(C)'' and inserting ''237(a)(1)(C)''.

(ii) Section 218A(c)(8)(B), as inserted by section 823(a), is amended by striking ''deportation under section 241(a)(1)(C)(i)'' and inserting ''removal under section 237(a)(1)(C)(i)''.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. POMBO] and a Member opposed will each control 30 minutes of time.

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

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

Mr. Chairman, I rise today to offer an amendment that I believe accomplishes two very important goals. First, and most important, my amendment creating a pilot guest worker program makes H.R. 2202 a better bill—a more effective bill—that will strengthen our ability to curb illegal immigration. Second, my amendment will ensure that should H.R. 2202 create shortages in the availability of seasonal, agricultural labor, that non-Americans can be used—on a temporary basis—to pick the crops and manage the herds. This is in everyone's best interest.

Contrary to some of the rhetoric on this issue, my amendment supports and enhances immigration control. The increased employer sanctions already in H.R. 2202 for hiring illegals—coupled with strong incentives to leave this country when the growing season ends—creates a vast improvement over current law. Added to that is the mandatory withholding of 25 percent of the worker's salary to be returned to his country of origin and collected when he returns. Even now, without the sanctions in H.R. 2202 or the incentives to leave in my amendment, very few alien agricultural workers overstay their visas. We can expect even this small number to drop under my proposal.

This pilot program represents a substantial improvement over current law and provides numerous sanctions and incentives to stem the tide of illegals coming to America.

At the same time, this pilot program would allow non-Americans to provide the farm and ranch labor when—and only when—we cannot find Americans to do it. Every consumer enjoys lowcost food benefits from this.

My amendment accomplishes this not through loopholes or underenforcement of law, but rather by creating a workable program addressing a real shortage of Americans able and willing to provide seasonal farm and ranch labor, accompanied with strict control and enforcement.

I also want to reiterate that this program would only be used if there is a shortage in American labor. If all those who say that there will be no shortage of workers are right—then this program will never be used and that's fine. But should these people be wrong, my amendment provides an insurance policy against fields of rotting, unharvested crops, which inevitably raises food prices.

Finally, this amendment will not cost one American job. Any American who wants to do this work must be given the opportunity—as is already the case with the H2–A program.

Currently, the only program designed to address this shortage of farm and ranch labor is the H–2A program. Anyone familiar with that program can speak of its shortcomings and constraints, and why it is largely unworkable for the agricultural needs of many States. It is my hope that the pilot program in my amendment can serve as the model for replacing the current H–2A program.

My amendment is supported by an unprecedented coalition of nearly 70 State and Federal agricultural organizations including the American Farm Bureau, National Cattlemen's Association, National Council of Agricultural Employers, and many others. I urge my colleagues to support this pilot program as both an important tool to fight illegal immigration and as an insurance policy against unharvested food, closed farms and higher food costs. Please vote ''yes'' on the Pombo-Chambliss amendment.

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

The CHAIRMAN. Is there a Member opposed to this amendment?

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

The CHAIRMAN. The gentleman from Virginia [Mr. GOODLATTE] is recognized for 30 minutes.

Mr. GOODLATTE. Mr. Chairman, I yield 15 minutes of my time to the gentleman from California [Mr. BERMAN], and I ask unanimous consent that he may be permitted to yield blocks of time to other Members.

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

There was no objection

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

Mr. Chairman, as a Committee on Agriculture member, I too have heard the concerns of agriculture employers who call the current H–2A guest worker program unworkable and thus understand that my colleagues want to give the growers a program that works. I agree that growers need some relief and must be able to depend on a reliable source of foreign workers.

But the Pombo-Chambliss amendment takes the completely wrong approach. We should not create an entirely new, untested, massive guest worker program when we have a program already. Let us fix the H–2A program instead.

The Pombo-Chambliss amendment creates an institutionalized program which could bring up to 250,000 aliens into our country per year.

The Goodlatte compromise amendment is based on hearings held on the H–2A program in both the Committee on Agriculture and Committee on the Judiciary. It will cap the number of visas available for H–2A workers at 100,000. Seventeen thousand guest workers are currently coming into the United States under the H–2A program. That allows for a very substantial increase. It pays for workers' way home, it protects American workers by making sure that guest workers do not adversely affect wages and working conditions of American workers, and it will also require that growers actively recruit for U.S. workers before they can get guest workers. It lifts the burdensome regulations on growers, such as the 50 percent rule and the 3–4 guarantee, and cuts 33 percent off the application processing time for the H–2A certification.

Take a lesson from the history books. The Bracero Program was the beginning of our illegal immigration problem we are attempting to curb in H.R. 2202. Hundreds of thousands of braceros became accustomed to the American standard of living and wages. Once the Bracero Program ended, many braceros resorted to coming to this country illegally. That trend continues today.

Supporters of the Pombo-Chambliss amendment claim unless we create a massive new guest worker bureaucracy, the illegal immigration patterns begun with the Bracero Program will simply grow. How can it get any worse? National organizations representing the growers have on the record stated that at any given time, at least 50 percent of their work force is comprised of illegal aliens. If we enact the H–2B program in the Pombo-Chambliss amendment, we will simply take the inroad we have made in H.R. 2202 to cut illegal immigration and throw them away.

This program will let in 250,000 unskilled foreign workers a year. That is four times the number of skilled workers we are going to admit. We are limiting the number of visas for family reunification. What is the point if we create this new program? This flies in the fact of evidence that there is now a great surplus of domestic farm workers. In the agriculture counties of California, there has been a 10 to 20 percent unemployment rate even in the summer months of peak demand by growers. The research director of the U.S. Commission on Agricultural Workers, which was evenly balanced with grower representatives, stated that there is and has been for many years an overall agricultural labor surplus in the United States and there will not be a labor shortage in the future. H.R. 2202's employment verification system is voluntary. Agriculture employers do not have to use it unless they choose to.

Even if the 25 percent of the seasonal labor force which is presently illegal were to magically disappear, there will still be no shortage. The U.S. Commission on Immigration Reform, headed by the late Barbara Jordan, recently found that if the supply of illegal farm workers dried up tomorrow or if growers chose to stop hiring illegal workers, the supply of work-authorized farm workers is ample, even in peak harvest months.

Let me talk about some of the specific problems with the Pombo-Chambliss H–2B program. This program would gut protections for guest workers and U.S. workers. It is an attestation program. The current H–2A system is a certification program. Under a certification procedure, an employer has to prove to the Secretary of Labor

that it has met certain conditions before the Secretary will permit the entry of an alien worker.

With an attestation program, such as the one set up by Pombo-Chambliss, there are no controls on the number of foreign workers a grower brings in until after the growing season is over. The Secretary will permit the entry of an alien worker based on the employer promising it will meet certain conditions in the future. Only if an interested party, such as a union, complains to the Secretary that the employer is not fulfilling an attestation, will the Secretary initiate an investigation.

This type of program invites abuse. It has no practical provision for enforcement. In addition, no mechanism for enforcement exists for its recordkeeping and other requirements. Guest workers cannot be expected to leave the United States and return home when their work contracts end. The program that currently exists, that previously existed, has taught us that lesson. The lure of American jobs at much higher pay than available back home is just too great. Once settled and plugged into their job networks, they will then encourage their families and friends to come illegally and join them. We must stop this trend from continuing. Let us fix the H–2A program, not create an immigration nightmare.

Mr. Chairman, I urge my colleagues to oppose the Pombo-Chambliss amendment.

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

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. BRYANT], the ranking member of the subcommittee.

Mr. BRYANT of Texas. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, this should be an easy decision for all of us. This is an amendment that proposes to allow 250,000 foreign workers to come into the country to do work that could be done by American workers.

We have already been through this once. In 1986 we faced this situation, and many will remember that we at that time granted amnesty to what ultimately were, I think, 1.1 million people that had become workers on whom growers principally in southern California were dependent.

It was the hardest vote and the most difficult decision of the entire bill. We did it because it was the right thing to do. We should not be in a position to have to do it again. That is exactly where this amendment is going to lead us.

Second, we have got to get away from this idea that we have the obligation or the need to bring foreign workers into the country in order to deal with our economic needs. The fact of the matter is, there is a surplus of seasonal farm workers, and in fact even now 50 percent of seasonal farm workers live in poverty. There is a surplus of these folks. There are thousands of them available.

Mr. Chairman, I submit to the authors of the amendment and to those listening to this debate that there is not any credible study that indicates there is a need to bring in 250,000 people to do work on our farms in this country, and I urge Members to vote against it.

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It will clearly, in my view, lead to not only making life more miserable for folks that do very tough work at very low wages already by, in effect, reinstating the old bracero program, but it also will lead to increased illegal immigration because we are not being realistic if we expect guest workers to leave at the end of every worker contract. That simply is not going to happen. They are going to stay here.

In fact, the terms of the amendment allow them to stay as long as 2 years if their initial stay is extended and to do so legally. We have got to start sticking up for American workers. We have an American work force that can do this work. Maybe they do not want to do it at dirt-level wages. Maybe they need to have their wages raised. But we have the people to do this work.

We ought not to pass this amendment. We ought not to vote in favor of letting 250,000 people come into the country to do work that ought to be done and can be done and will be done by American workers.

Mr. BERMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas [Mr. DE LA GARZA], the ranking Democrat on the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, under ordinary circumstances, I would be interested in supporting an amendment of this nature, but the way that we have handled this bill throughout the day, I must oppose it. One cannot say to people, you cannot bring your mother, you cannot bring your father, you have to speak English, you cannot come, we do not want you, get the dickens out of this country, but if you come to work temporarily when we can withhold 25 percent of your wages, when we can tell you if you have insurance for your car and not have insurance for your car, then you can come and work.

I can get all the workers we want in my congressional district, and they are good hard workers. But in the spirit in which we are dealing here today, to me it is insulting, it is demeaning. These will be indentured servants in the United States of America, indentured to individuals who will withhold under law 25 percent of their pay, maybe or maybe not get housing or be charged for housing or forced to buy it at the ranch store or the company store.

It is bad as it is, but I cannot accept all of the other things that are coming through. We are almost to the point where I am tempted to offer an amendment that anyone who is a descendant of a foreigner has to go back to the country of origin. That is about what we are up to. We even might want to change my name from GARZA to CRANE. It has gotten to the point where it is now ridiculous.

If we have problems with population, we work on the numbers, work on the numbers legitimately. I do not have any objection if we are overpopulated. But let me say to my California friends, if not one more alien comes to California, by 2012 California is more than 50 percent Asian and Hispanic. So, listen to that; 12, 15 more years, more than 50 percent, no matter what else is done. So I would think that we would be interested in seeing what we can do legally.

Mr. Chairman, if my colleagues are interested in numbers, I am with them. We have to work on that. But saying they are going to be terrorists, they are going to come blow the countryside apart, they are going to come and destroy the Government, they are only talking about Mexico and Central America, and they have to admit that. They have to admit that.

Anyone that does not look like, I do not know, the gentleman from California [Mr. POMBO] and I look alike. But maybe like the gentleman from California [Mr. BERMAN] then his is OK. If he looks like Mr. POMBO and me, he is not OK, throw him out, send him back. I cannot support this under this, the way that we are handling it.

Mr. POMBO. Mr. Chairman, I thank the former ranking member, and I do agree with many of his sentiments. I hope in the future we do have a chance to work on this.

Mr. Chairman, I yield 1½ minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in support of the Pombo-Chambliss amendment to H.R. 2202 to establish a pilot program to allow temporary, and I want to underline temporary, guest workers into this country to help out in the agricultural industry. This amendment is carefully constructed to allow only guest workers into this country after, after a series of steps have been taken to find domestic workers to fill agricultural jobs.

In addition, the bill provides strong incentives for guest workers to return to their native homeland by withholding 25 percent of their wages until they return home. In addition, the number of workers allowed in this country has a capped span of 3 years.

Mr. Chairman, I just would like to point out how important this is to my district on the central coast of California and give an example of how this is important to a farm in my district. The Logoluso Farms in my district is located in Cuyama, a very isolated area. They farm 1,100 acres of Fuji apples and they are going to need at least 600 workers at peak harvest time.

Now they are very concerned as to where the labor is going to be coming from because their farm, their acreage,

is located some 60 miles away from the nearest small town. A temporary guest worker program that mandates strict labor conditions be met along with adequate housing facilities is a safety valve needed in case the labor supply cannot be met domestically. Most importantly, there are strong incentives here in this amendment, and I would just ask that my colleagues vote in favor of this amendment.

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

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, my district consists of approximately 18,000 farms. Most of these farms engage in the production of cucumbers, sweet potatoes, tobacco, and peanuts, very labor-intensive work. Roughly 80 percent of the produce in my district is harvested by seasonal migrant workers. Throughout our Nation, as in North Carolina, seasonal workers have helped labor-intensive farm commodities to become the fastest growing sector of the U.S. agricultural world.

However, farmers in the South are having a very difficult time finding people to do farm work. If it was not for the migrant workers, our farmers would not be able to harvest their crops. We need to guarantee our farmers an ample supply of legal workers. The Pombo-Chambliss amendment creates a workable solution to this important issue. It admits temporary workers by creating a 3-year pilot program with an annual cap on the number of workers admitted.

Congress is trying to control illegal immigration, not destroy the work force of the American farmer. Please support the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 1½ minutes to the gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Chairman, H.R. 2202 provides comprehensive reform of our immigration laws but ignores an irrefutably broken H–2A program. This H–2A program has failed to provide temporary migrant farm workers when domestic workers are unavailable. The Pombo-Chambliss amendment is an essential part of illegal immigration control. It admits workers temporarily and provides guarantees they will return home and not remain. Twenty-five percent of the workers' wages are withheld until they return to their home countries. Future participation is barred if workers don't return home on time. This program has a users' fee that pays for the government administrative costs.

The Goodlatte amendment tinkers with a broken H–2A program rather than fixing it, but in fact makes a bad program worse.

First and foremost, we must assure an adequate work force during harvest. Without this Pombo amendment, our cucumber, sweet potato, tobacco and other farmers could be out of business, meaning a tremendous loss of food and jobs in the Second District of North Carolina—something we can't afford. Therefore, Mr. Speaker, I strongly urge my colleagues to vote ''yes'' on Pombo and ''no'' on Goodlatte.

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

Mr. BERMAN. Mr. Chairman, before I yield to the gentleman from North Dakota, I just want to point out that in the gentleman from North Carolina's district, rural unemployment is now 9 percent.

Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. POMEROY], a member of the Committee on Agriculture.

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

The statistic just quoted shows exactly what this bill is about. This bill is not about desperately needed workers to fulfill jobs. This is about having a cheap supply of labor to hold wages down. The have been some in favor of immigration reform that want to have it both ways: Crack down on immigration, triple fence the border, but by golly, do not disrupt our ability to get that cheap supply of unskilled labor up from south of the border. They want to have it both ways, but you cannot have it both ways.

Mr. Chairman, I am reminded a bit of how the French chose to construct their defense in anticipation of World War II. They constructed an invincible line called the Maginot Line, and it was to withhold any German attack. The Germans flanked the Maginot Line and of course rendered the defense useless. We build triple fences, our Maginot Line against immigration, and we are going to provide the transport. We ourselves are going to allow the transport of unskilled workers up from Mexico around the fences and on to farms where they can wander off and become a continuing part of the illegal immigration problem this country has had an experience with.

Make no bones about it, the Pombo amendment blows a hole in everything we are trying to do to crack down on illegal immigration and that will even more be the case when the other immigration reforms take effect under the law. Already we see under the guest worker program overstays represent 12 percent of the program, meaning 12 percent of the workers stay longer than they are authorized to under the program. That will only increase if this amendment should be incorporated into this law.

Mr. Chairman, in addition, we have a revenue estimate today from the Congressional Budget Office that shows a loss in revenue of $23 million and an increase in direct spending of $67 million if the Pombo amendment is enacted. This amendment would cost us at a minimum $90 million a year while compounding the illegal immigration, unskilled worker problem in our country. Please join me in voting down this amendment.

AMENDMENT OFFERED BY MR. CONDIT TO THE AMENDMENT OFFERED BY MR. POMBO

Mr. CONDIT. Mr. Chairman, I offer an amendment to the amendment.

The CHAIRMAN. The Clerk will designate the amendment to the amendment.

The text of the amendment to the amendment is as follows:

Amendment offered by Mr. CONDIT to the amendment offered by Mr. POMBO.

In section 823(a), in the section 218A(a)(3)(B) of the Immigration and Nationality Act inserted by such section, add at the end the following:

''(iii) CONSEQUENCES OF PERMANENT EXTENSION.—If the Congress makes the program under this section permanent, Congress shall provide for a two-year phase out of admissions (and adjustments of status) of nonimmigrants under section 101(a)(15)(H)(ii)(a). In the case of such a phase out, the Attorney General and the Secretary of Labor shall provide for the application under this section of special procedures (in the case of occupations characterized by other than a reasonably regular workday or workweek) in the same manner as special procedures are provided for under regulations in such a case for the nonimmgrant workers under section 101(a)(15)(H)(ii)(a).

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. CONDIT] and a Member opposed will each control 5 minutes.

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

PARLIAMENTARY INQUIRIES

Mr. BECERRA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BECERRA. Mr. Chairman, at this time we are moving on to the amendment by the gentleman from California [Mr. CONDIT], in which case 5 minutes will be accorded to both those supporting and those opposing.

My parliamentary inquiry is, what happens to the time that had been allotted for the Pombo amendment? Does that remain at the end of the debate of the Condit amendment?

The CHAIRMAN. All remaining time would be reserved on the Pombo amendment that is currently pending.

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, as I understand the amendment from the gentleman from California, it is an amendment to the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. Under the rule, an individual opposed to the amendment has 5 minutes of time to control; is that correct?

The CHAIRMAN. The gentleman is correct.

Mr. BERMAN. So this will be 5 minutes in addition to the remaining time on the Pombo amendment.

The CHAIRMAN. The gentleman is correct.

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

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

First of all, let me commend the gentleman from California [Mr. POMBO] and the gentleman from Georgia [Mr. CHAMBLISS] for their efforts in this issue. They both have demonstrated leadership, and my amendment to their amendment is a friendly amendment and it is pretty straightforward.

□ 1645

It simply says and assures that should the pilot guest worker program established by this amendment gain permanent status, that we will be left with only one guest worker program. As it stands right now, if the Pombo amendment passes, Pombo-Chambliss, it will create two guest worker programs. I do not believe that is the intent of the Committee on Agriculture, nor is it the intent of the author of the amendment to create two programs.

So basically what it does, simply, whenever it becomes permanent, it will be one program, and it will encompass all the people that need to be serviced under a guest worker program.

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

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

Mr. POMBO. The gentleman is correct. The intention of the amendment, because it is a pilot program and is a temporary program, if it were to be made a permanent program, the repeal of the H–2A program so that we would have one program, would be the intention of the committee. And I would support the gentleman's amendment and accept it.

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

The CHAIRMAN. Is there a Member opposed to the amendment offered by the gentleman from California?

Mr. BERMAN. Yes, Mr. Chairman, I rise in opposition to the amendment to the amendment.

The CHAIRMAN. The gentleman from California [Mr. BERMAN] is recognized for 5 minutes.

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

Mr. Chairman, I do not intend to call for a rollcall vote on this amendment. It is the Pombo amendment, with or without the Condit amendment, that I seek to defeat.

Mr. Chairman, I yield 2½ minutes to the gentleman from California [Mr. TORRES].

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

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

Mr. Chairman, today we are here to debate immigration reform. Most people agree that immigration reform needs cutting back on the number of illegal immigrants entering this country. Some would go further to say that it means cutting the number of legal immigrants entering this country. Never mind the problems each of us may have with the bill, at least we can debate these issues on the merits. But this amendment, the Pombo amendment before us, flies in the face of the purported goals.

The gentleman from California [Mr. POMBO] is offering an amendment that would open a back door to allow 250,000 foreign agricultural workers into this country.

What is the power behind this amendment?

It is agribusinesses. Agribusinesses want to circumvent the market system by carving out a giant government loophole in the immigration system, and while everybody knows that there is no shortage of labor in this country, agribusinesses insist that there is.

In simple terms, agribusiness is saying that this immigration bill goes too far. It is saying that it does not want to pay fair wages for legal farm workers. Agribusiness is saying that bringing a quarter of a million foreign agricultural workers into this country will help control illegal immigration. This is tantamount to saying that one can put out a fire with gasoline. We cannot have it both ways, my colleagues.

For too long the U.S. Government has granted select agricultural growers a privilege which few other industries have. Many of us remember the old Bracero program, which brought in and contracted Mexican workers to come here and work. I saw that program in action. As a young man, I went to the Central Valley in California, and I picked crops, and I saw the squalor and the deprivation in which these people worked and had to live.

Mr. Chairman, we cannot commit this mistake again in this country. It would be scandalous. It would be insidious.

Instead of allowing to bring in foreign workers with virtually no rights, agricultural employers should turn to market methods for recruiting American workers. It is simple, it is simple to recruit them. Just offer American workers adequate pay, decent wages decent working conditions, and let us stop the deception that we are seeing here with this amendment.

Mr. Chairman, I urge my colleagues to not repeat those mistakes of history and vote ''no'' for the Pombo amendment.

Mr. CONDIT. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. THOMAS].

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

Mr. THOMAS. Come on, folks. The operative word in the gentleman from California's statement that he just spoke was ''was.'' He is talking about yesterday.

I know it is not useful sometimes, or even politic, to deal factually with amendments in front of us on this floor, but this is not the re-creation of a guest worker or Bracero program from 20 or 30 years ago. We can relive the problems, if my colleagues want to, in a kind of a nostalgic way and talk about Wilga, and talk about workers rights, but, come on. This is 1996.

Let us take a look at what is the Pombo amendment actually requires.

No. 1, we got to give preference to U.S. workers. Now, unemployment figures have been cited in various counties. Let me tell my colleagues unemployment figures and willing workers are two different things. Sometimes they are night and day. But if people are willing to work, they have got a job. We do not go without jobs. Our problem is we have difficulty sometimes finding willing workers, especially in peak harvest periods when, for example, in a 7-day period in Fresno County more than 50,000 people are needed to pull those what were grapes, now sun-dried into raisins, down onto the ground, put them on clean paper, and in a very short period of time prepare that product for market. I say to my colleagues, you need labor when you need it in the agricultural arena.

Starvation wages? The Pombo amendment says,

> You have to pay at least the prevailing wage in the occupation area, at least the prevailing wage, and you have to pay it the same to the U.S. worker and the alien. You have to provide comparable transportation, U.S. worker and alien. You have got to cover all of the alien workers, as you do U.S. workers, with Workmen's Comp, comparable insurance. You have to go through a whole series of procedures. You have got to guarantee these aliens don't replace striking workers. You have got a procedure here that says these workers will receive every opportunity that workers who otherwise would be working will receive with one additional factor, they can only be here 10 months, a portion of their wages are withheld, that portion that's withheld is paid interest, and that pot of money, which is the reason these people came here in the first place, that pot of money is available to them if they go home on time. If they don't go home on time, they lose the pot of money

I heard a figure in which 12 percent of these individuals move away from those jobs. Guess what percent of the workers who run across the border and risk their lives in freeway traffic, what percent of those folks go home when the job is up? The answer is zero, 100 percent of those people do not.

Without a responsible program to allow people who want to work to come in to work when the work is needed we are going to have more illegals. The Pombo amendment is a creative, positive 1996 respective amendment, and I ask for its adoption.

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

Mr. Chairman, before I yield I might just point out that in Kern County, the base county of the gentleman from California who just spoke, I wonder what the 13.6 percent unemployed people in that county will say about this effort to go.

Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. BARRETT].

Mr. BARRETT of Wisconsin. Mr. Chairman, this is a powerfully bad program that should not be enacted. I find it ironic that we are hearing for the last 2 days how terrible it is that we have all these people coming into our country, we do not want these people in our country, we do not want these people who cannot pass an English test to come to our country. But we do want them if they will be cheap labor, we do want them if it is going to be easy for us to send them home like they are widgets at the end of a period of time.

Mr. Chairman, that is not how this country should act. That is not how this country should operate.

Let us look at the people who are going to be coming to work in this program. These are people who are coming here for a better life. They would not be coming here if they were not doing better economically, and the proponents of this program are saying at the end of this time they are just going to go home. Well, Mr. Chairman, I do not think they are just going to go home because they came here to have a better life, and then we are going to have more problems with more people in prison, we are going to have more problems with more people on welfare because they are still going to have a better life, even if they are living in the underground in the United States, many times, than in their old communities.

Now people say that we need this. I find it ironic that the proponents of this program who are pushing so hard do not want to rely on the time-tested notion of using the free market. This is a capitalistic society. If there is a shortage of workers, and we hear people talking about unemployment rates of 13 percent, 9 percent, I will tell my colleagues how we can get more workers: Pay them more. Pay them more money, and they will come. That is how we have done it for hundreds of years.

Let us continue to do it, Mr. Chairman, Let us not have this program. Let us defeat this program and help American workers.

Mr. CONDIT. Mr. Chairman, I yield the balance of my time to the gentleman from Florida [Mr. DEUTSCH].

The CHAIRMAN. The gentleman from Florida is recognized for 30 seconds.

Mr. DEUTSCH. Mr. Chairman, I rise today to speak in favor of this amendment. I represent a district that provides most of the tropical foliage for the United States. Without passage of the Pombo-Chambliss amendment, the immigration bill will severely hurt U.S. agricultural producers in south Florida. This bill will make it tougher to hire workers during peak harvesting periods.

Some of my colleagues will argue that this amendment hurts American workers by allowing employers to hire illegal immigrants. This is simply not true. In fact, the Pombo-Chambliss amendment requires an employer to give preference to U.S. workers for a minimum of 25 days before the position can be offered to an immigrant. Moreover, no aliens can be employed at a position which is open due to strikes or labor disputes.

Let us be clear. This amendment helps the American economy. And it does not sacrifice our desire to stem the tide of illegal immigrants. It allows agricultural producers to hire guest workers only when there is a temporary shortage of American workers. It requires employers to withhold 25 percent of the guest workers pay until they return home. Finally, those immigrants that violate this program can be deported and prevented from participating with this program in the future. This amendment does not weaken the immigration bill. Rather, it enhances the effectiveness of this bill and helps the American economy.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FARR], a member of the Committee on Agriculture.

Mr. FARR of California. Mr. Chairman, I rise in opposition to this amendment. I represent a lot of agriculture, 2.4 billion dollars' worth of agriculture, and what we do in agriculture is we honor labor, and this Congress honors labor. We are always talking about productivity and how great American workers are. We have done that with the autoworker industry and the aerospace industry, and we ought to be doing it more with farm labor supply. We have got 18-percent unemployment in most rural counties in America.

This is not an issue about labor shortage. This is an issue about wages. If my colleagues think people will not go out and do hard work, just look at all the people that flee to Alaska when they can catch salmon and have to work all day and night to do it because the wages they get out of that process is very high.

I urge my colleagues to really honor American labor. Honor farm productivity by not allowing 250,000 foreigners to come in and say to this country, ''You can't do your own work.'' We produce quality agriculture in America, we can do it with our own labor. We do not need a foreign supply. Vote ''no'' on the Pombo amendment.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, am I to understand that there is no time left in opposition to the Condit amendment?

The CHAIRMAN. The gentleman is correct.

There is no time left on the Condit amendment only.

Mr. BERMAN. That is the Condit amendment which amends, but does not improve, the Pombo amendment?

The CHAIRMAN. It is the amendment that amends the Pombo amendment.

The question is on the amendment offered by the gentleman from California [Mr. CONDIT] to the amendment offered by the gentleman from California [Mr. POMBO].

The amendment to the amendment was agreed to.

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Mr. POMBO. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. GALLEGLY].

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

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

Mr. Chairman, I just want to say today that I do support the Pombo amendment, because we have a problem today in agriculture. We have a problem with illegal immigrants working in our agriculture. The most conservative estimates are 50 to 60 percent of those working in our fields today across this Nation are in this country illegally. That was confirmed by the Jordan Commission. Most of them have their families, one, two, three, four members here, most of which are living on public subsidies.

Mr. Chairman, we are here today and we have been here for the past 3 days debating legislation that will significantly reduce the number of illegal immigrants in this country. All this amendment says is that if we can prove that there is a need for temporary guest labor to keep the crops from rotting in the fields, then we will allow a limited number of workers into this country to prevent that from happening, based on the following provisions: One, it must be proven that there is no domestic labor available to fill these jobs. Also, the employer must assume all financial responsibility for any and all benefits that would be a burden to the taxpayer. Further, temporary workers could not bring family workers along with them. Further, the program must provide a strong, positive verification provision through the use of biometric data, and it must include strong financial incentives for the workers to return to their homeland after the job is done, in the form of withheld wages.

Mr. Chairman, these are the elements that the Pombo amendment provides for. We know the existing H–2A program is unworkable. If it were not, we probably would not be here today. We can do better. We must do better. The Pombo amendment provides for that. I urge my colleagues to support this amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, this amendment will have a devastating impact on immigration policy. It will lead to increased illegal immigration. It would lawfully admit a quarter of a million individuals who otherwise would be called illegal aliens. If Congress is serious about reducing illegal immigration, we will reject this amendment.

The legitimate and understandable needs of American fruit and vegetable growers will be met by the Goodlatte amendment, which we will consider in just a few minutes. This amendment would worsen our illegal immigration crisis by letting in 250,000 unskilled guest workers in the first year alone. Guest workers are not going to leave when their work ends. This is a lesson to be learned from guest worker programs around the world. The lure of American jobs at significantly higher pay than in the homelands is just too great.

There will be no labor shortage in the future. Some growers are concerned that the employment eligibility quick-check system in this bill will reveal their farm workers to be illegal aliens, but we have made the verification system voluntary. If growers do not want to use it, they do not have to use it. Under a voluntary system, any rationale for a new guest worker program simply vanishes.

Even if part of the seasonal agricultural labor force that is presently illegal were to disappear, there would still be no shortage. The bill contains a backlog reduction program that will add substantial numbers of new permanent residents who are likely to go into agricultural work. The program will provide approximately 500,000 visas for spouses and children of permanent residents, to eliminate the current 1 million-plus backlog.

Supporters of the amendment seem to forget that we already have an agricultural guest worker program. It is called the H–2A program. I know that growers have had concern about the workability of the program, but the Goodlatte amendment will address every concern the growers raised at hearings we have had on the H–2A program. The current guest worker program does not provide a grower with foreign guest workers unless he or she has shown that there are no available American workers.

The amendment that we are considering requires no recruitment on the part of the growers. One of the most fundamental principles of immigration law is that foreign workers should not displace qualified American workers. That would be violated by this amendment. The current guest worker program should be improved. We know that. That is exactly what the Goodlatte amendment will do in just a few minutes.

Mr. Chairman, I urge my colleagues to defeat Pombo and support the Goodlatte amendment. It does meet the legitimate needs of growers without striking at the heart of our efforts to reduce illegal immigration. Vote ''no'' on the Pombo amendment and ''yes'' on the Goodlatte amendment.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from California [Mr. BECERRA], from the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

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

Mr. Chairman, we are in a situation where we just finished a day and a half worth of debate, where we were talking about eliminating about 300,000 visas for U.S. citizens to be able to bring in their family members, their parents, their children, their brothers, their sisters. Now we are dealing with an amendment that says, ''Let us bring in 250,000 imported foreign workers to do work in our fields.''

Mr. Chairman, probably the worst part about this amendment is the following: In 1992, the rural unemployment rate in the United States was 11 percent. It was even higher for young people working in rural areas. It was close to 19 percent. A substantial number of those that are employed in rural areas, about 40 percent, earned wages below the poverty threshold for a family of four. Real wages for rural workers have declined between 1979 and 1992 by over $1 an hour.

The rural unemployment rate is even more pronounced in those areas and in those counties with high concentrations of migrant and seasonal agricultural workers, the same kind of people that we want to import from other countries. Even during the peak months of agricultural labor demand, we still see very high rates of unemployment.

During July 1995, which is a very high, peak time of year for agricultural work, in California, in 19 of the biggest counties of California dealing with agriculture, 17 of those 19 counties had double-digit unemployment rates. Only two of those counties did not have unemployment rates in the rural areas below 10 percent. One county had an unemployment rate exceeding 32 percent. Yet, most of these folks that we are talking about importing in to do agricultural work would go into those areas of California with these high rates of unemployment.

Mr. Chairman, one other very disturbing aspect of the Pombo amendment. It would dispense with any requirement that the Government verify that growers are in fact experiencing labor shortages, and that the growers have made a good-faith effort to recruit domestic American workers. This amendment would simply ask that growers self-attest that they made efforts to recruit locally, without any independent verification. This amendment should be defeated.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. CRAPO].

Mr. CRAPO. Mr. Chairman, I stand in strong support of the Pombo amendment. The main arguments against this amendment are that supposedly there are a lot of workers in America who will be displaced by guest workers, and that they will be displaced by the intent of providing lower wages.

The fact, again, is that the Pombo amendment requires that American workers get first crack at the job. It requires that they must get that crack without having to compete against guest workers. Employers must list job opportunities with the job service and give qualified U.S. workers the first preference for the first 25 days. There is no incentive to use guest workers if there are U.S. workers available.

What about the issue of wages? The fact is that farm work is one of the highest paying low-skill, entry-level occupations in the United States. The average hourly wage for field and livestock workers in 1995 was $6.12 per hour, almost $2 above the minimum wage. The average for piece rate workers was $7.30 per hour. The fact is that since the Immigration Reform and Control Act was passed in 1986, farm wages have outperformed nonfarm wages 35 to 27 percent. Mr. Chairman, this is a good amendment, and it will help.

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

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

Mr. LOBIONDO. Mr. Chairman, I rise in strong support of the Pombo amendment to create a 3-year agriculture guestworker program.

Mr. Chairman, by all accounts the current guestworker program needs to be reformed because it is not working for farmers or for guestworkers. And it is clear that this immigration bill will reduce the number of foreign workers available to farmers. As the Agriculture Committee Report on the Pombo amendment states, ''Without an adequate guestworker program, illegal immigrants fill the void. The Department of Labor estimates that 25 percent of the 1.6 million agricultural workers are illegal aliens.''

Let me repeat: Without an adequate guestworker program, illegal immigrants fill the void.

The new H–2B program created by the Pombo amendment will fix the problems with the current program and help eliminate the use of illegal aliens in agriculture. And by requiring growers to hire U.S. citizens if they are available, this program will not displace American jobs.

Some opponents have characterized this amendment as nothing but a benefit to agri-business. This is simply not the case. I represent numerous family growers with small farms in southern New Jersey. These growers depend on short-term labor, but the present program is difficult and cumbersome to use. The small, family growers in southern New Jersey and around the country need a new guestworker program.

Mr. Chairman, let's not pretend we are cracking down on illegal immigration by opposing the Pombo amendment. This amendment will help to reduce the number of illegal farm workers by creating a workable program for Americas farmers.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. COOLEY].

Mr. COOLEY. Mr. Chairman, I rise today in support of the Pombo amendment, and against the Goodlatte amendment.

For those Members who see the Goodlatte amendment as a compromise on the guest worker program, don't be fooled.

The Goodlatte amendment is another Band-Aid fix to the H–2A program—and fails to provide growers with a workable system for hiring temporary workers.

The current H–2A program is a program only a bureaucrat could love.

Like most government-run programs, it's too complex—time-consuming—and inflexible for the real world.

Our produce industry in eastern and southern Oregon will be devastated if they don't have the ability to hire farm workers in a timely manner.

As we begin to crack down on immigration, our growers need a program that will strike a balance between their needs—and those who fear that a guest worker program will lead to more illegal immigration.

The Pombo amendment strikes that balance.

I urge my colleagues to support the Pombo amendment, and oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentlewoman from Idaho [Mrs. CHENOWETH].

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

Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment. This amendment is vital to the success of immigration reform.

Without this amendment immigration reform could have the unintended consequence of causing a widespread labor shortage for American agriculture.

That in turn could cause the industry to lose valuable markets to foreign competition and could cause hardships to millions of American consumers by raising the cost of the food they buy.

The Pombo-Chambliss amendment creates a new H–2B guest worker program that is farmer friendly, while respecting our need to control immigration.

Simply put, it would allow workers to enter our country on a temporary basis and return to their country when their term of employment is over.

The provision cuts paperwork and administrative costs dramatically.

Mr. Chairman, my State of Idaho is representative of much of the Nation on this issue.

Even though Idaho is a Northwestern State, guest workers provide an essential source of labor for our agricultural industry.

The president of the Idaho Farm Bureau Federation wrote me an impassioned plea for this amendment, Mr. Chairman.

He argues that without the Pombo-Chambliss amendment, the Farm Bureau cannot support H.R. 2202.

This amendment is also strongly supported by such agriculture groups as the Western Range Association, the Idaho Cattlemen's Association, and the Idaho-Oregon Fruit and Vegetable Association.

The Pombo-Chambliss amendment is essential to making H.R. 2202 good law. I urge a yea vote.

Mr. Chairman, I include for the RECORD the letter from the Idaho Farm Bureau Federation.

The letter referred to is as follows:

IDAHO FARM BUREAU FEDERATION,
Boise, Idaho, March 15, 1996.

Re Pombo amendment—nonimmigrant H2–B category for temporary agricultural workers.

Hon. HELEN CHENOWETH,
House of Representatives,
Washington, DC.

DEAR CONGRESSWOMAN CHENOWETH: Thank you for your letter of March 6 and the opportunity to respond to Congressman Pombo's amendment to H.R. 2202.

H.R. 2202 does three things that could adversely effect the number of agricultural workers in this country. This legislation will significantly increase interior enforcement seeking to find illegal aliens at their places of employment, increase border interdiction, and impose some sort of employment eligibility verification.

It is imperative that a temporary alien worker program be included in H.R. 2202. This can be accomplished with the adoption of the Pombo amendment. The temporary alien worker program, coupled with the verification process already outlined in H.R. 2002 will help assure agricultural employers that they and their employees are complying with the law. The three year pilot program established by Rep. Pombo's amendment will help meet the administrative and labor supply needs of the agricultural industry.

The Idaho Farm Bureau Federation can support H.R. 2202 with the inclusion of the Pombo amendment. It is of utmost importance that the Pombo amendment be included in original form, without amendment. Without the Pombo amendment, the Idaho Farm Bureau Federation will oppose H.R. 2202 or any immigration reform legislation that does not consider the needs of our industry.

Thank you very much for your time and consideration in this matter.

Sincerely,

V. THOMAS GEARY,
President.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Speaker, I could not disagree more with my respected colleague, the gentleman from Texas [Mr. SMITH]. I joined with my colleague in cosponsoring his bill, but we badly need the Pombo amendment. I will tell the Members why. We will never have an effective program to contain illegal immigration without having an effective, reasonable, and legitimate program for temporary guest workers in this country. I quote from statistics prepared for none other than Senator EDWARD M. KENNEDY in 1980, a report at his request when he chaired the Senate Committee on the Judiciary. This report reads the following: ''Illegal immigration was brought to a halt in the mid-1950's by a greatly increased law enforcement effort on the part of the U.S. Government, combined with a subsequent expansion of the bracero program as a substitute legal means of entry.''

□ 1715

Without question the Bracero program was also instrumental in ending the illegal alien problem of the mid 1940's and 1950's. It should be noted that throughout its duration, and particularly during the 1950s, one of the major arguments used in support of the Bracero program was that it offered an alternative and therefore at least a partial solution to the illegal alien problem. The other part of the solution was effective law enforcement, which this Smith bill does do. Here is the graph. Here it shows what happened. We went from over 1 million apprehensions of illegals in 1954 to where it was brought down in 1959 to just over 45,000.

Mr. Chairman, history shows this program works. We need to incorporate this into the Smith bill to give us the maximum protection against illegal immigration. Today the Labor Department's own statistics say that 25 percent of the seasonal agricultural workers self-identify as illegals. The INS will tell you that indeed it is much higher. Support the Pombo amendment. Oppose the Goodlatte amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I rise today in support of the Pombo-Chambliss amendment.

One of the promises I made to the farmers in Kentucky's second district was to help relieve the regulatory burden the Federal Government has placed on them.

Mr. Chairman, this amendment will cut paperwork, save farmers money and better control illegal immigration.

Our farmers must be able to obtain the needed and legal work force to competitively compete in the growing world market, so they can continue to provide the safe and abundant supply of food and other agricultural products Americans have come to expect.

I challenge anyone here to tell a Kentucky farmer there are enough domestic workers. Again and again farmers tell me that one of the biggest problems they face is a willing and qualified work force. These jobs are mostly seasonal, temporary, and there simply are not enough domestic workers to do the hard work for short periods that are still a big part of agriculture production needs.

It is important to note this amendment requires employers to give preference to U.S. workers who apply for

these jobs, ensuring that domestic workers are not displaced.

I urge my colleagues to vote ''yes'' on the Pombo-Chambliss amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I want to respond briefly to my good friend from California [Mr. DOOLITTLE] and the comments he made a while ago. Actually the chart that he showed shows the exact opposite, if I may say so.

At the beginning of the Bracero program we had an increase in the number of illegal aliens coming into the country. The decrease that was caused was not by the Bracero program. It was by President Eisenhower instituting what was then called Operation Wetback that effectively sealed the border. It had nothing to do with the Bracero program. The reduction in illegal aliens was because of the President's policy at that time. The Bracero program at the beginning of it actually increased the number of illegal aliens coming in, because more people were encouraged to come and try to get into the country.

Mr. GOODLATTE. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman for yielding me the time.

Mr. Chairman, I rise in reluctant opposition to the amendment of my good friend from California [Mr. POMBO] to create a new guest worker program. At a time when our focus is on reducing immigration levels, the Pombo amendment attempts to allow an additional 250,000 nonskilled temporary workers to help the agricultural industry because they feel there will not be a sufficient work force once this legislation becomes law.

We know that there is currently a surplus of agricultural workers in this country. We know that half of the illegal aliens currently working in this country remain here past their visa time. We know that the work force has helped to drive down the wages to agricultural workers to the point where most low-skilled U.S. citizens simply cannot afford to take these jobs.

Knowing this, do we fix these problems by creating another program out of fear of what could happen? Or do we reform our current H–2A program to create a compromise solution while continuing to address a problem that actually has happened?

The problem is that our immigration system is broken. Our agricultural workers' wages are down because the system is broken. The last thing we should do now is bring in more temporary agricultural workers who will not want to leave.

We do not want to create more problems for farmers with the INS. I think the Pombo amendment will do that. We do not want to create more problems for our farmers with legal aid. We do not want more conflict with the local job market.

Local people in your community will not be hired if there is a flood of foreign workers who wages may sound high, but far too often the foreman, the person in charge of bringing in these workers, often takes much of that money away from the workers.

I urge a ''no'' vote on the Pombo amendment and an ''aye'' vote on the Goodlatte amendment.

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

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

Mr. DOOLEY. Mr. Chairman, I rise in support of the Pombo amendment.

Mr. Chairman, I rise today to express my support for the Pombo-Chambliss amendment to H.R. 2202. As a representative from one of the leading agricultural production regions in the United States, I am concerned with the potential impact of H.R. 2202 on the agricultural labor force.

Measures in H.R. 2202 to control illegal immigration through effective border and interior enforcement and improving the employment verification system could significantly reduce the work force currently entering the United States illegally and working with false documentation, I support those efforts.

At the same time, we must recognize that the agricultural industry in the United States has historically been faced with a need to supplement the domestic work force, especially during peak harvesting periods. Agricultural employers estimate that between 50 and 70 percent of the seasonal work force find employment using fraudulent employment eligibility documents. if provisions included in H.R. 2202 are enacted, agricultural growers could be facing a severe shortage of skilled seasonal workers during peak employment periods.

History has shown that the current H–2A program has been a regulatory and bureaucratic nightmare, rendering the program unusable for the vast majority of agricultural employers. Thus agriculture has no reliable means for ensuring an adequate supply of temporary and seasonal workers if the border and interior enforcement measures included in this legislation are really effective in controlling the entry of undocumented workers.

An adequate supply of skilled seasonal labor is necessary to maintain the competitiveness of U.S. labor intensive agriculture, and to maintain the jobs and livelihood of hundreds of thousands of farmers, U.S. farm workers, and workers in related industries. I urge you to support the Pombo-Chambliss amendment.

Mr. BERMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

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

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

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, I think it is time to talk about illegal immigration when we talk about the Pombo amendment. We have talked a lot about that in these last few days. Now we are talking about bringing in a quarter of a million agricultural workers a year, and we are saying that that will do nothing to increase illegal immigration. That is a ludicrous idea.

As someone who worked in the immigration field for many, many years, I have been thinking as I have heard the rhetoric today, who are these people? Not the farmers, but who are the people that will leave their families behind for months at a time, come to America, work very hard in hot fields, picking crops for very modest wages? Who are these people?

These are people who are desperate for a better way of life and they do not plan to go home. They will send their money back to their families so their families will have something to live on. I do not have anything against these people. I admire their courage. But I also know they will not go home.

The 25 percent of the wages that would be withheld from these individuals is probably less than what they would pay to a coyote to come across the border today. So to think that we are somehow going to be remedying the problem of illegal immigration by bringing in a quarter of a million desperate agricultural workers a year is absolutely ludicrous.

Those who would say with a straight face that we are doing something about illegal immigration in a bill that contains the Pombo amendment should have red faces indeed. I urge everyone to oppose the amendment.

Mr. POMBO. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in support of this amendment which will ensure a steady supply of labor for one of the most important sectors of our economy.

The issue before us today is quite simple: The illegal immigration provisions in the underlying bill could create a shortage of labor in the agricultural sector of our economy. This must not be allowed to happen and the gentleman from California's amendment is, in my view, a reasonable attempt to ensure the continued survival of labor-intensive agriculture.

Mr. Chairman, a series of joint hearings held late last year made it clear that agriculture had legitimate concerns which had not yet been addressed. In responding to these concerns, this amendment installs a workable mechanism for importing needed labor. It caps the number of program participants, and permits the entry of legal temporary farm workers only when American workers cannot be found. Producers are required to pay a decent wage and ensure humane treatment and living conditions for their workers.

The House must understand, Mr. Chairman, that the competitiveness of

U.S. agriculture—especially the fruit and vegetable industry—depends on a reliable labor supply. It is also important to note the thousands of U.S. jobs that depend on the continued success of these industries. We should accept the amendment offered by the gentleman from California and provide agriculture the labor it needs to survive.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself 15 seconds to respond to the last speaker.

The Center for Immigration Studies just released a study by Wallace Huffman, professor of economics and agricultural economics at Iowa State University, finding that the complete elimination of the supply of illegal labor, and we know we are not going to accomplish that with any of the legislation we have here, but the complete elimination would only result in a 1 percent increase in U.S. imports of fruits and vegetables.

Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. PASTOR].

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

Mr. Chairman, a lot has been said about this amendment, how we are going to deter illegal immigration. But the motive, Mr. Chairman, is greed. That is the motive, greed. Right now with undocumented people, we are keeping the wages on the fields low. Once they are gone, we want to bring in guest workers to keep the wages low. It is greed, Mr. Chairman.

Today we hear how these guest workers will be treated, housing, decent wages. Mr. Chairman, in practical terms, the industry is going to get around it by hiring labor contractors who will not give the guest workers the time of day. They will abuse them, they will use them and send them back.

Mr. Chairman, it is a bad amendment and I would ask for a ''no'' vote.

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

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. COLLINS].

Mr. COLLINS of Georgia. Mr. Chairman, I rise in support of the Pombo-Chambliss temporary guest worker amendment. First, I want to thank my colleague from California and my neighboring colleague from Georgia for addressing this issue.

Currently there is a shortage of farm labor in many parts of this country. This is definitely the case in my home State of Georgia. A major reason for this shortage is clear. The U.S. Government's welfare system has lowered the work ethic in many areas of the labor market and has almost ruined the farm labor. As a result of this shortage, farmers are forced to import laborers from other countries.

Until we break the cycle of dependency on the Federal Government, their will continue to be a great need for seasonal agricultural labor. American farmers should not be forced to bear the burden of misguided social programs. In fact, Mr. Chairman, farmers tell me it is difficult for their paycheck to compete with that of the welfare check.

This guest worker amendment offers a viable remedy. It establishes a process through which farmers can acquire legal immigrant labor when no domestic workers are available. Bear in mind that under this amendment, farmers must still look to the domestic market labor first.

This amendment will provide a means to track and ensure the return of imported laborers, something the existing program does not do. Additionally, the number of immigrants brought in is based on need, which will vary from year to year.

Further, the amendment extends work visas for a maximum of only 10 months and the program bans aliens who overstay from future participation. As an additional incentive, 25 percent of the laborer's paycheck is withheld until they return home.

On another point, Mr. Chairman, the recent farm bill removes many restrictions on how much farmers will be able to plant. As a result, farm production will dramatically increase over the next few years, creating a greater need for farm labor than ever before.

I urge my colleagues to support the Pombo-Chambliss amendment. It will help the farmers throughout this country obtain labor because they do not have the labor force today to draw from.

Mr. POMBO. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. KINGSTON].

□ 1735

Mr. KINGSTON. Mr. Chairman, I thank the gentleman from California for yielding me time.

Mr. Chairman, I support the Pombo-Chambliss amendment, but, you know, it is not my first choice and it is not the first choice of the farmers in Georgia. The first choice of the farmers in Georgia are American workers, and the Pombo-Chambliss amendment will not change that a bit. American workers will still get the first crack at these jobs.

But, sadly, if you ate fresh fruit or vegetables today at lunchtime, whether you were in New York, Washington, DC, New Jersey, or Georgia, those vegetables probably were picked not by a migrant worker, but probably by an illegal alien. The Pombo-Chambliss amendment responsibly addresses this problem by allowing guest workers to come over here, but, unlike the current broken system, it withholds some of their pay, so that when they return home, then they get the rest of it.

This is a responsible choice, but, again, it is a second choice. The first choice of the American farmers is the same choice as the American people, and that is welfare reform.

In Glennville, GA, a small town in the First District that I represent, an onion farmer told me recently that he pays $9 an hour for people to pick Vidalia onions, but he cannot get Americans to do the work because they make too much money enjoying the public largesse that we call welfare reform.

We have a President who was elected, among other reasons, because he promised to end welfare as we know it. Well, so far he has not submitted a welfare reform bill, and he has vetoed the only one that came across his desk.

I believe that the choice of the American farmers is still going to be American workers. Then they want welfare reform. But in the absence of that, support the Pombo-Chambliss amendment, because it is our only chance to assure an abundant food supply and having it picked today and on your plate fresh tonight at dinner time.

Mr. BERMAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, I simply would point out that in San Joaquin County, the home county of my friend from California, the author of the amendment, unemployment is 12.2 percent. In the counties of the gentleman from Georgia [Mr. KINGSTON], who just spoke, rural unemployment is 19.3 percent, 11.9 percent, 10.4 percent, and 10.3 percent.

Mr. Chairman, I yield one minute 45 seconds to the gentleman from California [Mr. MILLER].

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, this amendment must be rejected because it simply is ludicrous on its face.

The American public watching this debate must wonder if we have lost our minds. We spend a day-and-a-half trying to decrease illegal immigration into the country. We have spent months trying to reform the welfare system. The entire country is worried by wage anxiety and their jobs.

Now we have an amendment on the floor that allows you to drive down wages of American workers, allows you not to employ American workers who are desperately looking for jobs, and undermines the idea of taking able-bodied Americans and putting them to work and taking them off of welfare. That is what this Pombo amendment does.

For the employer, they self-certify. They say, ''I cannot find anybody; bring my workers from Mexico or some other country.'' We know in a highly regulated program that those people overstay their visa six times what tourist or education visas overstay.

We are asking for illegal immigrants. The notion that somehow you are going to say to people, ''Well, just go home,'' we have people now who risk their life, pay thousands of dollars to come here, with no job. Now we bring them here with a job for 10 months, we

pay them, and we say, ''By the way, would you mind going home?''

Have you lost your mind? Have you simply lost your mind with respect to what is a concern of the American public? Are you so deep into the agribusiness corporations of this country that you cannot see what bothers Americans when they see unemployment rates of 19 percent? Our Central Valley runs double digit unemployment rates around the year, and you want to bring in people to take away their jobs?

We have people in the gentleman's district and Mr. DOOLEY's district and my district and Mr. CONDIT's district sitting on the streets looking for work. Your answer is to say open the borders, to say, ''Come here, we will pay your way, and we will hope you go home?''

''We hope you go home?'' No, this is unacceptable.

Mr. POMBO. Mr. Chairman, I yield myself one minute to respond to my colleague from California.

Mr. Chairman, it is very interesting that the gentleman is so concerned about the unemployment in my districts, after he stole all the water from my farmers. It is very interesting that all of a sudden he is interested in the unemployment in my district, when he tries to shut down my farms through the Endangered Species Act or Clean Water Act. All of a sudden he is interested in the unemployment in my district.

I am sure that the gentleman misspoke when he said that we were going to hope that they go home. They are required to go home. And if he wants to know what the American people are really angry about, I think it is partly what has gone on on this floor today.

We have got half these guys down here who want to give them welfare, who want to give them anything that they want, but if they want to come in and work, oh, we do not want that. We do not want anybody to come in and work. But if they want welfare, if they want free education, if they want free medical care, all of that, hey, that is all right. That is fine. But if they want to work, oh, no, no, no, this program is crazy.

Now, we are talking about good, decent people who want a job and want to come in and work, and there is nothing wrong with that.

Mr. BERMAN. Mr. Chairman, I yield 45 seconds to my friend, the gentleman from Mississippi [Mr. TAYLOR].

Mr. TAYLOR of Mississippi. Mr. Chairman, I thought the whole purpose of this bill was to cut down people coming into this country. I voted against NAFTA because I did not want to send American jobs to Mexico. Unfortunately, the majority voted to send American jobs to Mexico. But the only thing worse than NAFTA is bringing in a bunch of Mexicans to take American jobs.

Now, that is what this is all about. If you are for your folks, vote against it. If you are for those folks, vote for the Pombo amendment.

Mr. POMBO. Mr. Chairman, I yield 4 minutes to the coauthor of this amendment, the gentleman from Georgia [Mr. CHAMBLISS].

Mr. CHAMBLISS. Mr. Chairman, I rise today and urge my colleagues to support the Pombo-Chambliss amendment, which establishes a pilot program for temporary agricultural workers in this country. This amendment would allow farmers all over the country to harvest their crops using a workable program.

The farm labor shortage is not a California problem, it is not a Georgia problem, it is a nationwide problem. In the Southeast alone we have seen increased production of fruits and vegetables in the last 10 years. This has greatly impacted the farm labor situation in my State. These seasonal crops are handpicked crops: Peaches, tomatoes, other vegetables, tobacco.

In the past, the farm labor consisted of generations of family members living on the farm and working on the farm. Those family farms are disappearing. Therefore, the labor pools are disappearing. Farmers desperately need workers who are willing to work seasonally. But to use this program, this legislation requires that the farmer first look to the American people for those workers. If they can find American workers to do the work, they must hire Americans. But, unfortunately, that is not the case. They are simply not able to find those workers.

This amendment solves other problems, too. No. 1, it is temporary. They can work for no more than 10 months at a time. Second, it circumvents a crop disaster by allowing farmers to plant and harvest their crops in a timely manner. Third, and most importantly, it requires that the guest workers that are allowed in legally, that are now coming in illegally, to return home in order to get the 25 percent of their paycheck that is withheld. We do this with the understanding that those workers must go home.

Why is this amendment needed? The reason is very simple: The current system simply does not work, and that is why we need a new system put in place that will allow our farmers a strong supply of workers to harvest their crops.

Now, the gentleman from California [Mr. THOMAS] hit this on the head a little bit earlier. Folks, this is 1996. We have talked about old programs that do not work anymore or old programs that cause problems. This is 1996. If those folks who have gotten up here and have read these figures that some bureaucrat in Washington put together, and I am sure I am fixing to hear in my home county there is an unemployment in the rural areas of *x* percent, let me tell you, if those same folks that believe those figures will go home and talk to their farmers, like I do every weekend when I go to Colquitt County or Bacon County or Berrien County or Bleckley County, those farmers are the ones that I care about and they are the ones that tell me I cannot get my crops harvested without using these workers.

Now, if as the opponents of this bill suggest, that there is a large pool of workers out there to draw from, then the provisions of this bill will not take effect, and I do not understand why they oppose it on that basis. If there are American workers that want to go to work, the farmers must put them to work. But first of all, in my State the Georgia Department of Labor must certify that there is a shortage of workers in the rural areas where the application for the provisions of this bill are asked to take effect.

If there is a shortage declared, only then may this bill come into effect. And even then there must be a notice posted that this bill, there are workers coming in to perform this certain agricultural work. If there are farmers that come in and say hey, I see where in the case that the gentleman from Georgia [Mr. KINGSTON] referred to, that the farmer is willing to pay me $9 an hour to pick onions, that job must go to an American worker. But I can tell you, folks, you are sticking your head in the sand if you think that American workers are out there to do the work.

Please pass this bill. It is a good bill. It is going to make this program workable.

Mr. BERMAN. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 1 minute and 45 seconds.

Mr. BERMAN. Mr. Chairman, the arguments we just heard in this Chamber are the same arguments that were given to justify slavery before the Civil War. If we could find American, or in that case, free people, to do the work, we would not need to rely on slaves.

Let me tell you, this is the most audacious amendment I could imagine on this bill, because this is an amendment that in the name and in the context of trying to do something meaningful about illegal immigration, creates a program which is going to result in the most massive entry of guest workers who every economist in agriculture will tell you are one-way immigrants. The overstay rate, even in the highly, tightly regulated H–2A program is six times as high, six times as high, as the overstay rate for tourists, students or people here on other nonimmigrant visas.

You are opening up a blatant, massive loophole in a serious effort to try and do something about illegal immigration. And what for? Rather than figuring out the ways to the reform of the welfare system, through the utilization of the 1.1 million agricultural workers legalized in 1987, through the recruitment, the training, the effort, private and public, to help agriculture get more U.S. workers doing this particular work.

The unemployment rates in these counties are astoundingly high. There

is a massive surplus. The Department of Labor says at any given time, 190,000 agricultural workers are unemployed, 12 percent unemployment rates at the peak season in agriculture.

Please defeat the Pombo amendment. Do not undermine this bill like that. Do not destroy American jobs like that.

Mr. POMBO. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from California is recognized for 2 minutes.

Mr. POMBO. Mr. Chairman, I would just like to conclude by saying that this program that we are trying to adopt is needed. There is a shortage of legal labor in America today. But if my colleague is correct and there is no shortage of labor, then this program will never be used, because they would have to certify that there is a labor shortage, that there is no domestic workers who are able and willing to do the work.

□ 1745

They would have to certify that they could not find domestic workers to do the work. They would have to meet all Federal, State, and local labor laws in order to employ people under the guest worker program.

We have heard a lot about illegal immigration. This is not illegal immigration. This is a legal and controlled program. We have heard about the H–2A program. The H–2A program does not work, or else there would not be the need to install this type of a program.

The gentleman from Virginia [Mr. GOODLATTE] is going to bring up an amendment shortly here today to try and change the H–2A program to work, and, quite frankly, his effort fails miserably. It makes it worse than it currently is. It is not an alternative to our amendment. We have heard a lot about the 250,000 figure. That was not my amendment. That was the Goodlatte amendment that the gentleman put on in the Committee on Agriculture.

My effort was to try to develop some type of a formula that would ensure that we not have any more come in under the Guest Worker Program than was absolutely necessary.

In short, in closing, Mr. Chairman, I would just like to say we do have a problem in this country. We have a serious problem with immigration in this country. But what makes people angry, what makes people mad is those people who illegally come into the country or legally come into the country and take advantage of it, who have never provided anything and take advantage of that service.

What this program is saying is that we want to take care of our domestic issues and we want to reward those who work.

Mr. GOODLATTE. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I believe the gentleman from California [Mr. BERMAN] is absolutely correct. This is an audacious amendment to this bill. Just an hour ago, we defeated the legal reforms in this legislation. We took them all out that would have had some modest reduction in legal immigration, and now what do we have? We are going to go the opposite direction and add 250,000 new workers in this country.

The gentleman is correct, the amendment that he offered in the Committee on Agriculture had no limit. I offered an amendment to put the 250,000 cap on it. Before that it had no limit. It could have had half a million new workers, as one of the people from California who testified in the committee indicated would occur. We would have a half a million new workers. We could have a million new workers. This undercuts the rights of the American people and we cannot accept an amendment like this.

We have a program right now, the H–2A program for agricultural workers. It allows no limit. It has 17,000 participants. The gentleman from California [Mr. POMBO] and others have complained that it is not an effective program. I have offered six modifications of that program, so many that I am sure the gentleman from California [Mr. BERMAN] thinks I have offered too many. Yet, the gentleman says my amendment makes it worse. It does not do that. It improves the program considerably.

There has been, unfortunately, material circulated that claims that we add to the burden of farmers with regard to the three-quarter rule. We do not do that. We improve the three-quarter rule to say that, if you bring workers into the country under the current program and they work less time than contracted because of weather conditions or pests, that they do not have to be paid for that portion of the time. My amendment improves the current law and makes it workable.

We do not need an amendment that increases the number of people authorized to work in this country by the enormous amount that this program or before it was modified to even higher amounts. We need to reform immigration, not open it wide open. We have very high unemployment in many, many rural areas in this country. We need to also take into account the fact that with welfare reform we are going to be asking millions of Americans to leave the welfare rolls and to take work.

Mr. Chairman, now is not the time to increase immigration. Now is the time to defeat this amendment.

Mr. HASTINGS of Washington. Mr. Chairman, I rise in strong support of the Pombo-Chambliss amendment to implement an effective guestworker program

Mr. Chairman, my constituents in central Washington State are no different from the great majority of Americans who support immigration reform. But my constituents realize that our biggest industry—agriculture—must be protected.

The fact of the matter is that agriculture is a seasonal business. Pruning, thinning, and harvesting all have their time throughout the year. These activities are labor intensive. And the labor required has historically been migrant labor. To not recognize this basic fact places a huge burden on the largest industry in Washington State.

The Pombo-Chambliss amendment addresses this concern and, at the same time transfers the enforcement burden to the Department of Labor to correct what was a shortcoming of the 1986 Immigration Reform and Control Act.

At the same time, in conjunction with a strengthened Border Patrol, the Pombo amendment would reduce illegal immigration by providing incentives for seasonal workers to comply with our immigration laws.

I strongly support this commonsense proposal, and encourage my colleagues to vote ''yes'' on the Pombo-Chambliss amendment.

Mr. CLAY. Mr. Chairman, I rise to oppose the Pombo-Chambliss amendment.

This amendment seeks to establish a new agricultural guestworker program, not in place of the existing temporary agricultural worker program, but in addition to it.

Recently, the bipartisan commission on immigration reform, chaired by our former colleague, the late Barbara Jordan, studied the issue of introducing a new agricultural guestworker program and reached an unambiguous conclusion.

> The Commission believes that an agricultural guestworker program, sometimes referred to as a revisiting of the ''bracero agreement,'' is not in the national interest and unanimously and strongly agrees that such a program would be a grievous mistake.

The amendment before us would increase illegal immigration, reduce employment opportunities for U.S. citizens, and depress the wages and working conditions of U.S. farmworkers.

The current H–2A program includes preferences for and protections of U.S. workers. This amendment substantially weakens those protections by providing an alternative means of bringing in foreign workers, regardless of whether a true labor shortage exists.

Current law ensures that foreign workers are not brought into the United States for the purpose of undermining the wages and working standards of U.S. agricultural workers. The Pombo-Chambliss amendment would ensure that foreign workers will be brought in for just that purpose.

Current law requires employers to provide housing and transportation to agricultural workers, areas where the documented abuse of migrant workers has been greatest. This amendment effectively wipes out those protections.

It is hard to imagine a more nefarious proposal. I urge its defeat.

Ms. PELOSI. Mr. Chairman, I rise in opposition to the Pombo/Chambliss amendment modifying the agriculture guestworker program to allow more guestworkers to enter the country. It does not make sense that a bill which aims to limit immigration would endorse a program that loosens immigration restrictions.

There is no evidence of a shortage of agricultural workers in the United States. Almost half of the farmworkers in the U.S. currently cannot find work in agriculture. This amendment makes it easier to hire alien temporary workers than under current law, which would make that unemployment problem worse.

This amendment very clearly promotes the unemployment of American agricultural workers and the exploitation of foreign agricultural workers. It will result in denying jobs to U.S. farmworkers, decreasing wages and unsafe working conditions. The amendment provides weaker worker protection than the current H–2A program.

Under this amendment, employers would no longer be responsible for housing for guestworkers. Since affordable farmworker housing, especially in my home State of California, is in short supply, we would be ensuring an increase in homelessness.

The Pombo/Chambliss amendment is not fair to the American farmworker or the foreign worker. I urge my colleagues to vote against this amendment.

Mr. RICHARDSON. Mr. Chairman, this amendment is a big paradox.

The main purpose of the Immigration in the National Interest Act of 1995 is to reduce, specifically, illegal immigration and secure jobs for Americans. Yet, the Pombo/Chambliss amendment does exactly the opposite. It exacerbates the very problems that this bill is trying to correct.

This amendment would modify the current temporary agriculture worker program known as H–2A to make it easier for agricultural companies to bring in hundreds of thousands of new, exploitable workers to harvest the Nation's crops.

This will increase illegal immigration, will increase unemployment of American workers and will exploit guestworkers.

According to immigration experts, past guestworker programs, like the bracero program, led to today's illegal immigration problems since it permitted the so-called braceros to establish networks that allowed them to continue their employment after the termination of their contract.

Furthermore, this amendment does not protect American farmworkers from the stagnation and decline in prevailing wages caused by the presence of foreign workers.

In addition, this amendment does not ensure that American workers are recruited before employers seek foreign help. Instead, it removes the statutory regulation to locate qualified U.S. workers before employers are allowed to hire foreign workers.

The amendment would also hurt foreign farmworkers since it has no requirement for growers to provide transportation, housing, and written contracts to the guestworkers.

In short, there is absolutely no reason to support this amendment which would increase illegal immigration, deny jobs to U.S. farmworkers, degrade working conditions and allow abusive treatment of foreign workers.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from California [Mr. POMBO], as amended.

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 242, not voting 9, as follows:

[Roll No. 85]

AYES—180

Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bevill
Bilirakis
Bishop
Bliley
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Callahan
Calvert
Camp
Campbell
Canady
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Deutsch
Dickey
Dooley
Doolittle
Dreier
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fazio
Fields (TX)
Forbes
Fox
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodling
Gordon
Graham
Greenwood
Gunderson
Gutknecht
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Houghton
Hutchinson
Inglis
Johnson (CT)
Jones
Kelly
Kim
Kingston
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pombo
Pryce
Quillen
Riggs
Roberts
Rose
Salmon
Sanford
Saxton
Schaefer
Seastrand
Shadegg
Shuster
Sisisky
Skelton
Smith (MI)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stump
Tanner
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Walker
Walsh
Watts (OK)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—242

Abercrombie
Ackerman
Allard
Andrews
Archer
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Blute
Boehlert
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burton
Buyer
Cardin
Castle
Chabot
Chapman
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dornan
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Goodlatte
Goss
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefley
Hilliard
Hinchey
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hyde
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Klug
LaFalce
Lantos
Largent
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Minge
Mink
Molinari
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Pomeroy
Porter
Portman
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Stenholm
Stockman
Studds
Stupak
Talent
Tate
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Wamp
Ward
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wynn
Yates
Zimmer

NOT VOTING—9

Clay
Collins (IL)
Hayes
Johnston
Moakley
Radanovich
Stark
Stokes
Waters

□ 1808

Messrs. PARKER, HEFNER, PICKETT, LAZIO of New York, and EWING changed their vote from ''no'' to ''aye.''

So the amendment, as amended, was rejected.

The result of the vote was announced as recorded.

The CHAIRMAN. It is now in order to consider amendment No. 24, printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR. GOODLATTE

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

The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GOODLATTE: After section 810, insert the following new section (and conform the table of contents accordingly):

SEC. 811. CHANGES IN THE H–2A PROGRAM.

(a) PLACING RESPONSIBILITY FOR CERTIFICATION WITHIN THE INS.—Section 218 (8 U.S.C. 1188) is amended—

(1) by striking ''Secretary of Labor'' and ''Secretary'' each place either appears (other than in subsections (b)(2)(A), (c)(4), and (g)(2)) and inserting ''Attorney General''; and

(2) by amending paragraph (3) of subsection (g) to read as follows:

''(3) There are authorized to be appropriated for each fiscal year such sums as may be necessary for the purpose of enabling the Attorney General and the Secretary of Labor to make determinations and certifications under this section and of enabling

the Secretary of Labor to make determinations and certifications under section 212(a)(5)(A)(i).''.

(b) REDUCTION IN TIME REQUIRED FOR POSITIVE RECRUITMENT.—Section 218 (8 U.S.C. 1188) is amended—

(1) in subsection (b)(4), by adding at the end the following: ''The employer shall not be required to engage in positive recruitment for more than 20 days.'', and

(2) in subsection (c)(1), by striking ''60 days'' and inserting ''40 days''.

(c) ELIMINATION OF 50 PERCENT RULE.—Section 218 (8 U.S.C. 1188(c)(3)) is amended by amending subparagraph (B) to read as follows:

''(B) An employer is not required, in order for its labor certification to remain effective, to provide employment to United States workers who apply for employment after the end of the required period of positive recruitment.''.

(d) PERMITTING HOUSING ALLOWANCE.—Section 218(c)(4) (8 U.S.C. 1188(c)(4)) is amended by inserting ''(A)'' after ''.—'' and by adding at the end the following:

''(B) In lieu of offering housing under subparagraph (A), an employer may provide a reasonable housing allowance, but only if housing is reasonably available in the area of employment.''.

(e) MODIFIED ¾ RULE.—Section 218(c)(3) (8 U.S.C. 1188(c)(3)) is amended by adding at the end the following new subparagraph:

''(C) An employer, in order for its labor certification to remain effective, shall guarantee to offer an H–2A worker at least 8 hours of employment in each of at least ¾ of the workdays in which the task (or tasks) for which the H–2A worker was hired to perform are being performed. The employer is not required to guarantee to offer an H–2A worker employment in any portion of the total periods during which the work contract and all extensions thereof are in effect.

(f) CAP.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended)

(1) by striking ''or'' at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

''(B) under section 101(a)(15)(H)(ii)(a) may not exceed 100,000, or''.

(g) EFFECTIVE DATE.—The H–2A amendments made by this section shall apply to applications for certification filed on or after October 1, 1996, and to fiscal years beginning on or after such date.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia [Mr. GOODLATTE] and a Member opposed each will be recognized for 15 minutes.

The Chair recognizes the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Chairman, many of the Members from agricultural areas noted problems with the H–2A agricultural worker program that currently exists.

□ 1815

Mr. Chairman, this amendment is an amendment to the current guest worker program, the H–2A program. My amendment will significantly improve it. I have listened to the concerns of the growers who have come to speak to me and have streamlined the guest worker program that now exists to make it more grower-friendly.

Unlike the changes proposed by the gentleman from California [Mr. POMBO] to the guest worker program, my amendment does not create a new program. It fixes the current one. In addition, it works within the spirit of the bill by fixing the number of aliens allowed into the country at 100,000. Why do we have a 100,000 cap? Because even though only 17,000 workers used this program last year, we are making significant improvements to the program, and want to make sure that we do not have an unreasonable number of people utilizing this program from outside of the country.

In recent years, about 17,000 farm workers have been granted visas each year under the H–2A guest worker program. The Goodlatte amendment provides for an increase to 100,000 workers. This will more than meet any needs of fruit and vegetable growers that are not being met by domestic farm workers.

Many fruit and vegetable growers assert that the big problem with the H–2A program is that the Department of Labor administers in bad faith, intending to make it unworkable and unattractive to growers. My amendment transfers the certification process from the Department of Labor to the Immigration and Naturalization Service. This move will ensure that the fundamentally sound H–2A program is administered fairly.

Growers also complain that it takes too long to get workers under the current H–2A program. They must file applications at least 60 days before the date of employment. My amendment slashes this period by 33 percent and creates a 40-day application period. it will ensure growers the workers they need when they need them.

The Goodlatte H–2A guest worker compromise amendment modifies the three-quarter guarantee to answer the concerns of growers. Under the current H–2A guest worker program, growers must pay guest workers for 75 percent of the agreed work contract period, and under 20 CFR section 655, they must pay an average of at least 8 hours of work a day for that 75 percent period, even if the harvest is cut short by weather or pests. A copy of this three-quarter guarantee regulation is available to those who would like to see it, because there has been a suggestion that we make the three-quarter requirement more onerous. Actually, we make it better.

The Goodlatte amendment requires that the grower pay his guest workers for three-quarters of the time the harvest actually takes. This ensures that growers hit by setbacks are not further burdened. Under Goodlatte, they will still have to pay for 8-hour workdays, just as they do now, but for a fewer number of days if their harvest period is shortened.

The Goodlatte amendment will prevent growers from having to pay guest workers for days that they do not work if the contract period is cut short. My amendment repeals the unfair 50-percent rule. Fruit and vegetable growers have told me that the H–2A program's 50-percent rule is patently unfair. The rule requires a grower to hire any domestic farm workers who apply for work under the H–2A guest worker program, as long as they have completed half their work contract period, even if the grower already has all the workers needed. My amendment repeals this rule.

My amendment also allows growers to pay a housing allowance. Fruit and vegetable growers want to be allowed to pay actual housing. The Goodlatte amendment permits housing allowances. If housing is reasonably available in the area, guest workers will not be forced into homelessness.

Mr. Chairman, I urge Members to support this amendment. It addresses the concerns of the agriculture community, but does not allow our borders to open for one segment of the economy. The Goodlatte amendment controls illegal immigration while providing our fruit and vegetable growers with the labor they need to harvest their produce. I urge the adoption of this amendment.

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

Mr. CONYERS. Mr. Chairman, I rise in opposition to the Goodlatte amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. CONYERS] is recognized for 15 minutes.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. TORRES].

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

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

Mr. Chairman, earlier today I expressed my vehement opposition to the Pombo amendment. I rise now to voice my strong opposition to the Goodlatte amendment.

The proponents of this amendment would have us believe that it addresses the problems contained in the Pombo amendment and therefore, it is a more moderate, more acceptable proposal. In short, it's being sold as Pombo ''Lite.''

Don't be fooled by the packaging. The Goodlatte amendment is just as bad as Pombo and maybe worse.

Mr. Goodlatte is seeking to make it easier for agribusiness to bring foreign workers into the United States. Simultaneously, the amendment would eliminate, I repeat, eliminate essential worker protections that exist under current law.

The Goodlatte amendment would eliminate the requirement for employers to seek qualified U.S. workers through State employment services.

The Goodlatte amendment would eliminate the requirement to provide housing for their foreign workers. Employers, who are now required to provide housing for their workers, would only be required to give a housing allowance. But only if housing is reasonably available in the area.

Don't you believe it.

I've worked in the labor camps that these guestworkers would be herded into. Yes, that was some years ago, but conditions have not changed. They don't have running water or indoor plumbing, they crowd dozens of workers into unheated hovels. In short, the growers literally enslave these workers to reduce their overhead and increase their profits. Just how long do you think these guestworkers will endure these squalid conditions before they escape to seek a better life? How long do you think it will take for these hardworking and industrious guestworkers to find that there are better paying jobs and better conditions under which to work?

It's time to treat agribusiness like the other industries—make it compete for labor and pay fair wages to U.S. farmworkers.

I urge my colleagues to vote no on this misguided amendment.

Mr. GOODLATTE. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. SMITH], chairman of the Subcommittee on Immigration and Claims of the Committee on the Judiciary.

Mr. SMITH of Texas. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I urge my colleagues to support the Goodlatte amendment. We already have an agricultural guest worker program. It is called the H–2A program. The Goodlatte amendment makes needed changes. It ensures a program that works for farmers and yet one that retains the bedrock protections for American workers.

The Goodlatte amendment responds to the complaints from fruit and vegetable growers and the complaints that they have lodged against the H–2A program. There is a widespread belief among growers that the Department of Labor administers the program in bad faith, intending to make it so unworkable that it will not be used. The Goodlatte amendment transfers the upfront certification process from Labor to the INS. This move will ensure both that growers get the workers they need, and that program abuse will not go uncorrected.

Mr. Chairman, growers complain about the time it takes to get H–2A workers, that they must file applications at least 60 days before the date of need. The Goodlatte amendment cuts this period by 20 days. It ensures growers will get the workers they need when they need them.

Growers believe the current 50 percent rule is unfair. The rule requires a grower to hire any domestic farm workers who apply for work until the H–2A guest workers have completed half their work contract period, eve if the grower already has all the workers needed. The Goodlatte amendment repeals this rule.

Growers also complain about the H–2A program's three-quarters rule. This rule requires that they pay guest workers for 75 percent of the agreed work contract period, even if the harvest is cut short by weather or pests. The Goodlatte amendment requires that a grower pay his guest workers for three-quarters of the time the harvest actually takes. This assists growers hit by setbacks while protecting guest workers.

Fruit and vegetable growers want to be allowed to pay guest workers a housing allowance instead of having to build actual housing. The Goodlatte amendment permits housing allowances if housing is reasonably available in the area. This ensures that guest workers will not be forced into homelessness.

The Goodlatte amendment sets a ceiling of 100,000 guest workers per year. In recent years, about 17,000 to 19,000 aliens have been granted visas under the H–2A program. This ceiling is large enough to meet the needs of farmers who want to replace illegal workers with legal workers. By keeping the requirement of recruiting and hiring U.S. workers first, the Goodlatte amendment would meet the needs without undermining U.S. immigration policy and harming domestic workers.

Mr. Chairman, I urge my colleagues to vote yes on the Goodlatte amendment. It is good for guest workers and it is good for growers.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would ask the gentleman from California [Mr. TORRES] whether or not his vehement opposition to Pombo is stronger than his strong opposition to Goodlatte.

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

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

Mr. TORRES. Mr. Chairman, I would say to the gentleman, a little bit.

Mr. CONYERS. I would ask the gentleman, a little bit what?

Mr. TORRES. A little bit more.

Mr. CONYERS. The gentleman objects to the Pombo amendment more than the Goodlatte amendment, or the Goodlatte amendment more than the Pombo amendment?

Mr. TORRES. Mr. Chairman, I object to both of them. I think it is an equal state. Goodlatte has new packaging. It is Pombo Lite.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from California [Mr. BERMAN], a member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I thank the ranking member of the Committee on the Judiciary for yielding me 3 minutes.

Mr. Chairman, I am glad the ranking member did not ask me that question, because the gentleman from Virginia [Mr. GOODLATTE], the sponsor of this amendment, was eloquent and effective in his opposition to the Pombo amendment, and I am very grateful for this.

Mr. Chairman, the problem with his amendment here, because I know it was well-intentioned, because I know how he wants to handle these issues, but the problem is that it fundamentally erodes and existing requirement in the H–2A program that U.S. workers have priority. We can debate whether that makes sense or not, but to me, when we get rid of the 50-percent rule, we get rid of the requirement that a U.S. worker who comes for a job gets priority over the guest worker coming from the foreign country.

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

Mr. BERMAN. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, the difference between the current H–2A program and the Pombo amendment is that the H–2A program requires an independent third party to certify whether there is a need for the workers. That is the big objection to the earlier legislation that we just defeated.

The difference here is that we have to have an independent party, the U.S. Government, certify that workers are needed. If they certify they do not have them, what difference does it make whether or not there is a 50-percent rule? It is unfair, if an independent party says there are not sufficient workers available, to tell a grower that they cannot use more than 50 percent labor.

Mr. BERMAN. Reclaiming my time that I so generously yielded the gentleman, Mr. Chairman, the way the gentleman has written this amendment, first of all, Mr. Chairman, the gentleman is absolutely right; one major difference is that that was a self-attest anticipation. ''Grower, say certain things, get workers.'' This requires an independent, no longer Department of Labor, if I recall correctly, but an independent Government certification.

But the gentleman cuts off the growers' obligation to recruit U.S. workers 20 days before the season even begins. When you are dealing with migrant workers, they know the patterns of labor in this area. They come into an area to get hired just as you get into the peak harvest season. By eliminating the obligation to hire U.S. workers 20 days before the start of the growing season, and we do not need to be doing that, we are wiping out, in effect, the priority for U.S. workers. That is the problem I have.

Under the existing situation, that priority still exists. The Department of Labor certifies whether or not there will be a need, but if U.S. workers show up, U.S. workers have priority. I think U.S. workers should have priority in these kinds of programs.

In addition, Mr. Chairman, the fundamental change the gentleman is making, right now they have to provide housing for farmworkers. By giving this allowance, the gentleman knocks out the housing requirement. He makes an assumption there will be housing available.

□ 1830

Mr. GOODLATTE. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from California.

Mr. Chairman, I agree with the gentleman 100 percent that U.S. workers should have the priority in every instance. But the fact of the matter is that while we still require them to actively recruit and we should require them to actively recruit U.S. workers, it has to be done in such a fashion that once that recruitment period is over, there is a reasonable amount of time to get the paperwork processed and get workers there when they have actively recruited and have not been able to get those workers.

My amendment simply requires that they have a little more time, 20 more days, to get that paperwork processed and get the workers there. We have had many instances, in fact some of the people on the other side of the last amendment spoke about the fact that they go through the process, by the time all the work is done they are halfway through the harvest season and they do not get the opportunity to get the workers when they need them.

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

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

Mr. BERMAN. Mr. Chairman, I will be very quick. What do you do? All right, you have made a recruitment, you do not think you have workers available, it has been certified by the Government. As you are approaching your harvest season, 150 U.S. workers coming from the earlier crop show up. Are these people turned down because 10 days from now they will be getting some foreign guest workers? Do they turn these U.S. workers down and say, ''No, no job available for you because I've already gotten approval to bring in 100 foreign guest workers?''

It is all how you want to balance this thing. When you are dealing with people who make on an average of $5,000 a year, they are our lowest paid workers, I think we have been tilting so heavily on the side of agribusiness that this is one little protection they have. Do not eviscerate that. That is my problem with your amendment.

Mr. GOODLATTE. Mr. Chairman, I respect that, but, reclaiming my time, let me say two things.

First of all, given the fact, as we have heard all day here, that there is a need for workers, those workers are going to find employment.

Second, if you have already entered into a contractual relation with somebody to have somebody come and do some work because you have established that you could not find a U.S. worker, what are you going to do when those people arrive?

That is the bottom line. You have got to have an arrangement in advance. You have got to give U.S. workers the maximum opportunity to have an opportunity to apply for the job. But then once they apply and you hire them, and you still have a need for additional workers and you enter into a contractual relationship, you have got to be able to enter into that contract and have a reasonable amount of time to get that processed before they come.

That is all we are asking with that amendment. It is eminently fair, both to the U.S. workers who can also enter into contracts and get the priority, but if they do not, then the farmer has the opportunity to get the work in a timely fashion, so that they get it and get the crop harvested. That is all we are asking for. It is eminently reasonable and I would think the gentleman would accept it.

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

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

Mr. BERMAN. Mr. Chairman, we have a guest worker program. It is now called the H–2A program, it used to be called the H–2 program. It has certain conditions. This year, 17,000 agricultural workers came in under those requirements.

The difference between 17,000 and it shooting up in the case of your amendment to the 100,000 cap is the balance and retention between the potential for domestic workers. The moment you cut off the requirement to hire 20 days before the season starts, in every situation what you will find is the department saying, ''Since I can't promise them X number of workers when that season starts, I'm going to have to grant his petition.

The only thing that keeps this process honest is the requirement to continue to recruit, to prioritize and hire U.S. workers if they show up, and to hire them at any point 50 percent through the season. Fifty percent through the season was done for the benefit of the growers. Once the guy had been there for 50 percent of the time, do not displace him because somebody now showed up. Let them finish the entire season.

You are taking what was done for the benefit of the growers and you are totally repealing it, and that is the big problem I have with your amendment.

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

Mr. GOODLATTE. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, the fact of the matter is, as the gentleman well knows, we put a cap on this program to make sure that there was a limitation because of the fact that with only 17,000 using it right now, we know that there are far more people than that out there who would utilize it, who are utilizing illegal immigrants right now. Therefore, we wanted to make sure that we had every encouragement on growers to have every effort made to recruit U.S. workers. And they are going to have to make every effort to recruit U.S. workers if, as they say, they use a half a million illegal immigrants right now.

So the 100,000 cap is, I think, a very, very stringent cap, but also we have to make the program usable within that cap. Obviously, with 17,000 legal workers and a half a million illegal workers, we do not have a reasonable program right now. So let us modify the program, make some improvements, and still protect U.S. workers.

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

Mr. Chairman, the one problem with the amendment that my friend from Virginia has not discussed is that it eliminates the requirement to provide workers with free housing. The H–2A employers must provide or pay for housing for their workers. This amendment replaces the housing provision with a housing allowance but, quote, only if housing is reasonably available in the area of employment, end quote.

I find that restrictive, onerous and another sop to the growers, who probably would rejoice in having us revisit this measure as we did in 1986.

I think that we have got a problem here. It is tough enough to get Americans to do this kind of labor, and to make it harder for them to get under the program by the eliminations or restrictions around the recruiting process I think is not good. I will not say it is un-American, but it sure does not help the few Americans that want to work in this very onerous area.

Remember, the pay is bad, the conditions are horrible, the work is temporary. Maybe that is why we have to bring in people to work on it. So the few Americans that are willing to work in this field, I would encourage them to do so.

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

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. I thank the gentleman for yielding.

Mr. Chairman, the important thing to note here is that only in places where housing is widely available do we allow a grower to issue a housing allowance instead of to provide the housing itself. That is only a matter of flexibility, not only for the grower but also for the worker. Because if you are providing them with an allowance, they then have the opportunity to choose the housing they want rather than the place that the grower might choose for them and assign to them. I think it makes far more sense to give that kind of flexibility for the benefit of both the worker and the grower.

Mr. CONYERS. I appreciate that. I have heard this kind of argument that we know what is best for the workers. They do not want this. Their organizations that support them do not want it. But really if they need it, they would be happy to have it.

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

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

Mr. BERMAN. Our real difference is you say 17,000 guest workers, half a

million illegal immigrants working in our fields. Got to do something. I say we legalized 1.1 million agricultural workers in 1986. We have double-digit unemployment in almost every rural county in America, astronomical unemployment in the areas that most want this, Western agriculture, and what we need to do is the government working with agriculture, welfare reform, going back to the people who left the fields and who know how to pick.

This is honorable work. There are Americans who will do this work if they do not have alternatives, and if there is decent pay and good working conditions. This should be our focus, not trying to figure out how to do this guest worker thing where they really do not go back. I mean, huge numbers we lose. That is the problem. I think that should be our focus.

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

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

Mr. Chairman, I do not disagree with anything the gentleman says. The fact of the matter is, though, the difference between 500,000 and 100,000 is 400,000 people. There is plenty of room there to work on welfare reform and improving opportunities for U.S. citizens, and we certainly want to do that.

The problem is, and you have acknowledged earlier that the current H–2A program does not work well and, as a result, reforms are needed. We disagree on exactly what those reforms should be, but if we have a program and it only utilizes 17,000 people but there are a half a million out there working illegally, it seems to me that some reform of that program is in order.

I would appreciate the gentleman working with us on making the program work a little better, and in return I am giving you something that I would hope that you would want, and that is a cap on the program. There is no cap on the H–2A program right now. If Government works with agriculture to make this program work better without these amendments, we would have a program that had no limit on it. Let us have a good compromise that puts a cap on it but makes it more workable.

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

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

Mr. BERMAN. Mr. Chairman, if we had a verification system in this bill that went into effect immediately, I think the gentleman's request would be incredibly reasonable.

We have the most voluntary and ephemeral verification system left in this bill now. Do we think tomorrow there are not going to be any more undocumented workers employed in agriculture? They are not vanishing. There is no system for them to vanish.

There is no meaningful verification in this bill. The gentleman tried to get it but he lost, and I voted with him. We both lost. So when you do that verification, come back to me and I will talk to you about a good transition guest worker program.

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

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

Why am I suspicious? The gentleman from Virginia [Mr. GOODLATTE] is a wonderful human being with whom I have enjoyed a great relationship. But there are little problems. Housing eliminates the requirement to provide workers with free housing. Then he explains, ''It's for the workers' benefit, JOHN,'' not to worry.

Reduces the required time to recruit domestic workers. ''That will help Americans, so don't worry about that.''

Eliminates the 50-percent rule. ''No problem,'' he says.

Eliminates the three-fourths guarantee. Good explanation for it.

What I am beginning to think, this is a great solution in search of a problem. And I will tell the gentleman, there is another little nervous provision in here from my point of view. The certification of the workers goes from the Department of Labor to the Immigration and Naturalization Service.

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Does that raise a red light with anybody in this body besides me? One other person, a few more.

Look, INS is particularly unqualified to make labor certifications. They are looking for people who do not belong here. So these things, I would say to the gentleman from Virginia [Mr. GOODLATTE], make me reluctant to be enthusiastic about this amendment. As a matter of fact, it does not lead me to the strong opposition of the gentleman from California [Mr. TORRES], or the vehement opposition that he had on Pombo, but I cannot support it. I think that the arguments presented by our resident expert on the Committee on the Judiciary, the gentleman from California [Mr. BERMAN], are overwhelming and persuasive.

Mr. Chairman, I urge defeat of this amendment.

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

Mr. GOODLATTE. Mr. Chairman, may I ask the gentleman from Michigan if he has any other speakers?

Mr. CONYERS. No, sir, I do not.

Mr. GOODLATTE. Mr. Chairman, as the gentleman from Michigan has the right to close, I yield myself such time as I may consume to conclude.

Mr. Chairman, let me say to my good friend from Michigan that I am disappointed, because it seems to me that we have lost all opportunity here to find a middle ground, to try to work together to improve a program that we both agree is a bad program. We worked together to make sure that we did not have an out of control program that allowed 250,000 new workers in the country, but now here we have an opportunity to make the program work a little better so that growers have the opportunity to meet their needs when they truly can justify them, when they can have an independent certification by a Government agency that the need exists and in exchange we put a cap on the program of 100,000 workers.

It seems to me that is fair to everybody involved, and that is what I strove to do. In fact, my offering this amendment I think was very careful in making the case that the other amendment was not needed. So it disappoints me that the gentleman would attack these modest reforms we are making, including one that simply says for both the worker and the grower, hey, why have a specific grower tell the worker where they have got to live? That is crazy. If there is adequate housing in the area, allow the worker to choose their own housing by giving them a housing allowance. It does not eliminate the requirement to give them free housing. It simply says when it is done, they both can have a little flexibility in the process.

So I think these modifications are needed by our agricultural industry in this country. I think these modifications are very reasonable and workable, and I think that this is a vast improvement over the current program. I would urge the Members of the House to support it. Let us not both defeat the amendment and leave a failed nonworkable program out there. Let us do the reasonable thing in the middle, which is to take the current program, reform it, and make it better.

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

Mr. CONYERS. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Michigan is recognized for 1½ minutes.

Mr. CONYERS. Mr. Chairman, more sneaking reservations continue to crop up. Let me call the attention of the gentleman from Virginia [Mr. GOODLATTE] to the fact that the growers like this idea. If the gentleman had only contacted the National Council of Loraza that represents the workers, they would have come back to you, we would not have to do what I am going to propose now.

Because of his integrity and our close working relationship on the committee, why do we not work together, as the gentleman says, and he withdraw this amendment, and I promise him, with all the good faith I can muster, that I and the gentleman from California [Mr. BERMAN], will sit with him and try to work out the program?

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

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

Mr. BERMAN. Mr. Chairman, I would just say, we have had this conversation. I am for trying to streamline and deal with the problems and the impediments that exist in the existing H–2A program. The administration is committed to doing that. There would be

ample opportunity in the conference committee to work out a program that would be good for agriculture and be good for workers and be supported bipartisanly.

In all fairness, the gentleman from Virginia [Mr. GOODLATTE], did not discuss with us his proposal. I asked my friend, the chairman of the subcommittee, if he would involve me in alternatives to the Pombo amendment, but he did not, so we were sort of left out in the cold.

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

Mr. CONYERS. I yield to the gentleman from Virginia.

Mr. GOODLATTE. Mr. Chairman, I would be very anxious to work with the gentleman on making this amendment better, but I would encourage him to support the amendment, and then we can work together to improve it.

Mr. CONYERS. Mr. Chairman, reclaiming my time, I urge opposition to this amendment.

Mr. THOMAS. Mr. Chairman, hired labor is one of the most important and costly inputs in farming. U.S. farmers spent more than $15 billion on hired labor expenses in 1992—one out of every 8 dollars of farm production expenses. For the labor-intensive fruit, vegetable and horticultural section, labor accounts for 35 to 45 percent of production costs.

The labor-intensive fruit, vegetable and horticultural specialties sector accounted for more than $23 billion of agricultural sales in 1992, an increase of 32 percent for 5 years earlier. The competitiveness of U.S. agriculture depends upon the continued availability of hired labor at reasonable cost. U.S. farmers, including producers of labor-intensive perishable commodities, compete directly with producers in other countries for market share in both U.S. and foreign commodity markets.

U.S. farmers are producing for global markets and competing at world market prices. More than one-third of U.S. fruit and vegetable production is now exported. On the other hand, about one-quarter of our fruit and vegetable consumption is now imported. If the labor supply is restricted and production costs rise, U.S. growers will lose market share to overseas producers. This decline in production will cost thousands of U.S. workers their jobs. Based on relative shares of agricultural production, at least one-quarter of the job loss will be in California.

The availability of adequate seasonable labor has enable U.S. producers to expand production and exports of labor-intensive commodities. This has created tens of thousands of jobs for U.S. workers in ''upstream'' and ''downstream'' industries. Appropriately three off-farm jobs depend directly on each on-farm job.

In California, due to the nature of the crops and the vast geographical and seasonal range, this need for labor over a short period is particularly intense. California is about 900 miles long, north to south. If you transpose it to the east coast we are talking about a distance from approximately the north of Florida almost to Massachusetts. Obviously, you have a significant timeframe in terms of growing. In this regard, the existing H–2A program has failed to be a reliable source of temporary and seasonal agricultural workers. The regulatory burdens leave employers waiting with uncertainty and anxiety whether they will be certified by the Department of Labor to obtain workers in a timely manner.

What American farmers require is a temporary worker program which addresses these concerns. Recently the Agriculture Committee passed an amendment to H.R. 2202, sponsored by Congressman RICHARD POMBO of California, which would create a streamlined, temporary agricultural worker program. The Pombo amendment would create a 3-year pilot program with an annual cap of 250,000 workers admitted per year decreasing by 25,000 each year for the final 2 years of the program. Agricultural work generally is characterized by periods of peak demand for migratory workers that cannot be met by domestic labor sources. Under the Pombo language, employers would file attestations with the Department of Labor indicating the number of workers needed, as well as the specific terms of employment. Qualified U.S. workers would always receive first preference for these jobs. It is essential that such a proposal which protects agricultural labor needs to be included in the final language.

In contrast, the Goodlatte amendment is not adequate protection for the agricultural community. The Goodlatte language proposes to swap one bureaucracy for another by moving the H–2A certification process from the Department of Labor to the Department of Justice. Further, the Goodlatte amendment imposes an unrealistic cap of 100,000 annual admissions under the H–2A program. As an example of this inadequacy, raisin growers in Fresno County employ nearly 51,000 agricultural workers between late August and late September each year; under the Goodlatte amendment's cap, if any significant portion of these workers are found to be employment ineligible by a verification system, or are interdicted at the border or detected by border enforcement, it is an open question whether there will be sufficient slots under the cap to meet the raisin producer's needs at that point in the growing season.

The Goodlatte amendment also proposes a significantly tighter three-quarter guarantee than that currently applied to the H–2A program. The amendment would mandate an 8-hour workday, a requirement that would be impossible to meet on many days due to uncontrollable weather or crop conditions. Under the language of Goodlatte, if as few as one-quarter of the workdays were not full 8-hour workdays, the grower would be required to pay workers for periods of no work, regardless of how much work was provided on the remaining days, clearly unreasonable to the agriculture community.

Mr. Speaker, amending H.R. 2202 with a workable temporary and season agricultural worker program is essential to achieve true immigration reform. The end result of failure to provide a legal temporary alien worker program for U.S. agriculture will be to reduce U.S. farm production and agribusiness employment.

The following agricultural organizations urge your support for the Pombo/Chambliss amendment. We strongly oppose the Goodlatte amendment

National Council of Agricultural Employers;

Agri-labor Support Organization;

Agricultural Affiliates from Western New York;

Agricultural Producers;

American Association of Nurserymen;

American Farm Bureau Federation;

American Mushroom Institute;

California Farm Bureau;

California Floral Council;

California Grape & Tree Fruit League;

Colorado Sugarbeet Growers Association;

Florida Citrus Mutual;

Florida Citrus Packers;

Florida Farm Bureau;

Florida Fruit & Vegetable Association;

Florida Nurserymen & Growers Association;

Florida Strawberry Growers Association;

Frank B. Logoluso Farms;

Frederick County Fruit Growers;

Fresno County Farm Bureau (CA);

Fruit Growers League of Jackson County, Oregon;

Grower Shipper Vegetable Association of Central California;

Grower Shipper Vegetable Association of Santa Barbara and San Obispo Counties;

Hanes City Citrus Growers Association;

Hood River Grower-Shipper Association;

Illinois Specialty Growers Association;

International Apple Institute;

Michigan Asparagus Advisory Board;

Michigan Farm Bureau Federation;

Midwest Food Processors Association;

National Association of State Departments of Agriculture;

National Cattlemen's Association;

National Christmas Tree Association;

National Cotton Council;

National Council of Farmer Cooperatives;

National Peach Council;

National Watermelon Association; New England Apple Council; New York Apple Association, Inc.; Nisei Farmers League; North Carolina Apple Growers Clearinghouse; North Carolina Growers Association; North Carolina Sweet Potato Commission; Northern Christmas Trees & Nursery; Oregon Farm Bureau Federation, Patterson Firm (MA); Shoreham Cooperative Apple Producers, Association (VT); Snake River Farmers Association;

Society of American Florists; Sod Growers Association of Mid-America (IL); Sugar Cane Growers Co-op of Florida; Sun-Maid Growers of California; Texas Citrus & Vegetable Association; Texas and Soutwestern Cattle Raisers Association; Texas Cotton Ginner's Association; Tobacco Growers Association of North Carolina, Inc.; United Agribusiness League; United Fresh Fruit & Vegetable Association; Valley Growers Cooperative (NY);

Ventura County Agricultural Association; Vidalia Onion Business Council; Virginia Agricultural Growers Association, Inc.; Virginia State Horticultural Society; WASCO County Fruit & Produce League; Washington Growers Clearing House Association; Washington Growers League; Washington State Horticultural Association; Western Growers Association; Wisconsin Christmas Tree Producers Association; and Wisconsin Nursery Association.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE].

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

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

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Virginia Mr. GOODLATTE will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 28 printed in part 2 of House Report 104–483.

AMENDMENT OFFERED BY MR BURR

Mr. BURR. 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. BURR: At the end of subtitle B of title VIII insert the following new section:

SEC. 837. EXTENSION OF H–1A VISA PROGRAM FOR NON-IMMIGRANT NURSES.

Effective as if included in the enactment of the Immigration Nursing Relief Act of 1989 (Public Law 101–238), section 3(d) of such Act (103 Stat. 2103) is amended—

(1) by striking ''To 5-YEAR PERIOD'',

(2) by striking ''5-year'', and

(3) by inserting ''and ending at the end of the 6-month period beginning on the date of the enactment of the Immigration in the National Interest Act of 1995'' after ''Act''.

The CHAIRMAN. Pursuant to the rule, the gentleman from North Carolina [Mr. BURR] and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. BURR].

Mr. BURR. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I rise today to urge my colleagues to support this amendment to allow a 6 month extension of the H–1A nonimmigrant nurse program which expired in September. Our country's nursing homes and senior health care providers will face a dire situation unless we act now to temporarily reauthorize the program.

It allows health care facilities to bring foreign registered nurses into the country on a temporary basis. These nurses are not taking American jobs, because they fill needed positions in rural areas where there is a shortage of American nurses. These shortages continue, despite fiscal year 1995 and 1996 appropriations of $78 million each year for the National Health Service Corps Scholarship and Loan Program to recruit American nurses for these rural areas.

Mr. Chairman, we are asking for a six month extension. During this time the concerned committees will have the opportunity to examine the program and develop a long-term solution to the shortage of qualified nurses in rural America. I strongly urge my colleagues to vote for this amendment.

The CHAIRMAN. Does any Member seek time in opposition to the amendment?

Mr. CONYERS. Mr. Chairman, I seek time in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, briefly, this amendment would extend the temporary program and allow foreign nurses into the United States for another six months. Case closed. I mean, we need more foreign nurses coming into the United States for longer periods of time like Hershey needs candy bars. So that is not a good deal, because the current supply of nurses is adequate and may even increase in the coming years due to the downsizing of the American health industry. I hope my colleague will answer this before the debate is over.

Mr. BURR. Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. MCCOLLUM].

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

Mr. Chairman, I strongly support this amendment. I think everybody needs to understand what it is. It is simply a period of time during which the committee, the subcommittee, in particular, on Immigration, can listen to all sides of this and make a reasoned decision.

There are a lot of folks in rural areas who have been telling us there is still a nurse shortage, they do need the foreign nurse program for that purpose. In some of the urban areas, the nursing organizations are very concerned, because they say they do not need it any more.

Maybe we can craft something that would be responsible for everybody. So the rural folks, if they really have a shortage, can have that relieved, and the urban areas can also be free of anything that might be impeding their having domestic homegrown nurses. I do not know the answer. I am not sure about it.

But I would like to have the time as a member of the subcommittee to consider this. We have not been having that time. I think we should leave the nurse program alone and create the period of time that is created in this amendment. I think the gentleman from North Carolina has produced a good one.

So I urge an ''aye'' vote to leave the opportunity there for the subcommittee over 6 months to consider the matter, have hearings, and so forth. I urge the adoption.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Chairman, the H–1A nurses program was established to deal with a nursing shortage that has now evaporated. I understand the claim is that this program is still necessary for rural communities. However, it is important to note that four-fifths of the nurses who entered under the H–1A program went to metropolitan areas. In fact, one-third of them went to New York City. For those rural areas that need nurses, they have the ability to petition for nurses under the H–1B Program, and they should certainly utilize that.

This extraordinary program that was useful for our country at one time expired in September, and it should stay dead. We had 6,000 nurses enter from Canada and Mexico under NAFTA in 1994 alone. Many nurses that came in through this program, and many more are still coming in through NAFTA.

We have a nursing surplus right now, and the New England Journal of Medicine is predicting a 54 percent decrease in hospital beds. We are going to be awash in nurses. I urge opposition to the amendment.

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

Mr. Chairman, I just wish the gentlewoman had an opportunity to go to rural North Carolina and see the shortages

Mr. Chairman, I yield 1½ minutes to the gentleman from Illinois, [Mr. RUSH].

Mr. RUSH. Mr. Chairman, I rise today to support the amendment offered by my colleague, Mr. BURR from North Carolina, that will extend the H–1A non-immigrant nurse program for 6 months.

Mr. Chairman, the effect of the sunset of this program was brought to my attention by Sister Elizabeth Von Straten, who is my constituent and who serves as the President-CEO of Saint Bernard Hospital which is also in my district. Saint Bernard Hospital has employed nurses solely from the H–1A program since 1991 when it was determined that they could save over 3 million dollars a year in nursing salaries.

Without this program the hospital is forced to rely on registry nurses. Registry Nurses require a salary that is double that of the H–1A nurse or they will not work in the Englewood area. This program provides qualified foreign nurses at a cost saving that enables Saint Bernard to continue to serve as the only remaining hospital in an area designated both as one of Chicago's health professional shortages area and also as a medically undeserved area.

Mr. Chairman, the Englewood community needs to have this hospital. Of the patients that are served by Saint Bernard, 86 percent are below 150 percent of poverty. These is a 3,600 to 1 patient to physician ratio and all of the hospital patients are on Medicaid or Medicare.

The Hospital is also the largest employer in Englewood with 640 full time positions in an area that is one of the most economically depressed communities in the Chicago area.

Mr. Chairman, I want to give my colleagues a thumb-nail sketch of the role Saint Bernard Hospital plays in one of Chicago's most impoverished neighborhoods. It represents their only beacon of hope. The glow of that beacon dimmed last September 30.

That's when the H–1A visa program for nonimmigrant nurses was sunseted. If we do not extend this program in order to determine the impact that ending the program will have on Hospitals like Saint Bernard's and communities like Englewood then the beacon of hope will become pitch dark.

Mr. Chairman, Saint Bernard Hospital must have at least this temporary 6 month extension of the H–1A visa program to determine how to keep serving the residents of Englewood who depend on them for jobs and health care.

This is truly a matter of life and death.

Mr. Chairman, I urge my colleagues to support the Burr amendment to extend the H–1A visa program for 6 months.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York [Mrs. LOWEY].

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

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the Burr amendment. The Burr amendment will allow an outdated program to continue, and it will do real harm to American nurses. We must protect American nurses and American workers.

The H–1A program, which passed in 1990, allowed an unlimited number of foreign nurses to enter the United States. However, the medical industry has changed radically in the last six years. Not only do we no longer need the foreign nurses, we actually have a potential glut of nurses in this country.

Simply put, we have more nurses than we have jobs. The hospital industry has gone through a massive restructuring. As hospitals have merged, closed or ''scaled back'' in order to become more competitive, the number of nursing positions has decreased. At the time time, the pool of nurses is actually increasing.

We simply do not have a need or the jobs for the H–1A nurses. The H–1A visas sunsetted on September 1, 1995. We should allow the program to end. Think about the American nurses who have dedicated their lives to helping sick people. Let's face it, people do not become nurses to get rich or to become famous—they do it to help others. The least that we can do is to make sure that American nurses have jobs. I urge you to defeat the Burr amendment.

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Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. FRELINGHUYSEN].

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

Mr. Chairman, I rise in opposition to this amendment. The H–1A temporary visa program was created in 1990 as a result of a nursing crisis shortage of the 1980's. While I acknowledge the very real need for foreign nurses in those years, this program expired in September 1995, and I see no need to revive or perpetuate this program. Therefore, I oppose this amendment.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT], ranking Democrat, who has led this immigration bill as well as he could under the circumstances.

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

Mr. BRYANT of Texas. Mr. Chairman, I just want to say that in the subcommittee we had hearings on parts of this bill. We had no hearings on this. No evidence was brought forth to tell us if there was a need to import nurses to take the jobs of American nurses that are working today. Without any evidence of that and with clear evidence having been brought forth in this debate that there is no need whatsoever for this program to be extended, I strongly urge Members to vote no.

The fact of the matter is that these American nurses deserve to be able to compete for jobs inside of our domestic economy without having to worry about imported workers working more cheaply.

Mr. BURR. Mr. Chairman, this is a health care issue, it is not a nursing issue. I do not think it is outdated to supply adequate care to Americans.

Mr. Chairman, I yield 20 seconds to the gentleman from Texas [Mr. SMITH] who has worked so hard on the immigration bill.

Mr. SMITH of Texas. Mr. Chairman, I want to thank the gentleman for offering this amendment.

The amendment will provide for a 6-month extension of H–1A nonimmigrant program for nurses as originally enacted by the Immigration Nursing Relief Act of 1989. I support this extension of the H–1A program which originally was effective for just 5 years. This will permit the Subcommittee on Immigration and Claims to conduct hearings and otherwise investigate the competing interests relevant to this program.

Mr. Chairman, I thank the gentleman from North Carolina [Mr. BURR] for taking the lead on this issue. I urge my colleagues to support this extension of the nurses program.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I urge a ''no'' vote on this amendment.

This is a classic case. I was very active in supporting the extension of the nurses program in the 1990 bill. The problem has been solved. A combination of recruitment, of this incorporation of many of the people who came here to work in nursing, all of these things have taken care of the shortage. I have heard from no hospital in the areas of greatest need that need this program.

I would suggest that this amendment be defeated. Organized labor opposes this. This is going to displace available U.S. workers. I urge it be defeated.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to the gentleman from California, Mr. XAVIER BECERRA.

Mr. BECERRA. Mr. Chairman, I thank the gentleman for saying my name so well.

I, too, stand in opposition to the amendment. We have no evidence that there is a need for this. We should preserve jobs in our hospitals and our clinics for the nurses that have gone through the programs in this country and are ready to serve the people that are in need of medical care.

Mr. Chairman, there is no need to reach out at this time. There was a perceived need back in the early 1990s. If there was a need, it has been met by those temporary or foreign nurses that came in. We do not need the program. It expired last year. There is no need to revive it. Let us get on with this and let us preserve jobs that are available for American nurses.

Mr. BURR. Mr. Chairman, let me say, as we started this debate, that the American Hospital Association has just called in support of this amendment, as well as the American Health Care Association.

Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, there is probably no one in this House that has more affection for American nurses. And I do not think this bill will hurt American nurses. My mother was a nurse and is retired now.

But folks, this is not unreasonable, what we are asking to do here. I saw an editorial, in the American Journal of Nursing, January 1996, that is a couple months ago, which said that the only true nursing shortage that currently exists exists in rural America, accounting for 92.4 percent of the remaining shortage areas.

There is truly a question in this country if there is a nursing shortage in rural America. And all we are asking to do here, this is not unreasonable, is simply extend this program for 6 months so that we, as an immigration subcommittee, as promised by our chairman, the gentleman from Texas [Mr. SMITH], can conduct hearings. We do not want to put American workers out of jobs, but if we truly have shortages in rural areas, which the American Journal of Nursing says we do, as in January 1996, then we need to find out. We need to have these hearings and extend this bill, if necessary.

I ask Members to vote for this, 6 months only.

The CHAIRMAN. The time of the gentleman from North Carolina [Mr. BURR] has expired.

The gentleman from Michigan [Mr. CONYERS] has 1½ minutes remaining.

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

Mr. Chairman, I would remind the gentleman from Tennessee [Mr. BRYANT] that the nurses do not want this. I am glad the gentleman is reading the nurses' literature, but here is what the nurses union say.

Recent restructuring and downsizing of hospitals and other health care facilities have caused the displacement of thousands of qualified nurses. They should be put back to work before still another program is instituted to import nurses from abroad.

Dated, March 21, 1996.

Mr. Chairman, I yield the balance of my time to the gentlewoman from Maryland [Mrs. MORELLA].

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

Mrs. MORELLA. Mr. Chairman, I rise in opposition to the amendment.

The program which the gentleman seeks to restore was originally created

to address a short-term shortage of qualified nurses. The shortage has been addressed and no longer exists.

In fact, changes in the structure and management of the Health Care System makes it likely that we will soon have a large pool of American nurses from which employers may recruit. In addition, the most recently available statistics indicate that the number of graduate nurses continues to increase.

Even if this should not be the case, nurses could still be recruited from Mexico and Canada under NAFTA; more than 6,000 nurses entered the United States under NAFTA in 1994. Nurses may also be recruited under H–1B Visa Program and the permanent employment-based Immigration Program.

I urge Members to join me in rejecting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. BURR].

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

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

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from North Carolina [Mr. BURR] will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 24 offered by the gentleman from Virginia [Mr. GOODLATTE]; and amendment No. 28 offered by the gentleman from North Carolina [Mr. BURR].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. GOODLATTE

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia [Mr. GOODLATTE] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 59, noes 357, not voting 15, as follows:

[Roll No. 86]

AYES—59

Allard
Andrews
Archer
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bliley
Boucher
Brownback
Bryant (TN)
Campbell
Clinger
Combest
Davis
Ehrlich
Ensign
Fields (TX)
Foley
Fowler
Frelinghuysen
Gekas
Geren
Goodlatte
Gunderson
Gutknecht
Hefley
Hostettler
Houghton
Hutchinson
Johnson, Sam
Kingston
Latham
Linder
McCollum
Moran
Myers
Myrick
Ney
Oxley
Parker
Quillen
Ramstad
Rogers
Roukema
Saxton
Schaefer
Shaw
Smith (MI)
Smith (TX)
Stearns
Stenholm
Tauzin
Taylor (NC)
Thomas
Wicker
Young (AK)
Young (FL)

NOES—357

Abercrombie
Ackerman
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—15

Barr
Bunn
Clay
Collins (IL)
DeLay
Dicks
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 1926

Messrs. WYNN, MOORHEAD, PACKARD, SHADEGG, WAMP, and DUNCAN changed their vote from ''aye'' to ''no.''

Mr. CAMPBELL changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DELAY. Mr. Chairman, on rollcall No. 86, I was unavoidably detained due to my attendance at the funeral of a close friend. Had I been present, I would have voted ''no.''

AMENDMENT OFFERED BY MR. BURR

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. BURR] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 154, noes 262, not voting 15, as follows:

[Roll No. 87]

AYES—154

Abercrombie
Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bevill
Bilbray
Bliley
Boehner
Boucher
Brewster
Brownback

Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Camp
Campbell
Canady
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Crane
Crapo
Cremeans
Cubin
de la Garza
Deal
Dickey
Doolittle
Dornan
Dreier
Durbin
Ewing
Fawell
Fields (TX)
Foley
Fowler
Funderburk
Gekas
Geren
Gilchrest
Goodlatte
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jones
Kaptur
Kelly
Kim
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lincoln
Linder
Livingston
Lucas
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mink
Moorhead
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Payne (VA)
Pickett
Pombo
Portman
Quillen
Riggs
Roberts
Rogers
Rush
Salmon
Sanford
Schaefer
Schiff
Seastrand
Shadegg
Shuster
Skeen
Smith (MI)
Smith (TX)
Solomon
Souder
Stenholm
Stockman
Stump
Tanner
Tauzin
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Upton
Vucanovich
Walker
Wamp
Weldon (FL)
White
Wicker
Young (AK)
Zeliff

NOES—262

Ackerman
Andrews
Bachus
Baesler
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Bilirakis
Bishop
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Calvert
Cardin
Castle
Chabot
Chapman
Chenoweth
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cunningham
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Hobson
Holden
Houghton
Hoyer
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kingston
Kleczka
Klink
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lightfoot
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McHugh
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Porter
Poshard
Pryce
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Sabo
Sanders
Sawyer
Saxton
Scarborough
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Spratt
Stearns
Stupak
Talent
Tate
Taylor (MS)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (PA)
Weller
Whitfield
Williams
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—15

Beilenson
Clay
Collins (IL)
DeLay
Johnson (SD)
Johnston
Moakley
Radanovich
Rose
Spence
Stark
Stokes
Studds
Waters
Wilson

□ 1935

The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Radanovich against.

Mrs. ROUKEMA and Messrs. PETERSON of Minnesota, COOLEY, HOBSON, SAXTON, LONGLEY, SHAW, and Ms. PRYCE changed their vote from ''aye'' to ''no.''

Mr. LAHOOD and Mr. PICKETT changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MORELLA. Mr. Chairman, I rise in opposition to H.R. 2202.

In fairness, this bill is more acceptable now than it was when it first came to the floor on Tuesday. Several of my principal concerns have been addressed. In particular, adoption of the Chrysler-Berman amendment deleting unneeded reforms to our system of legal immigration has put this bill back on track to addressing the primary immigration problem which our constituents have identified—illegal immigration. In addition, the change under the manager's amendment allowing for the filing of asylum petitions within 180 days instead of the 30 days in the original bill recognizes the concern which I and others had expressed regarding the impossibility for most people of filing a complete claim in 30 days. Finally, adoption of the Schiff-Smith amendment removing caps on annual refugee admissions restores the humaneness of U.S. refugee policy and assures necessary flexibility to respond to global events.

I regret that the same humaneness and compassion is not reflected in the provisions in this bill dealing with children. To allow States the option to deny an illegal alien child, who cannot be held responsible for his or her presence in this country, the right to an education is not only unconstitutional, but also cruel to the child and counterproductive for our communities. What is the point of the Constitution if we are to decide that States may opt out of assuring its guarantees? The same can be said for the bill's provisions denying Medicaid, AFDC, and food stamps to U.S. citizen children whose parents are illegal aliens. Failure of the House to adopt the Velázquez amendment relegates these Americans to second class status. I hope these provisions will be removed in conference.

Mr. STOKES. Mr. Chairman, I rise in strong opposition to H.R. 2202, the Immigration in the National Interest Act. Let me state from the beginning that I strongly object to this legislation's failure to distinguish between legal and illegal immigration. Exploiting concerns about illegal immigration, H.R. 2202 unreasonably limits the number of immigrants who can be legally admitted to the United States. This restriction clearly violates the basic tenets of fairness and justice upon which our Nation, a nation of immigrants, was founded. I believe that America must honor its pledge of being a nation that will reunite families, provide asylum to a reasonable number of refugees, and protect the legitimate rights of both American workers and legal immigrants.

The Immigration in the National Interest Act would cut the number of immigrants who can be legally admitted to the United States annually by more than 200,000 persons. This draconian attack on America's immigrant population would be accomplished by dramatically limiting the number of family immigration visas, and by cutting in half the number of people granted asylum. Slashing legal immigration by 30 percent and refugee admission by 50 percent is unconscionable.

Mr. Speaker, it is also important to emphasize that most of the legal immigrants entering the United States are allowed for the purpose of family reunification. Our current policy requires that they are coming to this country to join an immediate relative who has been granted permanent residency status. It is incomprehensible that provisions in H.R. 2202 would attack our national policy of family reunification. This bill's drastic reductions in the number of legal family reunification through numerical caps and earnings tests will have only one result, families will be divided.

In addition to hurting American families, H.R. 2202 recklessly cuts the U.S. participation in humanitarian efforts by limiting the number of refugees who can enter the United States by 50 percent. This heartless exclusion of persons fleeing oppression and war is not only contrary to the interest of refugees, it also damages America's role as a world power. It would be an abdication of the U.S. humanitarian leadership worldwide to support this provision of H.R. 2202.

Another harmful element of this legislation is its requirement that both the sponsoring individual or family and the immigrant have an income of 200 percent of the poverty level. These unreasonably high family-sponsor caps will ultimately result in the disproportionate exclusion of the families of poor and minority immigrants. Such unreasonable and blatant discriminatory immigration policies should be actively resisted.

There are numerous other harmful provisions in this measure—including making illegal

immigrants ineligible for most Federal benefits and establishing a telephone verification of citizenship policy—that compel me to oppose it. The unjustified hostility to legal immigration this bill fosters is simply un-American.

It is important to recognize that the history of the United States is largely one of immigration, and that this nation is rich because of its blend of cultures and ethnic backgrounds. America is a nation of immigrants that—without their creativity, intelligence, and vitality—would not have achieved the greatness with which it is recognized. This shortsighted legislation will impose an unbalanced and unfair set of priorities that will hurt America much more than it would help.

Mr. Speaker, the truth about H.R. 2202 is that it fails to not only distinguish between legal and illegal immigration, but that it reflects some of my colleagues' desires to sacrifice the interests and obligations of the American people in exchange for isolationism. I urge my colleagues to vote against this bill.

Mr. DIXON. Mr. Chairman, few areas of the Nation confront the challenges and suffer the impacts of illegal immigration as much as southern California. I strongly support provisions of H.R. 2202 which seek to control this problem through enhancements in our borders, increases in the numbers of border control agents, and increases in penalties for smuggling and document fraud. I will vote for passage of H.R. 2202, as amended, and continue to support the substantial increases in funding for the Immigration and Naturalization Service to stem the tide of illegal immigration.

However, I have reservations about several of the provisions of this legislation, and will carefully scrutinize the conference agreement on this legislation prior to giving that bill my support. I want to specifically highlight my strong objections to inclusion of the amendment which grants States the option to deny all public education to illegal aliens.

The amendment may be good politics. Clearly, it is appealing to many who are concerned about tight education budgets and the need to spend what moneys are available on American children, rather than educating those illegally in the country. However, the amendment is harsh in its treatment of children; is highly questionable as a disincentive to illegal immigration; and will create far more problems for schools and communities impacted by illegal immigration than it seeks to rectify.

I fail to understand how proponents of this measure believe that creating a situation where school officials will be forced to determine a student's legal immigration status will be beneficial to our educational systems. The costs of educating these children will merely be shifted to the administrative burden of determining immigrant status.

We will not be controlling illegal immigration by keeping some young people out of school. What we will be doing is putting those same young people on our streets, unattended and unsupervised. This is hardly the result that many in our communities are seeking as they look to Congress to address illegal immigration. Moreover, stigmatizing certain school children in this manner, can only lead to potential discrimination against those children who may merely look different.

Claiming the provision as a disincentive to illegal immigration is questionable, at best. I do not believe that a free education for their children is a primary incentive among individuals seeking to enter the United States illegally.

Yes, we have a problem with illegal immigration. But punishing children not legally in this country through no fault of their own, while placing the burdens of defining who is and who is not legal on our public educational system, is a misguided attempt at solving that problem.

With these reservations in mind, I support the legislation before us as we continue to enhance federal efforts to control our borders and ease the burdens of illegal immigration on our communities, cities, and States.

Mr. MARTIN. I rise today in support of the Immigration in the National Interest Act, H.R. 2202.

I am pleased that we are finally addressing one of the most important problems facing America today, I am of course referring to the issue of Immigration reform.

As I have traveled around my District over the last few weeks from senior centers to Main Street the one issue about which people have repeatedly expressed concern is our failed immigration policy. These visits with my constituents reinforce my belief that we must institute common sense immigration reforms.

The United States of America has always been known as a land of immigrants—the melting pot or in today's climate of political correctness, ''the tossed salad'' of the world.

Over the last 200 years, millions of families have traveled thousands of miles to embrace opportunities found only in America. In fact, my grandparents traveled from Italy to settle in North Jersey where they built a successful business, raised four children and truly fulfilled the American dream.

Unfortunately, we have gotten away from the brand of immigration represented by my grandparents and others of that proud generation. Today, illegal immigration and fraudulent legal immigration runs rampant through our system.

Mr. Speaker, nearly 20 percent of the legal immigrants in this country are on welfare. Furthermore, one-quarter of all federal prisoners are illegal aliens. Does this sound like an immigration policy that is operating at 100 percent efficiency, Mr. Speaker? I think not.

Neither did the bipartisan Commission on Immigration Reform headed by the late Barbara Jordan. The Commission concluded, ''The United States must have a more credible immigration policy that deters unlawful immigration while supporting our national interest in immigration.''

As a member of the Congressional Task Force on Immigration, I strongly support the commission's findings.

H.R. 2202 is a strong, but fair bill, Mr. Speaker. It establishes a positive framework to prevent illegal aliens from feeding at the public trough. I do not believe it is extreme to stop the flow of federal taxpayer dollars to illegal immigrants.

Mr. Speaker, enactment of H.R. 2202 would reduce illegal immigration by 50 percent over the next 5 years. By stemming the tide of illegal immigration now, we will preserve American jobs for Americans. In fact, this legislation may be the most pro-job and pro-family bill we consider in the 104th Congress.

Some of my colleagues in this body would like to separate legal immigration reform from illegal immigration reform. I, on the other hand, do not believe that we can address one problem without fixing the other.

H.R. 2202 is a family friendly bill that does not attempt to deprive members of the immediate family of legal residents from relocating to the United States. This legislation recognizes the importance and strength of family relationships by providing no annual limitation to the immigration of immediate family members to citizens of the United States.

In fact, H.R. 2202 will allow more legal immigrants into the United States on an annual basis than we have admitted 60 of the last 65 years.

In short, Mr. Speaker, H.R. 2202 places more emphasis on proactive measures that eliminate the incentives to illegally enter the country, while still providing ample room for immigrants who truly desire to pursue the American dream.

In closing, I urge my colleagues to support this much needed immigration reform.

Mr. YOUNG of Florida. Mr. Chairman, the problem of illegal immigration has reached historic proportions. Past attempts by Congress to reform immigration laws have provided nothing more than greater incentives and promised benefits for illegal aliens. The result is the present system which actually encourages immigrants to come to America illegally.

Today, I am proud to support an historic change in our Nation's immigration policy. Today, we are going to pass a reform bill with real teeth in it. A bill that cracks down on illegal immigrants already here, and one that secures our borders against future immigrants who would seek to enter illegally. Past legislation this House has considered, which I strongly opposed, did nothing to alleviate the problems of illegal immigration. At long last, I look forward to supporting a bill which acknowledges these problems and takes action to address them.

While past legislation sent the message you could come to the U.S. illegally and expect to receive welfare benefits, food stamps and free health care, this legislation finally puts an end to this outrage. As a Member from the State of Florida, I have seen first-hand the financial burden these ill-gotten attempts at reform have placed on States forced to bear the brunt of this failed immigration policy. Past Congresses refused to stop the excessive flow of illegal immigrants and to eliminate the enormous costs associated with this broken system. Today, we own-up to our responsibilities with a hard-nosed approach that substantially increases border control, provides the Immigration and Naturalization Service with the tools necessary to find and deport illegal aliens, and pays for the Federal Government's financial obligations to the States.

Mr. Chairman, my State of Florida has long been overburdened by the flood of illegal immigration. Since the Mariel boatlift in 1980, we have been the destination of a disproportionate number of immigrants, making us the third-largest recipient of immigrants among our 50 States. Although immigration policy is the sole jurisdiction of the United States Government, history has proven that States like Florida are typically left with the cost and responsibility of providing expensive social services to illegal aliens.

With the enactment of H.R. 2202, we have an opportunity to minimize the enormous expenses that we force upon our States by denying most public benefits to illegal aliens, removing public charges, and holding sponsors personally responsible for the financial well-being

of an immigrant they bring into our country. Most importantly, this bill requires the Federal Government to reimburse States and localities for any expenses incurred from providing federally mandated services to illegal immigrants. Based upon various formulas, it is estimated that the State of Florida has spent an average of $651 million per year from 1989–1993, or a total of $3.25 billion for services provided to illegal immigrants. If the costs to local governments are included, the total burden rises to $15 billion for that same 5-year period.

Unlike past immigration reform bills, H.R. 2202 will actually discourage the illegal entry of immigrants by increasing our border control agents by 5,000 personnel, improving physical barriers along our borders, including a triple-layer fence, authorizing advanced border equipment to be used by the Immigration and Naturalization Service, and instituting an effective removal process to discharge illegal immigrants with no documentation. This bill provides the Department of Justice with 25 new U.S. Attorneys General and authorizes 350 new INS inspectors to investigate and prosecute aliens and alien smugglers.

This bill also strongly supports the American worker by cracking down on the use of fraudulent documents that illegal immigrants use to get American jobs and by enforcing strict penalties for employers who knowingly violate these laws. The Department of Labor is authorized 150 new investigators to enforce the bill's labor provisions barring the employment of illegal aliens.

Mr. Chairman, the American people demand that Congress take action to secure our borders against illegal immigrants. With the explosion in the amount of drugs and criminals coming across our borders, and with the flood of illegal immigrants, many of whom settle in Florida, it is eminently important that we do all we can to protect our national borders.

While past Congresses refused to address this national crisis, today we deliver, with a much needed and long overdue first step in this renewed effort. Today we will approve legislation with unprecedented prevention and enforcement mechanisms. The message to illegal aliens is no longer one of indifference. The new message is simple—try to enter the United States illegally and we will stop you, should you get in, we will find and deport you, and should you remain in hiding, don't expect much in the way of support.

Mr. GALLEGLY. Mr. Chairman, after having a conversation with Mr. GOODLING, the chairman of the opportunities committee, I wish to clarify, for the record, section 606 of H.R. 2202.

The Department of Education recently signed a computer matching agreement with the Social Security Administration which is to go into effect for the 1996–1997 school year.

The purpose of the matching program is to ensure that the requirements of section 484(a) of the Higher Education Act of 1965 are met.

This matching program will enable the Department of Education to confirm that the social security number and the citizenship status of applicants for financial assistance under Title IV of the Higher Education Act are valid at the time of application.

I would further note that the details of the matching arrangement can be found in the Federal Register publications of March 23, 1995, September 21, 1995, and December 1, 1995.

The matching agreement addresses my concerns about the verification of a student's status and eligibility for student aid.

However, we all know that statutory language is a much better source of authority than regulations. So, I just want to make sure that the verification takes place, that's all. That's why I have included the statutory language. If the Attorney General and the Secretary of Education agree that the matching agreement adequately meets the verification requirements of section 606 of the bill, then that is fine with me.

Mr. SMITH of New Jersey. Mr. Chairman, I wish to call attention to the important action of the House in deleting the proposed ''refugee cap'' which would have made dramatic cuts in the number of refugees the United States accepts each year. In particular, the ''refugee cap'' would have necessitated the elimination of the in-country programs for Jews and Evangelical Christians in the former Soviet Union, and for pro-American political prisoners, religious dissidents and other people at risk of persecution by the Communist government of Viet Nam.

POLITICAL AND RELIGIOUS DISSIDENTS AROUND THE WORLD

Make no mistake: the proposals for refugee cuts do not reflect a decline in the worldwide level of political, racial, and religious persecution. The dictatorship in Nigeria recently staged a public hanging of eight members of the Ogoni ethnic minority, including highly respected novelist and environmental activist Ken Saro-Wiwa. Iran followed up by sentencing a member of its Baha'i religious minority to death for a crime it calls ''national apostasy.''

VIETNAMESE POLITICAL AND RELIGIOUS DISSIDENTS

Nor is the upsurge in persecution limited to so-called ''pariah'' regimes. A week after Warren Christopher raised the flag on the new United States Embassy in Viet Nam, the government of that country staged two show trials—apparently to disabuse its own people of the idea that economic and diplomatic relations with the West would lead to greater respect for human rights. Six of the nation's top Buddhist leaders were sentenced to long prison terms for persisting in their refusal to join the state church. Nine people were convicted of ''using freedom and democracy to injure the national unity'' because they had requested permission to hold a conference on the subject of democracy. So this is no time to think about shutting down the Orderly Departure Program for people who have suffered for their pro-American, pro-freedom beliefs and associations. Nor is it a time to think about dumping thousands more high-risk political and refugees, currently long-time residents of refugee camps in Hong Kong and Southeast Asia, back to persecution in the Workers' Paradise. Yet this is what the international refugee bureaucracy is about to do. The United States has traditionally stood against this sort of thing, even when our efforts were regarded as unhelpful by the governments of other nations and by officials of international organizations. We must recapture that proud American tradition of resistance to persecution and solace for the persecuted—and not just when it is convenient or popular.

PERSECUTION OF JEWS

The Subcommittee on International Operations and Human Rights, of which I have the honor of serving as Chairman, recently heard expert testimony on the persecution of Jews around the world. Our witnesses testified about the continued survival, as we face the turn of the Twenty-First Century and celebrate the fiftieth anniversary of the war that ended the Holocaust—of systematic and severe mistreatment of Jews, simply because they are Jews.

The recent firebombings in Jerusalem, which killed many innocent people, show that there is literally nowhere in the world where Jews are safe from hatred and violence. But the worst problems appear to be in places that have a history of anti-Semitism combined with an unstable present and an uncertain future.

The hearing on persecution of Jews was conducted with the active assistance of a number of organizations that have been instrumental in helping to keep the attention of Congress focussed on this issue, including the World Jewish Congress, the Anti-Defamation League of B'nai B'rith, the Union of Councils for Soviet Jews, the National Conference on Soviet Jewry, the National Jewish Coalition, the Hebrew Immigrant Aid Society, and the Council of Jewish Federations. Our witnesses—including academic experts, a former member of the Russian Duma, and several people who are themselves refugees from persecution—told us about the situation in the newly independent states of the former Soviet Union. We also heard accounts of persecution in Iran and Syria. These are certainly among the worst cases, but it is important to remember that anti-Semitism and the violence it brings in its wake are not confined to one or two regions of the world. The evidence is unfortunately all around us: the bombing of a synagogue in Argentina, the ''skinhead'' movement in Western Europe, resurgent ethnic politics in Central and Eastern Europe, even the desecration of a small Jewish cemetery by the dictatorship that rules Burma.

The situation of Jews in the former Soviet Union is particularly important, not only because the struggle for the freedom of Soviet Jewry was among the finest hours of the American people, but also because the story could still end badly. There has been a tendency in recent years, even among those of us who fought long and hard for the rescue of Soviet Jews, to feel that now we can relax. Unfortunately, the free world has a long history of relaxing too soon. In the case of Jews living in the former Soviet Union, what we must avoid is slamming the door too soon. It is true that the Twentieth Century totalitarian states based on ideologies that are anti-God and anti-human being, such as Nazism and Communism, may have had a capacity to do evil whose scope and degree was unique in all human history. Evil, however, takes many forms and respects no boundaries. The year in which Zhirinovsky begins his campaign for President is not the year in which we should decide that the coast is clear for ex-Soviet Jews.

This hearing also helped us to assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of the Jewish communities that are at risk around the world. Our government had to be prodded for years before it made freedom of emigration for persecuted Soviet Jews a foreign policy priority. More recently, our foreign policy establishment was also slow to recognize and react to the persecution of Jews in Iraq.

We must remind ourselves, and then we must remind our government, that refugee policy is not just an inconvenient branch of immigration policy. Human rights policy is not just a subset of trade policy. The protection of refugees, the fight for human rights around the world, are about recognizing that good and evil really exist in the world. They are also about recognizing that we are all brothers and sisters. If we recognize these truths, we can build a coalition to preserve and strengthen United States policies designed to protect our witnesses today—and to protect all others who are persecuted because of their religion, race, nationality, or political beliefs—and to restore these policies to the place they deserve as a top priority in American foreign policy.

Mr. Speaker, the former Soviet refugee program has already been reduced from 35,000 refugees in fiscal year 1995 to 30,000 in fiscal year 1996. Although the governments of the newly independent states do not endorse the persecution of these groups, in many cases have been unwilling or unable to prevent it. Instability and resurgent ultra-nationalism and anti-Semitism counsel against a premature closing of the door to members of these historically persecuted groups.

PERSECUTION OF CHRISTIANS

The Subcommittee on International Operations and Human Rights also recently heard expert testimony on the persecution of Christians around the world. To the best of my knowledge, it was the first hearing of its kind, ever. Our witnesses testified about the systematic and severe mistreatment—including but not limited to harassment, discrimination, imprisonment, beatings, torture, enslavement, and even violent death—meted out to believers simply because they are believers.

The subject of religious persecution is a familiar one for the Subcommittee on International Operations and Human Rights. This subcommittee and its members have held hearings, introduced resolutions, and otherwise helped to focus the attention of Congress and the nation on the persecution of Soviet Jews, of Bosnian Muslims, of Bahais in Iran, of Buddhists in Tibet and Viet Nam, and of others who have been oppressed for practicing their chosen faith. This, however, is the first hearing to focus specifically on persecuted Christians, and to do so in a way that makes clear this is not an isolated or occasional outrage, but one that is perpetrated every day upon millions of people around the world.

We held the hearing on worldwide persecution of Christians in order to advance several important goals. First, the very act of bearing witness is important in itself. Even if we could accomplish nothing else this afternoon, we would have an obligation to shed light on facts that need to be known, and to give a forum to voices that need to be heard.

We hope, however, to accomplish much more. In this age when human rights are always in danger of subordination to other objectives—whether the love of money, the feat of immigrants and refugees, or the desire to get along with governments that mistreat their own people—we need to be reminded that when people are persecuted in distant lands, it is often because they are like us. The victims we so often ignore, whether the issue is refugee protection or most-favored-nation status for China, are usually the very people who share our values. We need to see their faces, and to be reminded that they are our brothers and sisters.

It is also important that we assess the performance of our government, and of international institutions such as the United Nations High Commissioner for Refugees, in responding to the pleas of persecuted Christians. In the past we have heard that these institutions have been reluctant to acknowledge the plight of persecuted Christians. Most of us can remember the Pentecostals who sought refuge in the U.S. Embassy in Moscow during the 1980s, and who were finally rescued only after they had been pressured and cajoled for months to leave because they were cluttering up the courtyard. The so-called ''Comprehensive Plan of Action'' for Southeast Asian asylum seekers has returned thousands of Christians, including priests, nuns, ministers, and seminarians, to Viet Nam after they were callously labeled ''economic migrants.'' And applications for asylum or refugee status from Christians who have managed to escape from Islamic extremist regimes have typically been rejected, despite the draconian punishments often administered against them.

Finally, and perhaps most important, the hearing afforded an opportunity for a broad coalition of respected voices, from Amnesty International to the Southern Baptist Convention and the Family Research Council, to bear witness to their own recognition of the plight of persecuted Christians. This is an issue that should unite liberals and conservatives, Republicans and Democrats, even internationalists and isolationists. Whatever our differences, we are Americans. There are such things as American values, and there are some things Americans will not tolerate. We can build a coalition to restore the protection of these oppressed believers—and of all others who are persecuted because of their religion, race, nationality, or political beliefs—as a top priority in American foreign policy. The continuing persecution of Christian religious demonstrates—and too often the turning of a deaf ear by U.S. officials and others charged with refugee protection—is yet another reason that this is a terrible time to talk about reducing the scope of U.S. refugee programs.

SLAVERY IN MAURITANIA AND SUDAN

The Subcommittee on International Operations and Human Rights also held a hearing on the practice of chattel slavery, which is still widespread in Mauritania and Sudan. Most of us had believed, until quite recently, that this horrible practice belonged only to the past. But several of our witnesses testified of having seen it first hand, having spoken with slaves and with slave masters.

According to accounts by anti-slavery activists, including some of our witnesses, chattel slavery in Mauritania and in the Sudan is substantially identical to slavery as it was practiced in other centuries. It represents the subjugation of one race by another, and often of members of one religious group by members of another. It frequently includes the grossest forms of degradation of women and children. Slavery is not to be confused with similar institutions, such as serfdom or indentured servitude: however wrong these institutions are, they involve only the ownership of one person's labor by another. In true slavery, the master owns the slave's body. He owns the right to decide whom the slave will marry. When babies are born, the master owns the babies, and can buy them and sell them. True slavery is about treating people as though they were not people, as though they were things without souls.

In the modern world, we often speak of ''fundamental human rights.'' Sometimes we say these words without thinking about what they mean. I believe that the idea of human rights has meaning only if rights are God-given, inalienable, and indivisible. Slavery is the ultimate denial of all these ideas. Toleration of slavery, even when it is far away and in another country, is the ultimate statement of radical cultural relativism. We must do whatever it takes to abolish slavery, not only because its victims are our brothers and sisters, but also because as long as there is anyone in the world who is a slave, none of us is truly free.

VICTIMS OF FORCED ABORTION AND FORCED STERILIZATION

Finally, Mr. Chairman, I must point out that even at our current levels of refugee admission, the number of refugee spots we allocate for people fleeing the People's Republic of China—one of the most repressive regimes on Earth—is zero. This is particularly tragic in light of the continuing recurrence of one of the most gruesome human rights violations in the history of the world: forced abortion.

On Good Friday of last year, thirteen Chinese women in INS detention were moved to a deportation holding center in Bakersfield, California. Five of these women had fled China after being forced to have abortions. Others had been forcibly sterilized, or had escaped after being ordered to undergo abortion and/or sterilization. Their asylum claims were rejected. Some of them were deported to Ecuador. It appears that the deportation of the remaining women to the PRC is imminent.

These women and others like them may be forced back to China because of a novel and bizarre interpretation of U.S. asylum law, under which those who resist forced abortion or forced sterilization are regarded as common criminals rather than victims of persecution. After all, they did break the law—and never mind what kind of law they broke. Never mind fundamental human rights and broken lives. A law is a law, and people who break a forced-abortion law or any other law must be sent back to take their punishment. This is the kind of thinking we are up against. This is why we need section 522 of this bill, which would restore the humane policy of regarding victims of forced abortion and forced sterilization as refugees. It is also one of the reasons we need a resettlement program for Chinese refugees.

The anti-life, anti-woman interpretation of the refugee laws, which has resulted in denials of asylum to women fleeing forced abortion, was adopted by INS in August 1994. It reversed the long-standing policy of granting asylum to applicants who can prove a well-founded fear of forced abortion, forced sterilization, or other forms of persecution for resistance to the PRC coercive population control program.

Section 522 would restore the traditional interpretation and save these women. Such a provision should not be controversial. Almost all Americans, whatever their views on the moral and political questions surrounding abortion, regard forced abortion and forced sterilization as particularly gruesome violations of fundamental human rights.

Mr. Speaker, this provision is not about immigrants, it is about refugees. Contrary to

some of the scare tactics that have been used from time to time against protecting victims of forced abortion and forced sterilization, such protection has been tried in the past, and has not brought billions of economic migrants from China or anywhere else. This provision will protect a tiny handful of genuine refugees—the 13 Bakersfield women and a few others every year—who face a gruesome fate if we send them back, or who have already suffered such a fate.

It is important that we put aside myths and consider the facts:

The number of people involved is very small. Section 522 of this bill has a track record. It simply restores the law as it was interpreted from 1987 through 1993. It also imposes a statutory cap of 1,000 refugees and asylees. This statutory cap is unfortunate and unnecessary, but it probably will not make any difference. The number of people granted asylum on the ground of persecution for resistance to the PRC population control policy was between 100 and 150 per year—not 1.2 billion.

Each applicant would be required to prove his or her case. Section 522 does not enact a special rule for people who resist the PRC population control program. It merely gives each applicant an opportunity to prove his or her case under exactly the same rules as every other applicant. The only change this provision would make from current law is to restore eligibility for an applicant who can prove that he or she individually had a well-founded fear of forced abortion, forced sterilization, or other persecution for resistance to the population control policy—or has actually been subjected to such measures.

It's the right thing to do. Forced abortion, forced sterilization, and other severe punishments inflicted on resisters to the PRC program are persecution on account of political opinion. PRC officials have repeatedly attacked resisters as political and ideological criminals. The infliction of extraordinarily harsh punishment is also generally regarded as evidence that those who inflict such punishment regard the offenders not as ordinary lawbreakers but as enemies of the state.

Forced abortions often take place in the very late stages of pregnancy. Sometimes the procedure is carried out during the process of birth itself, either by crushing the baby's skull with forceps as it emerges from the womb or by injecting formaldehyde into the soft spot of the head.

Especially harsh punishments have been inflicted on persons whose resistance is motivated by religion. According to a recent Amnesty International report, enforcement measures in two overwhelmingly Catholic villages in northern China have included torture, sexual abuse, and the detention of resisters' relatives as hostages to compel compliance. The campaign is reported to have been conducted under the slogan ''better to have more graves than more than one child.''

The dramatic and well-publicized arrival of a few vessels containing Chinese ''boat people'' has tended to obscure the fact that these people have never amounted to more than a tiny fraction of the undocumented immigrants to the United States. The total number of Chinese boat people who arrived during the years our more generous asylum policy was in force, or who were apprehended while attempting to do so, was fewer than 2000. This is the equivalent of a quiet evening on the border in San Diego.

Nor is there evidence that denying asylum to people whose claims are based on forced abortion or forced sterilization will be of any use in preventing false claims. People who are willing to lie in order to get asylum will simply switch to some other story. The only people who will be forced to return to China will be those who are telling the truth—who really do have a reasonable fear of being subjected to forced abortion or forced sterilization. The solution to credibility problems is careful case-by-case adjudication, not wholesale denial.

Finally, we should be extremely careful about forcibly repatriating asylum seekers to China in light of evidence that a number of those sent back by the United States since 1993 have been subjected to extended terms in ''re-education camps,'' forced labor, beatings, and other harsh treatment.

Mr. Chairman, on the one hand we tell people not come here illegally to apply for asylum, not even if they are fleeing persecution. But then we fail to use the legal tools at our disposal, the programs specifically provided by law, to assist thee vulnerable people in escaping persecution in ways that do not violate immigration laws. It is a serious deficiency that should be addressed by the allocation of an adequate number of places for refugees from persecution at the hands of the totalitarian regime in Beijing.

Mr. LATOURETTE. Mr. Chairman, as the House of Representatives considered overhauling our nation's immigration policies, members had an opportunity to separate legal immigration from illegal immigration issues. I supported efforts to delete the legal immigration provisions from H.R. 2002, the ''Immigration in the National Interest Act.''

Some might question my motivation for doing this, however, it is my contention that just as the problems relating to legal and illegal immigration are different, so too are the solutions. You could argue that the work of a brain surgeon and a barber both involve the human head, yet no one would think of going to a barber for brain surgery or a brain surgeon for a haircut. This is precisely the type of ill-conceived logic we employ if we attempt to lump illegal and legal immigration into one reform package.

The two issues deserve separate consideration, and that is why I supported the measure to give each reform vehicle the attention it deserves. The U.S. Senate has already seen fit to separate legal from illegal immigration, again with the belief that our proposed reforms of legal immigration go too far. The legal immigration provisions contained in H.R. 2002 would drastically reduce legal immigration—up to 40 percent by some estimates. It also would reduce the potential for families to be reunited and would decimate the intake of refugees. History has not been kind to us as a nation when we have followed similar paths before.

During the 104th Congress, I have had the great pleasure of serving as a member of the Council for the U.S. Holocaust Memorial Museum in Washington. In my capacity on council, I have had been afforded the time and luxury to delve deeper into the history surrounding the Holocaust, and I have paid particular attention to the emigration of Jews from Germany in the 1930s. It strikes me that as we consider reforming our legal immigration policy, we should study this tragic period in history carefully, as there are many lessons to be learned.

In July 1938, delegates from 32 countries including the United States, France and Great Britain met at the Evian Hotel in Evian, France, for what has become known as the Evian Conference. The purpose of this conference was to determine what these countries should do in response to the thousands of Jewish refugees who were shunned both by their home country and abroad. Unfortunately, little was accomplished at the Evian Conference because no country was willing or had the fortitude to accept large numbers of Jews, including the U.S.

Since the early 1930s, Jews had been fleeing Germany for a variety of reasons. Initially, the German government encouraged those who could flee to do so, and to take whatever possessions they could with them. Eventually, however, the Nazis made this increasingly more difficult, slapping emigration taxes on Jews and making it impossible for them to survive elsewhere because their funds were tied up in German banks.

The anti-Jewish sentiment in Germany, as we all know, was oppressive. The Nazis wanted to make Germany a place devoid of Jews. As a result, Jews fled by the tens of thousands, often entire families at once. They sought refuge in Western Europe, the U.S., Central and South America, and even China. It is believed that as many as 90,000 Jews emigrated from Germany to the U.S. during this period in history, and many more would have come to our fair land had the U.S. been more willing to accept them. Unfortunately, we were not.

Our country's unwillingness to accept these Jewish refugees took a most tragic turn in May 1939, for it was at this time that the *S.S. St. Louis*, a German passenger ship, left Germany for Cuba. There were nearly 1,000 Jews on board the *St. Louis* as it headed toward Havana, yet when it finally reached its destination the ship was turned away by Cuban authorities. The *St. Louis* then pleaded with U.S. officials to let the nearly 1,000 refugees enter America, yet the U.S. denied the ship permission to land and denied entry visas to the refugees. In June 1939, the ship turned around and returned to Europe.

Fortunately for those on board the *St. Louis*, the countries of Great Britain, France, the Netherlands and Belgium agreed to accept the Jewish refugees, although this blessing would be brief and mixed. The following year, in 1940, German forces occupied the region. Many of the passengers aboard the *St. Louis*—those same passengers America turned away—were dealt the cruelest of fates. Many were subjected in their new homelands to the same horrors from which they had fled—the full wrath of the Holocaust—ghettos, concentration camps, deportations and death chambers.

Fear, prejudice and ignorance allowed America to turn its back on those who sought refuge here in May 1939, with the most tragic of outcomes. America is supposed to be a haven for those oppressed by other nations; it is supposed to be the land of hope and opportunity. Ours is a country that welcomes those who want to come here, contribute to society, and live the American dream.

It is regrettable that we as a nation have been unable to respond to the severe problems of illegal immigration in a sensible, meaningful way. It would be just as regrettable to gut a rich heritage of providing safe harbor for those who seek to come here legally because we cannot deal with a failed illegal immigration policy.

As a nation, we must take full responsibility for our generosity in welcoming others to our land, and full responsibility when that generosity backfires or fails. In separating legal from illegal immigration reform, we have our best chance to answer that call to responsibility. Just as we should not reward those who refuse to make a difference as Americans, we should not punish those who come here and strive to do so. Throughout history, legal immigrants have enriched our economy and the goodness of our country.

We will never know what kind of productive lives those aboard the *St. Louis* might have led on American soil because we did not give them the chance. It is a shame we will always bear. Legislative action or inaction in Europe and the United States contributed greatly to a tragedy we cannot repeat.

Ours is a country made up of immigrants, and the rich tapestry we enjoy is because so many people, including many of our own grandparents and great-grandparents, had the hear and the will to come here. More importantly, the United States had the heart and the will to welcome them, and it is not something to relinquish now.

Mr. SMITH of New Jersey. Mr. Chairman, the United States has always been a beacon of hope and opportunity for generations of people who come to our shores searching for what cannot be found in any other nation on Earth. Few of us here are not the heirs of immigrant determination to make a better life for families and loved ones—or to seek a safe haven from repression. Some of our colleagues in the House are themselves living proof that this Nation continues to be enriched by the strong immigrant community which is our heritage.

However, Mr. Chairman, today the people of the United States are faced with a new challenge from which we cannot back away—the challenge of illegal immigration.

Illegal immigration has reached epidemic proportions in the United States. Each year our borders are flooded with many thousands of people who enter the U.S. undocumented, usually unskilled, often without the resources to provide for their own needs.

Mr. Chairman, it is currently estimated that there are between 2 and 4 million illegal immigrants in the United States, with about 300,000 added to that number each year. I want to emphasize that these are estimates—the numbers could be even larger than the estimates. According to a study by the Rand Institute, one-half of all illegal immigrants enter the United States by crossing the land border. Many use fraudulent documents to derive benefits from social programs, thus depriving U.S. citizens, legal residents, and refugees who deserve these benefits and robbing taxpayers of millions of dollars.

Twice this House has attempted to right this wrong. Twice President Clinton vetoed those attempts. Thousands of people each year blatantly disregard U.S. laws but are rewarded once they arrive here. This magnet of benefits draws people from all over the world who simply abuse the system with no intent on ever contributing. This is wrong. And once again we have the opportunity to address the issue. We must remain firm in our commitment to provide for those who are in need, to offer assistance to those who experience temporary setbacks. But we cannot simply be a well from which all may draw without ever giving back, or with no intention of ever leaving the well.

But the welfare problem is only one symptom of the illegal immigration epidemic. Jobs of U.S. citizens and legal residents are affected by the number of illegal immigrants willing to work longer hours for lower wages. Illegal immigrants reduce the employment opportunities of low-skilled workers, and even of skilled workers in areas where the economy is already weak and opportunities less plentiful. According to a New York Times article by Roger Waldinger, a professor of sociology at U.C.L.A., says that the African-American community suffers the most from jobs lost to illegal immigration. Legal immigrants are also hurt by the growing influx of illegal immigrants, their opportunities decreased and the hopes they brought with them dimmed or extinguished. Many of these U.S. citizens and legal immigrants are then forced into dependency on social programs, increasing the cost that illegal immigration imposes on the American public.

Not only does illegal immigration cost jobs, it also costs wages. Statistics show that low-skilled workers may experience as much as a 50 percent decline in real wages and that the growing number of illegal immigrants is leading to an increased wage gap between skilled and unskilled workers.

I have in my office stacks of reports from the Immigration and Naturalization Service, documenting hundreds of illegal immigrants who are employed here illegally. The jobs they hold are jobs that rightfully belong to U.S. citizens and lawful residents.

But there are more symptoms of this epidemic. U.S. prisons are overflowing with criminal aliens—and the vast majority of these are illegal immigrants. In addition to the stacks of reports from the INS which document the employment of illegal aliens, there are pages of reports on the growing number of illegal immigrants who are involved in criminal activity. Many of them enter our judicial and prison systems where, again, millions of dollars are spent on dealing with their criminal activities.

Those who enter the United States illegally and who continue to violate our laws—especially those who by violence add to the growing problem of violent crime and fear in this country—do not deserve to stay here. Like other violent criminals, they have complete disregard for the values that U.S. citizens and legal immigrants hold dear and strive for each day.

It is no secret that I support the plight of refugees who seek relief from oppression in their homelands. This empathy for people who love freedom is a basic tenet of our American tradition. But such empathy should not be confused with support for those—regardless of nationality—who would instill fear and terror on the law-abiding citizens of our Nation.

I should also make clear that I do not mean to imply that most immigrants—or even most illegal immigrants—come here to commit violent crimes. Many undocumented immigrants are driven by the same economic and social factors that cause all of us to want to improve our situations in life. But the United States is first and foremost a nation of laws, and we have a right to insist on obedience to the law.

Mr. Chairman, earlier I quoted the Rand Institute's figure that 50 percent of all illegal immigrants come to the U.S. by crossing our land border. We owe a word of support and commendation to the men and women who make up our border patrols and stave off hundreds of people who otherwise would have gotten into the United States without documentation. They place their lives on the line each day to protect the integrity of our borders. They are our first and best line of defense against illegal immigration. They are overworked and in need of more support. We must do everything we can to strengthen our border patrol and improve this first line of defense.

The elimination of any epidemic calls for strong and decisive measures. This epidemic of illegal immigration demands the same. Eliminate the benefits that illegal immigrants receive when they arrive. Enforce and strengthen the laws which prohibit the hiring of illegal immigrants. Protect U.S. jobs for U.S. workers, especially for those who are most harmed when their jobs are given to illegal immigrants. Deal swiftly and decisively with criminal aliens through expedited deportation proceedings. These measures are only a start to address this epidemic. But we must start somewhere.

Mr. DEFAZIO. Mr. Chairman, our national policy regarding immigration is overdue for change. We need to balance our proud history of diversity with the economic reality of high national unemployment and over-burdened social services. We must consider reforms that address the needs of U.S. citizens first and recognize the fiscal reality of Federal and State government.

Congress is now considering a major proposal to dramatically change our Nation's immigration policy. I support the goal of ending illegal immigration. But I also believe we must reduce the number of people legally immigrating to our Nation. We simply cannot hold the door open for every one of the world's dissatisfied citizens. Continued high immigration hurts our environment, it hurts our low wage workers and it is increasingly hurting higher skill and higher wage workers, as well. High levels of immigration may have been a boon to our Nation at one time. They have ceased to make any sense today.

Representative BERMAN has proposed an amendment to strike the legal immigration provisions of the bill. I'm concerned that if we eliminate the attempt in this bill to reform the Nation's legal immigration policy—as flawed as this bill's legal immigration reforms may be—the impetus for reform will die. I, therefore, cannot support his amendment.

I'll continue to work for tighter borders and responsible immigration control, and press for strong protection for our Nations work force.

Mr. FRANKS of New Jersey. Mr. Speaker, I rise in support of H.R. 2202, the Immigration in the National Interest Act. I want to bring to my colleagues' attention to one particular provision of this measure that will strengthen America's asylum laws.

America's asylum laws are intended to provide refuge for aliens whose lives or freedom are threatened on account of their race, religion, nationality, membership in a particular social group or political opinion. But our current asylum system is riddled with abuse. For

example, 31 percent of aliens who apply for asylum never show up for the INS interview that is scheduled to evaluate the legitimacy of their asylum claim. In addition, thousands of aliens who are in the process of being deported claim political asylum at the very last opportunity, thereby triggering a lengthy process of hearings and appeals which further delay deportation.

Last August I introduced legislation, H.R. 2182, that would prohibit an alien from seeking asylum in the United States if the alien had first traveled through a country that offers political asylum. These countries are called countries of safe haven. My legislation sought to restore the integrity of our asylum laws by requiring asylum seekers to remain in the first country that would offer them safe haven in an effort to seek better economic opportunities in the United States would be prohibited from entering our country with certain exceptions.

I am pleased that the gentleman from Texas [Mr. SMITH] has adopted many elements of my legislation in H.R. 2202.

Mr. Speaker, H.R. 2202 closes the loopholes in our current system, restores the original intent of our asylum laws and maintains generous asylum policies for those fleeing persecution and oppression. I strongly support passage of this bill.

Mr. VENTO. Mr. Chairman I rise today in support of an amendment I drafted to address a fundamental problem being experienced by legal U.S. residents, the Hmong. This measure would expedite the naturalization of Hmong people who served in Special Guerrilla Forces assisting the U.S. military during the Vietnam War.

My amendment corrects a serious problem affecting Hmong people in the United States today who served alongside United States soldiers in Southeast Asia. It expedites the naturalization of aliens who served in these units in Laos and their spouses or widows by waiving the language requirement and the residency requirement aliens normally must meet. These two significant barriers to citizenship today affect the Hmong in a unique manner.

From 1960 to 1975 Hmong people of all ages fought and died alongside United States soldiers in units recruited, trained, and funded by the CIA. During the war, between 10,000 and 20,000 Hmong tragically were killed in combat and as the conflict resulted in a bitter conclusion, 100,000 Hmong had to flee to refugee camps to survive the persecution and retribution that surely would have followed. The Hmong stood loyally by the United States during the long bitter course of the Vietnam War, but because the Hmong did not serve in regular United States military units, they are not eligible for expedited naturalization as other uniformed U.S. veterans and others may be. The Vento amendment would remedy this problem and inequity.

Current law permits aliens or noncitizen nationals who served honorably during World War I, World War II, the Korean conflict, and the Vietnam war to be naturalized regardless of age, period of residence or physical presence in the United States. In other words, there is established precedent for modifying naturalization requirements for U.S. military service by non-U.S. citizens. In fact, Congress included provisions expediting the naturalization of World War II Filipino Scouts during consideration of the 1990 immigration bill. My amendment would continue our long tradition of recognizing the service of those who come to the aid of the United States in times of war. Ironically, most past conflicts did not preclude the nonnational United States service persons from returning to their homeland, so their plight, in most cases, is not as desperate as the Hmong involvement in a conflict with a difficult result.

The percentage of Hmong who served in the Special Guerrilla Hmong units who have achieved United States citizenship is very low in great part today because the Hmong have found passing the citizenship test difficult. By waiving the language requirement my amendment would lift the greatest obstacle the Hmong face in becoming American citizens. The late arrival of some Hmong who have often served 10 to 15 years in the Hmong unit and then have spent another 10 or even 20 years in Asian refugee camps should not now have a 5-year residency requirement, hence the Vento amendment waives this proviso.

I want to emphasize that my amendment does not open new immigration channels nor does it confer veteran's status on Hmong patriots. Those who served in the Special Guerrilla units will not be made eligible for veteran's benefits under my amendment.

As I mentioned earlier in my statement, Congress has included provisions for other nonnationals, the Filipino Scouts, in omnibus immigration legislation as recently as 1990. Given the heavy legislative agenda we face for the remainder of the 104th Congress, this will almost certainly be our best opportunity to consider this necessary but modest effort to recognize the service of the Hmong veterans who fought so bravely and sacrificed so much for America.

The practical impact is the citizenship and privilege to participate in our U.S. democracy—to have the right of preference in immigration and family reunification—a significant and humanitarian impact. But, in my mind's eye, of equal value is the United States Congress' and the United States Government's recognition and the honor we bestow on the Hmong patriots who lost so many lives in Southeast Asia and saved many American lives. I urge my colleagues to support this Vento amendment which honors the Hmong and their outstanding service to our Nation.

Mr. Chairman, I'm including some personal examples of Minnesota Hmong, some from my neighborhood and close to my deceased grandparents' home. These examples of the personal history, the biographies of Hmong soldiers' experiences in Southeast Asia underline the importance and significance of their lives and service. The Hmong may not pass the language tests but they know inherently the cost of freedom and the price they have paid means that they have passed the test in a more important and special way. The following monographs illustrate that implicitly.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. RIGGS) having assumed the chair, Mr. BONILLA, 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. 2202), to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, pursuant to House Resolution 384, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

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

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

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BRYANT of Texas. In its present form, I am, Mr. Speaker.

The SPEAKER pro temore. The Clerk will report the motion to recommit.

The Clerk read the motion, as follows:

Mr. BRYANT of Texas moves to recommit the bill, H.R. 2202, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Amend section 806 to read as follows:

SEC. 806. CHANGES RELATING TO H–1B NONIMMIGRANTS.

(a) ATTESTATIONS.—

(1) COMPENSATION LEVEL.—Section 212(n)(1)(A)(i) (8 U.S.C. 1182(n)(1)(A)(i)) is amended—

(A) in subclause (I), by inserting ''100 percent of'' before ''the actual wage level'',

(B) in subclause (II), by inserting ''100 percent of'' before ''the prevailing wage level'', and

(C) by adding at the end the following: ''is offering and will offer during such period the same benefits and additional compensation provided to similarly-employed workers by the employer, and''.

(2) DISPLACEMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)) is amended by inserting after subparagraph (D) the following new subparagraph:

''(E)(i) The employer—

''(I) has not, within the six-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in clause (ii)), including

any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed; and

''(II) within 90 days following the application, and within 90 days before and after the filing of a petition for any H–1B worker pursuant to that application, will not lay off or otherwise displace any United States worker in the occupational classification which is the subject of the application and in which the nonimmigrant is intended to be (or is) employed.

''(ii) For purposes of this subparagraph, the term 'United States worker' means—

''(I) a citizen or national of the United States;

''(II) an alien lawfully admitted to the United States for permanent residence; and

''(III) an alien authorized to be so employed by this Act or by the Attorney General.

''(iii) For purposes of this subparagraph, the term 'laid off', with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement.''.

(3) RECRUITMENT OF UNITED STATES WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraph (2), is further amended by inserting after subparagraph (E) the following new subparagraph:

''(F) The employer, prior to filing the application, attempted unsuccessfully and in good faith to recruit a United States worker for the employment that will be done by the alien whose services are being sought, using recruitment procedures that meet industry-wide standards and offering wages that are at least—

''(i) 100 percent of the actual wage level paid by the employer to other individuals with similar experience and qualifications for the specific employment in question, or

''(ii) 100 percent of the prevailing wage level for individuals in such employment in the area of employment,

whichever is greater, based on the best information available as of the date of filing the application, and offering the same benefits and additional compensation provided to similarly-employed workers by the employer.''.

(4) DEPENDENCE ON H–1B WORKERS.—Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) and (3), is further amended by inserting after subparagraph (F) the following new subparagraph:

''(G)(i) Whether the employer is dependent on H–1B workers, as defined in clause (ii) and in such regulations as the Secretary of Labor may develop and promulgate in accordance with this paragraph.

''(ii) For purposes of clause (i), an employer is 'dependent on H–1B workers' if the employer—

''(I) has fewer than 41 full-time equivalent employees who are employed in the United States and employs four or more nonimmigrants under section 101(a)(15)(H)(i)(b); or

''(II) has at least 41 full-time equivalent employees who are employed in the United States, and employs nonimmigrants described in section 101(a)(15)(H)(i)(b) in a number that is equal to at least ten percent of the number of such full-time equivalent employees.

''(iii) In applying this subparagraph, any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer under this subparagraph. Aliens with respect to whom the employer has filed such an application shall be treated as employees, and counted as nonimmigrants under section 101(a)(15)(H)(i)(b), under this paragraph.''.

(5) JOB CONTRACTORS.—(A) Section 212(n)(1) (8 U.S.C. 1182(n)(1)), as amended by paragraphs (2) through (4), is further amended by inserting after subparagraph (G) the following new subparagraph:

''(H) In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H–1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.''.

(B) Section 212(n)(2) (8 U.S.C. 1182(n)(2)) is amended by adding at the end the following new subparagraph:

''(E) The provisions of this paragraph shall apply to complaints respecting a failure of another employer to comply with an attestation described in paragraph (1), that has been made as the result of the requirement imposed on job contractors under paragraph (1)(H), in the same manner that they apply to complaints of a petitioner with respect to a failure to comply with a condition described in paragraph (1) by employers generally.''.

(b) SPECIAL RULES FOR EMPLOYERS DEPENDENT ON H–1B WORKERS.—Section 212(n) (8 U.S.C. 1182(n)) is amended by adding at the end the following new paragraph:

''(3)(A) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) if the employer who is seeking the services of such alien has attested under paragraph (1)(G) that the employer is dependent on H–1B workers unless the following conditions are met:

''(i) The Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that the employer who is seeking the services of such alien is taking steps described in subparagraph (C) (including having taken the step described in subparagraph (D)).

''(ii) The alien has demonstrated to the satisfaction of the Secretary of State and the Attorney General that the alien has a residence abroad which he has no intention of abandoning.

''(B)(i) It is unlawful for a petitioning employer to require, as a condition of employment by such employer, or otherwise, that the fee described in subparagraph (A)(i), or any part of it, be paid directly or indirectly by the alien whose services are being sought.

''(ii) Any person or entity which is determined, after notice and opportunity for an administrative hearing, to have violated clause (i) shall be subject to a civil penalty of $5,000 for each violation, to an administrative order requiring the payment of the fee described in subparagraph (A)(i), and to disqualification for 1 year from petitioning under section 204 or 214(c).

''(iii) Any amount determined to have been paid, directly or indirectly, to the fund by the alien whose services were sought, shall be repaid from the fund or by the employer, as appropriate, to such alien.

''(C)(i) An employer who attests under paragraph (1)(G) to dependence on H–1B workers shall take timely, significant, and effective steps (including the step described in subparagraph (D)) to recruit and retain sufficient United States workers in order to remove as quickly as reasonably possible the dependence of the employer on H–1B workers.

''(ii) For purposes of clause (i), steps under clause (i) (in addition to the step described in subparagraph (D)) may include the following:

''(I) Operating a program of training existing employees who are United States workers in the skills needed by the employer, or financing (or otherwise providing for) such employees' participation in such a training program elsewhere.

''(II) Providing career development programs and other methods of facilitating United States workers in related fields to acquire the skills needed by the employer.

''(III) Paying to employees who are United States workers compensation that is equal in value to more than 105 percent of what is paid to persons similarly employed in the geographic area.

The steps described in this clause shall not be considered to be an exhaustive list of the significant steps that may be taken to meet the requirements of clause (i).

''(iii) The steps described in clause (i) shall not be considered effective if the employer has failed to decrease by at least 10 percent in each of two consecutive years the percentage of the employer's total number of employees in the specific employment in which the H–1B workers are employed which is represented by the number of H–1B workers.

''(iv) The Attorney General shall not approve petitions filed under section 204 or 214(c) with respect to an employer that has not, in the prior two years, complied with the requirements of this subparagraph (including subparagraph (D)).

''(D)(i) The step described in this subparagraph is payment of an amount consistent with clause (ii) by the petitioning employer into a private fund which is certified by the Secretary of Labor as dedicated to reducing the dependence of employers in the industry of which the petitioning employer is a part on new foreign workers and which expends amounts received under this subclause consistent with clause (iii).

''(ii) An amount is consistent with this clause if it is a percent of the value of the annual compensation (including wages, benefits, and all other compensation) to be paid to the alien whose services are being sought, equal to 5 percent in the first year, 7.5 percent in the second year, and 10 percent in the third year.

''(iii) Amounts are expended consistent with this clause if they are expended as follows:

''(I) One-half of the aggregate amounts are expended for awarding scholarships and fellowships to students at colleges and universities in the United States who are citizens or lawful permanent residents of the United States majoring in, or engaging in graduate study of, subjects of direct relevance to the employers in the same industry as the petitioning employer.

''(II) One-half of the aggregate amounts are expended for enabling United States workers in the United States to obtain training in occupations required by employers in the same industry as the petitioning employer.

(c) INCREASED PENALTIES FOR MISREPRESENTATION.—Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is amended—

(1) in subparagraph (C) in the matter before clause (i), by striking ''(1)(C) or (1)(D)'' and inserting ''(1)(C), (1)(D), (1)(E), or (1)(F) or to fulfill obligations imposed under subsection (b) for employers defined in subsection (a)(4)'';

(2) in subparagraph (C)(i), by striking ''$1,000'' and inserting ''$5,000'';

(3) by amending subparagraph (C)(ii) to read as follows:

''(ii) the Attorney General shall not approve petitions filed with respect to that employer (or any employer who is a successor in interest) under section 204 or 214(c) for aliens to be employed by the employer—

''(I) during a period of at least 1 year in the case of the first determination of a violation

or any subsequent determination of a violation occurring within 1 year of that first violation or any subsequent determination of a nonwillful violation occurring more than 1 year after the first violation;

''(II) during a period of at least 5 years in the case of a determination of a willful violation occurring more than 1 year after the first violation; and

''(III) at any time in the case of a determination of a willful violation occurring more than 5 years after a violation described in subclause (II).''; and

(3) in subparagraph (D), by adding at the end the following: ''If a penalty under subparagraph (C) has been imposed in the case of a willful violation, the Secretary shall impose an additional civil monetary penalty on the employer in an amount equalling twice the amount of backpay.''.

(d) LIMITATION ON PERIOD OF AUTHORIZED ADMISSION.—Section 214(g)(4) (8 U.S.C. 1184(g)(4)) is amended—

(1) by inserting ''or section 101(a)(15)(H)(ii)(b)'' after ''section 101(a)(15)(H)(i)(b)''; and

(2) by striking ''6 years'' and inserting in lieu thereof ''3 years''.

(e) REQUIREMENT FOR RESIDENCE ABROAD.—Section 101(a)(15)(H)(i)(b) (8 U.S.C. 1101(a)(15)(H)(i)(b)) is amended by inserting ''who has a residence in a foreign country which he has no intention of abandoning,'' after ''212(j)(2),''.

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

(2) The amendments made by subsection (d) shall apply with respect to offenses occurring on or after the date of enactment of this Act.

Mr. BRYANT of Texas (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. BRYANT] is recognized for 5 minutes in support of his motion to recommit.

Mr. BRYANT of Texas. Mr. Speaker, the motion to recommit incorporates an amendment which the Committee on Rules would not allow us to offer in the course of the debate on the immigration bill which would change the current law in a way that is beneficial and positive for American workers.

The current law allows people to enter this country on temporary work visas, up to 65,000 a year, and to be put to work in companies where often they take the jobs of American workers.

The fact of the matter is, that between 1992 and 1995 we had 234,000 foreign temporary workers enter the country and take the jobs of American workers. Mr. Speaker, the H–1B program that was created in 1990 was designed to alleviate some short-term needs with some temporary worker visas. It has now turned into a program in which companies have replaced, in some cases, entire departments with imported workers coming in on temporary visas, and they are allowed to stay as long as 6 years.

This motion to recommit would change that program, and would say that, U.S. workers can not be laid off and replaced with H–1B foreign workers, that the temporary visa will only be good for 3 years not 6. It would require that employers dependent on H–1B workers would have to take timely, significant, and effective steps to recruit and retain sufficient U.S. workers to remove that dependency.

It is an outrage that we have had situations in this country where companies have brought in large numbers of temporary H–1B workers. They have asked their domestic work force to train the imported workers. Then they have fired the domestic workers and put to work the newly trained foreign workers that were brought in under the H–1B program. It should not be permitted. This motion to recommit would forbid it forever in the future.

Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS.].

Mr. CONYERS. Mr. Speaker, first of all, I congratulate my colleague on the Committee on the Judiciary, the gentleman from Texas, [Mr. BRYANT], for an incredibly diligent job.

The motion here to recommit with the amendment may be the most important vote we may consider this year from the perspective of the American worker, because it puts before us the identical immigration reform bill, with just one exception, and here it is: that American companies should attempt to recruit American workers for skilled jobs before trying to recruit foreign workers for these jobs.

□ 1945

That is what it is about, that is all it is about. The administration has produced a record of 8 million new jobs. Some of the Republican candidates, by contrast, or one in particular is still figuring out that jobs is a major issue with Americans. It translates here into the GOP leadership.

The Rules Committee blocked this amendment and so we are bringing it up now in a motion to recommit. Please support this motion to recommit whether you are a Republican or a Democrat.

Mr. BRYANT of Texas. I thank the gentleman for his comments.

Mr. Speaker, I would point out that under this motion to recommit employers who are dependent on H–1B orders would have to take effective steps to recruit and retain U.S. workers to remove that dependency, and that U.S. workers could not be laid off and replaced with H–1B workers.

Mr. Speaker, I yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding. I strongly support his amendment. This amendment should have been allowed in the rules. We should have been able to debate this on the floor.

I just want to take 15 seconds of my time to indicate that in this bill, which is coming up for final passage, is what I believe to be an unconstitutional and just horrible on public policy amendment with respect to children and public schools. I am going to support this bill because it is so much better than it was through this House. If this amendment does not come out in conference committee, I will oppose the bill on the floor when it comes back from conference with every ounce of my energy.

Mr. BRYANT of Texas. Mr. Speaker, I would simply conclude by saying that this motion to recommit would put into the immigration bill a provision that ensures that U.S. workers cannot be laid off and replaced with foreign temporary workers. Every Member of this House ought to vote in the interest of the American work force for the motion to recommit.

Mr. SMITH of Texas. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. RIGGS). The gentleman from Texas is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the gentleman from Texas [Mr. BRYANT] and I have been through a lot on a year-long journey to implement immigration reform legislation. I feel like we are a little like the two characters in Lonesome Dove, Woodrow and Gus. While we may sometimes disagree, I am not going to take any shots at my partner in this endeavor. Instead, I do want to tell my colleagues why this is such a good bill and why it puts the interest of American families, workers, and taxpayers first.

This legislation will reduce illegal immigration and reform legal immigration. It will help secure our borders, reduce crime, and protect jobs for American citizens. It will encourage legal immigrants to be productive members of our communities and ease the burden on the hardworking taxpayers.

For only the fourth time this century, Congress now considers comprehensive immigration reform. I thank my colleagues for their patience, for their interest, and for their support. I urge my colleagues to vote ''no'' on the motion to recommit and ''yes'' on final passage.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

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

RECORDED VOTE

Mr. BRYANT of Texas. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 12, as follows:

[Roll No. 88]

AYES—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clayton
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Ensign
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
LoBiondo
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Regula
Richardson
Rivers
Roemer
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stockman
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velázquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Zimmer

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lofgren
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Clay
Collins (IL)
DeLay
Johnston
Moakley
Radanovich
Rose
Stark
Stokes
Studds
Waters
Wilson

□ 2005

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. STOCKMAN changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER (Mr. RIGGS). The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 333, noes 87, not voting 12, as follows:

[Roll No. 89]

AYES—333

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Deutsch
Dickey
Dixon
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Ramstad
Reed
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Royce
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White

Whitfield	Wise	Young (FL)
Wicker	Wolf	Zeliff
Williams	Young (AK)	Zimmer

NOES—87

Abercrombie	Gonzalez	Oberstar
Becerra	Green	Olver
Beilenson	Gutierrez	Ortiz
Bonior	Hall (OH)	Owens
Brown (FL)	Hastings (FL)	Pastor
Brown (OH)	Hilliard	Payne (NJ)
Bryant (TX)	Hinchey	Pelosi
Bunn	Jackson (IL)	Rahall
Campbell	Jackson-Lee (TX)	Rangel
Clayton	Jefferson	Richardson
Clyburn	Johnson, E. B.	Ros-Lehtinen
Coleman	Kennedy (MA)	Roybal-Allard
Collins (MI)	Kennedy (RI)	Rush
Conyers	King	Sabo
Coyne	LaFalce	Sanders
de la Garza	Lewis (GA)	Schroeder
Dellums	Lofgren	Scott
Diaz-Balart	Markey	Serrano
Dicks	Martinez	Skaggs
Dingell	Matsui	Thompson
Doggett	McDermott	Torres
Engel	McKinney	Towns
Evans	Meehan	Velazquez
Fattah	Meek	Ward
Fields (LA)	Mink	Watt (NC)
Filner	Mollohan	Woolsey
Flake	Morella	Wynn
Foglietta	Nadler	Yates
Frank (MA)	Neal	
Gibbons		

NOT VOTING—12

Clay	Moakley	Stokes
Collins (IL)	Radanovich	Studds
Dornan	Rose	Waters
Johnston	Stark	Wilson

□ 2013

The Clerk announced the following pair:

On this vote:

Mr. Radanovich for, with Mr. Stokes against.

Ms. ESHOO changed her vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. INGLIS of South Carolina. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2202, the Clerk be authorized to correct section numbers, cross-references, the table of contents, and punctuation, and to make such stylistic, clerical, technical, conforming, and other changes as may be necessary to reflect the actions of the House in amending the bill.

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

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 125, GUN CRIME ENFORCEMENT AND SECOND AMENDMENT RESTORATION ACT OF 1996

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–490) on the resolution (H. Res. 388) providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 4, LINE ITEM VETO ACT

Mr. CLINGER submitted the following conference report and statement on the Senate bill (S. 4) to grant the power to the President to reduce budget authority:

CONFERENCE REPORT (H. REPT. 104–491)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Line Item Veto Act''.

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.) is amended by adding at the end the following new part:

''PART C—LINE ITEM VETO

''LINE ITEM VETO AUTHORITY

''SEC. 1021. (a) IN GENERAL.—Notwithstanding the provisions of parts A and B, and subject to the provisions of this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States, cancel in whole—

''(1) any dollar amount of discretionary budget authority;

''(2) any item of new direct spending; or

''(3) any limited tax benefit;

if the President—

''(A) determines that such cancellation will—

''(i) reduce the Federal budget deficit;

''(ii) not impair any essential Government functions; and

''(iii) not harm the national interest; and

''(B) notifies the Congress of such cancellation by transmitting a special message, in accordance with section 1022, within five calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled.

''(b) IDENTIFICATION OF CANCELLATIONS.—In identifying dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits for cancellation, the President shall—

''(1) consider the legislative history, construction, and purposes of the law which contains such dollar amounts, items, or benefits;

''(2) consider any specific sources of information referenced in such law or, in the absence of specific sources of information, the best available information; and

''(3) use the definitions contained in section 1026 in applying this part to the specific provisions of such law.

''(c) EXCEPTION FOR DISAPPROVAL BILLS.—The authority granted by subsection (a) shall not apply to any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any law that is a disapproval bill as defined in section 1026.

''SPECIAL MESSAGES

''SEC. 1022. (a) IN GENERAL.—For each law from which a cancellation has been made under this part, the President shall transmit a single special message to the Congress.

''(b) CONTENTS.—

''(1) The special message shall specify—

''(A) the dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit which has been canceled, and provide a corresponding reference number for each cancellation;

''(B) the determinations required under section 1021(a), together with any supporting material;

''(C) the reasons for the cancellation;

''(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the cancellation;

''(E) all facts, circumstances and considerations relating to or bearing upon the cancellation, and to the maximum extent practicable, the estimated effect of the cancellation upon the objects, purposes and programs for which the canceled authority was provided; and

''(F) include the adjustments that will be made pursuant to section 1024 to the discretionary spending limits under section 601 and an evaluation of the effects of those adjustments upon the sequestration procedures of section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(2) In the case of a cancellation of any dollar amount of discretionary budget authority or item of new direct spending, the special message shall also include, if applicable-

''(A) any account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved;

''(B) the specific States and congressional districts, if any, affected by the cancellation; and

''(C) the total number of cancellations imposed during the current session of Congress on States and congressional districts identified in subparagraph (B).

''(c) TRANSMISSION OF SPECIAL MESSAGES TO HOUSE AND SENATE.—

''(1) The President shall transmit to the Congress each special message under this part within five calendar days (excluding Sundays) after enactment of the law to which the cancellation applies. Each special message shall be transmitted to the House of Representatives and the Senate on the same calendar day. Such special message shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session.

''(2) Any special message transmitted under this part shall be printed in the first issue of the Federal Register published after such transmittal.

''CANCELLATION EFFECTIVE UNLESS DISAPPROVED

''SEC. 1023. (a) IN GENERAL.—The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in

the House of Representatives and the Senate of the special message notifying the Congress of the cancellation. If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be effective as of the original date provided in the law to which the cancellation applied.

''(b) COMMENSURATE REDUCTIONS IN DISCRETIONARY BUDGET AUTHORITY.—Upon the cancellation of a dollar amount of discretionary budget authority under subsection (a), the total appropriation for each relevant account of which that dollar amount is a part shall be simultaneously reduced by the dollar amount of that cancellation.

''DEFICIT REDUCTION

''SEC. 1024. (a) IN GENERAL.—

''(1) DISCRETIONARY BUDGET AUTHORITY.—OMB shall, for each dollar amount of discretionary budget authority and for each item of new direct spending canceled from an appropriation law under section 1021(a)—

''(A) reflect the reduction that results from such cancellation in the estimates required by section 251(a)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 in accordance with that Act, including an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear; and

''(B) include a reduction to the discretionary spending limits for budget authority and outlays in accordance with the Balanced Budget and Emergency Deficit Control Act of 1985 for each applicable fiscal year set forth in section 601(a)(2) by amounts equal to the amounts for each fiscal year estimated pursuant to subparagraph (A).

''(2) DIRECT SPENDING AND LIMITED TAX BENEFITS.—(A) OMB shall, for each item of new direct spending or limited tax benefit canceled from a law under section 1021(a), estimate the deficit decrease caused by the cancellation of such item or benefit in that law and include such estimate as a separate entry in the report prepared pursuant to section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(B) OMB shall not include any change in the deficit resulting from a cancellation of any item of new direct spending or limited tax benefit, or the enactment of a disapproval bill for any such cancellation, under this part in the estimates and reports required by sections 252(b) and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(b) ADJUSTMENTS TO SPENDING LIMITS.—After ten calendar days (excluding Sundays) after the expiration of the time period in section 1025(b)(1) for expedited congressional consideration of a disapproval bill for a special message containing a cancellation of discretionary budget authority, OMB shall make the reduction included in subsection (a)(1)(B) as part of the next sequester report required by section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(c) EXCEPTION.—Subsection (b) shall not apply to a cancellation if a disapproval bill or other law that disapproves that cancellation is enacted into law prior to 10 calendar days (excluding Sundays) after the expiration of the time period set forth in section 1025(b)(1).

''(d) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—As soon as practicable after the President makes a cancellation from a law under section 1021(a), the Director of the Congressional Budget Office shall provide the Committees on the Budget of the House of Representatives and the Senate with an estimate of the reduction of the budget authority and the reduction in outlays flowing from such reduction of budget authority for each outyear.

''EXPEDITED CONGRESSIONAL CONSIDERATION OF DISAPPROVAL BILLS

''SEC. 1025. (a) RECEIPT AND REFERRAL OF SPECIAL MESSAGE.—Each special message transmitted under this part shall be referred to the Committee on the Budget and the appropriate committee or committees of the Senate and the Committee on the Budget and the appropriate committee or committees of the House of Representatives. Each such message shall be printed as a document of the House of Representatives.

''(b) TIME PERIOD FOR EXPEDITED PROCEDURES.—

''(1) There shall be a congressional review period of 30 calendar days of session, beginning on the first calendar day of session after the date on which the special message is received in the House of Representatives and the Senate, during which the procedures contained in this section shall apply to both Houses of Congress.

''(2) In the House of Representatives the procedures set forth in this section shall not apply after the end of the period described in paragraph (1).

''(3) If Congress adjourns at the end of a Congress prior to the expiration of the period described in paragraph (1) and a disapproval bill was then pending in either House of Congress or a committee thereof (including a conference committee of the two Houses of Congress), or was pending before the President, a disapproval bill for the same special message may be introduced within the first five calendar days of session of the next Congress and shall be treated as a disapproval bill under this part, and the time period described in paragraph (1) shall commence on the day of introduction of that disapproval bill.

''(c) INTRODUCTION OF DISAPPROVAL BILLS.—(1) In order for a disapproval bill to be considered under the procedures set forth in this section, the bill must meet the definition of a disapproval bill and must be introduced no later than the fifth calendar day of session following the beginning of the period described in subsection (b)(1).

''(2) In the case of a disapproval bill introduced in the House of Representatives, such bill shall include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all cancellations made by the President in the special message to which such disapproval bill relates.

''(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) Any committee of the House of Representatives to which a disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction. If any committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill, except that such a motion may not be made after the committee has reported a disapproval bill with respect to the same special message. A motion to discharge may be made only by a Member favoring the bill (but only at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member offering the motion announces to the House his intention to do so and the form of the motion). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

''(2) After a disapproval bill is reported or a committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. If reported and the report has been available for at least one calendar day, all points of order against the bill and against consideration of the bill are waived. If discharged, all points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed, shall be confined to the bill, and shall not exceed one hour equally divided and controlled by a proponent and an opponent of the bill. The bill shall be considered as read for amendment under the five-minute rule. Only one motion to rise shall be in order, except if offered by the manager. No amendment to the bill is in order, except any Member if supported by 49 other Members (a quorum being present) may offer an amendment striking the reference number or numbers of a cancellation or cancellations from the bill. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. At the conclusion of the 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

''(3) Appeals from decisions of the Chair regarding application of the rules of the House of Representatives to the procedure relating to a disapproval bill shall be decided without debate.

''(4) It shall not be in order to consider under this subsection more than one disapproval bill for the same special message except for consideration of a similar Senate bill (unless the House has already rejected a disapproval bill for the same special message) or more than one motion to discharge described in paragraph (1) with respect to a disapproval bill for that special message.

''(e) CONSIDERATION IN THE SENATE.—

''(1) REFERRAL AND REPORTING.—Any disapproval bill introduced in the Senate shall be referred to the appropriate committee or committees. A committee to which a disapproval bill has been referred shall report the bill not later than the seventh day of session following the date of introduction of that bill. If any committee fails to report the bill within that period, that committee shall be automatically discharged from further consideration of the bill and the bill shall be placed on the Calendar.

''(2) DISAPPROVAL BILL FROM HOUSE.—When the Senate receives from the House of Representatives a disapproval bill, such bill shall not be referred to committee and shall be placed on the Calendar.

''(3) CONSIDERATION OF SINGLE DISAPPROVAL BILL.—After the Senate has proceeded to the consideration of a disapproval bill for a special message, then no other disapproval bill originating in that same House relating to that same message shall be subject to the procedures set forth in this subsection.

''(4) AMENDMENTS.—

''(A) AMENDMENTS IN ORDER.—The only amendments in order to a disapproval bill are—

''(i) an amendment that strikes the reference number of a cancellation from the disapproval bill; and

''(ii) an amendment that only inserts the reference number of a cancellation included in the special message to which the disapproval bill relates that is not already contained in such bill.

''(B) WAIVER OR APPEAL.—An affirmative vote of three-fifths of the Senators, duly chosen and sworn, shall be required in the Senate—

''(i) to waive or suspend this paragraph; or

''(ii) to sustain an appeal of the ruling of the Chair on a point of order raised under this paragraph.

''(5) MOTION NONDEBATABLE.—A motion to proceed to consideration of a disapproval bill under this subsection shall not be debatable. It shall not be in order to move to reconsider the vote by which the motion to proceed was adopted or rejected, although subsequent motions to proceed may be made under this paragraph.

''(6) LIMIT ON CONSIDERATION.— (A) After no more than 10 hours of consideration of a disapproval bill, the Senate shall proceed, without intervening action or debate (except as permitted under paragraph (9)), to vote on the final disposition thereof to the exclusion of all amendments not then pending and to the exclusion of all motions, except a motion to reconsider or to table.

''(B) A single motion to extend the time for consideration under subparagraph (A) for no more than an additional five hours is in order prior to the expiration of such time and shall be decided without debate.

''(C) The time for debate on the disapproval bill shall be equally divided between the Majority Leader and the Minority Leader or their designees.

''(7) DEBATE ON AMENDMENTS.—Debate on any amendment to a disapproval bill shall be limited to one hour, equally divided and controlled by the Senator proposing the amendment and the majority manager, unless the majority manager is in favor of the amendment, in which case the minority manager shall be in control of the time in opposition.

''(8) NO MOTION TO RECOMMIT.—A motion to recommit a disapproval bill shall not be in order.

''(9) DISPOSITION OF SENATE DISAPPROVAL BILL.—If the Senate has read for the third time a disapproval bill that originated in the Senate, then it shall be in order at any time thereafter to move to proceed to the consideration of a disapproval bill for the same special message received from the House of Representatives and placed on the Calendar pursuant to paragraph (2), strike all after the enacting clause, substitute the text of the Senate disapproval bill, agree to the Senate amendment, and vote on final disposition of the House disapproval bill, all without any intervening action or debate.

''(10) CONSIDERATION OF HOUSE MESSAGE.—Consideration in the Senate of all motions, amendments, or appeals necessary to dispose of a message from the House of Representatives on a disapproval bill shall be limited to not more than four hours. Debate on each motion or amendment shall be limited to 30 minutes. Debate on any appeal or point of order that is submitted in connection with the disposition of the House message shall be limited to 20 minutes. Any time for debate shall be equally divided and controlled by the proponent and the majority manager, unless the majority manager is a proponent of the motion, amendment, appeal, or point of order, in which case the minority manager shall be in control of the time in opposition.

''(f) CONSIDERATION IN CONFERENCE—

''(1) CONVENING OF CONFERENCE.—In the case of disagreement between the two Houses of Congress with respect to a disapproval bill passed by both Houses, conferees should be promptly appointed and a conference promptly convened, if necessary.

''(2) HOUSE CONSIDERATION.—(A) Notwithstanding any other rule of the House of Representatives, it shall be in order to consider the report of a committee of conference relating to a disapproval bill provided such report has been available for one calendar day (excluding Saturdays, Sundays, or legal holidays, unless the House is in session on such a day) and the accompanying statement shall have been filed in the House.

''(B) Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

''(3) SENATE CONSIDERATION.—Consideration in the Senate of the conference report and any amendments in disagreement on a disapproval bill shall be limited to not more than four hours equally divided and controlled by the Majority Leader and the Minority Leader or their designees. A motion to recommit the conference report is not in order.

''(4) LIMITS ON SCOPE.—(A) When a disagreement to an amendment in the nature of a substitute has been referred to a conference, the conferees shall report those cancellations that were included in both the bill and the amendment, and may report a cancellation included in either the bill or the amendment, but shall not include any other matter.

''(B) When a disagreement on an amendment or amendments of one House to the disapproval bill of the other House has been referred to a committee of conference, the conferees shall report those cancellations upon which both Houses agree and may report any or all of those cancellations upon which there is disagreement, but shall not include any other matter.

''DEFINITIONS

''SEC. 1026. As used in this part:

''(1) APPROPRIATION LAW.—The term 'appropriation law' means an Act referred to in section 105 of title 1, United States Code, including any general or special appropriation Act, or any Act making supplemental, deficiency, or continuing appropriations, that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.

''(2) CALENDAR DAY.—The term 'calendar day' means a standard 24-hour period beginning at midnight.

''(3) CALENDAR DAYS OF SESSION.—The term 'calendar days of session' shall mean only those days on which both Houses of Congress are in session.

''(4) CANCEL.—The term 'cancel' or 'cancellation' means—

''(A) with respect to any dollar amount of discretionary budget authority, to rescind;

''(B) with respect to any item of new direct spending—

''(i) that is budget authority provided by law (other than an appropriation law), to prevent such budget authority from having legal force or effect;

''(ii) that is entitlement authority, to prevent the specific legal obligation of the United States from having legal force or effect; or

''(iii) through the food stamp program, to prevent the specific provision of law that results in an increase in budget authority or outlays for that program from having legal force or effect; and

''(C) with respect to a limited tax benefit, to prevent the specific provision of law that provides such benefit from having legal force or effect.

''(5) DIRECT SPENDING.—The term 'direct spending' means—

''(A) budget authority provided by law (other than an appropriation law);

''(B) entitlement authority; and

''(C) the food stamp program.

''(6) DISAPPROVAL BILL.—The term 'disapproval bill' means a bill or joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending, or limited tax benefits in a special message transmitted by the President under this part and—

''(A) the title of which is as follows: 'A bill disapproving the cancellations transmitted by the President on _____', the blank space being filled in with the date of transmission of the relevant special message and the public law number to which the message relates;

''(B) which does not have a preamble; and

''(C) which provides only the following after the enacting clause: 'That Congress disapproves of cancellations _____', the blank space being filled in with a list by reference number of one or more cancellations contained in the President's special message, 'as transmitted by the President in a special message on _____', the blank space being filled in with the appropriate date, 'regarding _____.', the blank space being filled in with the public law number to which the special message relates.

''(7) DOLLAR AMOUNT OF DISCRETIONARY BUDGET AUTHORITY.—(A) Except as provided in subparagraph (B), the term 'dollar amount of discretionary budget authority' means the entire dollar amount of budget authority—

''(i) specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included;

''(ii) represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report accompanying such law;

''(iii) required to be allocated for a specific program, project, or activity in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law;

''(iv) represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or included in the statement of managers or the governing committee report accompanying such law; and

''(v) represented by the product of the estimated procurement cost and the total quantity of items required to be provided in a law (other than an appropriation law) that mandates the expenditure of budget authority from accounts, programs, projects, or activities for which budget authority is provided in an appropriation law.

''(B) The term 'dollar amount of discretionary budget authority' does not include—

''(i) direct spending;

''(ii) budget authority in an appropriation law which funds direct spending provided for in other law;

''(iii) any existing budget authority rescinded or canceled in an appropriation law; or

''(iv) any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or committee reports on the expenditure of budget authority for an account, program, project, or activity, or on activities involving such expenditure.

''(8) ITEM OF NEW DIRECT SPENDING.—The term 'item of new direct spending' means any specific provision of law that is estimated to result in an increase in budget authority or outlays for direct spending relative to the most recent levels calculated pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

''(9) LIMITED TAX BENEFIT.—(A) The term 'limited tax benefit' means—

''(i) any revenue-losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; and

''(ii) any Federal tax provision which provides temporary or permanent transitional relief for 10 or fewer beneficiaries in any fiscal year from a change to the Internal Revenue Code of 1986.

''(B) A provision shall not be treated as described in subparagraph (A)(i) if the effect of that provision is that—

''(i) all persons in the same industry or engaged in the same type of activity receive the same treatment;

''(ii) all persons owning the same type of property, or issuing the same type of investment, receive the same treatment; or

''(iii) any difference in the treatment of persons is based solely on—

''(I) in the case of businesses and associations, the size or form of the business or association involved;

''(II) in the case of individuals, general demographic conditions, such as income, marital status, number of dependents, or tax return filing status;

''(III) the amount involved; or

''(IV) a generally-available election under the Internal Revenue Code of 1986.

''(C) A provision shall not be treated as described in subparagraph (A)(ii) if—

''(i) it provides for the retention of prior law with respect to all binding contracts or other legally enforceable obligations in existence on a date contemporaneous with congressional action specifying such date; or

''(ii) it is a technical correction to previously enacted legislation that is estimated to have no revenue effect.

''(D) For purposes of subparagraph (A)—

''(i) all businesses and associations which are related within the meaning of sections 707(b) and 1563(a) of the Internal Revenue Code of 1986 shall be treated as a single beneficiary;

''(ii) all qualified plans of an employer shall be treated as a single beneficiary;

''(iii) all holders of the same bond issue shall be treated as a single beneficiary; and

''(iv) if a corporation, partnership, association, trust or estate is the beneficiary of a provision, the shareholders of the corporation, the partners of the partnership, the members of the association, or the beneficiaries of the trust or estate shall not also be treated as beneficiaries of such provision.

''(E) For purposes of this paragraph, the term 'revenue-losing provision' means any provision which results in a reduction in Federal tax revenues for any one of the two following periods—

''(i) the first fiscal year for which the provision is effective; or

''(ii) the period of the 5 fiscal years beginning with the first fiscal year for which the provision is effective.

''(F) The terms used in this paragraph shall have the same meaning as those terms have generally in the Internal Revenue Code of 1986, unless otherwise expressly provided.

''(10) OMB.—The term 'OMB' means the Director of the Office of Management and Budget.

''IDENTIFICATION OF LIMITED TAX BENEFITS

''SEC. 1027. (a) STATEMENT BY JOINT TAX COMMITTEE.—The Joint Committee on Taxation shall review any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 that is being prepared for filing by a committee of conference of the two Houses, and shall identify whether such bill or joint resolution contains any limited tax benefits. The Joint Committee on Taxation shall provide to the committee of conference a statement identifying any such limited tax benefits or declaring that the bill or joint resolution does not contain any limited tax benefits. Any such statement shall be made available to any Member of Congress by the Joint Committee on Taxation immediately upon request.

''(b) STATEMENT INCLUDED IN LEGISLATION.—(1) Notwithstanding any other rule of the House of Representatives or any rule or precedent of the Senate, any revenue or reconciliation bill or joint resolution which includes any amendment to the Internal Revenue Code of 1986 reported by a committee of conference of the two Houses may include, as a separate section of such bill or joint resolution, the information contained in the statement of the Joint Committee on Taxation, but only in the manner set forth in paragraph (2).

''(2) The separate section permitted under paragraph (1) shall read as follows: 'Section 1021(a)(3) of the Congressional Budget and Impoundment Control Act of 1974 shall _____ apply to _____.', with the blank spaces being filled in with—

''(A) in any case in which the Joint Committee on Taxation identifies limited tax benefits in the statement required under subsection (a), the word 'only' in the first blank space and a list of all of the specific provisions of the bill or joint resolution identified by the Joint Committee on Taxation in such statement in the second blank space; or

''(B) in any case in which the Joint Committee on Taxation declares that there are no limited tax benefits in the statement required under subsection (a), the word 'not' in the first blank space and the phrase 'any provision of this Act' in the second blank space.

''(c) PRESIDENT'S AUTHORITY.—If any revenue or reconciliation bill or joint resolution is signed into law pursuant to Article I, section 7, of the Constitution of the United States—

''(1) with a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) only to cancel any limited tax benefit in that law, if any, identified in such separate section; or

''(2) without a separate section described in subsection (b)(2), then the President may use the authority granted in section 1021(a)(3) to cancel any limited tax benefit in that law that meets the definition in section 1026.

''(d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED TAX BENEFITS.—There shall be no judicial review of the congressional identification under subsections (a) and (b) of a limited tax benefit in a conference report.''.

SEC. 3. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress or any individual adversely affected by part C of title X of the Congressional Budget and Impoundment Control Act of 1974 may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this part violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 calendar days after such order is entered; and the jurisdictional statement shall be filed within 30 calendar days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

SEC. 4. CONFORMING AMENDMENTS.

(a) SHORT TITLES.—Section 1(a) of the Congressional Budget and Impoundment Control Act of 1974 is amended by—

(1) striking ''and'' before ''title X'' and inserting a period;

(2) inserting ''Parts A and B of'' before ''title X''; and

(3) inserting at the end the following new sentence: ''Part C of title X may be cited as the 'Line Item Veto Act of 1996'.''.

(b) TABLE OF CONTENTS.—The table of contents set forth in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end the following:

''PART C—LINE ITEM VETO

''Sec. 1021. Line item veto authority.
''Sec. 1022. Special messages.
''Sec. 1023. Cancellation effective unless disapproved.
''Sec. 1024. Deficit reduction.
''Sec. 1025. Expedited congressional consideration of disapproval bills.
''Sec. 1026. Definitions.
''Sec. 1027. Identification of limited tax benefits.''.

(c) EXERCISE OF RULEMAKING POWERS.—Section 904(a) of the Congressional Budget Act of 1974 is amended by striking ''and 1017'' and inserting '', 1017, 1025, and 1027''.

SEC. 5. EFFECTIVE DATES.

This Act and the amendments made by it shall take effect and apply to measures enacted on the earlier of—

(1) the day after the enactment into law, pursuant to Article I, section 7, of the Constitution of the United States, of an Act entitled ''An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget.''; or

(2) January 1, 1997;

and shall have no force or effect on or after January 1, 2005.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment to the title of the bill, insert the following: ''An Act to give the President line item veto authority with respect to appropriations, new direct spending, and limited tax benefits.''.

And the House agree to the same.

BILL CLINGER,
GERALD SOLOMON,
JIM BUNNING,
PORTER GOSS,
PETER BLUTE,
Managers on the Part of the House.

TED STEVENS,
BILL ROTH,
FRED THOMPSON,
THAD COCHRAN,
JOHN MCCAIN,
PETE V. DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
DAN COATS,
JIM EXON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4) to grant the power to the President to reduce budget authority, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment that is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in

conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

BACKGROUND AND NEED FOR THE LEGISLATION

The American people consistently cite runaway federal spending and a rising national debt as among the top issues of national concern. Over the past fifteen years alone, the national debt of the United States has quintupled. From 1789 through 1981, our total national debt amounted to $1 trillion. Yet today, just fifteen years later, that debt exceeds $5 trillion, and without significant reforms an additional $1 trillion will be added over the next four years. This astonishing growth in federal debt has fueled public support for measures to ensure greater fiscal accountability in Washington. This legislation, along with other measures to balance the federal budget considered in the 104th Congress, moves to meet that demand by enhancing the President's ability to eliminate wasteful federal spending and to cancel special tax breaks.

No one would contend that a line item veto on its own will be enough to restrain spending and bring the federal budget into balance. However, a January 1992 GAO report indicates that this type of fiscal discipline could have a significant impact upon federal spending, concluding that if Presidents had applied this authority to all matters objected to in Statements of Administration Policy on spending bills in the fiscal years 1984 through 1989, spending could have been reduced by a six-year total of about $70 billion.

The conference report on S.4, the Line Item Veto Act, delegates limited authority to the President to cancel new spending and limited tax benefits. This authority is in addition to the President's existing authority under the Impoundment Control Act of 1974 (title X of the Congressional Budget Act). The Impoundment Control Act permits the President to submit proposed rescissions of discretionary budget authority to Congress, but prohibits those rescissions from taking effect without congressional approval. In addition to applying solely to appropriation laws, the statutory provisions of the Impoundment Control Act have proven too restrictive. While Congress has initiated and passed rescissions on its own, Congress has agreed to only $23.7 billion of $74 billion in rescissions proposed by Presidents (both Democrat and Republican) since enactment of title X in 1974.

PURPOSE

The purpose of the conference report is to promote savings by placing the onus on Congress to overturn the President's cancellations of spending and limited tax benefits. In addition, recognizing that discretionary spending represents only about one-third of the entire federal budget, the conference report expands the President's current rescission authority to include both new direct spending and limited tax benefits.

Under the conference report, the President may cancel any dollar amount of discretionary budget authority in an appropriation law or its accompanying reports, or may cancel any item of new direct spending or limited tax benefit from an authorization or revenue act. After notifying Congress of his cancellations in a special message, the Congress is given a specified period for expedited review of the President's proposal.

If Congress fails to enact disapproving legislation within the period for expedited consideration, the savings are set aside for deficit reduction through a lockbox mechanism.

SUMMARY OF THE SENATE BILL

The Senate bill was introduced by Senator Dole on Wednesday, January 4, 1995. On March 20, 1995, the Senate began consideration. During consideration in the Senate, Senator Dole (for himself, and Senators McCain, Coats and Domenici) offered an amendment in the form of a substitute.

The Senate bill gives the President line item veto authority by dis-aggregating certain types of bills under a procedure known as ''separate enrollment.'' Separate enrollment requires that the enrolling clerks of the House and Senate separately enroll each item of spending in an appropriation bill and each item of new direct spending or any targeted tax benefit contained in an authorizing bill. Each of these individual bills is presented to the President. The President may exercise his Article I power to veto any one, or all, of the individual bills. The Congress may exercise its Constitutional prerogative to override the President's veto(es).

According to the Senate bill, the House and Senate Appropriations Committees report appropriation measures following current procedure except that any appropriation bill reported by the Committee must contain the same level of detail as is provided in the Committee report that accompanies the bill. This requirement ensures that appropriation bills do not contain large dollar lump sums with the details directing how the money should be expended noted only in the committee report.

An authorization bill that contains an item of new direct spending or a targeted tax benefit that is brought to the floor must contain such provision in a separate section and must identify the item of new direct spending or the targeted tax benefit in the report that accompanies the bill.

Any appropriation or authorization bill that fails to comply with the above requirements is subject to a point of order that may only be waived by a three-fifths vote of the House or Senate.

Upon passage of an appropriation or authorization bill, the enrolling clerk of the originating House is required to enroll each item contained in the legislation separately. After all the items are enrolled as separate bills, both the House and Senate vote on all the bills en bloc prior to their submittal to the President.

The provisions of the bill become effective on the date of enactment and sunset in five years.

As defined in the bill, an item in an appropriation bill is:

(1) any numbered section;

(2) any unnumbered paragraph; or

(3) any allocation or suballocation contained in a numbered section or an unnumbered paragraph made to conform to the level of detail in the accompanying report.

The following items are not required to be separately enrolled:

(1) provisions that do not appropriate funds;

(2) provisions that do not direct the expenditures of funds for a specific project; and

(3) provisions that create an express or implied obligation to expend funds and

(a) rescind budget authority;

(b) limit, condition or otherwise restrict the expenditure of budget authority; or

(c) place a condition on the expenditure of budget authority by explicitly prohibiting the use of the funds.

By not separately enrolling the items just noted, language that places restrictions or conditions on the expenditure of funds, also known as fencing language, may not be separately vetoed apart from some dollar amount.

An item in an authorization bill is (1) any numbered section, or (2) any unnumbered paragraph that provides new direct spending or a new targeted tax benefit.

A targeted tax benefit is any provision that (1) the Joint Committee on Taxation estimates would lose revenue in the first fiscal year and over the five fiscal years covered by the budget resolution, and (2) provides more favorable treatment to a taxpayer or a targeted group of taxpayers when compared to a similarly situation taxpayer or group of taxpayers.

The Senate bill contains a ''lockbox'' provision, a prohibition on emergency spending bills containing non-emergency spending items, and a sunset of all tax provisions at least every 10 years.

Finally, the Senate bill contains provisions allowing a Member of Congress to challenge the constitutionality of the bill under expedited procedures and a severability clause stating that if any one provision of the Act is found to be unconstitutional, the remainder of the Act will be held harmless.

SUMMARY OF THE HOUSE AMENDMENT

The House amendment is based on the ''enhanced rescission'' format. It authorizes the President to rescind all or part of any discretionary budget authority or veto any targeted tax benefit if the President determines that such rescission; (1) will help reduce the federal budget deficit; (2) will not impair any essential government functions; and (3) will not harm the national interest.

The amendment requires the President to notify the Congress of such a rescission or veto by special message within 10 days (excluding Sundays) after enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

The amendment allows the President in each special message to propose to reduce the appropriate discretionary spending limit by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message. It also requires the President to submit a separate special message for each appropriation Act and for each revenue or reconciliation Act. The President may only transmit one special message for each Act.

The House amendment makes such a rescission effective unless the Congress enacts a disapproval bill. Any budget authority rescinded is no longer available for obligation and a tax benefit is not effective unless the Congress passes a disapproval bill within 20 days, and assuming a veto, overrides that veto within 5 days.

The House amendment provides special procedures for consideration of a rescission disapproval bill in each House.

Upon receipt of the President's special message, if a disapproval bill is introduced, it is referred to the appropriate committee. The specific form of a disapproval bill is noted in the House amendment, and such disapproval bill must be introduced within 3 days in order to qualify for the special procedures in the House. The Senate committee is not required to report the bill and there is no provision mandating discharge.

The House committee to which the bill is referred shall report it without amendment, and with or without recommendation, no later than the eighth calendar day of session after the date of its introduction. If the Committee fails to report the bill, it is in order to move that the House discharge the bill from committee.

After a bill is discharged from Committee, it is in order to move that the House move to consideration of the bill. All points of order against the bill and its consideration are waived and the motion is highly privileged. Motions to reconsider the vote by which the motion is agreed to or disagreed to are not in order.

Consideration of the bill is limited to two hours equally divided between proponents and opponents of the bill. Amendments to

the bill are not in order, except that a Member may make a motion to strike the disapproval of any rescission(s) of budget authority if such a motion is supported by at least 49 other Members. Motions to reconsider the vote on the disapproval bill are not in order. It is only in order in the House to consider one disapproval bill with respect to any specific Presidential rescission message.

If a rescission disapproval bill is considered by the Senate, debate is limited to 10 hours to be divided equally and controlled by the Majority and Minority leaders. Debate on any motions or appeals in connection with the bill are limited to one hour each, divided equally. Motions to further limit debate are not debatable. A motion to recommit is not in order unless such motion is to recommit the bill with instructions that it be reported back within one day.

Further, the House amendment mandates that it is not in order in the Senate to consider any rescission disapproval bill relating to any matter other than the items noted in the President's special message. Amendments to a rescission disapproval bill are not in order. The provisions noted in this paragraph may only be waived by an affirmative vote of three-fifths of the Senate.

The House amendment provides for annual General Accounting Office (GAO) reports on Presidential use of the line item veto authority. It also specifically prohibits the President from using the authority under the Act to change prohibitions or limitations (fencing language) in an appropriation Act.

The bill generally defines a targeted tax benefit as a provision in a revenue or reconciliation Act that provides a tax deduction, credit, exclusion, preference, or concession to 100 or fewer beneficiaries.

Finally, the bill provides a process for expedited judicial review of provisions of this Act.

CONFERENCE AGREEMENT

Section 1. Short title

This bill, when enacted, may be cited as the ''Line Item Veto Act.''

Sec. 2. Line item veto authority

Section 2 of the conference report amends title X of the Congressional Budget and Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027.

In general, part C grants the President the authority to cancel in whole any dollar amount of discretionary budget authority provided in an appropriation law or any item of new direct spending or limited tax benefit contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the federal budget deficit.

The conferees note that while the conference report delegates new powers to the President, these powers are narrowly defined and provided within specific limits. The conference report includes specific definitions, carefully delineates the President's cancellation authority, and provides specific limits on this cancellation authority. The delegation of this cancellation authority is not separable from the President's duties to comply with these restrictions. To the extent the President broadly applies this new cancellation authority or reaches beyond these limits to expand the application of this new authority, the President will be reaching beyond the delegation of these authorities. Given the significance of this delegation, the conference report includes a sunset of this authority.

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit contained in any bill or joint resolution that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States. The cancellation may be made only if the President determines such cancellation will reduce the federal budget deficit and will not impair any essential government function or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution must have been signed into law in order to clarify that the cancellation authority only becomes effective after the President has exercised the constitutional authority to enact legislation in its entirety. This requirement ensures that the President affirmatively demonstrates support for the underlying legislation from which specific cancellations are then permitted.

The term ''cancel'' was specifically chosen, and is carefully defined in section 1026. The conferees intend that the President may use the cancellation authority to surgically terminate federal budget obligations. The cancellation authority is specifically limited to any entire dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law. The President may only terminate the obligation of the Federal Government to spend certain sums of money through a specific appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limited tax benefit.

Likewise, the terms ''dollar amount of discretionary budget authority,'' ''item of new direct spending,'' and ''limited tax benefit'' have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. ''Fencing language'' may not be canceled by the President under this authority. This means that the President cannot use this authority to modify or alter any aspect of the underlying law, including any restriction, limitation or condition on the expenditure of budget authority, or any other requirement of the law.

The conferees intend that, even once the federal obligation to expend a dollar amount or provide a benefit is canceled, all other operative provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either ask Congress to modify the law or exercise the President's constitutional power to veto the legislation in its entirety.

The lockbox provision of the conference report has also been included to maintain a system of checks and balances in the President's use of the cancellation authority. Any credit for money not spent, or for revenue foregone, is dedicated to deficit reduction through the operation of the lockbox mechanism. This ensures that the President does not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

Section 1021(b) requires the President to consider legislative history and information referenced in law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information.

Section 1021(c) states that the President's cancellation authority shall not apply to a disapproval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Sec. 1022. Special messages

Section 1022 provides that, if the President cancels provisions within a law, a special message must be submitted to Congress. A separate special message must be submitted for each law from which a cancellation is made.

Similar to the requirements in section 1012 of the Impoundment Control Act of 1974, the conference report requires that the President's special message include relevant supporting material about each cancellation and its budgetary impact. The conferees intend this requirement to ensure that the Congress and the public receive sufficient information with which to judge the President's action.

Specifically, the President's special message must include:

(1) the dollar amount of discretionary budget authority, items of new direct spending or limited tax benefits which have been canceled;

(2) corresponding reference numbers of each cancellation;

(3) the determinations required under section 1021 and any supporting material;

(4) the reasons for each cancellation;

(5) the estimated fiscal, economic and budgetary effect of each cancellation (to the maximum extent practicable);

(6) all facts, circumstances and considerations relating to each cancellation;

(7) the estimated effect of each cancellation upon the objects, purposes and programs for which the canceled authority was provided (to the maximum extent practicable); and

(8) the adjustments that will be made pursuant to section 1024 (''Deficit Reduction'') to the discretionary spending limits under section 601 of the Budget Act and an evaluation of the effects of those adjustments upon sequestration procedures.

The President's special message must specify any account, department or establishment of the government and any specific project or governmental functions impacted by each cancellation.

The conference report requires that, if applicable, the special message include the specific states and congressional districts impacted and the total number of cancellations imposed during the current session of Congress on those states and congressional districts. This is to ensure that the Congress has information to determine if there is a disproportionate impact on a particular state or congressional district.

The President's special message must be transmitted to the House of Representatives and to the Senate within five calendar days (excluding Sundays) of enactment (by the President's signature) of the law to which any cancellations apply. It is the intention of the conferees that the President's cancellations be made as soon as possible after the enactment of the law. The maximum time of five calendar days is provided to ensure that all supporting material required for inclusion in the special message can be provided by the Administration. It is the view of the conferees that additional time (beyond five calendar days) would unnecessarily prolong the process.

The special message must be transmitted to both Houses of Congress on the same day, and must be received by the Clerk of the House and to the Secretary of the Senate if either House is not in session on that day.

Any special message must be printed in the first issue of the Federal Register published after the transmittal.

Sec. 1023. Cancellation effective unless disapproved

Upon receipt of the President's special message in both the House of Representatives and the Senate, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit identified in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or a limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

The cancellation of a dollar amount of discretionary budget authority, an item of new direct spending, or a limited tax benefit is nullified only if a disapproval bill is enacted into law. The conferees intend that, if a disapproval bill is enacted, the President shall expend the funds or implement a provision as originally directed by Congress. The effective date for any cancellation disapproved in a disapproval bill is the original date provided in the law to which the cancellation applied.

Section 1023(b) provides that, when a dollar amount of discretionary budget authority canceled by the President is part of a larger sum in an appropriation law, such cancellation will result in the commensurate reduction of each relevant appropriation account by that dollar amount. These reductions are a necessary conforming change to ensure that all sums required to be spent by the appropriation law accurately reflect the cancellation contained in the President's message. This is a technical mechanism to maintain mathematical consistency and does not grant the President any additional authority.

To illustrate the mechanism for commensurate reductions in discretionary budget authority the conferees provide the following example:

The FY '96 Agriculture Appropriations Act (Public Law 104–37) appropriates a total of $421,929,000 for agricultural research and education, of which $49,846,000 is made available for special grants for agriculture research. The conference report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table includes, for example, a $3,758,000 allocation for: ''Wood Utilization Research (OR, MS, NC, MN, ME, MI)''.

Assuming the President exercised the authority to cancel this $3,758,000, this dollar amount would be automatically subtractedfrom the $421,929,000 total and from the $49,846,000 earmark. If the $3,758,000 was included in any other larger dollar amount in the appropriation law, then all such other dollar amounts would likewise be simultaneously reduced by $3,758,000.

Sec. 1024. Deficit reduction

Section 1024 establishes a deficit reduction, or ''lockbox'', procedure for the cancellations of discretionary budget authority, new direct spending, or limited tax benefits. The conference report's lockbox procedures are incorporated into existing procedures governing discretionary spending limits and pay-as-you-go requirements under the Balanced Budget and Emergency Deficit Control Act.

The conference report requires the Office of Management and Budget (OMB) to estimate the discretionay budget authority and outlay savings that result from cancellations from an appropriation law and include those calculations as part of the estimate OMB must submit to Congress under section 251 of the Balanced Budget and Emergency Deficit Control Act. The conference report also requires OMB to calculate a reduction to the spending caps that is equal to the budget authority reduction and related outlay savings that result from a cancellation.

After the expiration of the time period for congressional consideration of a disapproval bill plus 10 days, OMB is required to adjust the spending caps downward by the amount of budget authority and outlay savings in its next sequester report.

In the case of the cancellation of direct spending or limited tax benefits, OMB is required to estimate the deficit decrease as a separate entry in its pay-as-you-go report to Congress. In order to ensure that the savings from the cancellation of new direct spending or limited tax benefits are devoted to deficit reduction and are not available to offset a deficit increase in another law, the conference report provides that the savings from these cancellations shall not be included in the pay-as-you-go balances under the Balanced Budget and Emergency Deficit Control Act. Similarly, if a disapproval bill is enacted that overturns the cancellation of an item of direct spending or a limited tax benefit, OMB will not score this legislation as increasing the deficit under pay as you go.

Section 1024 also requires the Congressional Budget Office (CBO) to submit its estimate of the savings resulting from a cancellation to the Budget Committees of House and Senate. This is consistent with existing provisions in the Balanced Budget and Emergency Deficit Control Act which require CBO estimates and require OMB to make comparisons of its estimates with those made by CBO. The conferees expect CBO and the Budget Committees to carefully monitor OMB's estimates of cancellations.

The conferees intend that any savings from a cancellation be dedicated to deficit reduction and not used as an offset for future spending. The conference report is silent on congressional enforcement mechanisms because existing scoring conventions will have the effect of dedicating any savings from these cancellations to deficit reduction. Under existing congressional scoring conventions, CBO and the Budget Committees only score the budgetary impacts that directly result from legislation. The cancellation of an item will represent an administrative action and will not be scored as savings. Therefore, the savings from a cancellation will not be available as an offset for congressional scoring purposes. During the period for consideration of a disapproval bill CBO should not score the cost associated with a disapproval of a cancellation.

If there is an effort to include in legislation a cancellation already made by the President and claim the savings from such a cancellation as an offset for a provision that increases the deficit, the conferees expect the Budget Committees to ensure these savings are not used as an offset.

Sec. 1025. Expedited congressional consideration of disapproval bills

Section 1025 adopts the House provision with modifications providing for expedited procedures to consider disapproval bills. The conferees clearly intend this language to stand separate and apart from the language currently found in part B of title X of the Budget Act with regard to consideration of proposed rescissions, reservations, and deferrals of budget authority. The language of the conference report is directed solely at Congress' ability to respond to the cancellation authority of the Executive and is in no way intended to impact on or be defined by existing title X procedures.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A ''calendar day of session'' is defined as only those days during which both Houses of Congress are in session. It is assumed Congress would want to act quickly on any disapproval bills. This time period is available to provide Congress with flexibility to schedule consideration of a disapproval bill during a busy legislative session.

During this time period, a disapproval bill may qualify for the expedited procedures in each House. However, upon the expiration of this period, a disapproval bill may no longer qualify for these expedited procedures in the House of Representatives. In the Senate, a disapproval bill which began consideration under these expedited procedures may continue within such procedures notwithstanding the expiration of the time period.

Upon final Congressional adjournment, if a disapproval bill relating to a special message was pending before either House of Congress or any committee thereof or was pending before the President (i.e. a pocket veto), and the time period has not expired, a new disapproval bill with respect to the same message may be introduced within the first five calendar days of session of the next Congress. This disapproval bill qualifies for the expedited procedures outlined above and the period for Congressional consideration begins anew.

A special Presidential message relating to a law could include a number of cancellations. In establishing expedited procedures for the consideration of a disapproval bill, the conference report seeks to find a balance between providing a procedure to guarantee that Congress can quickly disapprove the President's cancellations while giving Congress the flexibility to pick and choose among the cancellations to include in the disapproval bill. In both Houses of Congress, quick action is encouraged in that only one bill may ultimately be acted upon for each special message using these expedited procedures.

It should be noted that the expedited procedures provide strict time limitations at all stages of floor consideration of a disapproval bill. The conferees intend to provide both Houses of Congress with the means to expeditiously reach a resolution and to foreclose any and all delaying tactics (including, but clearly not limited to: extraneous amendments, repeated quorum calls, motions to recommit, or motions to instruct conferees). The conferees believe these expedited procedures provide ample time for Congress to consider the President's cancellations and work its will upon them.

Section 1025(a) provides for the receipt and referral of the special message in both Houses of Congress. Upon the cancellation of a dollar amount of discretionary budget authority, an item of direct spending or a limited tax benefit under section 1021(a), the President must transmit to Congress a special message outlining the cancellation as required by section 1022.

When Congress receives this special message it shall be referred to the Budget Committees and the appropriate committee or committees in each House. For example, the message pertaining to the cancellation of a dollar amount of discretionary budget authority from an appropriation law would be referred to the Committee on Appropriations of each House. A special message pertaining to the cancellation of an item of direct spending would be referred to the authorizing committee or committees of each House from which the original authorization law derived. Any special message relating to more than one committee's jurisdiction, i.e. a cancellation message from a large omnibus law such as a reconciliation law, shall be referred to the appropriate committees in each

House. Each special message shall be printed as a document of the House of Representatives.

Procedures in the House of Representatives

In order for a disapproval bill to qualify for the expedited procedures in the House of Representatives as outlined in section 1025(b), it must meet two requirements. First, a disapproval bill must meet the definition of a disapproval bill as set forth in section 1026. Second, the disapproval bill must be introduced no later than the fifth calendar day of session following the receipt of the President's special message. Any disapproval bill introduced after the fifth calendar day of session is subject to the regular rules of the House of Representatives regarding consideration of a bill.

Any disapproval bill introduced in the House of Representatives must disapprove all of the cancellations in the special message to which the disapproval bill relates. Each such disapproval bill must include in the first blank space referred to in section 1026(6)(C) a list of the reference numbers for all of the cancellations made by the President in that special message.

Any disapproval bill introduced pursuant to 1025(c) shall be referred to the appropriate committee or committees. It is not the intention of the conferees that a disapproval bill pursuant to a special message regarding a reconciliation law be referred to the Budget Committee. Any committee or committees of the House of Representatives to which such a disapproval bill has been referred shall report it without amendment, and with or without recommendation, not later than the seventh calendar day of session after the date of its introduction.

If any committee fails to report the disapproval bill within that period, it shall be in order for any Member of the House to move that the House discharge that committee from further consideration of the bill. However, such a motion is not in order after the committee has reported a disapproval bill with respect to the same special message. This motion shall only be made by a Member favoring the bill and shall be made one day after the calendar day on which the Member offering the motion has announced to the House that Member's intention to make such a motion and the form of that motion. Furthermore, this motion to discharge shall only be made at a time or place designated by the Speaker in the legislative schedule of the day after the calendar day on which the Member gives the House proper notice.

This motion to discharge shall be highly privileged. Debate on the motion shall be limited to not more than one hour and shall be equally divided between a proponent and an opponent. After completion of debate, the previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion was agreed to or not agreed to shall not be in order. It shall not be in order to consider more than one such motion to discharge a disapproval bill pertaining to a particular special message.

After a disapproval bill has been reported or a committee has been discharged from further consideration, it shall be in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the disapproval bill. If the bill has been reported, the report on the bill must be available for at least one calendar day prior to consideration of the bill. All points of order against the bill and its consideration, except a point of order pertaining to a one-day layover requirement, shall be waived. If the bill has been discharged, all points of order against the bill and its consideration shall be waived. The motion that the House resolve into the Committee of the Whole shall be highly privileged. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate on the disapproval bill shall be confined to the bill and shall not exceed one hour equally divided between and controlled by a proponent and an opponent of the bill. After completion of the one hour of general debate, the bill shall be considered as read for amendment under the five minute rule. Only one motion that the Committee rise shall be in order unless that motion is offered by the manager of the bill.

No amendment shall be in order, except that any Member, if supported by forty-nine other Members (a quorum being present), may offer an amendment striking the reference number or reference numbers of a cancellation or cancellations from the disapproval bill. This process allows Members the opportunity to narrow the focus of the disapproval bill, striking references to cancellations they do not wish to disapprove, while retaining in the disapproval bill references to cancellations they wish to overturn. A vote in favor of the disapproval bill is a vote to spend the money the President sought to cancel. A vote against the disapproval bill is a vote to agree with the President to cancel the spending.

No amendment shall be subject to further amendment, except pro forma amendments for the purposes of debate only. Consideration of the bill for amendment shall not exceed one hour excluding time for recorded votes and quorum calls. 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. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without any intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

All appeals of decisions of the Chair relating to the application of the rules of the House of Representatives to this procedure for consideration of the disapproval bill shall be decided without debate.

It shall be in order to consider only one disapproval bill pertaining to each special message under these expedited messages except for consideration of a similar Senate bill. However, if the House has already rejected a disapproval bill with respect to the same special message as that to which the Senate bill refers, it shall not be in order to consider that bill.

In the event of disagreement between the two Houses a conference should be promptly convened. It shall be in order to consider a conference report in the House of Representatives provided such report has been available to the House for one calendar day (excluding Saturdays, Sundays or legal holidays, unless the House is in session on such a day) and the accompanying statement has been filed in the House.

Debate in the House of Representatives on the conference report and any amendments in disagreement on any disapproval bill shall each be limited to not more than one hour equally divided and controlled by a proponent and an opponent. A motion to further limit debate shall not be debatable. A motion to recommit the conference report shall not be in order and it shall not be in order to reconsider the vote by which the conference report is agreed to or disagreed to.

Procedures in the Senate

Any member of the Senate may introduce a disapproval bill containing any combination of cancellations included in the President's special message. The disapproval bill shall be referred to the appropriate committee or committees. If necessary, referral to multiple committees is permissible to accommodate disapproval bills which relate to cancellations from omnibus bills (i.e. reconciliation bills). A committee shall report the bill with or without amendment within seven days during which the Senate is in session or be discharged. A disapproval bill received from the House of Representatives shall not be referred but shall be automatically placed on the Calendar. It is the intent of the conferees that only one disapproval bill for each special Presidential message be considered under the expedited procedures. This however, is not meant to limit the Senate's ability to choose between a Senate-originated and a House-originated disapproval bill, it is intended that there be only one legislative vehicle.

A motion to proceed to the consideration of a disapproval bill is not debatable. Section 1025(e)(6) provides a ten hour overall limitation for the floor consideration of a disapproval bill. Except as provided in section 1025(e)(9) (which addresses disposition of a Senate disapproval bill), this limit on consideration is intended to cover all floor action with regard to a disapproval bill. This section is specifically meant to preclude the offering of amendments or the making of dilatory motions after the expiration of the 10 hours. Consideration of a message from the House of Representatives with respect to a disapproval bill is limited to four hours, as is consideration of a conference report and any amendments reported in disagreement. Again the intent of the conferees is to preclude the offering of amendments or motions after the expiration of time so as to facilitate the adoption of any conference report or the disposition of any message from the House. In limiting the time for consideration the conferees do not intend to allow the process to be halted by the delay in the making of necessary and appropriate motions. Therefore motions to concur, disagree or disagree and request a new conference may be made at the expiration of time.

Amendments to a disapproval bill, whether offered in committee or from the floor of the Senate, are strictly limited to those amendments which either strike or add a cancellation that is included in the President's special message. The conferees note that these expedited procedures are reserved solely for disapproval bills which overturn one or more cancellations contained in a President's special message. No other matter may be included in such bills. To enforce this restriction in the Senate, a point of order (which may be waived by a three-fifths vote) would lie against any amendment that does anything other than strike or add a cancellation within the scope of the special message. To the extent that extraneous items are added to disapproval bills, and the Senate has not waived the point of order against such an item, the conferees intend that such legislation would no longer qualify for the expedited procedures.

The conference report also provides that any conferees on a disapproval bill must include any cancellations upon which the two Houses have agreed and may include any or all cancellations upon which the two Houses have disagreed, but may not include any cancellations not committed to the conference.

Sec. 1026. Definitions

(1) Appropriation Law. As used in this Act, the term ''appropriation law'' includes any Act which provides general, special, supplemental, deficiency, or continuing appropriations of federal funds, which has been presented to the President in accordance with

Article I, section 7 of the Constitution of the United States, and which has been affirmatively signed into law by the President.

(2) Calendar Day. The term ''calendar day'' means a standard 24-hour period beginning at midnight.

(3) Calendar Day of Session. The term ''calendar day of session'' means only those days on which both Houses of Congress are in session. This definition excludes periods of recess and adjournment by either House.

(4) Cancel. In the case of discretionary budget authority, the term ''cancel'' means to rescind an entire dollar amount. The term rescind is clearly understood through long experience between the Executive and Legislative branches with respect to appropriated funds. The conferees do not intend that any new interpretation be applied to the term rescind, but rather intend to narrow the scope of cancellation authority as compared with the authority provided under section 1012 of the Budget Act.

For items of new direct spending, three definitions are provided to specifically tailor the cancellation authority to the type of direct spending involved. In the case of direct spending that is budget authority provided by law other than an appropriation law, the term cancel means to prevent that budget authority from having legal force or effect. For example, in the case of budget authority that provides authority to contract for a particular project, the effect of a cancellation by the President would be to foreclose the ability of the Federal Government to enter into an agreement to pay the amount of money provided in the law. The cancellation affects only the money that would otherwise be spent, and may not be used to alter or terminate any condition contained in the law.

For entitlement authority, the term cancel means that the President may prevent the specific provision that results in the deficit-increasing obligation of the Federal Government from having legal force or effect. The cancellation affects only the legal obligation to pay a benefit, and does not change or affect any other aspect of the law.

With respect to direct spending that is conducted through the food stamp program, the term cancel means that the President may prevent the specific provision of law that results in an increase in expenditures from having legal force or effect. Again, the authority is narrowly defined, and is limited only to eliminating the increase in food stamp obligations that would otherwise occur. No other aspect of the law could be altered, terminated or otherwise affected.

Finally, with respect to limited tax benefits, the term cancel means to prevent the specific provision of law that provides the benefit from having legal force or effect. Again, the authority granted the President is very narrow—only to collect the tax that would otherwise not be collected or to deny the credit that would otherwise be provided. The President may not change, alter, or modify any other aspect of the law.

(5) Direct Spending. The term ''direct spending'' is an existing term that is defined in section 250(8) of the Balanced Budget and Emergency Deficit Control Act of 1985. The conference report makes technical modifications to the definition to make it appropriate for use in part C of title X, but the conferees intend the term ''direct spending'' to have the same meaning as it does under the Balanced Budget and Emergency Deficit Control Act.

(6) Disapproval Bill. For the purposes of the conference report, the term ''disapproval bill'' is defined as a bill or a joint resolution which only disapproves one or more cancellations of dollar amounts of discretionary budget authority, items of new direct spending or limited tax benefits in a special message transmitted by the President under section 1022.

The disapproval bill is defined to include a list by reference number of one or more of the cancellations in the President's special message, allowing the opportunity for amendments relating to specific cancellations. The structure of the disapproval bill is carefully defined and proscribed to ensure that only a list of reference numbers identifying cancellations from a particular special message, and nothing, more are included in a bill that is eligible for the expedited procedures that are provided under section 1025. Since it is the intent of the conferees to ensure that the expedited procedures are reserved for bills that only disapprove any or all of the President's cancellations, the definition is designed to ensure that matters beyond the scope of the President's special message are not permitted to be added to a disapproval bill. However, the conferees recognize the legitimate interest members may have in limiting the focus of a disapproval bill to include only a subset of the cancellations in a President's special message.

Specifically, a disapproval bill referencing the President's cancellations has the following title: ''A bill disapproving the cancellations transmitted by the President on _____,'' with the blank space being filled with the date of transmission of the relevant special message and the number of the relevant public law.

The disapproval bill does not have a preamble and provides only the following: ''That Congress disapproves of cancellations _____, as transmitted by the President in a special message on _____, regarding _____.'' The first blank space is to be filled in with a list by reference number of one or more of the cancellations contained in the President's special message. The second blank space is to be filled in with the date of transmission of the President's special message. The third blank space is to be filled in with the number of the public law in which the special message relates.

(7) Dollar Amount of Discretionary Budget Authority. The term ''dollar amount of discretionary budget authority'' is carefully defined in section 1026(7) in order to ensure that the President's authority to cancel discretionary spending in appropriation laws is clearly delineated. The conference report delegates the authority to the President to cancel in whole any dollar amount specified in an appropriation law.

In addition, to increase the President's discretion, the conference report allows the President to cancel a dollar amount of budget authority provided in an appropriation law by specific amounts identified by the Congress in the statement of managers, the governing committee report, or other law. By limiting the delegation of authority, the conferees intend to preclude arguments between the Executive and Legislative Branches and to ensure that the delegation is not overbroad or vague. As is described in further detail below, the conferees have sought to provide the President the ability to rescind entire dollar amounts, even if not specified as a dollar amount in the law itself, so long as the dollar amount can be clearly identified and is in an indivisible whole with which Congress has previously agreed.

The conferees note that the definition specifically excludes certain types of budget authority that are addressed by other provisions in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority or activities involving such expenditure. The exclusion of restrictions, conditions, or limitations is included to make clear that the President may not use the authority delegated in section 1021(a) to cancel anything other than a specific dollar amount of budget authority.

The cancellation authority cannot be used to change, alter, modify, or terminate any policy included by Congress, other than by rescinding a dollar amount. Obviously, if the Congress has included a restriction in the law that prohibits the expenditure of budget authority for any activity, there is no dollar amount to be rescinded by the President, nor would any money be saved for use in reducing the federal budget deficit, which is a requirement for the use of the authority provided under section 1021(a).

As described in subparagraph (A)(i), the President may cancel the entire dollar amount of budget authority specified in an appropriation law. The term ''entire'' means just that; the President may rescind, or ''line out'' the dollar amount of budget authority specified in the law, so that the dollar amount provided in the law becomes zero after the cancellation. For example, in Public Law 104–37, the Agriculture Appropriations Act for Fiscal Year 1996, $49,486,000 was provided in the law for special grants for agriculture research. Using the authority granted under section 1021(a)(1), as defined under section 1026(7)(A)(i), the President could cancel only the entire $49,486,000.

Further, again under subparagraph (A)(i), if the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the allocation of a specific dollar amount, then the President may rescind the entire dollar amount that is required by the proviso. A fictitious example of what the conferees intend in this case follows:

An appropriation law includes a provision that states ''for the operation and maintenance of the Army, $1,400,000,000, provided Fort Fictitious is maintained at Fiscal Year 1995 levels,''. In this instance, the President could ascertain what the operation of Fort Fictitious cost in FY 1995, and could rescind that entire amount from the $1.4 billion provided for Army O&M. The conferees note that the President would have to take the entire dollar amount required to operate Fort Fictitious in FY 1995, and could not simply take part of that amount. It is intended to be an all or nothing decision.

As a further specific illustration, the conferees note that the General Construction Account in Public Law 104–46, the Energy and Water Development Appropriations Act, 1996, states:

''$804,573,000 to remain available until expended, of which such sums as necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the Lock and Dam 25, Mississippi River, Illinois and Missouri * * *''

In this example, the President could cancel the entire $804,573,000 or could cancel an amount equal to the entire dollar amount that would be required to fund the rehabilitation costs of the Lock and Dam 25 project, noting in his message all information as required by section 1022.

In subparagraph (A)(ii) the President is given the authority to rescind the entire dollar amount represented separately in any table, chart, or explanatory text included in the statement of managers or the governing committee report that accompanies an appropriation law. The term ''governing committee report'' is included to address the fact that the current practice in preparing the

statement of managers for a conference report on an appropriation law is to simply address changes that were made in the statutory language and the accompanying committee reports, thus leaving intact and incorporation by reference tables, charts, and explanatory text in one of the two committee reports that were not modified by the conference.

An example of the authority described in subparagraph (A)(ii) is found in the Conference Report accompanying the FY 1996 Military Construction Appropriations Act (Public Law 104–32). The statement of managers accompanying the conference report contains a chart denoting allocations of dollars to various installations and projects. On page 38 there is an allocation of $10,400,000 for a physical fitness center at the Bremerton Puget Sound Naval Shipyard. Except for this chart there is no other reference to the physical fitness center in either the statute or narrative explanation in the Conference Report. Under the authority provided by the definition in subparagraph (A)(ii), the President could cancel the entire $10,400,000 provided for the physical fitness center, but could not cancel only a part of that amount.

The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight or authority to documents that accompany the law that is enacted. Rather, as an exercise of its authority to specify the terms of the delegation to the President, Congress is choosing to use those documents as a means of allowing the President increased discretion to reduce dollar amounts of discretionary budget authority provided in an appropriation law. In order to ensure that the delegated authority is clear, the conferees have limited that authority to dollar amounts identified by Congress in the appropriation law, the accompanying statement of managers, the governing committee report or other law. Since Congress often provides detailed identification of dollar amounts in the accompanying documents, they represent an agreed upon set of dollar amounts that the President may rescind in their entirety.

Subparagraph (A)(iii) has been included by the conferees to address a specific circumstance where neither the appropriation law nor the accompanying statement of managers or committee reports include any itemization of a dollar amount provided in that appropriation law. However, another law mandates that some portion of the dollar amount provided in the appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. In this case, the President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as a specific dollar amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example of the authority provided in subparagraph (A)(iii) is found in section 132 of Public Law 104–106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that ''Of the amounts appropriated for Fiscal Year 1996 in the National Defense Sealift Fund, $50,000,000 shall be available only for the Director of the Advanced Research Projects Agency for advanced submarine technology activities.'' In this example the President could ''look through'' the appropriation law to the authorization law that mandates that $50 million is available only for advanced submarine technology activities, and could cancel the entire $50 million.

However, had the appropriation law contained a provision that contradicted or otherwise made the mandate in the authorization law ineffective with respect to the allocation of the National Sealift Fund, then the President would not be able to use the amount in the authorization law as the basis for the cancellation of a dollar amount of discretionary budget authority. As with appropriation laws, the President cannot use the authority in subparagraph (A)(iii) to change, alter, or modify any provision of the authorization law.

Subparagraphs (A)(iv) and (A)(v) are variations on the authority granted in clauses (i) through (iii), and are intended to address the circumstance where Congress does not specify in the appropriation law, the accompanying documents, or other law a specific dollar amount, choosing instead to require the purchase of a particular quantity of goods. Subparagraphs (A)(iv) and (A)(v) allow the President to rescind the entire dollar amount of discretionary budget authority represented by the quantity specified in the law or documents. To determine the specific dollar amount, the President is required to multiply the estimated procurement cost by the total quantity of items specified in the law of documents. The President may then rescind the entire dollar amount represented by the product of those two figures. The conferees expect that the President will use the best available information, as represented by the President's budget submission or binding contract documents, to estimate the procurement cost.

The conferees have included the following examples in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104–37) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts all of which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for ''Wood Utilization Research (OR, MS, MN, ME, MI)''.

Using the definition in section 1026(7)(A)(i) and (ii), the President could cancel either the entire $49,846,000 specified in the statute or the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocations for each state associated with this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research.

The conferees intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state, and the law or a report that accompanies an appropriation law lists an item (project) and then lists a series of states, it is the entire item that must be canceled.

In the example listed above, ''Wood Utilization Research'' appears in the report as: ''Wood Utilization Research (OR, MS, NC, MN, ME, MI).''

The conferees believe it is important to note that this line in the report must be canceled in its entirety. The President's cancellation authority is strictly limited. The President has no authority in this example to cancel wood utilization research for Michigan only.

To further illustrate this example, the conferees submit the following example that corresponds to a chart contained in the same conference report: ''Aflatoxin (IL), 133,000; Human Nutrition (AR), 425,000; Human Nutrition (IA), 473,000; Wool Research (TX, MT, WY) 212,000.''

In this case, the President may cancel aflatoxin (IL), Human Nutrition (AR), Human Nutrition (IA), and/or Wool Research (TX, MT, WY). Although there are two human nutrition research projects listed in two different states, because of the manner in which they are listed, each project may be separately canceled. Again, the President may only cancel the entire wool research program and may not cancel only wool research in Texas.

Section 1026(7)(B) describes what is not included in the definition of ''dollar amount of discretionary budget authority.'' Subparagraphs (B)(i) and (B)(ii) exclude items of new direct spending, for which cancellation authority is provided under other sections of part C of title X. Subparagraph (B)(iii) excludes from the definition any budget authority canceled or rescinded in an appropriation law in order to ensure that those cancellations or rescissions cannot be undone by the President using the cancellation authority.

As described earlier, subparagraph (B)(iv) excludes from the definition any restriction, condition, or limitation in an appropriation law or the accompanying statement of managers or governing committee report on the expenditure of budget authority or on activities involving such expenditure. The following two examples illustrate the conferees' intent that the President cannot use the cancellation authority to alter the Congressional policies included in these restrictions, conditions, or limitations.

The Labor, Health and Human Services and Education and Related Agencies Appropriations Act, H.R. 1217, as amended by the Senate Appropriations Committee contained the following section:

''SEC. 103. No amount of funds appropriated in this Act for fiscal year 1996 may be used to implement, administer, or enforce any executive order, or other rule or order, that prohibits Federal contracts with, or requires that debarment of, or imposes other sanction on, a contractor on the basis that such contractor or organizational unit thereof has permanently replaced lawfully striking workers.''

The President's cancellation authority only applies to entire dollar amounts. The above example of ''fencing language'' is a limitation and contains no dollar amount. Therefore, the President has no authority to alter or cancel this statement of Congressional policy.

If a limitation or condition on spending—''fencing language''—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriated amount, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104–46), Title II, Department of the Interior, General Administrative Expenses, states:

''For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $48,150,000, of which $1,400,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377); *Provided*, that no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

Using this example, the President may cancel $48,150,000 or the $1,400,000 noted, but may not cancel or alter in any way the proviso restricting the use of other appropriated funds contained in this Act.

The conference report also allows the President to cancel the entire amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included. The conferees recognize that from time to time, budget authority may be mandated to be spent on a specific program or project without a specific dollar amount being listed. However, in order to comply with the proviso, the President would have to expend appropriated funds.

(8) Item of New Direct Spending. The term ''item of new direct spending'' means a provision of law that results in an increase in budget authority or outlays relative to the baseline set forth pursuant to section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Under the Balanced Budget and Emergency Deficit Control Act of 1985, a reauthorization or an extension of a major entitlement program would not result in an increase in direct spending. As a consequence, such legislation would not constitute an item of new direct spending pursuant to the conference report. This does not mean that legislation must result in a net increase in spending in order to be subject to this cancellation authority. A provision of a future law that increases direct spending would be subject to the President's cancellation authority whether or not it is offset by another provision that reduces direct spending or increases revenues in the same law.

Unlike an appropriation law, which specifically designates a dollar amount for a specific program, direct spending can arise from a number of interactions among provisions in a new law, other provisions in that same new law, and underlying law. The conference report provides the President with the authority to cancel the legal obligation provided by the new law that results in new direct spending. The cancellation authority is limited to the specific provisions in the new law signed by the President that result in the legal obligation to expend funds and does not extend to other previously enacted laws.

The following are examples of direct spending increases that have been enacted. These examples are given to illustrate how cancellation authority could apply to similar items of new direct spending if included in a law to which part C of title X would apply. These examples are used solely for illustrative purposes and the conferees are in no way commenting on the merit of any of these programs. The conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The 1995 Balanced Budget Act included provisions that increased direct spending, but this Act was vetoed in its entirety by the President using his Constitutional authority and thus no provisions of that Act would be subject to the cancellation authority under part C. In the Omnibus Budget Reconciliation Act of 1993, the Congress enacted provisions that led to a net reduction in direct spending of $78.8 billion over five years. While this law led to a net reduction in direct spending, it included several provisions that increased direct spending. More specifically, the following are selected examples of provisions that increased direct spending that illustrate how the President's cancellation authority could be applied:

Section 13982 increased Forest Service payments and section 13983 increased Bureau of Land Management (BLM) payments to counties affected by the Northern Spotted Owl. These provisions were estimated to increase direct spending by $43 million in fiscal year 1994 and $215 million over the period of fiscal years, 1994–1998. The President could cancel the entire amount of the legal obligation created by section 13982 for the Forest Service to make payments or the entire amount of the legal obligation in section 13983 for BLM to make payments.

Sections 13811 through 13813 dealt with Customs overtime pay, additional benefits, and user fees. Section 13812(c) provided cash awards for foreign language proficiency to Customs Officers that was estimated to increase direct spending by $2 million in fiscal year 1994 and $10 million over the period of fiscal years 1994–98. The President could cancel that legal obligation for the entire amount of funding provided for cash awards to Customs Officers. However, the President could not reach to provisions that reduced direct spending, such as the extension of Customs fees and overtime reform or other provisions that did not directly deal with an increase in direct spending.

Sections 13901 through 13971 of the law made a number of changes to the food stamp program that were estimated to lead to a net increase indirect spending of $56 million in fiscal year 1994 and $2.7 billion over the period of fiscal years 1994–1998. More specifically, section 13923 increased direct spending by raising the asset test and indexed this asset test for inflation for determining eligibility for food stamps. The President would have the authority to cancel the entire specific legal obligation so that the increase in the asset test would have no legal force or effect. In addition, the President could cancel the entire legal obligation to make the inflation adjustment so that this asset test would not be indexed for inflation. However, the President's cancellation authority would not apply to provisions that did not affect direct spending or reduced direct spending, such as section 13951 that expedited claim collections and adjustments to error rate calculations.

(9) Limited Tax Benefit. In general, a ''limited tax benefit'' is any provision under the Internal Revenue Code that is either (1) a revenue-losing provision that provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries (unless the effect of the provision is that all similarly situated persons receive the same treatment); or (2) a provision that provides transitional relief to 10 or fewer beneficiaries.

The number of beneficiaries affected by a provision is determined by considering each fiscal year in which the provision will be in effect; if the number of beneficiaries falls below the requisite threshold for any one of those fiscal years, the provision could be identified as a limited tax benefit. For purposes of determining the number of beneficiaries, certain individuals and businesses would be aggregated: all businesses and associations which are related (within the meaning of Internal Revenue Code sections 707(b) and 1563(a)) would be treated as one beneficiary; all qualified plans of a single employer would be treated as one beneficiary; all holders of the same bond issue would be treated as one beneficiary. However, individual shareholders of a corporation, partners of a partnership, members of an association, or beneficiaries of a trust would not be counted as separate beneficiaries simply because a benefit is provided to the respective corporation, partnership, association, or trust.

Revenue-losing Provisions that Affect 100 or Fewer Beneficiaries. A provision is defined as ''revenue-losing'' if it results in a reduction in federal tax revenues for any one of the following two periods: (1) the first fiscal year for which the provision is effective; or (2) the period of the five fiscal years beginning with the first fiscal year for which the provisions is effective.

A revenue losing provision that affects 100 or fewer beneficiaries is not a limited tax benefit if one of the exceptions is met. First, if a provision has the effect of providing all persons in the same industry or engaged in the same activity with the same treatment, the item is not a limited tax benefit even if there are 100 or fewer persons in the affected industry. For example, a provision that sets forth the depreciation treatment for equipment that is used only by automobile manufacturers will not be treated as a limited tax benefit solely because there are fewer than 100 automakers located in the United States.

Similarly, a provision that provides the same treatment for all persons who engage in research and development activities, or all persons who adopt children, or all persons who engage in drug testing, would not be treated as a limited tax benefit simply because 100 or fewer persons are expected to engage in that activity in any of the fiscal years in which the provision is effective. In such circumstances, the benefit is provided as an incentive to anyone who chooses to engage in the activity rather than to a closed group of specific taxpayers.

A second exception applies to provisions that have the effect of extending all persons owning the same type of property, or issuing the same type of investment instrument, the same treatment. For example, a provision that sets forth the depreciation treatment for a highly-specialized type of computer equipment that is owned by fewer than 100 taxpayers (who are not necessarily in the same industry) would not be treated as a limited tax benefit as long as any person who purchases such equipment is entitled to the same treatment. Similarly, a provision that affects the deductibility of interest with respect to certain types of debt instruments would not be a limited tax benefit, as long as any person who issued that type of debt instrument receives the same treatment.

The conference report further clarifies that a provision is not a limited tax benefit if the only reason the provision affects different persons differently is because of (1) the size or form of the business or association involved (e.g., a provision that gives preferential treatment to small businesses); (2) general demographic conditions affecting individuals, such as their income level, marital status, number of dependents, or tax return filing status; (3) the amount involved (e.g., a cap based on the dollar amount of a taxpayer's investment or the number of units produced by a taxpayer); or (4) a generally-available election provided under the Internal Revenue Code (e.g., if taxpayers who engage in a certain activity are given a choice between two alternative treatments, and fewer than 100 taxpayers are expected to choose one of the alternatives).

Transition Rules

Any Federal tax provision that provides temporary or permanent transitional relief to 10 or fewer beneficiaries in any fiscal year would be a limited tax benefit except to the extent that the provision provides for the retention of prior law for all binding contracts (or other legally enforceable obligations) in existence on a date contemporaneous with Congressional action specifying such a date. For example, a provision in a chairman's mark which retains current law with respect to binding contracts in existence on the date the mark is released would not be a limited tax benefit. In addition, a technical correction to previously enacted law (if it is scored as having no revenue effect) would not be a limited tax benefit for this purpose.

This provision covering transition rules is intended to address the type of special rules used extensively in prior tax legislation. For example, in the Tax Reform Act of 1986 (the ''1986 Act''), which included a number of revenue raising tax provisions, various specifically identified taxpayers were provided special rules that exempted them from treatment under the general revenue raising provisions. One provision in the 1986 Act changed the rules for how multinational corporations could allocate interest expenses for foreign tax credit purposes. The provision included a favorable rule for banks, and also included a special exception allowing ''certain'' non-banks to use the favorable bank rule. The special exception applied to any corporation if ''(A) such corporation is a Delaware corporation incorporated on August 20, 1959, and (B) such corporation was primarily engaged in the financing of dealer inventory or consumer purchases on May 29, 1985, and at all times thereafter before the close of the taxable year.'' Public Law 99–514, 100 Stat. 2548, sec. 1215(c)(5). If 10 or fewer taxpayers were expected to benefit from the special exception, this provision would constitute a limited tax benefit under the conference agreement definition, and would be subject to the President's cancellation authority.

The conferees submit the following two examples for what may or may not be a limited tax benefit. All examples are used solely for illustrative purposes and the conferees are in no way commenting on their merit. Furthermore, the conferees do not intend for these examples to represent all instances where cancellation authority may be used.

The Omnibus Reconciliation Act of 1993 included a provision that created an income tax credit for entities that make qualified cash contributions to one of 20 ''community development corporations'' to be selected by the Secretary of Housing and Urban Development using certain selection criteria.

Under the conference report, the Joint Committee on Taxation (JCT) would estimate how many contributions would be designated as eligible for the credit, based on the information available to the Committee at the time the legislation was being considered. If the JCT determined more than 100 contributors would benefit from the credit, then the provision could not be canceled. If fewer than 100 contributors were estimated to benefit from the provision, then the provision could be canceled.

If the conference report did not include the information from JCT in the required form, then the President would have the authority to make the determination.

H.R. 831 (enacted in the 104th Congress) included a provision to restore a prior-deduction for 25 percent of the amount paid for health insurance for self-employed individuals and the individuals' spouses. The 25 percent deduction had expired after December 31, 1993. H.R. 831 restored the 25-percent deduction for 1994 and increased the deduction to 30 percent for taxable years beginning after 1994.

Under the conference report, this provision would not be a limited tax benefit because it applies to all self-employed individuals who purchase their own health insurance, and thus this provision would benefit more than 100 individuals.

(10) OMB. The term ''OMB'' means the Director of the Office of Management and Budget.

Sec. 1027. Identification of limited tax benefits

The conferees intend to limit the authority delegated to the President by Congress under section 1021 with respect to the application of that authority to limited tax benefits. A limited tax benefit is a carefully delineated provision under the definition in section 1026(9). This section ensures the proper application of this definition, and hence the President's cancellation authority, to any tax provision. The conference report provides the conferees on any revenue or reconciliation measure with the opportunity to identify for the President what may constitute a limited tax benefit, under the procedures in this section, in each revenue or reconciliation law.

The conference report states that the JCT shall examine any revenue or reconciliation bill or joint resolution (that amends the Internal Revenue Code) prior to its filing by a committee of conference in order to determine whether or not that bill or joint resolution contains any limited tax benefits under the definition in section 1026(9). The statement from the JCT shall state that the bill either contains no limited tax benefits or contains limited tax benefits.

In the case of a revenue or reconciliation bill or joint resolution containing one or more limited tax benefits the statement shall list each of those provisions. In the case of a revenue or reconciliation bill or joint resolution containing no limited tax benefits, the statement shall state that determination. This statement shall be submitted to the conference committee on such a bill or joint resolution and shall be made available by the JCT to any Member of Congress upon request.

If the conference report includes the information from the JCT and that information identifies provisions in the conference report which quality as limited tax benefits under the definition in section 1026(9), then the President may cancel those, and only those, items as identified. On the other hand, if such a conference report contains a statement from the JCT stating that there are no provisions in the conference report qualifying under the definition in section 1026(9) as a limited tax benefit, then the President may not exercise the cancellation authority under section 1021(a)(3) because Congress has provided that no tax provisions are eligible for cancellation under this authority.

The conference report specifies how the information provided by JCT may be included in the bill. At the end of the bill, the permitted separate section should read as follows: ''Section 1021(a) of the Congressional Budget and Impoundment Control Act of 1974 shall _____ apply to _____'', with the blank spaces being filled in with the appropriate information. In the case in which the JCT identifies limited tax benefits in a conference report, the word ''only'' would appear in the first blank and a list of all of the provisions of the bill or joint resolution identified by the JCT in that Committee's statement shall appear in the second blank. In the case in which the JCT declares that there are no limited tax benefits in the conference report, the word ''not'' would appear in the first blank and the phrase ''any provision of this Act'' would appear in the second blank.

The conferees intend that the decision to include the information provided by JCT in the bill or joint resolution that amends the Internal Revenue Code shall be left to the discretion of the appropriate conferees. With respect to any potential violations or any rules relating to the scope of a conference, the conferees intend that the inclusion of such an identification shall not constitute a violation of any rules of the House of Representatives or the Senate, respectively.

In the event the legislation amending the Internal Revenue Code is signed into law that does not contain the information provided by JCT, any identification of what constitutes a limited tax benefit under the definition in section 1026(9) may be made by the President. If any provision qualifies as a limited tax benefit (within the confines of the definition of such a benefit in section 1026(9)) and the President identifies such a benefit, the President may exercise the cancellation authority under section 1021(a)(3).

Section 3. Judicial review

Any Member of Congress or other adversely affected individual is given standing to seek declaratory judgement and injunctive relief on the ground that any provision of this law violates the Constitution. Suit must be brought in the United States District Court for the District of Columbia. A copy of any complaint brought under this Act must be promptly filed with the Secretary of the Senate and Clerk of the House, and each House reserves the right to intervene in any action according to its own internal rules.

Appeals from the District Court must be filed within 10 calendar days after an order is entered and may be taken directly to the Supreme Court of the United States. A period of 30 calendar days is provided for filing a jurisdictional statement with the Supreme Court, and the conference report prohibits any single Justice from issuing a stay of the District Court's order. Both the District Court and the Supreme Court are directed to advance on the docket and expedite to the greatest extent possible any action brought with regard to the constitutionality of this law.

Section 4. Conforming amendments

Section 4 makes three conforming amendments. First, this section amends the short title of the Congressional Budget and Impoundment Control Act of 1974 to clarify that the short title of Impoundment Control Act shall refer to parts A and B of title X. The amendment further specifies that part C of title X shall be cited as the Line Item Veto Act of 1996.

Second, section 4 makes a conforming amendment to the table of contents in the Congressional Budget and Impoundment Control Act to include a listing of the contents of part C, referencing sections 1021 through 1027.

Third, section 4 amends section 940(a) of the Congressional Budget Act of 1974 to clarify that the provisions of sections 1025 and 1027, relating to Congressional consideration of a disapproval bill and identification of limited tax benefits, in an exercise of the rulemaking powers of the House of Representatives and the Senate. As a result, sections 1025 and 1027 are considered part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with those rules. This is also a recognition of the constitutional right of both Houses to change these rules at any time, in any manner and to the same extent as in the case of any other rule of each House.

Section 5. Effective dates

Section 5 provides an effective date of the earlier of (1) the day after the enactment of an Act entitled ''An Act to provide for a seven-year plan for deficit reduction and achieve a balanced Federal budget.''; or (2) January 1, 1997. It provides that this part shall sunset January 1, 2005.

BILL CLINGER,
GERALD SOLOMON,
JIM BUNNING,
PORTER GOSS,
PETER BLUTE,
Managers on the Part of the House.

TED STEVENS,
BILL ROTH,
FRED THOMPSON,
THAD COCHRAN,
JOHN MCCAIN,
PETE V. DOMENICI,

CHUCK GRASSLEY,
DON NICKLES,
PHIL GRAMM,
DAN COATS,
JIM EXON,
Managers on the Part of the Senate.

MESSAGE FROM THE SENATE

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

H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.

The message also announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956) ''An Act to establish legal standards and procedures for product liability litigation, and for other purposes.''.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 148. Concurrent resolution expressing the sense of the Congress that the United States is committed to military stability in the Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

APPOINTMENT OF CONFEREES ON H.R. 3019, BALANCED BUDGET DOWN PAYMENT ACT, II

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3019) making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. OBEY moves that the managers on the part of the House at the conference of the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 3019, be instructed to:

(a) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Department of Education;

(b) agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Environmental Protection Agency;

(c) agree to the position in the Senate amendment that provides a minimum of $975,000,000 from within the $1,903,000,000 provided for Local Law Enforcement Block Grants within the Department of Justice for the Public Safety and Community Policing grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (COPS on the beat program);

(d) agree to the position in the Senate amendment increasing funding above the levels in the House bill for job training and worker protection programs of the Department of Labor;

(e) agree to the position in the Senate amendment deleting Title V of the House bill placing onerous new red tape requirements on Federal grantees; and

(f) agree to the position in the Senate amendment specifying a maximum grant award of $2500 under the Pell Grant Program; and

(g) agree to the position in the Senate amendment providing fiscal year 1997 funding of $1,000,000,000 for the Low-Income Energy Assistance Program of the Department of Health and Human Services.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. OBEY] is recognized for 30 minutes.

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

I know Members want to get out of here, and I join in that sentiment. It was not my choice to deal with this issue tonight, but we are dealing with it. So I would like Members to know what it is that we are asking them to vote on.

What we have pending before the House is a motion to go to conference on the long term. The chairman of the committee has just moved that the House go to conference on the long-term continuing resolution. Earlier today, we passed another one of our week-to-week CRs.

Mr. Speaker, the problem we face is that with the five bills that still are not in law, the five appropriation bills for this fiscal year, those bills have come in at a rate of about $25 billion below the amount being asked for by the President of the United States. The President has indicated that if language differences can be eliminated so that we can remove some of the special interest language provisions that have been inserted in the bill, that he is willing to sign off on the bill if he can get roughly $8 billion back out of that $25 billion. So he is asking for about 30 cents on the dollar.

The Senate, rather than providing the 30 cents on the dollar, has added back about $3.8 billion, which represents about 14 cents out of every dollar that the President wanted. In my view, we are not going to be able to finish that conference by the end of next week unless we can cut through a lot of the fog and recognize that where we have to start in that conference is at the Senate level. So what I am trying to do here tonight is to bring us closer to that point.

What this motion would do is instruct the conferees to accept the Senate increases in education, which would mean increases in Goals 2000, an increase of $814 million in chapter 1. We are asking to put $814 million in for title I because we think that we should make it easier, not harder, for kids to learn how to read and to learn how to deal with math.

Mr. Speaker, we are asking to put back $200 million for safe and drug-free schools because we think that our communities are going to be safer and our kids healthier if they learn at an early age to stay away from drugs.

We are adding $8 million for charter schools, some additional money in the education area, including vocational and adult education. We are asking to add back $137 million for Head Start, which is what the Senate has added back. In the Labor Department, we are asking that funding be added back for school-to-work programs, for dislocated worker assistance, for one stop career shopping, for summer youth, $635 million for summer youth.

Mr. Speaker, we are asking in the Veterans, HUD and independent agencies bill that we add $115 million for operating programs to the EPA, including enforcement activities, $300 million for EPA, States and tribal assistance grants, water and wastewater infrastructure financing. The Senate bill added $50 million or $150 million for EPA Superfund program. We are asking that we accept the Senate judgment on those programs.

We are also asking to accept the Senate level for the cops on the beat program rather than the House insisting on its block grant program as a substitute for the cops on the beat program. We think that program has been demonstrated to be successful. The President places a very high priority on that item and will not sign a bill, in my judgment, unless we do considerably better than the Senate has done on this program. We intend in conference to insist on a higher level for cops on the beat than the Senate has provided, but what we want to do is to try to begin the process at least recognizing as the Senate did that we have to restore at least 50 percent of that going in.

Mr. Speaker, we are also asking that Members delete the Istook amendment, which in essence creates a huge blizzard of paperwork on most of the groups who have the temerity to want to comment to their elected Representatives on the actions that we are taking. We think they have that right, and the Istook amendment gets in the way of that.

We are also asking that we restore $1 billion for the low-income heating assistance program and take the Pell grant program up to maximum grants of $2,500 rather than the amount in the House bill.

We believe that that is the very minimum that is necessary to get the conference off to a good start. It is my

firm belief that in fact we will have to go further in those restorations before the President signs the bill.

The President is not going to settle for 15 cents on the dollar, as the Senate has provided. He is going to insist that we do a better job than that in protecting education, protecting environmental cleanup, protecting our efforts to fight crime.

I would ask for a yea vote on the motion.

The SPEAKER pro tempore. The gentleman from Louisiana [Mr. LIVINGSTON] is recognized for 30 minutes.

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and that I may include tabular and extraneous material.

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

There was no objection.

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GOODLING], distinguished chairman of the Committee on Economic and Educational Opportunities.

Mr. GOODLING. Mr. Speaker, I would caution my colleagues to be very, very careful about this, what appears to be a very, very attractive package, particularly when talking about areas in education. I would not tie the conferees hands until we know exactly where these offsets are and how legitimate those offsets are.

Mr. Speaker, I would encourage Members not to fall victim to something that sounds awfully, awfully good, particularly for those of us who deal in the education field, because the offsets may end up eventually being Members' favorite programs, because at the present time they probably could be more smoke and mirrors than anything else.

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

Mr. Speaker, I want to thank all of my colleagues for their indulgence. I shall not take much time.

We have here a motion to instruct conferees. We are in the process of appointing the conferees so that they can begin the conference. I am hopeful that this is the beginning of the end for the fiscal year 1996 bills.

The conferees will go into session and will deliberate and I expect we will report back toward the end of next week and that we will produce a bill that can pass both Houses and be sent to the President and will be signed into law and we can move on to fiscal year 1997.

Mr. Speaker, let me say that my friend from Wisconsin has raised a number of issues for additional spending. He wishes to spend a lot of money on a lot of different programs. He wishes us to conform with the Senate on some of the additional spending that they have had, and of course he is not satisfied with the bill as it left the House.

On education, I would only point out that the Federal Government, which has not traditionally throughout the history of this Nation been involved in education, has been since roughly 1970 or shortly before and now pays about 6 percent of the total education tab. Roughly $23–$25 billion is what we pay, the American taxpayer pays, through the Federal Treasury. The U.S. taxpayer pays roughly $23 billion for education in this country, to be dispensed through the United States Treasury, but the taxpayers also pay another $200 billion-plus in the States and localities on education.

□ 2030

The fact is that education is primarily the province of the local and the State government, and while we can always look for more ways to spend more money, we are never going to make a dent with our involvement.

I have to point out the fact that since the Federal Government has become involved, grades for the scholastic aptitude tests for students at all levels of education have declined, not increased, so it is hard to make the argument that Federal payment for education bills has really accomplished much of anything.

That being the case, we are going to meet with the Senate, and we are going to have to come to a conclusion. I would only point out to my colleagues that, if we accept the gentleman's proposal to instruct conferees, we might as well not go to conference because the gentleman from Wisconsin [Mr. OBEY] would have us agree to virtually all of the Senate's positions on a fistful of issues, practically all of which would indeed cost more money.

Now in the House passed bill, we are within our budget caps. If we spend more money, we have to pay for it or else we will be in excess of our budget that we have passed in this House and that passed in the Senate before. I am not sure that we can come up with additional pay-fors for additional spending. It is good to be a very excruciating debate between us, and Members of the Senate, and both parties, and then also to work out an agreement with the President where he feels comfortable enough to sign it. It is going to be a difficult negotiation.

I would urge my colleagues to vote ''no'' on the motion to instruct. Let us go to conference with some flexibility to negotiate. Do not give us a mandate to agree to their proposals. If we have a mandate that is given us by bipartisan Members of this House, the fact is that the conference will be over very quickly whether or not the President ultimately decides to sign the bill.

But I would urge my colleagues to stick with the committee, not weaken us before we go to conference. Vote ''no'' on the motion to instruct, and let us go home for the evening.

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

Mr. OBEY. Mr. Speaker, I yield myself just 30 seconds.

The Senate has offset all of the funding that they have provided so they do not add to spending levels for this fiscal year, and all of the items for fiscal year 1997 will be constrained by the caps, as everyone knows. So this is not an issue of how much spending there shall be. This is an issue of where that spending ought to be targeted.

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

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

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the motion to instruct offered by the gentleman from Wisconsin (Mr. OBEY).

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 194, nays 207, not voting 30, as follows:

[Roll No. 90]

YEAS—194

Abercrombie	Ehlers	Kildee
Ackerman	Engel	Kleczka
Andrews	English	Klink
Baesler	Eshoo	Klug
Baldacci	Evans	LaFalce
Barcia	Farr	Lantos
Barrett (WI)	Fattah	Levin
Becerra	Fazio	Lewis (GA)
Beilenson	Fields (LA)	Lincoln
Bentsen	Filner	Lipinski
Berman	Flake	LoBiondo
Bevill	Foglietta	Lofgren
Bishop	Ford	Lowey
Blute	Fox	Luther
Boehlert	Frank (MA)	Maloney
Bonior	Franks (CT)	Markey
Borski	Frost	Martinez
Boucher	Furse	Martini
Brewster	Gejdenson	Mascara
Browder	Gonzalez	Matsui
Brown (CA)	Gordon	McCarthy
Brown (FL)	Green	McDermott
Brown (OH)	Gutierrez	McHale
Bryant (TX)	Hall (OH)	McHugh
Cardin	Hamilton	McKinney
Chapman	Harman	McNulty
Clayton	Hastings (FL)	Meek
Clement	Hefner	Menendez
Clyburn	Heineman	Miller (CA)
Coleman	Hilliard	Minge
Collins (MI)	Hinchey	Mink
Condit	Holden	Mollohan
Conyers	Horn	Montgomery
Costello	Houghton	Moran
Coyne	Hoyer	Morella
Cramer	Jackson (IL)	Murtha
Danner	Jackson-Lee (TX)	Nadler
DeFazio	Jacobs	Neal
DeLauro	Jefferson	Oberstar
Dellums	Johnson (CT)	Obey
Deutsch	Johnson (SD)	Olver
Dingell	Johnson, E. B.	Ortiz
Dixon	Kanjorski	Orton
Doggett	Kaptur	Pallone
Dooley	Kennedy (MA)	Pastor
Doyle	Kennedy (RI)	Payne (VA)
Durbin	Kennelly	Pelosi
Edwards		Peterson (FL)

Peterson (MN)
Pickett
Pomeroy
Poshard
Quinn
Rahall
Ramstad
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Weldon (PA)
Weller
Williams
Wise
Woolsey
Wynn

NAYS—207

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Longley
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—30

Barton
Boehner
Clay
Collins (IL)
de la Garza
Dicks
Forbes
Gephardt
Gibbons
Hayes
Johnston
Kolbe
Lazio
Manton
McDade
Meehan
Moakley
Owens
Payne (NJ)
Radanovich
Rose
Roth
Stark
Stockman
Stokes
Studds
Waters
Waxman
Wilson
Yates

☐ 2149

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Radanovich against.

Mr. ZELIFF changed his vote from ''aye'' to ''no.''

Mr. BERMAN changed his vote from ''no'' to ''aye.''

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, the Chair appoints the following conferees:

For consideration of the House Bill (except for section 101(c)) and the Senate amendment (except for section 101(d)), and modifications committed to conference:

Messrs. LIVINGSTON, MYERS of Indiana, YOUNG of Florida, REGULA, LEWIS of California, PORTER, ROGERS, SKEEN, and WOLF, Mrs. VUCANOVICH, and Messrs. LIGHTFOOT, CALLAHAN, WALSH, OBEY, YATES, STOKES, BEVILL, MURTHA, WILSON, DIXON, HEFNER, and MOLLOHAN.

For consideration of section 101(c) of the House bill, and section 101(d) of the Senate amendment, and modifications committed to conference:

Messrs. PORTER, YOUNG of Florida, BONILLA, ISTOOK, MILLER of Florida, DICKEY, RIGGS, WICKER, LIVINGSTON, OBEY, STOKES, and HOYER, Ms. PELOSI, and Mrs. LOWEY.

There was no objection.

PERSONAL EXPLANATION

Mr. DORNAN. Mr. Speaker, on rollcall number 89, the immigration bill, had I been present, I would have voted aye. This bill was so important to me and I worked so hard on it. I was on the Senate floor, and out of courtesy turned off my beeper. I thought it would be a 15-minute vote, not a 5-minute vote. That is a vigorous up, thumbs up, aye vote.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

[Mrs. MORELLA addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DeLAURO) is recognized for 5 minutes.

GENERAL LEAVE

Ms. DeLAURO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Ms. DeLAURO. Mr. Speaker, I am honored to join Congresswoman LUCILLE ROYBAL-ALLARD tonight in kicking-off this series of special orders recognizing women from around the Nation for their accomplishments in public service. Congresswoman ROYBAL-ALLARD and myself organized this series of special orders this evening with the Women's Caucus in celebration of Women's History Month. Due to the overwhelming participation in this event, I will keep my remarks brief. I thank all of my colleagues who will be speaking this evening in recognition of the tremendous accomplishments and contributions of women in public service.

Mr. Speaker, I am proud to announce the names of two extraordinary women from the third Congressional District of Connecticut who have been selected for acknowledgement during Women's History Month 1996. These women were selected by a committee I organized, comprised of over 20 women leaders in my district. The committee included members of the business community, civic organizations, cultural, and religious groups. The Women of the Year for Women's History Month 1996 are Mrs. Anne Calabresi and State Senator Toni Harp.

Anne Calabresi is a cornerstone of community life in New Haven. She has been active in the organization of major city initiatives and events like the World of Difference Project. Sponsored by the Anti-Defamation League, the World of Difference Project has been working to end discrimination and forge community understanding in New Haven for the past 4 years. Anne works with the Special Olympics, which brought thousands of athletes and spectators to New Haven last year and also serves as the chairwomen of the Leadership Education and Athletics in Partnership [LEAP] program. Presently, she is serving as the vice-president of the International Festival of Arts and Ideas which will be held in New Haven this June. This festival attracts the best of international, national, regional, and local performers and artists. In addition to the educational and cultural benefits, the festival spurs tourism and economic development in New Haven. Whatever the endeavor, Anne's peers applaud her enormous energy, enthusiasm and love for the city of New Haven. She is indefatigable and is a source of information for all.

I am also proud to recognize State Senator Toni Harp tonight. State Senator Harp is a strong community leader and eloquent advocate for the needs of New Haven residents at our State Capitol. She is the ranking member on the Connecticut State Legislature's Public Health Committee. Toni is praised by her peers for her ability to balance out her professional duties at Hill Health Center in New Haven, her legislative duties in Hartford and her love and devotion for her family. On the State and Federal level, she has been a strong advocate for women, seniors and children, and working families. She is described as an excellent listener and someone who is not afraid to stand up and be heard on issues including affirmative action, child welfare and the advancement of women. Toni presently serves on the Board of Directors for the Connecticut Student Loan Foundation and as the treasure of the Legislative Black and Puerto Rico Caucus.

I thank Anne Calabresi and State Senator Harp for their tireless efforts and countless contributions to our community. I am proud to acknowledge them during Women's History Month. Both women are true rolemodels for young women and girls.

At this time, I am happy to yield the remainder of my time to the coordinator of this series of Special orders, Congresswoman ROYBAL-ALLARD.

□ 2100

Ms. ROYBAL-ALLARD. Mr. Speaker, I thank the gentlewoman for yielding.

Although I am going to be speaking later, I just wanted to take this opportunity to thank my colleague the gentlewoman from Connecticut [Ms. DELAURO] for joining me in sponsoring this event and for helping to make this tribute to women possible. She is to be commended for her deep commitment to helping to elevate the status of women in this country.

The SPEAKER pro tempore (Mr. HEFLEY). Under a previous order of the House, the gentleman from Nebraska [Mr. CHRISTENSEN] is recognized for 5 minutes.

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

HONORING MRS. SENORINA RENDON AS WOMAN OF THE YEAR FOR CALIFORNIA'S 33D CONGRESSIONAL DISTRICT

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 would like to thank my colleagues who have joined us to commemorate women's history month by recognizing outstanding women in our Nation.

Throughout the month of March, we in this country honor women from the past and present, who have, each in their own way, made a positive difference in their communities and toward the betterment of our Nation.

These women come from all walks of life, cultures and economic backgrounds.

They are the women who work in our fields and our factories, in Federal, State and local governments and in the armed services in defense of our country. They are the women who work hard at home to preserve the family, the very foundation of our country.

The struggles and pioneering efforts of the women who came before us, and the courage and determination of the women of today, have opened new opportunities for all of us.

It was not that long ago when women were thought of only as mothers, daughters, sisters, and men's wives.

The fact that I am here this evening celebrating Women's History Month with my colleagues, many of whom are women, is indicative of the changing role of women in our society.

We all know, however, that there is significant room for improvement.

Even today, working women still earn only 70 cents for every dollar paid to their male counterparts, the glass ceiling has still not been shattered, women are still victims of sexual harassment at both work and school, gender equity in education is not yet a reality, and women are still much more likely to live in poverty than men.

But because of women such as those we are honoring tonight, I am confident that we will not only continue to elevate the status of women, but strengthen our communities and our society as a whole.

This evening, I would like to recognize one of the many women in my district who embodies this spirit, Mrs. Senorina Rendon.

Mrs. Rendon, a resident of the city of South Gate CA, has always been an active force in her community.

She is a member of the South Gate PTA and formerly served as its president.

She combats the problem of gang violence in her community, through her work with police officers and local youth.

For the past 6 years, Mrs. Rendon has been the president of the South Gate High School parents group, where she works to motivate parents to get involved in their children's education.

Her ultimate goal is to give all the students in her community the opportunity to attend college.

Mrs. Rendon knows first hand the benefits of education.

While volunteering in her community, and raising six children, all of whom have graduated from high school and two from college thus far, Mrs. Rendon herself has gone back to school to continue her own education.

Mrs. Rendon exemplifies the utmost dedication to both family and community.

She is a shining example of an outstanding woman in public service and I am honored that she is the ''woman of the year'' for the 33d Congressional District.

Mr. Speaker, I yield the remainder of my time to the gentleman from Utah [Mr. ORTON].

TRIBUTE TO MARTHA HUGHES CANNON IN CONJUNCTION WITH WOMEN'S HISTORY MONTH

Mr. ORTON. I thank the gentlewoman for yielding.

Mr. Speaker, in conjunction with Women's History Month, I rise today to pay tribute to an extraordinary woman in the political history of our Nation: Martha Hughes Cannon.

Born on July 1, 1857, Martha Hughes Cannon led a distinguished life that included completing medical school at the age of 23, starting a medical practice in Utah, working tirelessly for the cause of women's suffrage, establishing Utah's first training school for nurses, and becoming the first woman in the history of our Nation to be elected to a State Senate.

Martha Hughes Cannon was elected to the Utah State Senate in 1896—her achievement all the more noteworthy since she ran in a field that pitted her against her husband, Angus M. Cannon. As a State senator, she introduced legislation to provide education for deaf and blind children, to create a State board of health, and to provide for rules and regulations in a number of sanitation and public health areas.

In 1898, she traveled to Washington to deliver a powerful speech to a Congressional Committee in favor of granting women the right to vote in the United States.

This year, Utah celebrates the 100th anniversary of its statehood. As part of statehood celebrations, a statue of Martha Hughes Cannon will be unveiled in the Utah State Capitol rotunda on July 24, 1996. It is a fitting tribute to her tremendous contribution to our State.

WOMEN'S HISTORY MONTH

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

Mrs. SEASTRAND. Mr. Speaker, it is a wonderful privilege to stand here to commemorate Women's History Month. I stand before you tonight to share my belief that the 104th Congress has done so much to further the cause of women, women and their rights, which is so important not only to me but to my mother and to my daughter Heidi.

I speak of women's rights in the broadest sense. I believe that the interests of women are inseparable from those of the rest of our Nation. Women, men, children all have a stake in the strength and prosperity of America. What is good for our country is good for all of us.

We in this Congress have taken great strides towards balancing the Federal budget, restraining an intrusive government, and limiting military interventionism. These are noble goals. Though yet to be fully attained, they are within the reach of this Congress and will benefit men and women alike.

The continuing struggle to balance the budget through the judicious restraint of Federal spending is fraught with implications for women's rights. Successfully balancing the budget will provide the following benefits for women and all Americans:

It is going to create 6.1 million new job opportunities in the early part of the 21st century. The best way to promote opportunities for women is to create an economy which can accommodate all those who wish to work.

A balanced budget would also bring a 2 percent decline in interest rates. Women would have easier access to home, business, and education loans, thereby increasing their economic and educational opportunities.

A balanced budget would definitely mean that we would have a future free of debt. We as mothers would bequeath to our children a future of greater opportunity and a government of increased virtue and vitality.

We in this Congress have labored mightily to scale back the size and scope of an overly intrusive government. With the restraint of government comes an increase in liberty and enterprise. Excessive regulation is the bane of the individual entrepreneur.

The Republican Party has vigorously championed the elimination of needless bureaucratic obstacles for private enterprise. In an increasingly competitive job market women can only benefit from an environment which encourages the creation of small business. Government must step out of the way of the women entrepreneur.

By opposing the overtly and overly interventionist policies of the Clinton Administration, we of this Congress have done our best to keep our troops home and their families together. The deployment of United States soldiers to Bosnia serves no American interest and needlessly puts the lives of our young men and women, in jeopardy. The women who have been sent to Bosnia have had to leave their families, their husbands, their children behind. The women whose husbands have been deployed are left with added financial and parenting responsibilities. Restraining foreign intervention is good for women and good for our country.

Mr. Speaker, as we take time to reflect upon the contributions of women throughout history, let us not diminish their legacy by concentrating narrowly upon the ideological agenda of a few. Those great women who came before us struggled for equality of opportunity, not the equality of result. They struggled for increased liberty, not the security bestowed by government.

We in the Republican Party are the rightful inheritors of this noble legacy. Our efforts to promote individual liberty mirror those wonderful women's struggles for freedom of opportunity. Let us act worthy of them by continuing to fight for a much brighter future, one in which the strength and dignity of women are allowed to flourish in an atmosphere of liberty and abundance.

HONORING OFELIA LOZANO AS WOMAN OF THE YEAR FOR CALIFORNIA'S 34TH CONGRESSIONAL DISTRICT

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

Mr. TORRES. Mr. Speaker, I thank the gentlewoman from Connecticut [Ms. DELAURO] and the gentlewoman from California [Ms. ROYBAL-ALLARD] for calling this special order tonight to honor women and the contribution of women to the Nation of America.

Mr. Speaker, today I have the distinct privilege and honor of naming longtime Pico Rivera resident and community activist Ofelia Lozano as the 34th Congressional District's Woman of the Year.

Since moving to Pico Rivera 39 years ago, Ofelia has unselfishly given of her time and energy to a myriad of causes which have made our city a better place to live and the future a better place to grow up.

She has been a member of the Pio Pico Women's Club for the past 25 years, serving as its president and vice president.

She has also been active with the Pico Rivera Christmas Basket Committee, an exemplary organization committed to distributing food to the needy, to seniors and to a number of youth athletic teams.

But perhaps her most noted contribution has been her untiring efforts on behalf of North Park Middle School and its nationally recognized and award-winning marching band. In the band's early years, it was Ofelia Lozano who raised much needed funds to permit the band to compete, and now that the band has been selected to play in next year's Rose Bowl game and the Rose Bowl parade, it is Ofelia Lozano who again has committed countless hours to helping the band meet its goal of raising the $10,000 that it needs to play in that parade.

Mr. Speaker, Ofelia Lozano is not only worthy of this recognition but most importantly deserving of it. She is a true friend and an ardent supporter of the youth of Pico Rivera. She indeed exemplifies the modern woman, the activist, the mother, who is out there struggling on behalf of all the duties that she has, yet she has time to give to her community, to her city, to the children of our city and to this Nation. Indeed, I congratulate her.

Mr. TORRES. Mr. Speaker, I yield to the gentlewoman from New York [Mrs. LOWEY].

HONORING AMY PAULIN AS WOMAN OF THE YEAR FOR NEW YORK'S 18TH CONGRESSIONAL DISTRICT

Mrs. LOWEY. Mr. Speaker, I thank my colleagues the gentlewoman from California [Ms. ROYBAL-ALLARD] and the gentlewoman from Connecticut [Ms. DELAURO] for organizing this tribute to women from around the country who have made extraordinary contributions to their communities.

I am here to honor an outstanding constituent, Amy Paulin of Scarsdale, NY. Amy, like myself, the mother of three children, has dedicated herself to the women and families of Westchester County. In fact, Amy was selected the 1995 Woman of the Year by a coalition of women in my district.

The list of Amy's community activities fills pages and in each role she has epitomized the concept of citizenship.

Amy was president of the League of Women Voters for 3 years. While Amy was president, the league registered 2,000 voters, and issued nonpartisan Voters Guides to 85 percent of the voters in Westchester County. In addition, the league sponsored debates for political candidates and was actively involved in shaping local legislation.

□ 2115

One of the highlights of Amy's presidency was her success at urging the creation of the Westchester County Board of Legislators Task Force on Families. When Amy realized that no board committees addressed women and children's issues, she brought it to the attention of the chair of the county board. Then, Amy led a successful lobbying effort that convinced the board that such a task force was indeed necessary. Amy is currently the only citizen-member of the task force, which just released a very important report on Westchester County's response to child abuse.

In addition to Amy's superb work with the league, she sits on the board of: The Westchester Children's Association, the Westchester Women's Agenda, the YWCA of White Plains, the Westchester Coalition for Legal Abortion, the UJA-Federation Scarsdale Women's Campaign, and the Scarsdale Middle School P.T.A.

As you can see, Amy's commitment to women and families is very serious. Westchester County has benefited from her tireless efforts on behalf of our families. I am honored to have the opportunity to honor Amy Parlin as Woman of the Year.

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

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

HONORING KATHARINE HOUGHTON HEPBURN DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore (Mrs. SEASTRAND). Under a previous order of

the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 5 minutes.

Mrs. JOHNSON of Connecticut. Madam Speaker, I first want to commend my colleagues for the attention they have brought to Women's History Month. Their hearings, seminars, and legislative measures have focused much needed attention on women—their health, their reproductive rights and the need for gender equity in class and on the courts. I am pleased to be a part of tonight's activity saluting extraordinary women from our districts and from around the world.

I rise today to salute Connecticut's Katharine Houghton Hepburn, one of the earliest advocates for gender equity in education and reproductive rights for women. Her name may sound familiar for other reasons as she was the mother of actress Katharine Hepburn. But not enough is known about her own achievements. Orphaned at 14, it's been said that her mother's dying words to her were ''get an education''—and she did, entering Bryn Mawr's Class of 1899 at the age of 16.

She obtained degrees in chemistry and physics—precisely because those were the subjects she most dreaded, and later earned a master's degree in art history from Radcliffe.

After college, Katharine Houghton married a prominent Connecticut doctor and became a determined suffragist and an outspoken birth control advocate. Her opposition was formidable. Connecticut State obscenity laws at the time made it illegal to mail any information on birth control and it was even a crime for doctors to distribute birth control information or tell anyone where it might be obtained. In a 1941 interview, Houghton said that when she confronted Connecticut State Legislators with the birth control issue, they were embarrassed and terrified. ''They nudged each other like schoolboys,'' she said, ''but after ten years of it, they got used to us.'' And one can only imagine what her neighbors of upscale Fenwick, CT, thought of her views. Houghton once said that they were worried her campaign to make birth control available for all women would only lead to their corruption. She responded by saying:

> We are not trying to produce immorality * * * we are trying to explain the use of human intelligence to control human nature.

At the same time, her work on behalf of the suffragist movement continued. And in 1920, right after the 36th State gave women the right to vote, Connecticut Democrats approached Houghton and asked her to run for the U.S. Senate. Connecticut had not yet ratified the 19th amendment, though, so she continued with the task at hand. As her daughter's fame grew, so did her own and in 1933, she led a procession of women up to Capitol Hill to push for a bill that would have permitted physicians to distribute birth control information. Among the marchers—Margaret Sanger and Amelia Earhart. Houghton worried that her activities would harm her daughter's burgeoning acting career. But Katharine Hepburn strongly supported her mother's work. ''I detest the newspaper's reference to her as Katharine Hepburn's mother,'' she said, ''My mother is important. I am not.'' Let's all remember Katharine Houghton's importance today. She fought for women when the country, her State, and even her own neighborhood, were opposed to her causes. But she continued on for decades for most of her life—inspiring women and creating an America that would make good on her promise of equal opportunity and equal justice for all.

Madam Speaker, I would like to yield now to my friend and colleague from North Carolina [Mrs. EVA CLAYTON].

Mrs. CLAYTON. Madam Speaker, I thank the gentlewoman for yielding to me, and thank my colleagues who have arranged this special tribute to women.

Madam Speaker, as we celebrate Women's History Month, I think of the numerous contributions women have made to make this world a better place to live.

When I look at the First Congressional District of North Carolina, I find an extraordinary woman, a woman who is a fine example of womanhood who has dedicated her life to improving the lives of others. She has taken on many difficult task, oftentimes sacrifing herself and spending her own money to improve the lives of others.

She is a living legend in North Carolina. She is Mrs. Alice Ballance, a mother, a grandmother, and businesswoman.

Her commitment to her family and community has made her stand head and shoulders above the masses. She is many things to many people, but above all she is a champion of the disadvantaged and children.

''Miss Alice'' as she is affectionately known around Bertie County in the First Congressional District of North Carolina, has proven again and again her commitment to being a model citizen. ''Miss Alice'' has maintained close ties to her community, church, and family, and has worked tirelessly to improve the lives of the poor and disadvataged citizens of her county. She organized and established child and adult care for the children and seniors of her county.

Her activism dates back to the civil rights era of the sixties. She has testified before the U.S. Senate on behalf of North Carolinians and founded the People's Program on Poverty to assist the needy citizens of Bertie County. She has been recognized by several national and regional organizations for her many community activities.

Mr. Speaker, today I salute a woman who is part of our rich and proud history in North Carolina. A woman whose contribution to our society has made North Carolina a better place to live.

She is the essence of leadership, the epitome of statesmanship, and the embodiment of selflessness and commitment.

More importantly, she is not afraid to fight for her principles and to stand up for her beliefs. Pride, achievement, and success are her watchwords. Alice Ballance has paved the road of opportunity for women like me and I am happy to name her North Carolina's First Congressional District, Woman of the Year.

HONORING HELEN RUDEE AND ELIZABETH TERWILLIGER DURING WOMEN'S HISTORY MONTH

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, first of all I would like to thank my colleagues and good friends for organizing this Women of the Year special order as part of our Women's History Month celebration.

Madam Speaker, I come to the floor of the House this evening to honor two outstanding women, Helen Rudee and Elizabeth Terwilliger, from the Sixth Congressional District of California.

When talking about Helen Rudee, it is hard not to sound repetitive because Helen Rudee was the first in just about everything she has done. Helen was the first woman president of the Santa Rosa Board of Education. She was the first woman on the Sonoma County Board of Supervisors. And she was the board's first chairwoman. In addition to her outstanding record in elected office, Helen raised four children and participated in just about every volunteer organization in Sonoma County.

This year, Helen is the recipient of the Konocti Girl Scout Council Jewel of a Woman Award for sharing her leadership skills with other young women in our community. It is truly fitting that we recognize Helen during Women's History Month. Helen Rudee is a woman who has made history, and she continues to make history.

I am also proud to honor Elizabeth Terwilliger, a real life trail blazer, who in 1991 was the recipient of President George Bush's Points of Light Award.

Long before environment became a household word, Elizabeth Terwilliger pioneered environmental education in Marin County. Now in her eighties, she continues to lead children, teachers, parents, and grandparents on hiking, canoeing, and bicycling adventures 6 days a week.

Mrs. Terwilliger's tireless commitment to our environment has inspired other volunteers to form the nonprofit Terwilliger Nature Education Center. Where every year, over 65,000 San Francisco Bay Area children enjoy the spectacular beauty of Marin County's trails, marshes, and beaches because of the Terwilliger Center.

Again, it is my great honor to recognize Helen Rudee and Elizabeth Terwilliger as 1996 Women of the Year. They have left an indelible mark on

Sonoma and Marin Counties, and their legacy will inspire generations to come.

Madam Speaker, I yield now to the gentlewoman from New York, CAROLYN MALONEY.

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

Mrs. MALONEY. I thank the gentleman for yielding, and I likewise join her in thanking ROSA DELARUO and LUCILLE ROYBAL-ALLARD for organizing this special order in honor of women during Women's History Month.

Madam Speaker, I rise today to honor as my Woman of the Year a former Congressman, New York's tireless advocate for women, Bella Abzug. On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserves recognition as we honor her and as we follow her lead.

Bella, who was born the same year that women won the right to vote, has spent her entire life fighting for women's rights. As a Member of Congress she wrote the first law banning discrimination against women in obtaining credit, and she initiated an organization which has become known as the Congressional Caucus on Women's Issues.

Today, Bella continues her advocacy for women with her Women's Environment and Development Organization, a group which will soon introduce its Contract with American Women.

Today, in a Congress far more hostile to women's rights than any I can remember, I will do what Bella would appreciate the most, honor her spirit by reminding our adversaries that we will refuse to lose. We will succeed in overcoming the anti-women actions of this Congress because we have millions of women with us across this country.

Madam Speaker, we will succeed, because brave women Like Bella Abzug have taught us how to succeed.

Madam Speaker, I rise today to honor, as my ''woman of the year'', former Congresswoman and tireless advocate for women's rights—Bella Abzug.

On behalf of women everywhere, I salute this remarkable woman, whose dedication and courage deserve recognition—as we honor her, and, as we follow her lead.

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From every possible forum, Bella Abzug has spent her entire life fighting for women's rights.

In 1970, Bella became the first woman to run for and win a seat in Congress on a women's rights and peace platform.

Her term in office was far too short—only 6 years. But, her accomplishments however, were many.

She wrote the first law banning discrimination against women in obtaining credit, loans, and mortgages. She introduced precedent-setting bills on comprehensive child care, social security for homemakers, abortion rights, and Gay rights. One of the earliest votes Bella cast was to approve the Equal Rights Amendment, and, she introduced a resolution proclaiming August 26th Women's Equality Day. The resolution was approved and signed into law by President Nixon.

Bella's work in and outside of Congress led to her national and international renown as a forceful and tenacious organizer of women. She held the first planning sessions for the National Women's Political Caucus [NWPS] in her office, and, in 1971 became its first co-Chair. Since its inception, the NWPC has been a major force in recruiting women to run for office; in maintaining a database of women in politics; and in putting women's issues on the national and international agendas.

Today, Bella has turned her attentions to women's rights in the global arena. Bella is the Co-founder of the Women's Environment & Development Organization [WEDO]. WEDO is an international network which organizes women to help save the planet from worsening environmental threats, and from pollution and poverty.

As co-Chair of WEDO, Bella presided over the World Women's Congress for a Healthy Planet, held in Miami in 1991. The women's agenda which emerged from that Congress became the focus of activities used in connection with preparations for the Earth Summit in Rio de Janeiro in 1992, which Bella and WEDO leaders from around the world participated in.

Most recently, I am pleased to say that Bella was a key organizer at the extremely successful Fourth U.N. World Conference on Women in Beijing, China in September of 1995. I was proud to join Bella in Beijing, and I am proud to continue working with her to ''Bring Beijing Home.'' Bella and the WEDO network continue to work at the United Nations, organizing women's caucus meetings at subsequent major international conferences of particular concern to women.

Bella's international work has been recognized as crucial to the inclusion of women's perspectives, demands, and participation in policy-making in U.N. platforms for action and resulting programs.

Madam Speaker, in honoring Bella Abzug here today, it is impossible to include all the contributions she has made to the advancement of women's rights. So, we must merely recognize and honor the enormity of her life's work. And, we must take up her baton to ensure continuation of her work—especially in this 104th Congress, the most hostile Congress to women's rights in my memory.

We face a great deal more than the 104th Congress' hostility toward women. We must also face the following facts: 96 percent of our country's top executives are males; the more a professional field is dominated by women, the lower the pay scale; women are the sole breadwinners in more than 25 percent of the world's families; and prostitution and pornography are the only industries in which women earn more than men.

Today, I rise to inform this Congress that in the honor and spirit of Bella Abzug, whom I put forward as my ''Woman of the Year,'' that we refuse to lose.

We will succeed in enacting legislation which will counter the anti-woman actions of the extremists of the 104th Congress. We will succeed in enacting pro-woman legislation because women like Bella have blazed the way. We will succeed because over 150 years of women who faced greater obstacles than we do did not give up.

We will succeed because Bella succeeded before us. We will succeed because of those that fought before her. We will succeed because we have a perpetual and ever-forward looking movement of women righting relentlessly for equal rights.

We will follow Bella's lead, and remind ourselves that, ''It's up to the women!''

Mr. FRAZER. Madam Speaker, I rise to address the House on this very important special order celebrating March as Women's History Month. First, I want to thank the distinguished Member from California, Ms. WOOLSEY, for holding this special order.

It gives me great pride to celebrate the accomplishments of an outstanding African-American educator from St. Croix, VI, Mrs. Eulalie Rohlsen Rivera. Mrs. Eulalie Rohlsen Rivera was born August 2, 1909, in Frederiksted, St. Croix. She earned her assistant-grade teachers license in 1932 and her principal license in 1934. Mrs. Rivera grew up in the Ebenezer Orphanage on St. Croix. During her teens she was assigned to teach the kindergarten class. This assignment launched her teaching career. She briefly taught at the Christiansted Kindergarten and later at the Diamond School from there she went on to teach at La Princesse School and the Claude Markoe School were she remained until her retirement in 1974.

Mrs. Rivera is truly a great civic leader. She gave of her time and talents to such organizations as the Women's League of St. Croix, Frederiksted Democratic Club, Frederiksted Hospital Auxiliary, Lutheran Church Sunday School, St. Croix Business and Professional Women's Club, League of Women Voters of St. Croix, Committee on Aging, and the Friends of Denmark.

IN 1967 Mrs. River was named ''Woman of the Year'' by the Frederiksted Business and Professional Women's Club and ''Teacher of the Year'' at the Claude O. Markoe School.

On February 19, 1974 the Legislature of the Virgin Islands renamed the Grove Place Elementary School, the Eulalie Rivera School. In 1980, still striving to make a difference in the lives of children and teachers in the Virgin Islands, Mrs. Rivera ran for Virgin Islands Board of Education in 1982 and won. She served two terms, one term as vice chairman of the board. She retired from the board in 1985 but returned to serve two additional terms.

Mrs. Rivera is prime example of dedicated public service and civil leadership. It is this legacy which makes her an outstanding African-American female.

Ms. WATERS. Madam Speaker, I rise to thank Congresswoman ROYBAL-ALLARD and Congresswoman DELAURO for providing this opportunity for us to highlight women who have had an impact on our lives and on the lives of others in our communities and in our Nation. Today we are here to honor a Woman of the Year, someone who we know to be an exceptional person from our district, who we seek to recognize for her leadership in a particular issue or field.

I am so proud and delighted to honor Ms. Kai Parker from Gardena, CA, in my district. Ms. Parker is an advocate for children, an activist in the community, a member of several boards and commissions, and a political appointee—serving as the Gardena Human Resources Commissioner.

Kai Parker has devoted her life to helping people reach their highest potential, from young children to seniors. In her current position as executive office coordinator of the Special Projects Bureau of Operations within the Department of Children Services in the County of Los Angeles, she has worked tirelessly to serve the children of Gardena, specifically children who come from foster homes. She has developed numerous, highly successful programs to develop skills and instill pride in people who come from disadvantaged backgrounds. Kai, herself, was raised in public housing, overcoming many obstacles along the way to her success. So she knows how self-respect can empower people to work hard and take them as far as they can go.

I had the opportunity to visit one of Kai's programs in Gardena called the African-Centered Saturday School. This program aims to provide a safe, nurturing environment for children who have been directed into the child custody system. Many of these children have been placed in protective custody, in a foster home, or with relatives, to distance them from parents who harmed them or who could not properly care for them. These are not bad kids, they are just unsafe. Many have experienced severe physical and emotional abuse, neglect, abandonment, poverty, substance abuse, developmental disabilities, educational handicaps, and many other serious social disorders. Yet, oftentimes, they still love their parents and do not understand what is happening to them. Kai has worked to decrease their trauma by loving them and empowering them to help themselves and turn their lives around.

Let me tell you about this program which serves 35 children between the ages of 6 months and 13 years. Those who attend Saturday School every Saturday from 9 a.m. to 3 p.m. receive academic instruction and tutoring, nutritious meals, and health care. They participate in field trips, special community events, recreation, and cultural activities. And this program is almost totally privately funded (after a jump-start from the city of Gardena).

One of the most important features of Saturday School is that the children are exposed to and encouraged to learn more about the African culture. They are taught about their African ancestors and their traditions and food, they learn Swahili, and through that they develop a sense of nobility, which in turn highlights their self-esteem. This program enriches their knowledge of their culture and of themselves. It seeks to instill pride in them so that, throughout their lives, the children will have a strong sense of who they are, as well as a vision of where they may want to go in their future.

Kai Parker's program, in only 2 years, has visibly developed and empowered the inner-city children it is designed to assist, as well as the community. It has brought together the whole Los Angeles community, or village, to help create whole citizens of these wonderful kids. From the donated church space to the tutoring offered by members of the Los Angeles Board of Education, community members from all walks of life volunteer to protect children. Thank you so much, Kai Parker, for creating this exemplary, highly successful program, and for all your inspirational work on behalf of our community.

One more thing. I am proud to say that Kai and I both work together as members of the Black Women's Forum. She has too many credentials and awards to list, but I must say that her efforts in helping welfare children and troubled youth through her many successful programs, from Saturday School to Summer Youth Institute Camps, have changed many lives. I commend her efforts to improve people's lives and am honored to name her my ''Woman of the Year'' from the 35th district of California.

Mr. FROST. Madam Speaker, as part of Women's History Month, I am pleased to have the opportunity to select Mrs. Izean Davidson, of Fort Worth, TX, as Woman of the Year.

Mrs. Izean Davidson, a life long Texan, has spent 42 years as an educator in the Texas public school system, serving as a classroom teacher and reading specialist. A leader in her community, Mrs. Davidson is a strong advocate for teaching the highest social and academic values to young adults. As a member of the Baker Chapel African Methodist Episcopal Church, she has worked tirelessly to implement programs which build self esteem and inspire young Texans.

In addition, Mrs. Davidson has participated in various organizations, boards and committees, including: the Fort Worth Mayor's Council, NAACP Board of Directors, Delegate to the National Democratic Convention for three successive terms, and Fort Worth Commission of the Status of Women.

It is an honor and a privilege to know Mrs. Izean Davidson. Clearly, her hard work and dedication to public service have improved the lives of many people in Fort Worth as well as in the State of Texas. I am proud to recognize Mrs. Davidson's contribution to women's history during this special month.

Mr. STOKES. Madam Speaker, I want to express my appreciation to our colleague, the gentle lady from the District of Columbia, ELEANOR HOLMES NORTON, for leading this important special order. This evening, she has reserved time so that we can have meaningful dialogue on the issue of women, wages, and jobs. It is a topic of paramount importance to this Congress and the Nation.

As I join my colleagues this evening, I am reminded that many years ago, a widowed mother scrubbed floors to earn a living and to provide an education for her two sons. Trying to balance raising a family and working a low-paying job, I recall that the family endured many hardships and struggles. This woman was my mother, Louise Stokes. As I join you today, I would like to remind my colleagues that women continue to face these same types of obstacles.

I am disappointed that this Republican-controlled Congress which came to Capitol Hill armed with its ''Contract with America'' and ''Personal Responsibility'' initiatives has not only neglected women, but they have sought to destroy decades of progress. During this Congress, we have been forced to defend womens' rights. We have fought to protect the programs which impact the lives of women and their families, including school lunch and child care programs, tax incentives for working families, and the elimination of the glass ceiling so that women and minorities can advance in the workplace.

Mr. Speaker, the issue of women in the workplace is particularly significant. In greater numbers, in more occupations, and for more years of their lives than ever before, today's women constitute nearly half of our Nation's work force. Unfortunately, they are still earning considerably less than their male counterparts. Although the passage of the equal pay act in 1963 attempts to ensure equal wages for men and women, in today's market, a woman earns 71 cents for every dollar of her male counterpart. Further, despite increased access to higher education, women with a college education earn, on the average, only slightly more than men with a high school diploma, and they earn about $10,000 a year less than men with comparable education.

While we focus tonight's special order on the status of women, we are reminded of how their lives touch the lives of millions of America's children. If we look at statistics, never has the number of working women with young children been higher—67 percent of women with children under the age of 18 are working or seeking employment. As such, child care is of paramount concern to working women and to women interested in entering the work force.

As you may know, this issue greatly affects our Nation's low-income women. In fact, the Republican welfare reform proposal, H.R. 4, includes provisions which would cause major reductions in child care funding. This would have a devastating impact on the ability of single parents to become employed. If we are serious about ending welfare, then we must be willing to make the investment and provide the vehicle that is so necessary to achieving this goal. To do anything less is an injustice to our children.

Mr. Speaker, I join Congresswoman NORTON and others gathered in the House Chamber as we reaffirm our commitment to addressing the needs of women throughout the Nation. Pay equity, child care, and equality in the job market, are goals that can be and must be achieved. We stand today challenging our colleagues to join in this important effort.

HONORING ADA LOIS SIPUEL FISHER AND HELEN COLE DURING WOMEN'S HISTORY MONTH

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

Mr. WATTS of Oklahoma. Madam Speaker, there have been two special women throughout my life, my deceased mother, Helen Watts, and my gracious wife, Frankie Watts, and, of course, my four wonderful daughters.

During this month of March, dedicated as National Women's Month, tonight I would like to pay tribute to two very special women from the great

State of Oklahoma that have influenced my political life, Ada Lois Sipuel Fisher and Helen Cole.

Madam Speaker, Ada Lois Sipuel Fisher was born in Chickasha, OK, to parents only one generation removed from slavery. She received her bachelor's degree from Langston University and then in 1946, applied to the all-white University of Oklahoma law school. Because Oklahoma had no separate law school for blacks, she contended, the State's official policy of separate but equal education was illusory. Her simple request for an equal education sparked controversy across the country.

Ada Lois Sipuel Fisher was a strong woman who endured many trying times and eventually triumphed. Her effort to enroll in the University of Oklahoma in January 1946, would take Thurgood Marshall and more than three years and two trips to the Supreme Court. Ms. Fisher carried herself with dignity throughout the entire ordeal. Her patience and courage eventually won the support of thousands of Oklahomans, including the university president, and it also won justice for her and thousands of others who would follow in her footsteps.

Ada Lois Sipuel Fisher graduated from law school in 1951, earned a masters in history in 1968, and then spent many years as a professor and chair of social sciences at Langston University. In 1992, in recognition of her lifetime of serving, she was appointed a member of the board of regents of the university of Oklahoma.

The Sipuel Case was a legal landmark which pointed the way to the elimination of segregation in all of American public education. This woman's strength and positive attitude made Oklahoma a better State, and it made the United States a better nation.

Another dynamic Oklahoman is State senator, Helen Cole. Helen Cole is a native Oklahoman who has spent her career dedicated to helping others through public service in Oklahoma. She served in a variety of political offices including the State Republican Committee, Cleveland County precinct judge, and the State House of Representatives.

Throughout her life as a public servant, Helen Cole has championed many cases. She is deeply concerned with the drug problem in America and works to educate people through Alcohol and Drug Centers. She is also involved in promoting ethics in government and belongs to the League of Women voters where she strives to encourage others to take an active role in government.

In addition to her public achievements, Senator Cole is a wife and a mother. She is as dedicated to her family as she is in her service to our great State. She has been a rock of Gibraltar in difficult times for many, she has been a friend to me, a consultant, and a prayer partner. She has truly been a shining star. Mr. Speaker, it gives me great honor to recognize Ada Lois Sipuel Fisher and Helen Cole today. They are women who represent great integrity and principle—women we Oklahomans are proud to call our own.

□ 2130

CHANGE IN ORDER OF TAKING SPECIAL ORDER

The SPEAKER pro tempore (Mrs. SEASTRAND). The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Mr. PALLONE. Madam Speaker, I ask unanimous consent to substitute for the gentlewoman from Texas.

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

There was no objection.

ON ARMS TRANSFER TO PAKISTAN

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

Mr. PALLONE. Madam Speaker, I rise to express my strong opposition to the impending shipment of United States arms to Pakistan. The administration proposes shipping 368 million dollar's worth of conventional arms to Pakistan, despite the recent revelations that Pakistan received nuclear technology from China last year. While I have often come to well of the House to defend this administration's foreign policy, in this case I must express my complete opposition to the direction that we are going by in providing sophisticated and de-stabilizing weapons to Pakistan, a country that has repeatedly broken their assurances to us about their nuclear weapons development and acquisition intentions.

A provision in the Foreign Operations appropriations legislation that finally became law earlier this year would authorize the transfer of $368 million in sophisticated conventional weaponry, including three Navy P–3C antisubmarine aircraft, 28 Harpoon missiles, 360 AIM–9L missiles, and other Army and Air Force equipment. This provision, known as the Brown amendment, after its Senate sponsor, passed the Senate last year. Although the provision was never debated in the House, it carried in conference. I drafted a letter to the conferees, which was signed by 40 other Members from both sides of the aisle urging that this provision not be included in the bill. But, owing in large part to the support of the administration and the influence of the pro-Pakistan lobby, the provision was included in the bill and became law.

As far back as last summer, many of us in Congress—Democrats and Republicans, Members of both bodies—argued that providing these weapons to Pakistan was a bad idea, giving Pakistan's ongoing determinations to develop nuclear weapons, it involvement in arming, training, and financing terrorist movements and its often open hostility to Western interests. Last summer, it was reported that Pakistan received Chinese M–11 missiles, in direct violation of the Missile Technology Control Regime. These missiles are capable of carrying nuclear warheads, and can strike cities within a 275-mile radius. It was reported last year that Pakistan developed its nuclear weapons from a blueprint provided by the People's Republic of China, and Pakistan then gave this blueprint to Iran. Pakistan remains an unstable nation, where the military does not seem to be under strong civilian control, a country which supports the embargo of Israel and does not recognize the State of Israel.

Then came the revelations early this year, based on intelligence information, that Pakistan purchased 5,000 ring magnets from the People's Republic of China in late 1994 and early 1995. These ring magnets are used to enrich uranium, a key component for making nuclear weapons. This transfer, which Pakistan has repeatedly denied to the administration and the Congress, is a direct violation of the Glenn-Symington Amendment and the 1994 amendment to the Non-Proliferation Act. When the Senate and the Foreign Ops Conferees considered the Brown amendment, this information was not known. I believe that this information would most certainly have swung a few votes—had it been available.

By way of a little history: during the last decade, Pakistan was the third largest recipient of United States foreign military assistance. Pakistan asked for the help of the United States in becoming conventionally strong militarily and in exchange promised—promised—not to develop or obtain nuclear weapons. By 1985, United States intelligence had strong evidence that Pakistan was receiving United States arms while going back on its word about developing nuclear capability. As a form of leverage, the Congress in 1985 enacted the Pressler amendment, named for its Senate sponsor, requiring an annual Presidential certification that Pakistan does not have a nuclear device. In 1990, with overwhelming evidence of Pakistan's nuclear program, President Bush invoked the Pressler amendment. The United States essentially said: Yes, Pakistan has the bomb. Thus, all U.S. military assistance was ended—including weapons already contracted for and paid for but not delivered. Pakistani officials could not have been surprised, knowing these ramifications when they officially agreed to the enactment of the Pressler amendment in 1985. The only surprises may have been that they got caught and that the full penalty of the law was imposed.

It is important to recognize that Pakistan has not agreed to do anything in exchange for the release of the seized equipment. In 1993, President

Clinton did offer to return all or some of the weapons in the pipeline if Pakistan would agree to cap its nuclear program. Pakistan rejected this offer. In fact, by receiving the ring magnets from China, Pakistan was continuing to act—in defiance of the United States—to further its nuclear ambitions.

Finally, the administration came up with a compromise: While 28 F–16 fighter jets would not be delivered to Pakistan—they already have 40 F–16's—the 368 million dollars' worth of equipment would be delivered with no strings attached.

What we are doing, Mr. Speaker, is ending the ban on providing weapons to Pakistan, and receiving nothing in return.

The delivery of these weapons comes just about a month before the general elections in India, Pakistan's neighbor. Tensions between these two South Asian nations remain high. Pakistan has fought three wars with India during the past 48 years.

Clearly, India will see the delivery of these weapons as a slap in the face. The opposition BJP party in India, which has already gained in strength, is running on a platform promising a much harder line in terms of relations with Pakistan, relations with the United States, and India's own nuclear weapons development program. While this story may be buried on the back pages of American newspapers, I can guarantee you that the delivery of the United States weapons to Pakistan will be page 1 news in India—to the benefit of those forces in Indian society that oppose the recent move toward closer commercial and strategic cooperation between India and the United States. The United States has in the past few years become India's largest trading partner. Why are we jeopardizing this important new economic relationship?

Mr. Speaker, I have nothing against improved relations with Pakistan, but I believe this goal should be achieved through economic means. The Government of Pakistan devotes much too large of a share of its scarce resources to the military, to the detriment of the people. If the administration wants to engage Pakistan, let's engage them with more trade and support for democracy building institutions.

Nuclear nonproliferation is and should be a top U.S. foreign policy goal in this post-cold-war world. The Pressler amendment has been a pillar of America's nonproliferation efforts. We should not weaken this law with waivers or loopholes.

Pakistan keeps giving us every reason to keep the Pressler amendment in force.

Mr. Speaker, I will be working with some of my colleagues to enact a resolution of disapproval for this weapons transfer, and I hope we can achieve broad, bipartisan support. Providing these weapons to Pakistan would be a grave error that would threaten the stability of South Asia, international nuclear nonproliferation and the interests and prestige of the United States.

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

[Mrs. KELLY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

HONORING EUNICE MERRILL, WOMAN OF THE YEAR FOR THE FIFTH DISTRICT OF ALABAMA

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

Mr. CRAMER. Madam Speaker, it is an honor to come before the House tonight to pay tribute to a very special woman from the Fifth District of Alabama. She is Mrs. Eunice Merrill from Huntsville, AL.

Many years ago, at a time when there were very few women in Alabama running their own businesses, Miss Eunice opened Eunice's Country Kitchen.

It is a place where people of all ages and all stations in life gather together. It is truly a crossroads in our community, where everyone can share breakfast and a common table.

The food and the conversation are big attractions, but one of the main reasons people come from all around is Miss Eunice herself.

She treats everyone who walks through her door like they are family, whether they are long-time friends or first-time customers. No matter how early it is or how busy it is, Eunice always has a smile and a kind word for every person.

While she is beloved for her kindness and her hospitality, Miss Eunice is revered for her extraordinary work for charity, especially on behalf of the Arthritis Foundation.

But, last November, Mr. Speaker, tragedy struck Miss Eunice. She was leaving her house for work at 4 o'clock in the morning, as she did most every morning to begin fixing breakfast for her customers.

As she walked from her house to her car, Miss Eunice was brutally attacked and robbed. She was rushed to a hospital to undergo emergency surgery.

Not only did she survive the attack, but after a week's stay in the hospital, at the age of 78, Miss Eunice was back at work.

She didn't even postpone the fundraiser she had organized for the Arthritis Foundation, which she held, just as she planned, on the very first day she returned.

Mr. Speaker, Mrs. Eunice Merrill is a glowing testament to the heart and strength of the human spirit. While her story of survival is inspiring, it is simply one chapter in a life story of faith and perseverance.

I am proud, Mr. Speaker, to stand here tonight to honor the Woman of the Year for the Fifth District of Alabama, Mrs. Eunice Merrill.

MEDICARE

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

Mr. MILLER of Florida. Madam Speaker, I rise today to talk about the Medicare program, because we are about to receive the 1996 report from the board of trustees of the Medicare program. It was just a year ago that we received the 1995 report, in April 1995, stating that Medicare was going bankrupt. The report from the board of trustees stated that it was going to be running out of money this year and all the reserves of the Medicare program would be totally exhausted in 7 more years. And the trustees of the Medicare program are basically appointees of the Clinton administration, the Secretary of HHS, Donna Shalala, Secretary of Treasury, Mr. Rubin, the Secretary of Labor, Mr. Reich and others. This is a bipartisan report.

The fact is Medicare is going bankrupt. And what I want to talk about today is what has happened since the last report, as we are about to receive the 1996 report.

From my area in Florida, I have a very large number of seniors. In fact I have more seniors in my congressional district than any other congressional district in the United States. It is very important for all the seniors in my district. It is important to me personally. I have an 87-year-old mother who is on Medicare. But it is also important for all the people in my district because of the jobs and the impact on the economy.

Sarasota Memorial Hospital is the second largest employer in Sarasota County in Florida. So it is a jobs issue that is important, to take care of the seniors in my district, and it is something that we need to fight for and save. It is not a political issue. Medicare is too important an issue to be played with as politics.

Well, what did Congress do during the past year about the Medicare program? First of all, we listened. I sent letters out and asked for advice from my constituents and received over 1,000 responses. Members in Congress held over 1,000 town hall meetings all over the United States asking for input and advice, what they should do about the Medicare program. We listened, and we listened well, and got ideas. We came up with a plan.

Two things we found out: One is, Medicare is in crisis; and the other item we learned is, it is full of waste, fraud and abuse. Those are the two things that kept getting repeated time and time again. We have a major problem with the Medicare program. We understand that. We need to do something about it. And it is the waste, fraud and abuse. So what did Congress do?

Congress passed the Medicare Preservation Act last year, and the Medicare Preservation Act had a tough waste, fraud and abuse program. It had stiff penalties for anybody that participated in fraud in the program. And it provided rewards for those that discovered fraud in the program.

I remember at one of my town meetings a mobile home park in Palmetto, FL, a lady standing up, saying about the illustration of fraud. She was admitted to the hospital and got a bill later for her own autopsy. That is the crazy things that were happening.

What we are offering were incentives. She could report this, and she would have a reward for finding out that problem and reporting it and getting a reward from the Medicare program.

So we focused on a waste, fraud and abuse program within the Medicare program. Our program saved Medicare from going bankrupt. But it continued to spend more money every year. In fact, right now the Medicare program spends $4,800 for every man and woman in the Medicare program. Over 7 years we were going to increase that to $7,100 per person in Medicare. That is a $2,300 increase over 7 years, more money every year. There are no cuts being proposed in Medicare. And it was a good program, giving seniors more choices.

So we did not just talk about Medicare. We acted.

The House passed a bill. The Senate passed a bill, and we jointly sent a plan to save the Medicare program to the President.

What happened? Well, sadly the President decided to play politics with it. He played politics by vetoing the Medicare plan that we proposed. He did not come up with any solutions or ideas. All he did was take political advantage saying, let us scare those seniors and scare them of Republicans. And that is too bad, because Medicare is too important to scare seniors over. It is too important to play politics with it.

Bill Clinton vetoed that plan. When he vetoed it, he knew secret information at that time that Medicare was in worse shape than the trustees reported last April. Because on February 5 of this year, in a New York Times article, we find out that Medicare is going bankrupt much faster than 7 years. It is in worse financial shape than we were told by the trustees in April of 1995. And when Bill Clinton vetoed that bill in December, he vetoed a plan that was in serious financial trouble. And yet he still has not offered any solution.

We need to face the Medicare problem. We have a good plan, and Bill Clinton needs to stop playing politics and give use the solution to Medicare, too.

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

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

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

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

The SPEAKER pro tempore. Under a previous order of the House, the 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.]

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

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

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

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

DR. WENDE LOGAN-YOUNG, WOMAN OF THE YEAR FROM THE 28TH DISTRICT OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Ms. SLAUGHTER] is recognized for 5 minutes.

Ms. SLAUGHTER. Madam Speaker, I rise tonight to pay tribute to Wende Logan-Young, The Woman of the Year from the 28th District of New York is a friend, a daughter, a sister, a mother, and a grandmother in addition to being a doctor, a radiologist, and a pioneer in mammography and breast care. She has received awards too numerous to detail here but the list dates back to 1966 when she was honored as Outstanding Young Woman of the Year.

In the years since, Dr. Wende Logan-Young has become renowned for her untiring dedication to improving women's health. In 1976, Dr. Logan-Young established this Nation's first free-standing mammography center devoted exclusively to breast cancer detection. The Elizabeth Wende Breast Cancer Clinic, named in honor of her mother, has the unique goal of providing quality mammography and breast care to women in a comfortable and timely manner. Caring for 1,000 patients a week, the clinic has served the needs of hundreds of thousands of women since its inception. Unlike the typical physician's office, the clinic has the familiar feel of home. In one visit, every patient has her mammogram, has it interpreted fully and has all needed additional testing. Knowing how traumatic and anxiety producing the experience of breast cancer screening can be, Dr. Wende Logan-Young has created a healing, comforting environment. This year, the clinic celebrated its 20th anniversary.

In addition to caring for her patients, Dr. Logan-Young has served on numerous academic and professional organizations, including the American Cancer Society, American College of Radiology, and the National Cancer Institute of Canada. The author of many medical journal articles, the doctor has just completed the first volume of a three volume set of textbooks for radiologists providing a practical guide to breast cancer diagnosis.

As chair of the women's health task force and a long-time advocate of increased funding for breast cancer research, I take great personal satisfaction in honoring a pioneer in the field of breast cancer research and service. Please join me in giving recognition to this outstanding Woman of the Year from the 28th District of New York, Dr. Wende Logan-Young.

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

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

WOMEN IN PUBLIC SERVICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas, Ms. EDDIE BERNICE JOHNSON, is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, in the United States the history of women in public service is both significant and meaningful. Unfortunately, our history does not always adequately recognize these women's contributions.

Historically, women have received limited space in the history books, and few have questioned their absence. However, today we are all faced with the challenge to eliminate the negative stereotypes, myths, lies, and distortions about women's role in the progress of time.

In celebration of Women's History Month, I would like to recognize DeMetris Sampson as the Woman of the Year from the 30th Congressional District of Texas.

Ms. Sampson's activities are multifaceted. For the past 1½ years, she has chaired the task force on liquor related businesses near schools. As chairwoman, she has successfully formulated and lobbied for State law changes as well as local ordinance and administrative changes to address the proliferation of alcohol establishments located near Dallas schools.

In addition, Ms. Sampson has served for the past 9 years on the domestic violence task force for the city of Dallas. She has been instrumental in formulating changes in the law for the city's legislative package which is designed to protect battered spouses from repeat offenders.

The task force has also worked to focus the attention of the municipal, family, and criminal judiciary on domestic violence issues and reforms.

In 1991, Ms. Sampson was appointed to the East Texas State University board of regents by Gov. Ann Richards. Currently, she serves as the vice chairperson of the board.

In recognition of her work in the city of Dallas, Ms. Sampson was recently named the recipient of the Dr. Martin Luther King Junior Justice Award.

She is a successful practicing attorney and prominent community activist, and it is an honor to recognize DeMetris Sampson as the Woman of the Year. Through her tireless work and dedication Ms. Sampson is truly one of this Nation's greatest public servants.

GEORGIA AYERS, WOMAN OF THE YEAR FROM FLORIDA'S 17TH DISTRICT

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

Mrs. MEEK of Florida. Madam Speaker, in our celebration of Women's History Month, we have chosen to honor exceptional women in public service. I rise here tonight to honor the Woman of the Year from my congressional district, Ms. Georgia Ayers, of Miami, FL.

Over the decade I have known Georgia Ayers, she has been a living example of the ideals of community service. She has dedicated her tremendous talents and energies—her life—to benefit others. She not only believes in helping those who have less in life—regardless of their race, creed, or gender, but she lives it. She started with few advantages herself, but chose to give her life to helping others get ahead.

Her awards and honors fill pages, and are a testimony to the respect she enjoys from Dade County's diverse communities. Just a few of the groups who have honored her include: the U.S. Coast Guard, the American Cancer Society, the Southern Christian Leadership Conference, the National Conference of Christians and Jews, the Dade County Public Schools, the Dade County Community Action Agency, and Miami-Dade Community College, which is the largest community college in the entire Nation.

In a world where people's words don't always match their actions, Georgia Ayers stands out as direct, honest, and committed. Her actions match her words. With Ms. Ayers, you know where she stands on an issue and exactly what she wants to do about it, and her word is her bond. Yes, honest, plain-speaking and hardworking people can still make a difference in our society. Georgia Ayers is a shining example.

Of all the projects that Georgia Ayers has been involved in, perhaps the most important has been her work with young people in trouble with the law. Programs she has developed have turned around young people's lives and helped them find and establish their places as valued members of the community. In helping these youngsters, whose voices are often not heard in our society, she reminds me of the passage from the Bible ''whatsoever you do to the least of these, you do to Me.''

Georgia Ayers' leadership shows all of us what one dedicated woman can accomplish. In 1995, the Southern Christian Leadership Conference honored Ms. Ayers with the Dr. Martin Luther King, Jr. Award. She is well-deserving of this great honor, for her leadership reminds me of a paraphrase of Dr. King's remarks about the church. The role of a civic leader in our society is to be a thermostat—a changer of society, rather than a thermometer, which simply measures rather than molds popular thinking.

Georgia Ayers shows that one strong woman can be that thermostat, and can change society for the better. Her life inspires and challenges us all. Like Georgia Ayers, if more of us took it upon ourselves to become thermostats instead of thermometers, I have no doubt that the temperature of human compassion and dignity on the Earth could be raised to levels beyond what we can even imagine today.

Again, I thank Georgia Ayers for her exceptional leadership and service. She is truly deserving of being honored as the Woman of the Year.

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

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

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CLAY (at the request of Mr. GEPHARDT), after 4 p.m. today and the balance of the week, on account of a death 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 Ms. ROYBAL-ALLARD) to revise and extend their remarks and include extraneous material:)

Ms. DELAURO, for 5 minutes, today.
Ms. ROYBAL-ALLARD, for 5 minutes, today.
Mr. YATES, for 5 minutes, today.
Ms. WOOLSEY, for 5 minutes, today.
Ms. JACKSON-LEE OF TEXAS, for 5 minutes, today.
Mr. CRAMER, for 5 minutes, today.
Mr. ORTON, for 5 minutes, today.
Ms. KAPTUR, for 5 minutes, today.
Mrs. LOWEY, for 5 minutes, today.
Mrs. CLAYTON, for 5 minutes, today.
Mr. TORRES, for 5 minutes, today.
Mr. SAWYER, for 5 minutes, today.
Mr. WARD, for 5 minutes, today.
Mrs. MALONEY, for 5 minutes, today.
Mr. UNDERWOOD, for 5 minutes, today.
Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.
Mrs. MEEK of Florida, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. SANDERS, for 5 minutes, today.

(The following Members (at the request of Mr. LAZIO of New York) to revise and extend their remarks and include extraneous material:)

Mr. WATTS of Oklahoma, for 5 minutes, today.
Mrs. KELLY, for 5 minutes, today.
Mr. MILLER OF FLORIDA, for 5 minutes, today.
Mr. HOEKSTRA, for 5 minutes, today.
Mrs. MORELLA, for 5 minutes, on March 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. ROYBAL-ALLARD) and to include extraneous matter:)

Ms. DELAURO
Mrs. MALONEY.
Mr. SERRANO.
Mr. TOWNS.
Mr. TORRES in two instances.
Mr. KANJORSKI.
Mr. VENTO.
Mr. FAZIO.
Mr. CRAMER.
Mr. MENENDEZ.
Mr. MORAN.
Mr. EVANS.
Mr. HALL of Ohio.
Mr. GEPHARDT.
Mr. SABO.
Mr. STARK.
Mr. ACKERMAN.
Ms. WATERS.
Mr. SCHUMER.
Mr. HAMILTON.

(The following Members (at the request of Mr. MILLER of Florida) and to include extraneous matter:)

Mr. FRELINGHUYSEN.
Mrs. KELLY.
Mr. HAMILTON.
Mr. REED.
Mr. PAYNE of New Jersey.
Mr. CASTLE.

(The following Members (at the request of Mr. LAZIO) and to include extraneous matter:)

Mr. WALKER.
Mrs. ROUKEMA in two instances.
Ms. ROS-LEHTINEN.
Mr. WATTS of Oklahoma.
Mr. HUNTER.
Mr. CRANE.
Mr. GILMAN.
Mr. LIVINGSTON.
Mr. LAZIO.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 956. An act to establish a Commission on Structural Alternatives for the Federal Courts of Appeals; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on this day present to the President, for his approval, bills of the House of the following titles:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug and Cosmetic Act to repeal the saccharin notice requirement.

ADJOURNMENT

Mr. MILLER of Florida. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 41 minutes p.m.) the House adjourned until Friday, March 22, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2279. A letter from the Chair, Architectural and Transportation Barriers Compliance Board, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2280. A letter from the Secretary of Transportation, transmitting the Department's report entitled ''Tanker Navigation Safety Standards, Crew Qualifications and Training,'' pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2281. A letter from the Secretary of Transportation, transmitting the Department's report entitled ''Tanker Simulator Training,'' pursuant to Public Law 101–380, section 4111(c) (104 Stat. 516); to the Committee on Transportation and Infrastructure.

2282. A letter from the Secretary of Energy, transmitting the Department's report entitled ''Beyond 2000: A Vision for the American Metal Casting Industry,'' pursuant to Public Law 101–425, section 10 (104 Stat. 919); to the Committee on Science.

2283. A letter from the Administrator, National Oceanic and Atmospheric Administration, transmitting the National Oceanic and Atmospheric Administration's [NOAA] deep seabed mining report, pursuant to 30 U.S.C. 1469; jointly, to the Committees on Resources and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROBERTS: Committee on Agriculture. Supplemental report on H.R. 2202. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–469, Pt. 4). Ordered to be printed.

Mr. SOLOMON: Committee on Rules. House Resolution 388. Resolution providing for consideration of the bill (H.R. 125) to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices (Rept. 104–490). Referred to the House Calendar.

Mr. CLINGER: Committee of Conference. Conference report on S. 4. An act to grant the power to the President to reduce budget authority (Rept. 104–491). Ordered to be printed.

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. DEFAZIO (for himself, Ms. FURSE, Mr. BUNN of Oregon, and Mr. COOLEY):

H.R. 3134. A bill to designate the U.S. Courthouse under construction at 1030 Southwest 3d Avenue, Portland, OR, as the ''Mark O. Hatfield United States Courthouse,'' and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. ENGEL (for himself, Mr. ACKERMAN, Mr. MANTON, Mr. SERRANO, Mrs. LOWEY, and Mr. FLAKE):

H.R. 3135. A bill to amend the Elementary and Secondary Education Act of 1965 to allow certain counties flexibility in spending funds; to the Committee on Economic and Educational Opportunities.

By Mr. ARCHER:

H.R. 3136. A bill to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; to the Committee on Ways and Means, and in addition to the Committees on the Budget, Rules, the Judiciary, Small Business, 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. BUNNING of Kentucky:

H.R. 3137. A bill to amend the Internal Revenue Code of 1986 to clarify the reasonable cause exception from the penalty for failures to file tax returns or pay taxes; to the Committee on Ways and Means.

By Mr. CANADY:

H.R. 3138. A bill to amend title XVIII of the Social Security Act to eliminate the time limitation on benefits for immunosuppressive drugs under the Medicare Program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FORBES:

H.R. 3139. A bill to redesignate the U.S. Post Office building located at 245 Centereach Mall on Middle Country Road in Centereach, NY, as the ''Rose Y. Caracappa United States Post Office Building''; to the Committee on Government Reform and Oversight.

By Mr. FOX:

H.R. 3140. A bill to prohibit gifts by lobbyists to Members of the House of Representatives, Senators, and officers and employees of the House of Representatives and the Senate; to the Committee on the Judiciary.

By Mr. HEFLEY (for himself and Mr. SCHAEFER):

H.R. 3141. A bill to amend title 49, United States Code, relating to scheduled passenger air service at reliever airports; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY.

H.R. 3142. A bill to establish a demonstration project to provide that the Department of Defense may receive Medicare reimbursement for health care services provided to certain Medicare-eligible covered military beneficiaries; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Massachusetts (for himself, Mr. STARK, Mr. DEFAZIO, Mr. COSTELLO, and Mr. EVANS):

H.R. 3143. A bill to prohibit the use of funds for the construction or operation of the National Ignition Facility or any other facility that uses inertial confinement fusion at the Lawrence Livermore National Laboratory, California; to the Committee on National Security.

By Mr. LIVINGSTON (for himself, Mr. GINGRICH, Mr. ARMEY, Mr. SPENCE, Mr. GILMAN, Mr. KASICH, Mr. HYDE, Mr. YOUNG of Florida, Mr. HUNTER, and Mr. HOKE):

H.R. 3144. A bill to establish a U.S. policy for the deployment of a national missile defense system, and for other purposes; to the Committee on National Security, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MORELLA (for herself and Mr. SCHUMER):

H.R. 3145. A bill to amend the Public Health Service Act to prohibit health insurance discrimination with respect to victims of domestic violence; to the Committee on Commerce, 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. RADANOVICH:

H.R. 3146. A bill to provide for the exchange of certain Federal lands in the State of California for certain non-Federal lands, and for other purposes; to the Committee on Resources.

H.R. 3147. A bill to provide for the exchange of certain Federal lands in the State of California managed by the Bureau of Land Management of certain non-Federal lands, and for other purposes; to the Committee on Resources.

By Mr. SAXTON (for himself and Mr. SMITH of New Jersey):

H.R. 3148. A bill to direct the Secretary of Health and Human Services to make matching payments to the State of New Jersey for activities to determine the incidence of cancer among residents of the Toms River area; to the Committee on Commerce.

By Mr. SHAW (for himself, Mrs. JOHNSON of Connecticut, Mr. PAYNE of Virginia, Mr. JACOBS, Mr. BUNNING of Kentucky, Mr. CHRISTENSEN, Mr. BILBRAY, and Mr. BURR):

H.R. 3149. A bill to permit the approval and administration of drugs and devices to patients who are terminally ill; to the Committee on Commerce.

By Mr. VENTO:

H.R. 3150. A bill to expand and enhance the Federal Government commitment to eliminating crime in public housing and other federally assisted low-income housing projects, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. WATTS of Oklahoma:

H.R. 3151. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Ways and Means, and in addition to the Committees on Commerce, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUCHER (for himself and Mr. QUILLEN):

H.J. Res. 166. Joint resolution granting the consent of Congress to the mutual aid agreement between the city of Bristol, VA, and the city of Bristol, TN; to the Committee on the Judiciary.

By Mr. TALENT:

H.J. Res. 167. Joint resolution proposing an amendment to the Constitution of the United States to limit the judicial power of the United States; to the Committee on the Judiciary.

By Mr. ARCHER:

H.J. Res. 387. Resolution returning to the Senate the bill S. 1518; considered and agreed to.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mr. VOLKMER and Mr. CHRISTENSEN.

H.R. 103: Mr. MASCARA and Mrs. FOWLER.

H.R. 125: Mr. TAYLOR of Mississippi.

H.R. 303: Mr. VOLKMER and Mr. CHRISTENSEN.

H.R. 789: Mr. SKELTON.

H.R. 911: Mr. MASCARA.

H.R. 922: Mr. TOWNS.

H.R. 1023; Mr. CLAY, Mr. TAUZIN, Mr. FALEOMAVAEGA, Mr. BUNNING of Kentucky, Mr. SPRATT, Mr. COBLE, Mr. BUNN of Oregon, Mr. BOUCHER, and Mr. MCCRERY.

H.R. 1044: Mr. LARGENT.

H.R. 1090: Mr. FARR.

H.R. 1131: Mr. CAMP and Mr. NEUMANN.

H.R. 1136: Mr. FAZIO of California, Mr. GENE GREEN of Texas, Mr. RAHALL, Mr. QUILLEN, Mr. DIXON, Mr. PASTOR, Mr. WILSON, Mr. STEARNS, Mr. FARR, Mr. BERMAN, and Mr. FLANAGAN.

H.R. 1314: Mr. PICKETT.

H.R. 1406: Mr. POSHARD, Mr. GIBBONS, Mr. LATOURETTE, Mr. OBERSTAR, Mr. ROSE, Mr. BREWSTER, Mr. VENTO, and Mr. MANTON.

H.R. 1484: Mr. LIPINSKI, Ms. LOFGREN Mr. LEWIS of Georgia, Mr. BEVILL, Mr. HILLIARD, and Mr. ENGLISH of Pennsylvania.

H.R. 1496: Mr. MENENDEZ.

H.R. 1619: Mr. COLEMAN.

H.R. 1711: Mr. HASTERT and Mr. SENSENBRENNER.

H.R. 1932: Mr. PETRI, Mr. BEREUTER, and Mr. HAYES.

H.R. 2011: Mr. LEVIN.

H.R. 2193: Mr. WILSON, Mr. STARK, Mr. RADANOVICH, Ms. ESHOO, Mr. SENSENBRENNER, Ms. JACKSON-LEE, and Mr. CHAPMAN.

H.R. 2214: Mr. ABERCROMBIE and Mr. OLVER.

H.R. 2270: Mr. ENSIGN.

H.R. 2450: Mr. PARKER, Mr. LARGENT, Mr. HOLDEN, and Mr. BLILEY.

H.R. 2497: Mr. BRYANT of Tennessee, Mr. BURR, Mr. PETRI, Ms. PRYCE, Mr. HANCOCK, and Mrs. VUCANOVICH.

H.R. 2697: Ms. WOOLSEY and Mr. TORRES.

H.R. 2777: Mr. VENTO.

H.R. 2779: Mr. SENSENBRENNER.

H.R. 2807: Mr. PETRI and Mr. WALSH.

H.R. 2811: Mrs. KELLY, Mr. SPENCE, Mr. JACOBS, Mr. FATTAH, Mr. MYERS of Indiana, and Mr. KING.

H.R. 2856: Mr. KLINK.

H.R. 2893: Mr. HORN, Mr. BACHUS, and Mr. VISCLOSKY.

H.R. 2900: Mr. LATHAM, Mr. HILLIARD, Mr. NORWOOD, Mr. CRAPO, Mr. ZELIFF, Mr. CLEMENT, Mr. BACHUS, Mr. KENNEDY of Rhode Island, Mr. TOWNS, and Mr. MONTGOMERY.

H.R. 2931: Mr. VENTO.

H.R. 2959: Mr. ENSIGN, Ms. MOLINARI, and Mr. UNDERWOOD.

H.R. 3002: Mr. EHRLICH and Mr. JOHNSON of South Dakota.

H.R. 3048: Mr. BARRETT of Wisconsin and Ms. PRYCE.

H.R. 3070: Mr. HASTERT, Mr. GILMAN, Mr. STEARNS, Mr. KLUG, Mr. NORWOOD, and Mr. WELLER.

H.R. 3086: Mr. CALVERT, Mr. THOMAS, Mr. DUNCAN, and Mr. ENGLISH of Pennsylvania.

H.R. 3103: Mr. DICKEY, Mr. LAZIO of New York, and Mr. WELLER.

H.J. Res. 100: Mr. CHRISTENSEN.

H.J. Res. 159: Mr. SHUSTER, Mr. SMITH of New Jersey, Mr. POMBO, and Mr. CRAPO.

H. Con. Res. 10: Mr. ROEMER and Mr. COOLEY.

H. Con. Res. 47: Mr. JACOBS and Mr. RAHALL.

H. Con. Res. 51: Mr. BILIRAKIS.

H. Con. Res. 102: Mr. CLYBURN, Mr. TORRES, and Ms. ESHOO.

H. Con. Res. 127: Mr. LATHAM, Mr. CALVERT, and Mr. BARCIA of Michigan.

H. Res. 49: Mr. SANDERS.

H. Res. 345: Mr. ACKERMAN and Mr. FALEOMAVAEGA.

H. Res. 347: Mr. JACOBS, Mr. SCARBOROUGH, Mr. HINCHEY, Mr. ABERCROMBIE, and Mr. LEWIS of Georgia.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1972: Ms. FURSE.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R.—

(Public Debt Limit)

OFFERED BY; MR. SMITH OF MICHIGAN

AMENDMENT NO. 1: At the end, add the following new sections:

SEC. 2. LIMITATION ON ISSUANCE OF PUBLIC DEBT OBLIGATIONS AFTER DECEMBER 31, 2001.

(a) IN GENERAL.—No obligation subject to the limitation under section 3101(b) of title 31, United States Code, may be issued to the public after December 31, 2001. The preceding sentence shall not apply to any obligation (or series of obligations) issued to refund an obligation issued before January 1, 2002.

(b) SPECIAL RULE.—Upon the enactment of a joint resolution declaring a national emergency, subsection (a) is suspended for the 6-month period beginning upon such date of enactment. Congress and the President may, by law, extend such 6-month period of such declaration of war or national emergency is still in effect.

SEC. 3. SHORT-TERM BORROWING AFTER FISCAL YEAR 2001.

(a) IN GENERAL.—In addition to any other authority provided by law, the Secretary of the Treasury may issue obligations of the United States in an amount not to exceed $50 billion. The maturity date of the obligations may not extend beyond 120 days after their issuance. In any event, obligations issued under this section shall mature at the end of the fiscal year in which they were issued.

(b) OBLIGATIONS EXEMPT FROM PUBLIC DEBT LIMIT.—Obligations issued under subsection (a) shall not be taken into account in applying the limitation in section 3101(b) of title 31, United States Code.

SEC. 4. LIMITATION ON AMOUNT OF PUBLIC DEBT LIMIT.

An increase in the limitation under section 3101(b) of title 31, United States Code, shall not be effective to the extent such limitation after such increase is greater than—

(1) $5,432,000,000,000 during the fiscal year ending on September 30, 1997,

(2) $5,682,000,000,000 during the fiscal year ending on September 30, 1998,

(3) $5,908,000,000,000 during the fiscal year ending on September 30, 1999, and

(4) $6,116,000,000,000 during any fiscal year ending on or after September 30, 2000.

The preceding sentence shall apply notwithstanding any other provision of law unless such other law actually amends or repeals the preceding sentence.

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Senate

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You know what is ahead today for the women and men of this Senate. Crucial issues confront them. Votes will be cast and aspects of the future of our Nation will be shaped by what is decided. And so, we say with the Psalmist:

Show me Your ways, O Lord; teach me Your paths. Lead me in Your truth and teach me, for You are the God of my salvation; on You I wait all the day.—Psalm 25:4–5.

'I delight to do Your will, O my God, and Your law is within my heart.—Psalm 40:8.

We prepare for the decisions of today by opening our minds to the inflow of Your spirit. We confess that we need Your divine intelligence to invade our thinking brains and flood us with Your light in the dimness of our limited understanding.

We praise You, Lord, that when this day comes to an end we will have the deep inner peace of knowing that You heard and answered this prayer for guidance. In the name of Him who is the Truth. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able Senator from Washington State is recognized.

SCHEDULE

Mr. GORTON. Mr. President, for the information of our colleagues, the Senate today will immediately resume consideration of the conference report to accompany the product liability bill for a period of 3 hours of debate, equally divided.

At 12 noon there will be two consecutive rollcall votes. The first will be on the adoption of the product liability conference report, and that vote will be immediately followed by a vote on the motion to invoke cloture on the motion to proceed to Senate Resolution 227, a resolution concerning the Special Committee To Investigate Whitewater and Related Matters.

Following those votes, the Senate will resume consideration of the grazing bill, and there will be 75 minutes for debate remaining on the Bumpers amendment, amendment No. 3556, as modified. A rollcall vote will occur on or in relation to that amendment immediately upon the expiration or yielding of debate time. Other votes are expected, and a late night session is possible in order to complete action on that grazing bill.

COMMONSENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now proceed to the conference report to accompany H.R. 956. The time between now and 12 noon is equally divided.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), a bill to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and fair conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, as we proceed toward the climax of the debate on product liability and a vote on the bill at noon, I believe it appropriate to state what I think the issues in this debate truly are. The question involved in whether or not we wish to reform the product liability litigation system of this country has, I think, primarily to do with the products that are available to the American people, the rapidity with which new products are researched, developed, introduced, and marketed, and the cost of those products to the people of the United States.

In each of these cases, the closely related question, of course, is the system of justice by which people who believe that they have been wronged get a determination as to whether or not such a wrong has been committed and how much compensation should be granted when a wrong is determined.

Our present legal system serves well neither of these goals. We have, in many areas, a frequent reduction in the number of companies that are willing to engage in vitally important businesses: a reduction from something like a dozen to one, in the producers of serum for whooping cough; a reduction from 20 to 2, in the number of companies willing to produce helmets, football helmets, for players, whether professional or college or high school or otherwise.

There is a constant fear on the part of product developers that the unpredictable costs of product liability litigation, whether or not it is successful, are simply greater than any potential profits that can be gained from the development and marketing of a product. For example, Science magazine has identified three U.S. laboratories that suspended or canceled research on promising AIDS vaccines. Union Carbide funded and developed a suitcase-size kidney dialysis unit for home use. It was sold to a foreign corporation

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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after the company determined that potential liability risks under the present system of law made the product uneconomical.

Another company developed a phosphate fiber substitute for asbestos, the subject, obviously, of a tremendous amount of litigation. Not only was the product safe, it was biodegradable and environmentally sound. Although the product could have generated an estimated $100 million a year in revenues, the company concluded that plaintiffs' attorneys would make the product a target for expensive legal claims, and it was therefore too risky to market.

Another company developed a chemical process that would speed up the natural bacterial decomposition of hazardous materials and might have been used to clean up hundreds of leaking underground storage sites. Despite its successful demonstration at several sites, the new technology was abandoned because the risk from potential lawsuits was too great.

In addition, even those companies that have been willing to stay in a particular business have been forced to increase the charges for the products they market, sometimes astronomically, in order to cover their cost of product liability litigation. Lederle Laboratories, which is now the lone maker of the DPT vaccine, all other manufacturers having abandoned the field, raised its price per dose from $2.80 in 1986 to $11.40 in 1987 to pay for the cost of lawsuits. One other company does continue to produce, solely out of a feeling of social responsibility.

This chart behind me indicates the litigation tax cost of a number of products produced and marketed in the United States: almost $24 for an 8-foot aluminum ladder; $3,000 for a heart pacemaker; $170 for a motorized wheelchair; 18 cents for a regulation baseball. There are example after example of the added costs to American consumers to pay for the lottery that is product liability litigation today.

What do we have in the litigation system itself? We have a system that is truly a lottery, one in which the average small claimant with a very minor injury is likely to recover much more than that person's actual losses, while the average seriously injured individual recovers much less, with a few lucky ones in a few States with high punitive damage award histories receiving much more. But the bottom line, the total cost, is that for every dollar which the system itself costs, every dollar that goes into the product liability litigation system, well under 50 cents goes to the victim. Mr. President, 50 cents or more goes to the lawyers, and an additional amount in transaction costs for related professions. There is no wonder the defense of the present system is so fierce.

So this bill is designed to do two things. It is designed, to a certain degree, to make more uniform and predictable the way in which the product liability litigation or claim system will work; to make it more just, actually to increase claimants' rights in some areas, like the statute of limitations; to reduce the cost of litigation and the overall transaction costs; to restore the competitiveness of American industry; to provide additional incentives for research, to develop, to offer for sale in the market widely the kinds of new and better medical devices, mechanical products, sporting goods that we, as Americans, have come to expect.

No one else in the world has a system like ours. No one else has a system more expensive, no one else has a system that so discourages research and development and marketing of new products.

Finally, Mr. President, we already have an example of how legislation like this works in the real world. In August 1994, less than 2 years ago, this Congress passed and this President signed an 18-year statute of repose for piston-driven aircraft, small aircraft. An industry that had almost been driven out of the United States—famous companies like Piper went into bankruptcy and others like Cessna, with barely one-tenth of the production that they had a decade earlier because of the cost of litigation—has now begun a recovery, a recovery which has proceeded much more rapidly, I think, even than the sponsors of that bill hoped, but one which is symbolized better than anything else by the construction of a new plant for Cessna at a cost of some $40 million to employ some 2,000 men and women at highly skilled, first-rate jobs, producing high-quality private aircraft for American purchasers.

This kind of legislation works, Mr. President. It works for the economy, it works for our consumers, it works for our system of justice. It should be passed and should become law.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I wonder if the Senator from South Carolina will yield me 15 minutes.

Mr. HOLLINGS. I will be delighted to yield the distinguished Senator 15 minutes.

Mr. KENNEDY. Mr. President, just in terms of schedules, I ask unanimous consent that the Senator from California be recognized for 15 minutes for her comments at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I think it is only appropriate that we look at the context in which this legislation has been presented to the Senate. Others have described the bill in great detail, and, if time permits, I will mention the various provisions in the bill that I find most objectionable. But I think this body and the American people ought to understand in a comprehensive way what is happening to consumer protections during the course of this Congress in this and other bills.

This bill is supported by a number of big business, special interest groups who have advanced a series of legislative and regulatory initiatives designed to protect those interests.

We cannot just look at this legislation in a vacuum, Mr. President. For example, we have to look at what is happening in the Appropriations Committees, where the appropriators are cutting back on inspections by the various agencies of Government responsible for protecting health and safety in the workplace. In the Occupational Safety and Health Administration, there is a 20-percent reduction in enforcement. In the Environmental Protection Agency, there is a 25-percent reduction in enforcement. The Consumer Product Safety Commission has been cut and is now at its lowest level of enforcement funding since 1972. Even the National Transportation Safety Administration is facing cuts, and that is an agency whose total enforcement budget is only about $8 million to begin with.

What is happening? The same forces that are supporting this tort-related legislation are trying to reduce protection for the American worker and the American consumer in the regulatory agencies by denying adequate enforcement of existing regulations.

Second, these same forces are proposing sweeping changes in the landmark legislation that established the regulatory agencies. In the Labor and Human Resources Committee, for example, last week we considered a bill to weaken the Occupational Safety and Health Act, and next week we're moving on to the Food and Drug Administration. In the OSHA bill, 90 percent of all the companies would be excluded from any kind of inspection at all. That so-called reform bill would reduce the penalties and reduce the kinds of enforcement mechanisms that would be available to OSHA.

So you have the cutbacks in inspections and you have the efforts by the same interests to reduce the effectiveness of the enforcement tools available to OSHA, FDA, EPA, and these other agencies. And at the same moment that is happening, we are presented with this product liability legislation. Anybody who believes that we are considering this in a vacuum does not understand what the legislative process is all about.

Nor are the limits on tort liability in this bill the only ones under consideration in this Congress. The Republican leadership in the House of Representatives has added medical malpractice liability limits to the bipartisan bill that Senator KASSEBAUM and I introduced. We will have a chance to debate that next month. And it was not long ago that we were debating the loser pays concept, an antiquated system used in Great Britain which is now being abandoned there because it fails to protect the consumers in that country. And no doubt we will again face proposals to create an ''FDA Defense''

under which medical devices or pharmaceuticals approved by the FDA would be immune from lawsuits, no matter how recklessly they are manufactured. How long are we going to have to wait for that particular proposal? And the list goes on and on.

So, Mr. President, we have to ask ourselves: What are the two major protections for American consumers? They are the tort system and regulatory protection. Those are the twin pillars under which the American people are protected. They are the twin pillars that assure us of the safest food, the safest water and the safest consumer products available. They are the twin pillars for the protection of the American worker in the workplace and against environmental hazards.

But both pillars are under assault. That is the context in which this bill comes before the Senate.

The other context in which we operate is a Republican Congress that has told us over and over again that Washington does not know best. But in the tort area, which has been recognized for over 200 years as being a State prerogative, its a different ballgame. I suppose our good friends who are proposing this bill say, ''All right, Washington knows best on this one.''

Well under this bill, it appears that Massachusetts does not know best. Because even though my State legislature has decided that Massachusetts consumers should have the benefit of no statute of repose, this bill is going to impose a Federal 15-year period of repose on them. So there is going to be fewer protections for the people of Massachusetts because Washington knows best. Any State that has provided additional kinds of protections for their consumers, they are out of business.

We have been listening to a lot of speeches in the last year and a half about how Washington does not always know best, there is local knowledge, States can fulfill their responsibilities to the people. I hope we will hear a diminution of the number of those speeches, because what in this particular proposal it turns out that the special interests, the special business interests, know what is best for the American consumer. That is hogwash, Mr. President, absolute hogwash.

The American consumer wants to know who is going to be on their side. They want a safe workplace, safe food, inspections to ensure that we are going to have clean air, clean water, and a safe transportation system.

All those are under assault in this Congress, and now in this product liability bill we are going to immunize the major companies that may even willingly or knowingly commit grievous negligence. In 15 years after they put a ticking time bomb on the market they are going to be immunized under this statute of repose. So, Mr. President, we should understand that this really is not about the research costs. This is not about health and safety costs to the consumer.

What about those 2,700 women who died from perforated uteruses from the Dalkon shield before we passed the medical device legislation? We had those hearings. It was not long ago. You talk to individual after individual who appeared at those hearings and they say, ''Why didn't someone do something to protect us? Why didn't someone speak out?'' This is the responsibility of Government. Individual citizens have limited resources. They do not have the great financial resources to protect their interests alone.

So, Mr. President, I agree with those who say to the consumer—beware, beware. This legislation has a head of steam. It is bad enough. But, my friends, this is just the camel's nose under the tent with regard to the attack on consumer protections in this country.

For that reason, and for all of the reasons that have been outlined in considerable detail in my statement which I will include in the RECORD, I hope this bill will be rejected in the Senate. And I admire the President of the United States for standing up against the special big business interests. He understands the anticonsumer context in which this bill may come before him. He understands what I am saying about the camel's nose under the tent. He understands that the next bill he sees may include medical malpractice liability limits.

According to the Harvard public health study, tens of thousands of people died in hospitals in this country last year from negligence in the medical system. We will have an opportunity to debate that issue in the coming months.

So, Mr. President, this is a matter of fundamental protection of American consumers. These extreme regulatory reform and tort reform bills are poised to deprive the American people of the safest food in the world, the safest air and water in the world and the safest products on the market. We must not sacrifice the interests of the American consumer.

If we accept this bill, Mr. President—and if we did not have a President with the guts to stand up and veto it—we would be retreating on our commitment to the American consumer to protect them from death and serious bodily injury. I hope this bill is rejected, and I ask that the text of my prepared statement, be printed in the RECORD, along with an editorial from today's New York Times.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR EDWARD M. KENNEDY ON H.R. 956 THE PRODUCT LIABILITY CONFERENCE REPORT

I strongly oppose the conference report on the product liability bill, and I urge my colleagues to reject it, because it constitutes an unacceptable threat to the health and safety of American consumers.

This is not ''common sense legal reform.'' It is special interest legislation of the worst kind. Our Republican friends pretend that it is designed to end current abuses of the legal system. In reality, this bill panders to the worst instincts of big business. President Clinton has promised to veto this bill, and it eminently deserves the veto it will get.

This bill has three grave flaws. It arbitrarily caps punitive damages against the most reckless manufacturers of deadly products. It nullifies the sound common law principle of joint and several liability. And it preempts State law in ways that are both unwise and unfair.

Even worse, this bill does not come before the Senate in isolation. It is part of a shameful pattern. It comes before the Senate at a time when the Republican Congress is waging an all-out assault on the health and safety of the American public:

So-called regulatory reform bills would drastically weaken the existing rules that protect public health and safety.

Republican appropriations bills would drastically slash enforcement funds for agencies that carry out the current health and safety laws.

And now, the entire tort system, which provides basic legal protections for the public against defective products, is under Republican attack in this bill.

This is not a liability reform bill at all—it is an avoid-liability bill. It is part of a Republican triple play against the health and safety of the American people by irresponsible business interests.

The strategy is all too clear—undermine the Government's ability to protect health and safety by slashing agency rules and budgets, then slam the courthouse door in the face of all those harmed by the lack of consumer protections.

Wise regulation, effective enforcement, and access to the courts are three basic pillars of consumer protection. Regulation is intended to prevent the manufacture of defective products in the first place. Enforcement keeps business honest. Tort law guarantees adequate remedies for victims of dangerous and unsafe products when regulation and enforcement fail.

The same business interests who support this bill are also urging Congress to weaken the regulatory protections and defund enforcement.

It is ironic that the many Republican supporters of this bill who preach respect for the States refuse to practice what they preach. This legislation is intentionally designed to ride roughshod over State law.

For the past year and a half, we have heard a great deal from the Republican majority about States' rights. On issues such as welfare, education and crime, the Republican majority says it wants to return power to the States.

But when it comes to making sure that big business is protected from lawsuits brought by injured consumers, suddenly ''Washington knows best.''

Tort law is traditionally a State responsibility. In fact, in recent years, many State legislatures have enacted genuine reforms to address the problems of frivolous lawsuits and excessive damage awards. Federal intervention is completely unnecessary—and in this case, counter-productive.

This bill is also very different from the securities litigation reform bill enacted earlier this year, which I supported. The integrity of the stock market is clearly a Federal concern, and Congress has legislated in that area for over 60 years. The field of product liability law, in contrast, has been the province of State legislatures for over 200 years. There is no compelling reason for substituting the judgment of Congress for the judgment of elected State officials and the State courts where the vast majority of these cases are resolved.

Our specific objections to this bill are numerous and serious. It denies adequate compensation to victims of defective products, and undermines necessary incentives for manufacturers to produce safe products.

The cap on punitive damages will limit the ability of the courts to punish the most flagrant conduct by reckless manufacturers. Punitive damages serve a valid purpose by deterring wrongful conduct that injures innocent victims. Such damages are especially justified as a deterrent against manufacturers who engage in intentional wrongful conduct, or who are recklessly indifferent to the safety of others. They should not be let off with a slap on the wrist. Such extreme misconduct must be fully punished in a manner that creates a clear deterrent to future wrongdoing.

The so-called ''waiver'' in the conference report is supposed to permit courts to exceed the cap in flagrant cases. But there is serious doubt about the constitutionality of that provision under the seventh amendment. If it is struck down, all that is left will be a rigid Federal cap on damages.

The nullification of the common law principle of ''joint and several liability'' is also unacceptable. It will severely hamper the ability of innocent victims to obtain compensation for their injuries. For at least 100 years, courts and State legislatures have recognized the unfairness of forcing an innocent party to bear the cost of other people's negligence, if one or more of the wrongdoers are available to pay compensation. That is a sensible rule, and Congress should not undermine it.

Proponents of Federal product liability reform say they want national standards for goods that are sold across State lines. But the conference report before us achieves no such uniformity. It preempts State laws in an uneven and unfair manner.

Punitive damage laws favorable to plaintiffs will be replaced by the new Federal standard. But laws prohibiting punitive damages altogether will stand. Similarly, the bill creates a 15-year Federal statute of repose, but permits State statutes of shorter length to remain in effect.

The end result is not uniformity, but unfairness. This bill is rigged to benefit negligent manufacturers and their insurance companies, while ignoring injured plaintiffs and the millions of American consumers who will no longer be protected adequately from dangerous and defective products.

All of these flaws were present in the Senate bill that many of us opposed. But the anticonsumer bias of this legislation became even worse after the conference with the House of Representatives.

For example, the Senate bill contained a 20-year statute of repose, but the conferees have adopted a 15-year period. As a result, after 15 years, manufacturers of even the most defectively designed or recklessly produced products are immunized from liability and will get off scot-free, no matter how much injury their products may cause.

In addition, types of products that qualify for this blatant protection are expanded dramatically. In the Senate bill, only workplace machinery was covered. But now, all durable goods, including common household products, are given this unjustified protection.

Massachusetts currently has no statute of repose, so this bill represents a major loss of protection for consumers in my State.

When the Senate debated this bill last year, I spoke at length in opposition to medical malpractice amendments. I am pleased that the conference report does not include such amendments. Nor does it include the so-called ''FDA defense'' in the House bill, which would prevent punitive damages in cases involving drugs or medical devices approved by the FDA.

But the bill does apply to manufacturers of drugs and medical devices, just as it applies to other products. The cumulative effect of the many anticonsumer provisions in the bill is to protect these manufacturers at the expense of the health and safety of the people who rely on these products.

This bill is nonsense, not common sense. It pretends to support the legitimate goals of reducing frivolous litigation and improving the civil justice system. In reality, it is special interest legislation that denies fair compensation to victims of negligence and limits the ability of the tort system to deal effectively with gross misconduct by business.

If this bill came off the factory assembly line, it would be labeled ''unsafe for human use.'' And if the principle of quality control applies in the United States Senate, this bill would be soundly rejected. It is a sweetheart deal for business and insurance interests, and a raw deal for the public interest.

[From the New York Times, Mar. 21, 1996]

THE ANTI-CONSUMER ACT OF 1996

The Senate is preparing to vote today on a pernicious piece of anti-consumer legislation masquerading as product liability ''reform.'' The measure is little more than a bipartisan gift to manufacturers and trade associations that supplemented their lobbying and generous campaign contributions with misleading propaganda exaggerating the problem of high verdicts. The bill would arbitrarily cap the punitive damages that juries may award—dangerously weakening the ability of the civil justice system to punish, and thereby deter, the reckless manufacture or sale of unsafe products.

If a majority of senators will not heed legitimate concerns about the measure's rollback of consumer protection, President Clinton must be prepared to make good on his veto threat.

The bill is a convenient exception to Capitol Hill's prevailing philosophy of devolving power to the states. It would compel all states, even in their own courts, to limit punitive damages. The phony rationale given is the need to create a single national commercial standard. But that standard would be applied only when it would benefit the manufacturers. The bill would override the product liability laws of states that allow unlimited punitive damages, for example, but it would impose no such damages on states that do not now have them.

Under the measure, plaintiffs who sue successfully for farm from faulty products could be compensated, as they should be, for medical expenses, lost wages, damaged property and other actual damages. But punitive damages, which are awarded by juries in cases of egregious misconduct, would be limited in most cases to $250,000 or two times actual damages, whichever is greater. That is hardly enough money to serve as a deterrent to major corporations.

Senator John D. Rockefeller 4th of West Virginia, a Democratic architect of this attack on civil justice, has suggested that President Clinton is trying to scuttle the bill to reward major campaign contributors, like trial lawyers. True, the American Association of Trial Lawyers has been one of Mr. Clinton's strongest political and financial backers. But by now it is laughable for Mr. Rockefeller to make purity an issue, given the far greater sums tossed into this fight by the powerful business interests amassed on the other side.

''For irresponsible companies willing to put profits above all else, the bill's capping of punitive damages increases the incentive to engage in the egregious misconduct of knowingly manufacturing and selling of defective products,'' Mr. Clinton said last week. On the merits, the President was right.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Massachusetts for explaining, in his usual way, why this bill deserves to be defeated. Explaining that it is, in fact, part of a pattern of this Congress which continually brings up legislation that does not make life better for people, but in fact, puts them at risk. In fact, puts them at risk, whether it is cutting, as the Senator said, enforcement funds from the Environmental Protection Agency, or weakening our laws that have worked well to bring us the safest products in the world.

Mr. President, I come to this debate by asking a very straightforward question. I am not an attorney, and I tend to look at things in a different way. This is the question I ask: If a young woman, say age 21, is working in a factory and a faulty machine blows up in her face and she is disfigured beyond belief for the rest of her life, should the company who made that faulty product be penalized in such a way that they, and for that matter no other company, will ever make such a faulty product again? I say yes. I say yes.

The company that made that faulty product, and as you will see in many cases, knew they were doing it, should face damages that act as a deterrent for the future. This bill does just the opposite. It will let a company that made such a product, and other companies that might make such a product, off the hook. If we pass this bill, such a company, which might well have profits in the billions of dollars, will be given the equivalent of a slap on the wrist. Because those punitive damages meant to punish them—that is what punitive damages mean, punishment—will be so low they will not be large enough for them to care. Those are the brutal and cold facts. I wish they were not true, but they are true.

I have heard many businesses use words like this: ''Oh, well, it is just a cost of doing business.'' ''Just a cost of doing business.'' In other words, they will factor in lawsuits that go against them into their bottom line. I think the Senator from Washington has proved the point. They factor it into their bottom line. He shows it on his chart.

How cold can you get? If we cap punitive damages, as is put forth in this bill, we are taking the safest system in the world for consumers, changing it, and putting people at risk.

There are other problems in this bill that deal with the statute of repose. Some machinery has a lifetime of 30, or 40 years. In 15 years, those companies are completely off the hook under this bill.

I also join with the Senator from Massachusetts in thanking our President. He is taking the heat on this one. He is standing up for the consumers.

He is standing up for future victims. He is standing up so that we will not have so many victims of faulty products.

I want to give you some examples of actual cases. We are going to take the case of the Pinto automobile, and a young man named Richard Grimshaw. The exploding Pinto tank is a very clear example of what I am talking about. The gas tank exploded and burned in rear-end collisions. Many of us remember this. The company knew this was a problem. It all came out in court. But they sold the car anyway after they did a cost-benefit analysis and found out it would save them $21 million to delay the corrections for 2 years.

What happened when that fatal decision was made? A 13-year-old boy from my State, Richard Grimshaw, was badly burned in a rear-end accident while driving from Anaheim to Barstow. In the words of the California State court judge who presided over Richard's lawsuit, he suffered ''ghastly'' burns over 60 percent of his body, had whole fingers burned off, and required 60 surgeries over a 10-year period.

That was 25 years ago. That tragic accident is still with Richard. For the rest of his life, it will be with Richard. Is that the kind of world we want to encourage, where a company figures it is more cost effective to delay fixing a dangerous product than to risk a lawsuit? I hope not. Yet, if this bill passes, my friends, that is what is going to happen in the boardrooms across America.

Now, not all people in business fall into that category, but unfortunately we have got to look at history, my friends, and learn from it. The memos clearly showed in the Pinto case that a calculated decision was made to delay fixing that car.

Let me read from the pen of the California State judge who upheld that award. In part, ''Punitive damages remain the most effective remedy for consumer protection against defectively designed mass produced articles.'' ''* * *. Punitive damages thus remain the most effective remedy.'' What does this bill do? It guts that. The court concluded, ''Ford could have corrected the hazardous design defects at minimal cost but decided to defer defection of the shortcomings by engaging in a cost-benefit analysis, balancing human lives and limbs against corporate profits.''

Mr. President, are we going to ignore this judge's warning and turn back the clock to a time when callous companies ruined the lives of children, like that boy in Barstow, because of their bottom line? God, I hope we do not do that. If we do, in this particular Congress, I hope this President sticks with it and vetoes this bill.

Did you ever hear about the baby crib story? Another example of a situation that happened in California in the 1970's. A baby crib company produced a dangerous crib where side slats would strangle a baby trying to climb out. Six babies were strangled and the company stopped selling the crib, but it refused to warn the existing owners that there was a problem. They refused to do that. So the parents of Gail Crusan, she was 13 months old, did not know it was a dangerous crib. The company even refused a request by the Consumer Product Safety Commission to issue a national press release. It took an award of $475,000 in punitive damages against the company to finally get them to notify parents who had bought that crib. Punitive damages did what the Government could not do. It caused the manufacturer to warn parents that their children were in cribs that could kill them.

What are we going to do? We are going to make it possible for future companies to put our children at risk. I do not want to go back to those days, Mr. President. The proponents of this bill want us to substitute the long arm of the U.S. Senate and the Congress for the local jury of peers who sit in a courtroom.

Again, I back up what my colleague from Massachusetts says. State control, local control, give them the welfare, give them the Medicaid, cancel national nursing home standards, let the local people decide—that is what we hear out of the Republicans in this Congress, day in and day out. But when it comes to this, protecting consumers, we are going to pass a weaker law and force it on the States? Not on my watch. Not if I can help it. And not on this President's watch. Not if he can help it.

I cannot believe the selective logic that we hear around here. When it suits this Republican Congress, they are all for shipping things back to the States. But when it is in their interest, keep the control in Washington. Boy, I tell you, there is not much shame about that. It simply does not add up.

Now, we hear talk about special interests. Face it, there are special interests here. There are the lawyers on the one side and there are the corporations on the other. So I want to look at who does not have an ax to grind. Who are they? Let me tell you some of the people who oppose this bill. They have no ax to grind. They are not on one special interest or the other. The Brain Injury Association, the Center for Auto Safety, Children Afflicted by Toxic Substances, Citizen Action, Coalition for Consumer Rights, Coalition to Stop Gun Violence, Consumer Federation of America, Consumers Union, the Gray Panthers, National Consumers League, National Hispanic Council on Aging, Public Citizen, Remove Intoxicated Drivers, U.S. Public Interest Research Group, Violence Policy Center, Nuclear Information and Resource Services, Clean Water Action, the Sierra Club, Dalkon Shield Information Network, DES Action USA, the Feminist Majority, the National Organization of Women, the National Women's Health Network, the National Women's Law Center, and Women Employed.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of all of these groups.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THIRTY-SEVEN CITIZEN GROUPS OPPOSING THE PRODUCT LIABILITY CONFERENCE REPORT

AFL–CIO.
Brain Injury Association.
Center for Auto Safety.
Children Afflicted by Toxic Substances.
Citizen Action.
Coalition for Consumer Rights.
Coalition to Stop Gun Violence.
Consumer Federation of America.
Consumers Union.
The Empower Program.
Gray Panthers.
International Association of Machinists and Aerospace Workers.
Int'l Union, United Automobile Aerospace & Agricultural Implement Workers of America.
Nat'l Conference of State Legislatures.
National Consumers League.
National Farmers Union.
National Hispanic Council On Aging.
Public Citizen.
Remove Intoxicated Drivers.
Safe Tables Our Priorities.
United Food and Commercial Workers.
U.S. Public Interest Research Group.
United Steelworkers of America.
Violence Policy Center.
Nuclear Groups:
Nuclear Information & Resource Service.
Public Citizen's Critical Mass.
Safe Energy Communication Council.
U.S. Public Interest Research Group.
Environmental Groups:
Clean Water Action.
Sierra Club.
Sierra Club Legal Defense Fund.
U.S. Public Interest Research Group.
Women's Groups:
Dalkon Shield Information Network.
DES Action USA.
Feminist Majority.
National Organization for Women.
National Women's Health Network.
National Women's Law Center.
Women Employed.

Mrs. BOXER. Mr. President, we should not look to the lawyers and we should not look to the companies. We should look to the people who stand up and speak for consumers and speak for victims.

Now, I think this bill is particularly tough on women. I do not know what has happened to this place, but do we forget things that just happened? Do we forget about the silicone gel breast implants which were introduced in the market in 1962 with no long-term testing before being placed inside women? Implant patients and some doctors were told by manufacturers that the implants were safe and would last a lifetime. However, the implants were found to leak or rupture, releasing silicone into the body, now known to migrate to the brain, liver, spinal fluid, and kidneys. Now many women with ruptured implants are sick with a variety of autoimmune diseases.

It was because of a lawsuit that included a punitive damage award of $6.5 million that the full extent of the hazards associated with silicone gel breast implants were brought to the public's attention. The availability of silicone

gel breast implants were restricted only after Dow-Corning was held liable for punitive damages.

Do we not think more about women's health? Have we forgotten that? Have we forgotten the Copper-Seven IUD? The manufacturer knew for more than 10 years that their product could cause loss of fertility, serious infection, and the need to remove reproductive organs. Instead of doing anything about it, the manufacturer continued to earn profits and put millions of women at risk. A jury awarded one $7 million punitive damage award for what it determined to be the manufacturer's intentional misrepresentation of its birth control devices. Under this bill, that manufacturer would have had to pay $250,000, or double the plaintiff's compensatory damages, whichever is higher. We know in most cases women do not get as much in compensatory damages as men because women often earn less money. We know that. This bill is antiwomen. We should call it what it is.

How about the Dalkon shield? You heard the Senator from Massachusetts talk about that. It took eight punitive damage awards before A.H. Robins discontinued the Dalkon shield. A $7.5 million punitive damage award was awarded to a 27-year-old woman who had to have her uterus removed, rendering her sterile and in need of dangerous synthetic hormone treatments. That was extraordinary. But it took more than one punitive damage award. They made so much profit they kept on producing it. They concealed studies of the dangerous effects and even misled the doctors into prescribing the IUD.

If it takes multiple punitive damage awards to force a major corporation like A.H. Robins to stop selling dangerous products, how could dangerous products be stopped by this legislation which caps punitive damage awards to relatively low amounts? The Dalkon shield is yet another example of how the current system finally took a dangerous contraceptive off the market.

I cannot believe there are those in this body who feel that this legislation can make life better for the people of this country, just on the few examples that I have brought here today. To the contrary, it will put our people at great risk.

The Senator from Washington shows you with his chart that businesses write it into the bottom line.

The proponents of this legislation argue that the current system prevents women from having more choices when it comes to contraceptives. Well, I have a daughter, and a lot of you have daughters. Do you want to see dangerous contraceptives come on the market? Let me tell you unequivocally—and I will debate this point toe to toe with anyone in this Chamber—if the current system is preventing other Copper-7 IUD's or Dalkon shields, or other dangerous contraceptives from coming on the market, I say that is good. Because I do not want my daughter sterile, and I do not want my daughter sick, and I want her to have more children if she chooses to do that, and to live a healthy life. We want contraceptives, but we want them to be safe.

In conclusion, Mr. President, let there be no mistake as to what this conference report is all about. This is not proconsumer legislation. This legislation is anticonsumer. That is why every major consumer group in this country opposes it strongly.

The conference report is about protecting wrongdoers. Now, if some of my colleagues, for whom I have great respect, see it another way, that is their right. But I am here to call it the way I see it. It is designed to relieve corporate America of its proper legal duty to make safe products, represent them accurately, and treat consumers fairly.

I have seen no justification put forth thus far in this debate by the proponents of this conference report that leads me to believe that it will help our people. I believe it will, in fact, trample on the rights of American consumers. We, in this Senate, are the last line of defense of the rights of the American consumers and for working families. I tell you, we need to protect them from this legislation.

Again, I thank the President for getting out there and saying he is standing on the side of the consumers. To those who say, ''He is doing it for lawyers,'' we can argue that from night until day, lawyers on one side, big business on the other. For some, that is a tough choice. That is not what the choice is about. The choice is about the consumer. The choice is about little babies in cribs. The choice is about women's reproductive health, safety in the workplace, at home, and when we are at leisure. That is what it is about. I say that this U.S. Senate should stand with the consumers. If you do that, you are fulfilling your responsibilities.

I thank the Chair, and I thank Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I thank the distinguished Senator, first, from Massachusetts, for his presentation this morning, in a most meaningful way and, of course, the Senator from California. She really keynoted the issue as it should be in a very cogent and persuasive fashion. When we say consumers, that is the people versus those making a profit on defective products, with shoddy manufacturing.

America is the safest place in the world to live. That is part and parcel, as mostly I would say, I guess, because of our State legislatures. The State legislatures have acted on the need of product liability provisions. They have acted and they have maintained their laws. But it now becomes an assault in the name of a cost of a hotel room, or a ski lift, and such nonsense as that, trying to really move the attention, I guess, of the Senators, thinking they, frankly, do not have much sense and will go along with that kind of nonsense. Thinking that Senators will not understand what the Senator from California is trying to emphasize—these are real life injuries, and the more we get into them in a very meaningful way, as we do in trial law practice, the less danger and injury has been caused. So I could not express my gratitude enough to the Senator from California. I wish we could go ahead and vote right now, but I will retain the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield such time as the Senator from West Virginia may desire.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank my colleague. Mr. President, I am very happy that we are here this morning with this remaining part of the debate. Already, a variety of charges have been made, which have no basis in fact, as they relate to the product liability reform. But I think rather than to try to go into that, it would be better to focus on what this law is trying to do and why it is a good conference report.

In a matter of a couple of hours, we are going to pass this conference report. It will pass. The House and the Senate, for the first time, I believe, in recent history will have passed product liability tort reform. So it is an interesting and, I think, a rather noteworthy point of history.

We have had really a couple of decades of hearings, markups, and arguments. I remember one time a number of years ago we actually had 60 votes on cloture, and the majority leader at that time—it was still legal to do so—stopped the vote, actually stopped the vote. The Presiding Officer was not here in this body yet. For 45 minutes we waited, and all of a sudden, two ''yes'' votes became two ''no'' votes. I retain in a desk drawer in my office the sheet which is held at the Democratic desk, which shows how the numbers go up, and they went up to 57, 58, 59, and got to 60, and then it went from 60 to 59 to 58. So there is a lot of history on this. Of course, there is a lot of emotion. A lot of that emotion is justified. Some of it is not. But history, there is.

I expect the House to approve this report in short order and send it on to the President, who has a chance, I think, to do something remarkable and significant for this country, if he should choose to sign what will then be the legislation.

I regret that yesterday's debate demonstrated—and already this morning some, too—there are some very fundamental misunderstandings. I think some of the misunderstandings are very deliberate. They are deliberately put forward to obscure and obfuscate. I think the reason for that is understandable. Product liability tort reform law is not everybody's first choice of the day when they get up in the morning. They do not say, ''How can I get deeper into product liability tort

reform law?'' Those of us who are not even lawyers understand best what I am talking about.

Therefore, it becomes easy to mislead. I suppose it is easy for the proponents, as well as for the opponents of this legislation, to mislead. But I think that the proponents have really tried not to mislead, to stick to what is in the legislation. The opponents have been vigorous in their work, which is part of the legislative process.

I want to emphasize that this conference report is only, Mr. President, about something called product liability reform. That is all it is. It does not pretend to be more. It does not pretend to solve the crisis in Bosnia or hunger in Rwanda, nor anything else. It is just about product liability reform.

It establishes some uniformity for consumers and businesses in our product liability system. That is what we attempted to do. That is it. Product liability reform. This is not broad civil justice reform. This is not an overreaching House contract item. This is not a bill that protects drug traffickers, or gun users, or those who sell drugs or guns. This is not an extreme bill. This is a limited bill.

The Senator from the State of Washington, who has been credible throughout this process, has been extraordinary, I think, in helping to discipline and to make sure that we sculpted this bill and then kept this bill basically in the form —virtually, with the main exception of the statute of repose—as the Senate passed it last May, which is almost a year ago.

One of the reasons for this long, long period of time is that it took a long time for the House to accept that we really meant it, and that when we said we were going to stick with the Senate bill, we really meant it, and that in fact we had to, in any event because it was a matter of mathematics. Yesterday we did not get 58 votes, we got 60 votes. Finally that was understood.

So what this bill does is establish a fair and a balanced commonsense rule which benefits both consumers and business persons, and it will create jobs. The Senator from Washington has discussed the aviation liability reform. I think it will improve product safety because it will allow manufacturers to make improvements.

Now, manufacturers often decline to make improvements to their product because they are afraid that if they make an improvement, it will infer somehow that their previous iteration of the same product was deficient or unsafe. So rather than take that chance they do not make the improvement. That does not help consumers.

I think it will encourage innovation. I know it is going to encourage innovation. And I think it will stimulate economic growth just as the aviation bill did.

I have to say once again that there are all kinds of ways of protecting the consumer. We can do it through being sure that there are punitive damages available. That is the reason for the additional amount that was added, and that is also the reason that at the suggestion of the Department of Justice we clarify, the additional amount to make it a stronger case should there be a constitutional challenge against it—because we are determined that there will be no cap on punitive damages except whatever the jury decides.

I am forced just by definition of the world that we live in to look at, once again, at our competition. You know that when people lose jobs in our country or do not gain jobs that they might gain, that is one of the worst things you can do to them. It is injuring them in a very severe way. It is depriving them of family and economic justice. In the case where it puts people on Medicaid, that is very obviously the consequence of that. Not having a job is a way to hurt somebody deep and hard.

In the European Economic Community, which has, I think, 350 million consumers—Europe is one of our huge competitors—there are 13 countries in that community. Those countries presumably have provinces, or whatever they call them. It does not make any difference. They overrun all of that, and they have one uniform product liability law for all of those countries because they want to be able to minimize transactional costs, maximize research and development, maximize jobs, and maximize their competition against the United States of America, which is their principal competitor. So they have banded together to do this because they know that, if they do that, they will have a leg up on us in terms of the creation of jobs.

Japan, which I think very few would argue is not a competitor to the United States economically, has just this year done the same thing. So they have a single uniform liability law for their entire nation. They do not sue a whole lot anyway. I think there are 13,000 lawyers in Japan, and there are 600,000 or 700,000 in the United States. Nevertheless, they are ready.

So they understand that the system that America has has very, very high transaction costs, and they understand that the high transaction costs exceed the compensation that is ultimately paid to the victims of defective products. That is great for lawyers—both for trial lawyers and defense lawyers. They are both equally guilty. But they get the money, not the victim. They get the majority of it. It used to be that in the Wild West people carried six-shooters, and they would just shoot. We have a different, more modern way of doing it now, and we destroy ourselves in other kinds of ways.

So these transaction costs, of course, are then real costs, and they have to be passed on to the consumers through higher priced products. People say when you pay more for a product that, ''Well, that is the kind of argument people make.'' It is true. We pay more. The Senator from Washington is prepared to give all kinds of statistics about that. He did yesterday. We pay more. Consumers pay more so that the trial lawyers and the defense lawyers can make more. In a sense, I am not blaming them because that is the system of law that they live under, as do we. That is why we are trying to change the law—so as to bring some more common sense into this process.

The system's unpredictability and inefficiency are big items. Unpredictability is a bad thing. It is a bad thing. It is a lack of uniformity, a lack of predictability. It is harmful. It stifles innovation. It stifles research and development.

What is the very first thing that happens in this country? I have heard many times the distinguished Senator from South Carolina say this. When a company gets in trouble, or a company is up against a lawsuit, or a company is whatever for whatever reason in trouble, what is the first thing they do? They cut out research and development. That is the first thing they cut, which is, in fact in many instances, one of the last things they should cut.

It is just like a hospital. When a hospital gets in trouble financially, what is the first thing they do? They close the emergency room because it is the most expensive, which is often the last thing they should do in terms of the community they serve. But they act as they believe they have to act, and we have to understand that.

So, stifling innovation and keeping beneficial products off the market has handicapped American firms as they try to compete in a global marketplace. The current system is simply unfair, therefore, again to consumers and to businesses alike, and that is why we are projecting this conference report forward.

Of course, many of the States have fully recognized the inequities of the current system, as has been pointed out by a number on the other side of this argument. The States are very aggressive on this, and they have moved ahead to enact product liability reform. Thirty States have made major changes in joint and several, for example, and in most cases—virtually all cases—it is limiting joint and several. But by doing so, while solving some issues, they have inadvertently created other kinds of problems.

Only through Federal product liability reform can we, in this Senator's judgment, resolve the problems caused by the current State-by-State product liability system. State legislatures can be very helpful in this area, but it is virtually impossible for them to be uniform because they are all different.

We have 134 legislators in our State of West Virginia in the senate and house. They are not going to do the same thing that Ohio does, or that Kentucky does, or that Virginia or Maryland do. They are just not going to. So you have, in fact, 51 different laws relating to product liability in our country.

As I said yesterday, years and years ago I suppose that the majority of products made in the States were sold in those States. That is no longer true. Seventy percent of products made in the State of Ohio, and in the State of the Presiding Officer, if it is at the national average, are sold outside of Ohio. The same is true with the State of West Virginia, the State of Washington, and the State of South Carolina. So we are an interstate as well as an international economy. Therefore, we need uniformity at certain points to shape and adapt to that.

For this reason, State reform legislation—because of the 70 percent being shipped outside of the State of manufactured goods, less than 30 percent effectiveness is the standard for State law. I mean, by definition, they have to be less than 30 percent effective. On the other hand, all of the State citizens who sue in the State are governed by that State's product liability statute, and thus they fall victim to an antiquated system, and the people here want to protect them.

That is why the National Governors' Association recognized both the need for product liability reform and the necessity of Federal action to effectuate that reform. They did not say, well, States, you have to do a better job and do things more alike. They said, no, there have to be places where the Federal Government sets uniform standards.

The Senator from South Carolina was talking yesterday about how the States always want to have more power; they want to have the power shifted to them. That is the direction in which our country is going.

That is not the direction of the National Governors' Association on product liability and tort reform. They want more Federal action. That is why the American Legislative Exchange Council, not very well-known, but it is a bipartisan group of over 2,500 State legislators—that is a lot of them—representing all 50 States, three times has called upon Congress to enact product liability law which is Federal. That is why President Clinton has said that he supports the enactment of limited but meaningful product liability reform at the Federal level. He said that in a number of statements—in a letter to us, in a statement of policy to us—during the course of this debate. H.R. 956 contains that limited but meaningful product liability reform which makes common sense and which has measures which are good for ordinary consumers and businesses.

Incidentally, Mr. President, I wish to make one point. People keep referring—and even there was an article this morning in the Washington Post—to big business versus trial lawyers. On the business side, it is not big business which is really at stake here. It is small business. That is the reason for the support of the National Federation of Independent Businesses.

Mr. President, 98 percent of businesses in America are small. Those are the people who get put out of business most quickly. Those are the people who have the least cash reserve. Those are the people who live at the margins. Those are also places, we have long established, from where often the best ideas come. That is the overwhelming dynamic center of the American economy.

So H.R. 956 contains, as I have said, what I believe is needed.

Mr. President, I ask unanimous consent that a list describing the major provisions of the conference report be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ROCKEFELLER. Mr. President, the conference report does, however, provide the following: legal fairness for product sellers; a rule to discourage illegal use of alcohol and drugs—we cannot stop it but to discourage it, certainly not to reward it—a proconsumer statute of limitations, an enormously proconsumer statute of limitations; a statute of repose that will stimulate jobs and economic growth; alternative dispute resolution as a way of settling some of these matters. It is voluntary, which is not so thrilling to me. I wish it were not. I wish it were mandatory, but it is voluntary. At least it is there. That is the way they do things in Japan. That is why they settle everything over there, which is not to say they do not have their economic problems, but product liability is not one of their problems. Punitive damages fairness is in this bill. Opponents of the bill say we cap punitive damages. Untrue. Untrue. I will not vote for legislation which caps punitive damages, as I would not vote for legislation that caps what lawyers can make. Part of me would like to, but I do not believe that because I believe the market should make that decision. But punitive damages are not capped.

We added the additional amount provision, originally called the judge additur provision, a suggestion which was endorsed by a number of high-up folks at the White House and then the whole idea for making sure that it was more constitutional came from the Department of Justice, which I presume to be the executive branch of Government. So there are no caps on punitive damages, and I will assert there could not be because I was a part of this bill. I was not going to go along with a bill that would allow such a thing.

There is several liability for noneconomic loss; workers compensation subrogation; biomaterials access assurance.

These, Mr. President, are some of the highlights.

Now, in winding up here, I should like to take a moment to comment on where we stand in the legislative process. I wish to be hopeful; I try to be hopeful; I am hopeful; I will insist on being hopeful; I will be everlastingly hopeful that the President will reconsider his decision to veto this product liability conference report and that in fact he will sign it. I firmly believe that the President can sign this bill, even recognizing that he will not support each of its provisions. There are some provisions that I think ought to be in this. There are some provisions which I think ought to be changed, some. Nobody gets everything they want. There are 535 people in the Congress.

Even though the President might not support each of its provisions, when the product liability conference report is considered in its totality, in balance with the need for this reform, I remain hopeful that the President will still seize this opportunity to participate in product liability reform which will benefit in fact the American people and the American economy. From my point of view, I stand ready to work with the President to achieve what I believe is our common goal, his goal, my goal, our goal, of fairly balancing what needs to be fixed in our broken product liability system, which he surely must recognize, while preserving important rights for consumers. This is not business versus consumers. We are trying to achieve a balance where each business and consumer gets certain improvements, and providing business with the predictability that they need to compete in today's economy.

In conclusion, because I do not know how much time is remaining—and I am not interested—I wish to thank a few people. First of all, I again wish to thank Senator GORTON, Senator SLADE GORTON from the State of Washington, G-O-R-T-O-N. That is his name. He has been absolutely incredible over the years and continues to be in this process—remarkable, calm, intellectual, unflappable, fair, flexible. It is just a stunning privilege to be able to work with SLADE GORTON and with his staff, Jeanne Bumpus, Trent Erickson; Commerce Committee staff, Lance Bultena. We spend a lot of time together. When you do these things, you get real close.

I thank all of the Democratic supporters, not that that is a convention full of people, but I thank each and every one of them and all of their staff. And, obviously and particularly, I want to thank my own staff: Jim Gottlieb, a superb lawyer—inventive, flexible, calm, tough, a great negotiator and a marvelous human being; Ellen Doneski, who is just indefatigable. She is just like some kind of a rolling army—cannot be stopped. She has a tremendous sense of humor, is relaxed, adamant, just puts her mind to this or other things. She is actually part of my health care staff, but she is so smart and so flexible she can get this mastered. She is not a lawyer, but do not tell anybody that because everybody thinks she is.

Then I want to thank another person who is not here because her fiance has been through, and is still going through, a terrible, terrible crisis, and that is Tamera Stanton, who is kind of

here in spirit. When we were having this debate last year, she sat next to me. She is my legislative director, an extraordinary, brilliant, wonderful person who is now going through a very, very tough—but also encouraging—experience in terms of the health of her fiance, as they hope and plan to get married in June.

So, I am mindful of these people, grateful to these people, and I thank my colleagues for their forbearance.

Mr. President, I ask unanimous consent that numerous fact sheets, and a list and letter from small business organizations, be printed in the RECORD. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

MAJOR PROVISIONS OF CONFERENCE REPORT

Legal Fairness For Product Sellers: Product sellers are held liable only for their own negligence or failure to comply with an express warranty. The product seller, however, remains liable as if it were the manufacturer if the manufacturer cannot be brought into court or is unable to pay a judgement. This provision assures injured persons will always have available an avenue for recovery, while relieving retailers and wholesaler-distributors of substantial unnecessary legal costs. The provision is ''consumer neutral'' and any attempt to characterize it another way lacks credibility.

Rule to Discourage Illegal Use of Alcohol and Drugs: The defendant has an absolute defense in a product liability action if the plaintiff was under the influence of intoxicating alcohol or illegal drugs and as a result this influence was more than 50 percent responsible for his or her own injuries. The alcohol/drug defense in H.R. 956 is consistent with law of the substantial majority of states implements sound public policy. It tells persons that if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system. It also relieves law-abiding citizens from having to subsidize others' irresponsible conduct through higher consumer prices. This provision has not been controversial or challenged by professional consumer groups as unfair.

Pro-Consumer Statute of Limitation: H.R. 956 permits a plaintiff to file a complaint within 2 years after he or she discovers or should have discovered both the harm and its cause. This is a liberal, pro-claimant provision, which will be particularly helpful to persons who have been injured by products that result in latent inquiries (*e.g.,* drugs and chemicals). Contrary to the suggestion by some opponents, this provision will create a uniform, fair national standard which will open courthouse doors to plaintiffs in many states, such as Virginia.

Statue Of Repose Will Create Jobs and Stimulate Economic Growth: A limited statistic of repose of 15 years is established for durable goods used in the workplace, unless the defendant made an express warranty in writing as to the safety of the specified product involved, and the warranty was longer than the period of repose (15 years). Then, the statue of repose does not apply until that warranty period is complete. The statute of repose provision will not apply in cases involving a ''toxic harm.''

Strong support exists for this reform, particularly as a result of the enactment of the General Aircraft Revitalization Act of 1994, signed by President Clinton in August 1994, which created a federal eighteen year statute of repose of general aviation aircraft. This law has resulted in production of safer aircraft and the creation of thousands of new jobs and has not been perceived as unfair to consumers. A growing number of states have enacted legislation in this area as well. The statute of repose in H.R. 956 is both longer and more limited in scope than any existing law.

As one might expect, there are very few cases involving older workplace durable goods and they are generally won by defendants. Nevertheless, cases involving very old products bring about substantial legal costs and put American machine tool builders and other durable goods manufacturers at a disadvantage with foreign competitors. Foreign competitors rarely have machines in this country that are thirty or more years old, so they pay less liability insurance than their American competitors.

Alternative Dispute Resolution: Either party may offer to participate in a voluntary, non-binding state-approved alternative dispute resolution (ADR) procedure. This pro-consumer provision is intended to promote the use of ADR procedures, which can provide a quicker and cheaper mechanism of handling legal claims. This provision should help such individuals receive compensation for their claims more quickly and bypass the need to retain costly legal representation.

Punitive Damages Fairness: Punitive damages are quasi-criminal punishment for wrongdoing; they are a windfall to the claimant and have nothing to do with compensation for injury. H.R. 956 permits punitive damages to be awarded if a plaintiff proves, by clear and convincing evidence, that the harm was caused by the defendant's ''conscious, flagrant indifference to the rights or safety of others.'' The standard is consistent with law in most states.

Punitive damages may be awarded against a larger business up to the greater of $250,000 or two times the claimant's total economic and noneconomic damages; against an individual or small business, punitive damages can be awarded up to the lesser of $250,000 or two times the claimant's total economic and noneconomic damages. The provision is ''gender neutral'' and places no limitation on compensatory damages (economic damages plus ''noneconomic damages'' such as pain and suffering). A special rule allows a judge to augment the punitive damages award against a big business when the ''proportionate'' award is ''insufficient to punish the egregious conduct of the defendant.'' A controversial provision that would allow the defendant the right to a new trial if the court used this special power has been removed from the legislation and does not appear in the conference report—as Senator Gorton and I vowed it would not.

Approximately one-quarter of the States have set forth guidelines on punitive damages awards, including Illinois, Indiana, North Carolina, New Jersey, Oklahoma, and Texas in 1995. Because H.R. 956 is not preemptive, the outcome of many punitive damages cases involving larger businesses would not be affected. In some cases against small businesses, however, the outcome may help the business survive, because the bill limits the amount of punitive damages recoverable against a small business to $250,000. This is a particular benefit to the small business community, since an award exceeding $250,000 could virtually wipe out most small businesses.

Several Liability For Noneconomic Loss: The rule of joint liability, commonly called joint and several liability, provides that when two or more persons engage in conduct that might subject them to individual liability and their conduct produces a single, indivisible injury, each defendant will be liable for the total amount of damages. This system is unfair and blunts incentives for safety, because it allows negligent actors to under-insure and puts full responsibility on those who may have been only marginally at fault. Thus, a jury's specific finding that a defendant is minimally at fault gets overridden and the minor player in the lawsuit bears an unfair and costly burden.

Joint and several liability produces extreme harm for our society. For example, Julie Nimmons, CEO of Shutt Sports Group, Inc. in Illinois, has testified that joint liability has caused manufacturers of protective sporting goods equipment, such as safety helmets, to withdraw products from the market or be chilled from introducing new products. Recognizing the urgent need for reform of this unfair doctrine, 33 states have already abolished or modified the principle of joint and several liability.

H.R. 956 adopts a balanced approach between those who call for joint liability to be abolished and those who wish for it to remain unchecked. The legislation eliminates joint liability for ''noneconomic damages'' (e.g., damages for pain and suffering or emotional distress), while permitting the states to retain full joint liability with respect to economic losses (e.g., lost wages, medical expenses, and substitute domestic services). This means that each defendant will be liable for noneconomic damages in an amount proportional to its percentage of fault of the harm. This ''fair share'' rule is based on a joint liability reform enacted in California through a ballot initiative approved by the majority of voters in 1986. The same approach was enacted by the Nebraska legislature in 1991.

It has been argued by some opponents that the provision is ''anti-women'' because their economic damages may be lower than men and, for that reason, they depend on noneconomic or so-called ''pain and suffering'' damages. However, there has been absolutely no showing in California, a large and litigious state, that the California approach discriminated against any sex or any group. In fact, noted California trial attorney Suzell Smith has testified that the California law is fair and has worked well for consumers.

Workers' Compensation Subrogation: This provision preserves an employer's right to recover workers' compensation benefits from a manufacturer whose product harmed a worker unless the manufacturer can prove, by clear and convincing evidence, that the employer caused the injury. This provision would modify state law in a very positive way. It would create a new private incentive on employers to keep their workplace safe and achieve this goal without reducing the amount an injured employee can recover in a product liability action. This provision has not been challenged by professional groups as controversial or unfair.

Biomaterials Access Assurance: Millions of citizens depend on the availability of lifesaving and life-enhancing medical devices, such as pacemakers and hip and knee joints. The availability of these devices is critically threatened, however, because suppliers have ceased supplying basic raw materials to medical device manufacturers. A 1994 study by Aronoff Associates concluded that there are significant numbers of raw materials that are ''at risk'' of shortages in the immediate future. Suppliers have found that the risks and costs of responding to litigation related to medical technology far exceeds potential sales revenues, even though costs are *not* finding suppliers liable!

H.R. 956 will safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices. The provision was introduced in this Congress as S. 303, the

''Biomaterials Access Assurance Act of 1995,'' by Senators Lieberman and McCain and was added to the Senate version of H.R. 956 during the Commerce Committee's markup. The provision, which has been the subject of hearings and enjoys very strong bipartisan support, will help prevent a public health crisis by limiting the liability of biomaterials suppliers to instances of genuine fault and establishing a procedure to ensure that suppliers—not manufacturers, can avoid litigation without incurring heavy legal costs. This provision is critically important to all Americans, particularly women, according to Phyllis Greenberger, Executive Director for the Society for the Advancement of Women's Health Research.

Ironically, even though this bipartisan provision would unquestionably provide a tremendous public health benefit and would not adversely affect consumers, it is not well understood by some and, therefore, becomes a target by those who are willing to concoct and perpetuate untruths in the desperate attempt to selfishly promote their own economic agenda. The fact is that this is a proconsumer provision which does not in any way limit the ability of claimants to seek recovery from medical device manufacturers; the provision recognizes the ''common sense'' principal that suppliers of basic materials, who are *not* dcurrently found liable, should not be permitted to be indiscriminately hauled into court.

EXHIBIT 2

THE FACTS ON PRODUCT LIABILITY

Fact: There is no cap on economic or noneconomic damages. Claimants will continue to be able to recover whatever they are awarded in a court.

Fact: The statue of repose remains limited to durable goods in the workplace only. Statements being made that we now cover all goods are simply wrong.

Fact: Product sellers, lessors, or renters will NOT be protected from negligent entrustment liability. That is precisely why the ''negligent entrustment'' exception was moved to the product sellers section of the bill.

Fact: Dow Corning, and other companies who made or make breast implants will NOT be shielded from liability. Whether or not they supplied the silicone, they remain liable as manufacturers.

Fact: Drunk drivers, gun users, etc will NOT be protected from liability in any way. Opponents are intentionally trying to confuse harm caused by a product, which IS covered in the bill, and harm cause by the products' use by another, which is NOT covered in the bill and remains totally subject to existing state law. (See Sec 101 (15) and 102 (a)(1)—definition of product liability action includes only ''harm caused by a product'' not ''use.'' This is a big difference.

Fact: In all states that permit punitive damages, they will continue to be available, and the ''additional amount'' provision will apply in all those states, regardless of whether caps are higher or lower in that state.

Fact: Tolling of the statue of limitations will be covered as they now are, by applicable state and federal law. For example, see 11 USC 108c automatic tolling in bankruptcy cases. Nothing in the bill or omitted from the bill will change state law on tolling.

Fact: State law will continue to control whether or not electricity, stem, etc is considered a product or not.

Fact: This is NOT one-way preemption, but a mix of state and federal rules. Products are in interstate commerce, and should be subject to more uniform rules for businesses and consumers.

Fact: 30 states have modified joint and several liability at this point. The federal proposal follows the California law affecting ONLY noneconomic damages.

PROVISION AND PRODUCT LIABILITY CONFERENCE REPORT, MARCH 13, 1996

Liability of Product Seller

Same as Senate bill—Product seller can be held liable as manufacturer only in limited circumstances.

Applicability/Preemption

Same as Senate bill—Applicable to product liability cases only.

Alternative Dispute Resolution

Same as Senate bill—Dispute Resolution (ADR), with no defendant loser pays provision.

Defenses Regarding Alcohol or Drugs

Same as Senate bill—Complete defense if claimant was more than 50 percent responsible.

Reduction for Misuse or Alteration

Same as Senate bill—Reduction of damages by the percentage of harm which is the result of the misuse or alteration.

Punitive Damages

Same as Senate bill: (a) Ceiling of greater of $250,000 or 2 compensatory; (b) DeWine Amendment including assets in determination of damages; (c) DeWine small business amdt—limits punitive damage awards for business under 25 employees, to the lesser of $250,000 or 2 compensatory damages; and (d) Judge can award an additional amount for punitive damages in egregious cases, under factors set forth in bill. [Clarification that judge can award all the way up to the initial jury award.]

Statute of Limitations

Same as Senate bill—Two years after date of discovery of the harm and cause of harm or date that these should have been discovered.

Statute of Repose

Retains Senate scope—Limits to 15 years for durable goods in the workplace only, with exception for toxic harm.

Joint and Several Liability for Noneconomic Loss

Same as Senate bill—Joint and several liability for all economic damages, and several liability for noneconomic damages.

Federal Cause of Action

Same as Senate bill—No new federal cause of action.

Biomaterials

Same as Senate bill—Biomaterial suppliers who furnish raw materials or component parts, but who are not manufacturers or sellers, are protected from liability; amendments addressing shell corporation concerns and deleting the certificate of merit requirement.

Is this one-way pre-emption?

This is a real red herring argument. The truth is this is a balanced bill—for consumers and for business. In some cases state law prevails, and in some cases, the federal law controls.

The goal of federal legislation, especially where you are dealing with interstate commerce, is uniformity, fairness, and predictability. It naturally follows that Federal laws very often must preempt inconsistent state laws. And this product liability bill allows maximum flexibility for the states within a uniform federal system.

The interpretation of which laws apply to which situations, is complicated (and is best left to the lawyers). But lets look at a few of the specifics of the bill:

If a state has a shorter statute of limitations, and many do, this bill makes it longer. Period. Which way is that preemption?

If a state has a statute of repose, this bill makes no change as to the time period, but does make sure that victims of toxic harm receive compensation regardless of the time that their injury is discovered.

If a state doesn't allow punitive damages, at all under current law, this bill makes no change in that state's laws.

In some states that do permit punitive damages, such as Colorado and Maryland, the standard for allowing punitive damages is lessened, not stricter. (The standard goes from one requiring proof ''beyond a reasonable doubt'' and ''actual malice'' to ''clear and convincing evidence.)

If a state does permit punitive damages, I believe that the new federal rules will, for the first time, permit judicial flexibility in determining the amount of punitive damages, even if there is a cap on the amount of punitive damages under that state's law which is different that the new federal bill.

So, in summary, yes this bill does preempt state law in some situations. But to suggest that it is totally one-way is misleading at best.

The conference report is a tightly balanced bill seeking to make some uniformity out of a patchwork of conflicting state laws.

U.S. SENATE,
Washington, DC, March 20, 1996.

KATHERINE PRESCOTT,
National President, MADD, Irving, TX.

DEAR MS. PRESCOTT: Your letter of March 19 is wrong, and based on a totally incorrect quoting of the proposed law.

Your letter says that the product liability bill covers ''harm caused by a product or product use.'' that is incorrect.

The legislation reads: ''harm caused by a product'' only.

You have been misinformed, perhaps intentionally, in an effort to convince you that cases of drunk driving would be covered under the bill. The fact is that cases of drunk driving or so-called dram shop cases would not be covered by this legislation.

In addition, those who ''negligently entrust'' a product, such as alcohol, resulting in drunk driving situations, would not be protected in any way under the law.

I will read your incorrect letter, and this response, into the CONGRESSIONAL RECORD today, and I expect you will want for me to include your retraction letter as well.

Kindly FAX your retraction to me immediately at 202–224–9575.

Thank you.

Sincerely,

JOHN D. ROCKEFELLER IV.

IMPACT OF FEDERAL PROVISIONS ELIMINATING JOINT AND SEVERAL LIABILITY FOR NONECONOMIC DAMAGES IN PRODUCT LIABILITY CASES

The Conference Committee version of the product liability bill is currently expected to retain the Senate bill's provision eliminating joint liability for noneconomic damages. This Federal law provision would not significantly change the law in those states which already either have eliminated or severely limited joint liability, or have imposed specific limitations on the award of noneconomic damages.

Twelve states have eliminated joint liability altogether: Alaska, Arizona, Colorado, Idaho, Indiana, Kansas, Kentucky, North Dakota, Tennessee, Utah, Vermont and Wyoming.

Two states have eliminated joint liability for noneconomic damages: California and Nebraska.

Ten states have otherwise limited the availability of joint liability as to noneconomic damages or damages generally, so

as to make it significantly less likely that noneconomic damages would be subject to joint liability: Florida, Illinois, Iowa, Mississippi, Montana, New Hampshire, New Jersey, New York, Oregon, and Texas.

Three states have eliminated joint liability in cases in which the plaintiff is negligent: Georgia, Ohio and Oklahoma.

Five states (including three already mentioned) have capped awards of noneconomic damages: Alaska, California, Kansas, Maryland, Massachusetts and Michigan.

In all, 30 states have adopted measures that already limit the recovery of noneconomic damages. These include eight of the nine largest states in the union—California, New York, Texas, Florida, Illinois, Ohio, Michigan and New Jersey.

SMALL BUSINESS ORGANIZATIONS SUPPORTING PRODUCT LIABILITY REFORM

National Federation of Independent Business (600,000 small businesses).

National Association of Wholesaler-Distributors (156 trade associations representing 250,000 small businesses).

U.S. Chamber of Commerce (215,000 small businesses).

National Association of Manufacturers (10,000 small businesses).

Small Business Legislative Council.

National Association of Women Business Owners.

National Small Business United.

JOINT LETTER TO MEMBERS OF CONGRESS FROM AMERICAN SMALL BUSINESS LEADERS ON PRODUCT LIABILITY REFORM, APRIL 3, 1995

DEAR MEMBERS OF CONGRESS: On behalf of the nation's more than 21 million small and growing businesses, we are writing to strongly urge your support of S. 565, The Product Liability Fairness Act of 1995.

You know the problem: A single lawsuit can and has put many small business owners out of business.

For many small businesses, the explosion in product liability cases means it is simply impossible to find and keep affordable liability insurance.

You've heard the horror stories. (If you haven't, give us a call.)

Why should you care? Small businesses create virtually all the net new jobs in the economy. And businesses owned by women now employ more people than the entire Fortune 500 combined. While most of our company names are not household words, small business comprises the backbone of the nation's economy—from Main Street to Wall Street.

We need your help.

Product liability reform was the #1 issue at the White House Conference on Small Business in 1986. Finally, after more than a decade of struggle, product liability reform seems within our reach.

Please support S. 565, The Product Liability Fairness Act of 1995, and help protect U.S. consumers, workers and small businesses. Our future and the future of our nation's economy, depends on it.

Thank you for your support.

Gary Kushner, President, Kushner & Company, Inc., President, National Small Business United, Kalamazoo, Michigan

Carol Ann Schneider, President, Seek, Inc., President, Independent Business Association of Wisconsin

Patty DeDominici, President, National Association of Women Business Owners (NAWBO), Los Angeles, California

Willis T. White, President, California Black Chamber of Commerce, Burlingame, California

Thomas Gearing, President, The Patriot Company, Federal Reserve Board, Small Business Advisory Committee, Milwaukee, Wisconsin

Margaret M. Morris, NAWBO Chapter President, Chevy Chase, Maryland

Lewis G. Kranick, Chairman of the Board, Krandex Corporation, Wisconsin Delegation Chair—1986, White House Conference on Small Business, Milwaukee, Wisconsin

Linda Pinson, Principal, Out of Your Mind . . . and Into the Marketplace, NAWBO Financial Services Council, Tustin, California

Dale O. Anderson, President, Greater North Dakota Association, Bismark, North Dakota

Chellie Campbell, President, Cameren Diversified Management, Inc., NAWBO Public Policy Council, Pacific Palisades, California

Brooke Miller, NAWBO Chapter President, St. Louis, Missouri

John F. Robinson, President & C.E.O., National Minority Business Council, Inc., New York, New York

Lucille Treganowan, President, Transmissions by Lucille, Inc., NAWBO Chapter President, Pittsburgh, Pennsylvania

Wanda Gozdz, President, W. Gozdz Enterprises, Inc., NAWBO Public Policy Council, Plantation, Florida

Frank A. Buethe, Manager, Advance Business Development Center, Green Bay Chamber of Commerce, Green Bay, Wisconsin

Rachel A. Owens, Family Business Specialist, Mass Mutual, NAWBO Chapter President, Irvine, California

Brenda Dandy, Vice President, Marine Enterprises International, Inc., NAWBO Financial Services Council, Baltimore, Maryland

Terry E. Tullo, Executive Director, National Business Association, Dallas, Texas

Tana S. Davis, Owner, Tana Davis C.P.A., NAWBO Chapter President, Encino, California

Mary G. Zahn, President, M.C. Zahn & Associates, NAWBO Public Policy Council, Philadelphia, Pennsylvania

Gary Woodbury, President, Small Business Association of Michigan

Hector M. Hyacinthe, President, Packard Frank Organization, Inc., New York Delegation Chair—1986, White House Conference on Small Business, Ardsley, New York

Mary Ellen Mitchell, Executive Director, Independent Business Association of Wisconsin, NSBU Council of Regional Executives, Madison, Wisconsin

Susan J. Winer, President, Stratenomics, Illinois Delegation Chair—1986, White House Conference on Small Business, Chicago, Illinois

Lucy R. Benham, Vice President, Keywelland Rosenfeld, P.C., NAWBO Public Policy Council, Troy, Michigan

Beverly J. Cremer, Chief Executive Officer, I & S Packaging, NAWBO Chapter President, Kansas City, Missouri

C. Virginia Kirkpatrick, President/Owner, CVK Personnel Management & Training Specialists, NAWBO Financial Services Council, St. Louis, Missouri

Mary Ann Ellis, President, American Speedy Printing, NAWBO Chapter President, Boynton Beach, Florida

Shaw Mudge, Jr., Vice President, Operations, Shaw Mudge & Company, Connecticut Delegation Chair—1986, White House Conference on Small Business, Stamford, Connecticut

Eunice M. Conn, Executive Director, Small Business United of Illinois, NSBJ Council of Regional Executives, Niles, Illinois

Ronald B. Cohen, President, Cohen & Company, Immediate Past President, NSBJ, Cleveland, Ohio

Hilda Heglund, Executive Director, Council of Small Business Executives, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin

Karin L. Kane, Owner/Operator, Dorrino's Pizza, NAVBO Chapter President, Salt Lake City, Utah

Suzanne F. Taylor, President & Owner, S.T.A. Southern California, Inc., Vice President—Public Policy Council, NAWBO, South Laguna, California

Suzanne Pease, Owner, Ampersand Graphics, NAWBO Chapter President, Morganville, New Jersey

Maryjane Rebick, Co-Owner, Executive Vice President, Copy Systems, NAWBO Public Policy Council, Little Rock, Arkansas

Arlene Weis, President, Heart to Home, Inc., NAWBO Public Policy Council, Great Neck, New York

Deepay Mukerjee, President, R.F. Technologies, 1995 Delegate, White House Conference on Small Business, Lewiston, Maine

David Sahagun, Dealer, Castro Street Chevron, 1995 Delegate, White House Conference on Small Business, San Francisco, California

Dona Penn, Owner, Gigantic Cleaners, NAWBO Public Policy Council, Aurora, Colorado

Barbara Baranowski, Owner, Condo Getaways, NAWBO Chapter President, North Monmouth, New Jersey

Sheelah R. Yawitz, President, Missouri Merchants and Manufacturers Association, Chesterfield, Missouri

David R. Pinkus, Executive Director, Small Business United of Texas, Texas Delegation Chair—1986, White House Conference on Small Business, Austin, Texas

David P. Asbridge, Partner, Sunrise Construction, Inc., 1995 Delegate, White House Conference on Small Business, Rapid City, South Dakota

Marj Flemming, Owner, Expeditions in Leadership, 1995 Delegate, White House Conference on Small Business, Signal Mountain, Tennessee

Jo Lee Lutnes, Owner, Studio 7 Public Relations, 1995 Delegate, White House Conference on Small Business, Columbus, Nebraska

Margaret Lescrenier, Vice President, Gammex RMI, Small Business Committee Member, Wisconsin Manufacturers and Commerce

Gordon Thomsen, Chief Executive Officer, Trail King Industries, Inc., 1994 Small Business Administration National Exporter of the Year, Mitchell, South Dakota

Leri Slonneger, NAWBO Chapter President, Washington, Illinois

Shalmerdean A. Knuths, Co-Owner/Director of Administration, Rosco Manufacturing Company, 1995 Delegate, White House Conference on Small Business, Madison, South Dakota

Alan M. Shaivitz, President, Allan Shaivitz Associates, Inc., 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland

Linda Butts, President/Owner, Prairie Restaurant & Bakery, Member, NFIB, Carrington, North Dakota

Malcolm N. Outlaw, Owner/President, Sunwest Mud Company, Board Member, Small Business United of Texas, Midland, Texas

Suzanne Martin, Council of Smaller Enterprises, Greater Cleveland Growth Association, NSBJ Council of Regional Executives, Cleveland, Ohio

David L. Condra, President, Dalcon Computer Systems, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee

Doris Morgan, Vice President, Cherrybank, 1995 Delegate, White House Conference on Small Business, Hazlehurst, Mississippi

Dr. Earl H. Hess, Lancaster Laboratories, Inc., Pennsylvania Delegation Chair—1986, White House Conference on Small Business, Lancaster, Pennsylvania

Ralph S. Goldin, President, Goldin & Stafford, Inc., 1995 Delegate, White House Conference on Small Business, Landover, Maryland

John C. Rennie, President, Pacer Systems, Inc., Past President, NSBU, Billerica, Massachusetts

Murray A. Gerber, President, Prototype & Plastic Mold Company, Inc., Connecticut Delegation Chair—1986, White House Conference on Small Business, Middletown, Connecticut

Robert E. Greene, Chairman & CEO, Network Recruiters, Inc., 1995 Delegate, White House Conference on Small Business, Bel Air, Maryland

Jule M. Scofield, Executive Director, Smaller Business Association of New England, Waltham, Massachusetts

Jack Kavaney, President, Gateway Properties, 1995 Delegate, White House Conference on Small Business, Bismarck, North Dakota

Leo R. McDonough, President, Pennsylvania Small Business United, Pittsburgh, Pennsylvania

Sarah Lumley, Co-Proprietor, Save-A-Buck Auto Sales, 1995 Delegate, White House Conference on Small Business, Sumter, South Carolina

David A. Nicholas, General Manager, Dapco Welding Supplies, Inc., Hagerstown, Maryland

Joan Frentz, NAWBO Chapter President, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Bruce A. Hasche, Controller, Sencore, Inc., South Dakota Delegation Chair—1995, White House Conference on Small Business, Sioux Falls, South Dakota

Michael J. McCurdy, Franchisee, 7-Eleven, 1995 Delegate, White House Conference on Small Business, Baltimore, Maryland

Robert G. Clark, President, Clark Publishing, Inc., 1995 Delegate, White House Conference on Small Business, Lexington, Kentucky

Michael Stocklin, President, Flathead Business & Industry Association, Kalispell, Montana

Van Billington, Executive Director, Retail Confectioners International, NSBC Council of Regional Executives, Glenview, Illinois

Daniel L. Biedenbender, Vice President, Atlas Iron & Wire Works, Inc., National Treasurer, American Subcontractors Association, Milwaukee, Wisconsin

Earl B. Chavis, Owner, CTM Tech, Inc., 1995 Delegate, White House Conference on Small Business, Florence, South Carolina

Patricia F. Moenert, President & Owner, Moenert Executive Realty, Inc., Boynton Beach, Florida

Rudolph Lewis, President, National Association of Home Based Businesses, Owings Mills, Maryland

Robert F. Taylor, President, Erie Manufacturing Company, Board of Directors, Council of Small Business Executives, Milwaukee, Wisconsin

Duane E. Smith, Administrative Partner, Charles Bailly & Company, 1995 Delegate, White House Conference on Small Business, Billings, Montana

Gary Batey, General Manager, Independent Cement Corporation, Hagerstown, Maryland

G. Jesse Flynn, C.E.O., Flynn Brothers Contracting, Inc., 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Frank J. Tooke, Montana Society of CPAs, 1995 Delegate, White House Conference on Small Business, Miles City, Montana

Brenda B. Schissler, President, StaffMasters, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Henry Carson III, Vice President, Henry Carson Company, Member, South Dakota Family Business Council, Sioux Falls, South Dakota

Roy H. Hunt, President & C.E.O., Hunt Tractor, Inc., Kentucky Delegation Chair—1995, White House Conference on Small Business, Louisville, Kentucky

Susan D. Cutaia, President, Tiger Security Products, 1995 Delegate, White House Conference on Small Business, Boca Raton, Florida

Charles F. Hood, Franchisee, 7-Eleven, Member, Baltimore Franchise Owners Association, Jarr, Maryland

Kenneth D. Gough, President, Accurate Machine Products Corporation, Chairman, Small Business Committee, Tri-Health Business Alliance, Johnson City, Tennessee

James W. Kessinger, President, Anderson Packaging, Inc., Kentucky Delegation Vice-Chair—1995, White House Conference on Small Business, Lawrenceburg, Kentucky

Charles Aiken, Owner, Health Force of Columbia, 1995 Delegate, White House Conference on Small Business, Columbia, South Carolina

Kay Meurer, President, Discount Office Interiors, 1995 Delegate, White House Conference on Small Business, Louisville, Kentucky

Kevin R. Nyberg, President, Nyberg's Ace Hardware, Member, National Retail Hardware Association, Sioux Falls, South Dakota

Tom Everist, President, L.G. Everist, Inc., Sioux Falls, South Dakota

Lewis A. Shattuck, Executive Vice President, Barre Granite Association, Member, Associated Industries of Vermont, Barre, Vermont

Tom Batcheller, President, Zip Feed Mills, Inc., 1995 Delegate, White House Conference on Small Business, Sioux Falls, South Dakota

Lalit K. Sarin, President & C.E.O., Shelby Industries, Inc., 1995 Delegate, White House Conference on Small Business, Shelbyville, Kentucky

Christine S. Huston, Manager, Economic & Business Development, Indiana Chamber's Small Business Council, NSBU Council of Regional Executives, Indianapolis, Indiana

Dean M. Randash, President, NAPA Auto Parts, 1995 Delegate, White House Conference on Small Business, Helena, Montana

Luis G. Fernandez, M.D., Director, Trauma Services, Mother Frances Hospital, Member, American College of Surgeons, Tyler, Texas

Ed Grogan, President & C.E.O., Montana Medical Benefit Plan, 1995 Delegate, White House Conference on Small Business, Kalispell, Montana

David Davis, President, Advanced Home Care, Inc., 1995 Delegate, White House Conference on Small Business, Unicoi, Tennessee

Joe Kropkowski, President, Baltimore Franchise Owners Association, Bel Air, Maryland

Susan Szymczak, President, Safeway Sling USA, Inc., Member, Metropolitan Milwaukee Association of Commerce, Milwaukee, Wisconsin

H. Victoria Nelson, Proprietor, Jarnel Iron & Forge, 1995 Delegate, White House Conference on Small Business, Hagerstown, Maryland

Helen Selinger, President, Sloan Products Company, Inc., 1995 Delegate, White House Conference on Small Business, Matawan, New Jersey

Charles B. Holder, President, Hol-Mac Corporation, 1995 Delegate, White House Conference on Small Business, Bay Springs, Mississippi

Marguerite Tebbets, President, Window Pretties, Inc., President, Women Business Development Center, Kennebunk, Maine

Catherine Pawelek, NAWBO Chapter President, Coral Gables, Florida

Mak Gonzenbach, Vice President, Valley Queen Cheese Factory, Inc., 1995 Delegate, White House Conference on Small Business, Milbank, South Dakota

Geoff Titherington, Owner, Bonanza, American Franchisees Association, Sanford, Maine

Richard Watson, Executive Vice President, Walker Machine Products, Inc., National Screw Machine Products Association, Collierville, Tennessee

Tonya G. Jones, President, Mark IV Enterprises, Inc., NFIE Guardian Advisory Council, 1995 Delegate, White House Conference on Small Business, Nashville, Tennessee

The PRESIDING OFFICER (Mr. COVERDELL). Who yields time?

The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, my distinguished colleague from West Virginia just thanked a group of people. I wondered who they were. I knew no lawyer who had ever tried a case in a courtroom would ever put up a bill of this kind. So, having sponsored this measure, they would have to have some extraneous help of some kind to fashion an abortion as this ''conspiracy''—not conference—report. I emphasize ''conspiracy,'' Mr. President.

The distinguished Senator from West Virginia says when you work with him, it is very close and everything else. Of course, he did not thank the Senator from South Carolina because we never got close because we never conferred and we never were told about a meeting. We could not see the draft. We heard first about this so-called conference, or conspiracy, report, with Richard Threlkeld on CBS at 7:20 last Thursday evening on the evening news, when he said it was coming up. I had yet to get a copy, even though I am a member of the conference, struggling around on Friday to try to find out what we were going to have.

The story down in the local press, the way they politically work it, was that the Senator from South Carolina was going to filibuster. We had not had a chance to debate. We had not had a chance to debate. But the point of the matter is that, as the Senator from West Virginia talks about small business, small business—look at the chart. That is not small business. I think he ought to talk more closely with the

distinguished Senator from Washington, whom he has been working with, because they are not quite in step.

These heart pacemakers at $3,000, motorized wheelchairs, hotel bills, tonsillectomies, maternity stays, and all—maybe somebody is selling a baseball. We will let that one go by—18 cents. I hope we are not finding a Federal need up here, with all the States rights atmosphere, to all of a sudden pass a Federal law on account of 18 cents on the cost of a baseball.

We go through, and it is really sad, because, going right to the chart, we have never seen that before. I guess that is the option of those who do not have a case, to try to do it by sheer surprise. They came in first years ago—I will never forget it—and said there was a litigation explosion. You do not hear them arguing about the litigation explosion anymore.

They said there was an insurance crisis. We have here in the record that insurance companies are making billions and billions of dollars, so there is not that. Their reserves are up to an all-time high. They are doing great. So the insurance company is doing well, so you do not have that.

Then they had the matter of uniformity. Mr. President, they were going to get all the States together and have uniformity, but it is quite obvious that the many splendored thing, the test tube of federalism at the State level, clashed with that uniformity. And they created specific exemptions for those States who had more stringent requirements of an injured party. Those State laws could hold. Those who had less stringent laws would have to come under the stringent restrictions of this particular measure. So on the face of it, it showed absolutely no uniformity. So they gave up on uniformity, in a fashion.

Then they went to the matter of global competition. That is a sort of mystique around this Congress. We in Washington have discovered global competition. The matter of losing your job is psychological—the ''anxiety society'' they write about. ''Downsizing.'' It is all so polite. Heck, they have been fired, and they moved the jobs overseas. Who has moved them? It is not global; it is us.

It is like the Spanish Civil War with the fifth column. Over half of what we are importing in here are American multinational generated. I used the figure that they had researched back in the late 1970's. It was 41 percent. I know over 50 percent of the imports are by 200 companies of the Fortune 500. They are the big, powerful people who can afford it. Small business cannot move overseas, but big business has moved overseas and continues, in a veritable hemorrhage. We explained it to everyone so they could understand the cost of manufacture. It was 30 percent of volume for the associates or workers, employees—you can save as much as 20 percent.

It is a given, if you move to a low-wage country, a $500 million company can save $100 million if they just keep their executive office here, their sales force, but move their manufacture to a low-wage country. They can move offshore and get rich, or they can continue to stay and work their own people and go broke. That is the trade policy of this Congress. These companies are not greedy. If I ran the company, if you ran the company, we would do the same thing. Competition has moved. So are we going to sit around here and wonder—what? That Congress is running around in a circle about term limits and all these other little funny things they can think of, including product liability that the States have long handled.

The distinguished Senator from Rhode Island got up and said ''15 years, 15 years'' the Congress has considered this issue. But the State of Rhode Island has responded. That is the mystery to me, that the proponents come around and act, all of a sudden, like they have discovered these things. Assume everything is true on that chart next to the Senator of Washington. What has the legislature of the State of Washington done about it? They have acted. The State of Georgia has acted. The State of South Carolina had product liability reform back in 1988. It was fully debated. But all of a sudden, we in Congress discover things. Why? Because we take a poll. None of these pollsters has ever served in public office, but they get the hot-button items, six or seven of them—and you have Victor Schwartz, that is a good one—saying how they went after the lawyers. They go after the doctors. Everybody is against the doctors, until they need one. Everybody is against the lawyers, until they need one. That is a given in society.

But you do not just pass Federal laws to vitiate the laws of the 50 States on a statute of repose. Take the referendum they had in the State of Arizona. The proponents of this measure say, ''Forget about your referendum.'' They want to get back to the people, but ''we are going to tell you from Washington what to do, State of Arizona, regardless of your referendum.'' So what is going on up here?

Now they come with the shunt. We are used to trying cases. You are limited to the record and the proof that you have, but this crowd just makes it up at the last minute. They have gone back to the products that have been kept off the market, and the shunt. I had not heard about the shunt, so we called up the Food and Drug Administration and they said there is no problem.

Yes, Dow has been cited by our distinguished colleagues from Connecticut and Washington as going broke. It ought to go broke. They will never make—and a lot of other companies will never make—those implants like that again and try to sell them like hot cakes. Yes, sirree, that is what happens in our society, and we repair that kind of nonsense that goes on. Innocent women going in and thinking they are getting a health cure and instead they are ending their lives.

So Dow does not sell them anymore, but Applied Silicon sells silicon, Neusal sells silicon. And we get another list of those—that little bit of material that goes into the shunt that takes the water off the brain. The inference of the Senators here trying to use that argument is that children and individuals are going to die unless we pass product liability at the Federal level. Come on.

Take that chart next to the Senator from Washington. If a pacemaker costs $3,000, that has far more intricate materials than a shunt. They would take pacemakers off the market if you followed the logic of their argument. You could not afford $3,000 for that. I question that figure, to tell you the truth. I wish I had a chance to try it. My mother passed on just a few years ago, dying at 95 years of age, but she had four pacemakers and we never paid that. Maybe it is cheaper in Georgia and South Carolina than up here in this land—$18,000.

But let us assume the truth. If the truth is there, then pacemakers have to get off the market, using the logic of the argument about the shunt and a little bit of silicon material that goes into it. Come on. It is available. It is a false argument.

We are going to have to have a legislative congressional committee appointed on ski lifts, because it is only $2. It is way more dangerous than $2. I have been on them. The Presiding Officer has been on them. Get on one of those things and find out they are only spending $2 for safety. We have to get that up.

That is the real Federal problem. Their little charts. They had the coffee chart yesterday. They took down the coffee chart. At least they have some shame. We proved that punitive damages award had been cut. The judges in New Mexico have sense, but the coffee case had no sense. When the proponents finally found that out, they took the chart down.

What do they do here? Assuming all of that, as I say, is true, they act like the States have never acted before. I wanted to emphasize, too, coming in with this thing. Now let me read you this particular ad by the American pharmaceutical research companies, which appeared on the Federal page of the Washington Post on March 27, 1995. Here is what the American pharmaceutical group of manufacturers advertise in this ad:

> Drug companies target major diseases with record R&D investment. Pharmaceutical companies will spend nearly $15 billion on drug research and development in 1995. New medicines in development for leading diseases include 86 for heart disease and stroke, 124 for cancer, 107 for AIDS and AIDS-related diseases, 19 for Alzheimer's, 46 for mental diseases, and 79 for infectious diseases.

In this ad the pharmaceutical companies include a bar graph showing their steady increase in R&D investment

since 1977. They spent $1.3 billion in 1977, $2 billion in 1980, $3.2 billion in 1983, $4.7 billion in 1986, $7.3 billion in 1989, $11.5 billion in 1992, and an estimated $14.9 billion in 1995.

Maybe they will go out and research a new kind of silicon—they spent almost $15 billion on overall research in 1995. But if you listen to the Senator from Connecticut and the Senator from Washington, you would think you cannot get the drugs on account of product liability; the drug companies are all going out of business.

In fact, the foreign drug companies are all coming from Europe over here like gangbusters and investing. I will have a list before we end this debate this morning of the pharmaceutical companies joining in and they are not complaining. They are coming from Switzerland to South Carolina and Hoffmann-La Roche is not complaining about product liability. Wellcome is coming in with Glaxo in North Carolina. They are not complaining about product liability. We have product liability laws in our States.

What they do in this measure, Mr. President, if you read it, goes way too far. We see this the more we now have a chance to look at it and wonder why. For example, I wondered why MADD came out against this bill, and then when I read that provision about punitive damages and substances—let us have all the drunk drivers not worry about punitive damages, do not worry about punishment, go ahead, drive drunk. Here we have the finest movement under MADD at the Federal and the State level. But this crowd now wants to write a bill so zealous about punitive damages and getting rid of it—at least one Senator said he did not even believe in punitive damages—that I can tell you now that they said tell the drunk drivers to go ahead, do not worry about punishment, drive. Tell the trial judge that you are obligated under the common law to charge the jury with the law, but keep it a secret.

The Senator from West Virginia said we do not have a cap. I guess that is the part he is reading in the bill, because as far as the jury knows, there is no cap. Why? Because that is the law under the common law, but they have a provision in here where the judge does not tell the jury about the law.

Now come on, what kind of laws are we passing here? Tell the drunk drivers, ''Go ahead, drive drunk.'' Tell the judge who has the responsibility to stay out of the facts of the case, to, by gosh, keep the law secret and then come around and have a new hearing on the facts in violation of the Constitution.

The Cessna crowd, tell them now with the statute of repose, ''Don't worry about it, as long as the part would last for 15 years.'' Most of the planes I have been flying in are more than that. When you fly around in a State in small planes, you will find they are more than 15 years old. But tell Cessna that they can go like gangbusters, do not worry about the parts.

There, shoot the Maytag man. Put him out of business. He does not have to stand there and say, ''My refrigerator is not going to catch fire. It is 30 years old, and they still haven't called me to repair it.'' Shoot the Maytag man.

Blow up the furnaces. I went through a textile plant just the other day. It is 100 years old, but the machinery is brand new. They are competitive. When I first started, the shunts, as they call them, in the weaving machines used to be about 200; then they got to 400, then 1,500. The Japanese made machines up above that, I do not know how many thousands. They have the newest machinery.

Yes, somebody in the plant may have been hurt. But now, hereafter, when you have to put all that investment in there, do not worry about the cost of the safety of the worker after the machine is 15 years old. I think they will close down the textile show we have in Greenville for new machinery because we are going to pass the law that after 15 years you can forget about how safe a machine is. There is no more product liability. They will take the hindmost. Just get hurt. Do not worry about it. Let society take care of the injuries and everything else because the national Congress, in the face of the State laws and provisions that are working extremely well as of now, decided exactly what to do.

The utilities, oh, heavens, we had a good half-hour show on yesterday about the utilities. The utilities, now they did not want to write strict liability, so they wrote a double negative in the particular provision. Of course, the distinguished Senator had a difficult time trying to answer the questions because you could tell the lawyers downtown wrote this thing, not the staff. If the staff had written it, you would have seen somebody getting cussed out for writing that kind of thing. But the lawyers downtown were writing that thing up. They did not want to mention what they really meant.

That is, for the utilities, do not worry about the highest degree of care we require in Georgia, South Carolina and the States of America because now we have a provision in here to tell the utilities to go ahead, forget about the highest degree of care.

Then, the corporate head was riding with his worker after work in the evening. They get into a wreck. A big trucking company runs the red light. The corporate head can get $16 million—no, excuse me, it says double economic damages. We had one corporate head making $16 million, so he could get a $32 million verdict. But the poor fellow sitting in the front seat with him has got a cap—the gentleman said it ''ain't no cap'' —but he gets $250,000. He is capped.

That is how the workers and consumers got this. The proponents of the bill discriminate against the people they say they are trying to help. They cannot name an organization of workers, consumers or others who are not affluent that favors this nonsense. The proponents come around and discriminate against those of modest means—the senior citizens, women, children.

Oh, on pain and suffering, well, they are compensated. They have to have another hurdle. We put in another hurdle for them regarding joint and several liability. Mr. President, they come right down to the wire.

I was watching this morning when the distinguished majority leader was on TV. He was talking about guns and the second amendment. Let me read two other amendments.

> In suits at common law [amendment VII], where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of common law.

They absolutely mandate it be reexamined by the trial judge. That is in violation of amendment VII.

Then amendment X:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to States respectively, or to the people.

The distinguished majority leader always comes and says, ''Look, I have got here in my pocket'' the 10th amendment—some carry around the contract. The distinguished senior Senator from West Virginia carries around the Constitution. The distinguished majority leader carries around the 10th amendment, until this.

When it comes to Medicaid, let the States handle it. When it comes to education, abolish the Department; that is a function of the States. When it comes to welfare, the Governors come in and say, let the States handle it. When it comes, by cracky, to crime, we have had a 2-year intramural around here trying to make sure that we get back to a program that we know did not work.

President Nixon put in LEAA, block grants, to the States. The next thing you know, they had a tank down in Hampton, VA, to protect the courthouse. I do not know what was going to attack the courthouse in Hampton. They had the Governor of Indiana buying a plane, a Beechcraft, so his wife could go and buy her clothes in New York. They were buying planes and buying tanks and everything else. Trying to get the money down to the officer on the beat was like delivering letters by way of a rabbit; you could not get it there.

At the time the city, the council, got it, the State, whatever, a politician got his hands on it. It was all for law enforcement, but law enforcement never saw it. But they say, ''Oh, no, we've got to have block grants.'' After the experience where we had to abolish the LEAA, they come with this one on account of the political poll.

Lawyers. They have two giants, they say, the consumers and the trial lawyers, consumers and trial lawyers. The

Senator from California emphasized what needs to be emphasized, and that is that we are looking out for individuals and individual injuries. It is not easy to try these injury cases. As we all know, less than 4 percent of all civil cases are product liability, less than 1 percent get to the courts, and product liability accounts for less than 1 percent of the cost of any of these products. They can keep on putting up charts, but the Conference Board refuted that. They said less than 1 percent of the cost of any of their articles were attributable to product liability. So what did we do? What did we do? We pass a totally unconstitutional measure. But more than anything else, Mr. President, the word ''greed'' has been used around here. I could not, in conscience, come and say, now, let us apply this all to injured individuals but not to injured businesses. Oh, no. No, no.

I see where United Airlines wants to sue that manufacturer of the baggage handler. It got loose up in Denver, that machine. We had one of those machines, Mr. President, when I was in college. It had the laundry where you sent your clothes over there, and it had a machine that ripped the buttons off your shirt and shot them through your socks. I know that machine now is up at the Denver airport. It tears up the package, rips into the bags, and skirts it into the gears, stopping everything.

So now, Mr. President, we have the business that can go ahead and get its way on punitive damages—do not worry about any $250,000, keeping it a secret, and then tell the trial judge later to start on his own factual findings and everything else like that in violation of the Constitution. Do not worry about any of that. Sue, like Pennzoil did Texaco—get a $10 billion verdict, $10.2 billion. That is more than all the product liability verdicts for injured matters in the last 20 years put together—$10.2 billion. Add them up. One business.

The overwhelming majority of product liability is businesses suing businesses. They believe when they get a bad product misrepresented, they ought to have a cause of action. But they have done everything in the world to put hurdles in this thing, unconstitutional provisions, separating the injured parties, separating the businesses out, making sure that the corporate heads and those of affluence get big economic damages. They can get big verdicts; not women, not children, not senior citizens who have retired. They have all of a sudden become second class citizens.

That is the bill. It is a shame. I yield the floor.

Mr. GORTON. Mr. President, I think a few brief moments in outlining what this bill does and what it does not do may be particularly in order at this stage in the debate.

If we were to take at face value what we have heard from my distinguished colleague from South Carolina, coupled with his colleagues from Massachusetts and California, we would entirely lose sight of the fact that nothing in this bill limits in any respect the ability of any individual to recover a verdict in any court for all of the actual damages suffered by that individual as a result of what a jury may determine to have been a defective product.

Let me repeat that. The Presiding Officer, if he is injured by a defective product, will recover in the future, as he has in the past, all of his actual and provable damages. Obviously, there will be a difference in those damages from one person to another, even with similar injuries.

Second, Mr. President, nothing in this bill limits the ability of an injured person to recover as a result of a jury verdict all of the damages that jury may attribute to pain and suffering or to noneconomic damages.

I find the argument of the Senator from South Carolina particularly curious. He says this is a terrible bill because an executive making $2 million a year can recover more than someone making the minimum wage. Mr. President, that seems to me to be an argument that we ought to impose caps, caps that we have not imposed. Perhaps the Senator from South Carolina is suggesting a reform which no one, as far as I know, has ever proposed anywhere in the United States. That is, that there ought to be a cap on the economic damages that any individual can receive, and that if an individual making $100,000 loses a year of work, that person should not be able to recover any more than a person who makes $20,000, or vice versa. But that is a change in the law that, as far as I know, no one has ever proposed.

This bill allows you, Mr. President, to recover all of the actual damages that you have suffered as a result of an accident that is the fault of some product, including your lost wages, based on whatever your wages are. Is that unequal justice because some people have higher wages than others? I do not think so. It also allows the jury to award you or anyone else whatever it may determine in the way of noneconomic damages.

We did have a debate on this subject in this body the first time around, not in connection with punitive damages but in connection with medical malpractice. There was an attempt on the floor to put a ceiling on the amount of noneconomic damages that could be recovered in a medical malpractice case. That proposition lost on the floor of the Senate, Mr. President, and ultimately the entire medical malpractice section was taken out of the bill, to be dealt with separately.

This bill proposed no such limit in committee, no such limit on the floor when it was being debated last year, and has no such limitations now. What is limited in any respect is the imposition of punitive damage awards—by definition, an award that is above and beyond all of the damages caused by the defective product.

My distinguished friend and colleague who is so complimentary to me, the Senator from West Virginia, has said that he would not vote for a bill that had an absolute cap on punitive damages. This is a field in which we disagree. I would. In fact, I do not believe, as an individual Senator, that there is any place in the civil justice system for punitive damages at all. They are not permitted in tort litigation in the State of Washington and in a handful of other States.

There are very few serious arguments made that there is no justice available for civil litigants as a result. There is an extremely strong argument, it seems to me, against punitive damages at all. Why should any individual recover more than a jury thinks that individual has actually suffered, especially when there is no limitation on the ability of the jury to make an award for pain and suffering for noneconomic damages in addition to the proven actual damages in a case?

We have a system in this country that is peculiar with respect to punitive damages designed as punishment without any limitations whatever. Every criminal code, for every crime up to and including first-degree murder and treason, has some kind of limitation. You cannot be executed twice for two murders. But with respect to punitive damages, in most places there are no limitations at all.

The Supreme Court of the United States has asked us to address this issue. I think we ought to address this issue. We do address it in a modest fashion in this bill, a very modest fashion, but only punitive damages, not any of the actual losses to any plaintiff in a product liability action whatever.

If you heard only the arguments on the other side of this case, you would think everyone was being denied justice, that no one was going to be able to recover their losses, their actual damages in a piece of product liability litigation.

Why should there be some predictability, some limitation on punitive damages? First, of course, because under the present system there can be an infinite number of actions with respect to the same product. We have a sentence, a punishment imposed, not with all of the protections of the criminal code, not with the usual unanimous jury requirement, but just at the total, complete and unfettered discretion of juries.

I think, as I say, that it is a terribly poor system. I did not prevail in my debates with my allies on my own side of the aisle or with my friend from West Virginia. I cannot remember what the views of my friend from Connecticut are on the subject. So we have a form of control which is not a cap. The Senator from West Virginia is entirely correct with respect to that; however, nothing with respect to requiring a company or an individual to pay its full share of the damages that it has caused, whether noneconomic or economic.

Mr. President, this bill is about people. I spoke yesterday, and speak again today, briefly, about young Miss Tara Ransom in the State of Arizona who has spoken to Senator MCCAIN and to people in my office about her silicon-based shunt for hydrocephalus.

The great and deep concern that she and thousands of others have about the availability of a medical device, which has literally given her life and made that life worth living, is that it is increasingly unavailable due to a present system of absolutely uncontrolled and unlimited punitive damages.

The next to the last paragraph in the article about this young lady from Arizona reads:

> The good news is that there are reform efforts underway in Arizona and at the Federal level. The Senate is planning to vote, as early as today, on legislation to place reasonable limits on punitive damages and eliminate unfair allocations of liability in all civil cases. This would protect all Americans —not just the manufacturers of medical products, but also small businesses, service providers, local governments, and non-profit groups. Above all, it would save children like Tara.

This is about American business, and competitiveness, and low prices for products. But it is even more about the people who use those products.

Finally, Mr. President, we get this nonsense about drunk drivers, this utter nonsense about the drunk drivers. Well, of course, nothing in this bill has anything to do with suing drunk drivers. The implication that it has something to do with suing the people who supply them with alcohol negligently, the so-called dram stop situation—well, this bill specifically says, ''A civil action for negligent entrustment shall not be subject to the provisions of this section but shall be subject to any applicable State law.''

That argument, Mr. President, is pure nonsense. This is a product liability bill. It is not a negligent entrustment bill. It has nothing to do with someone who deliberately sells a gun to someone to kill a third person, or deliberately allow someone to become drunk and is sued under dram stop statutes at all. It does have to do with product liability, with people like Tara Ransom, with companies like Cessna, with those who manufacture devices and therapeutic drugs, and a myriad of other products for the American people. It does have to do with giving them a better deal than the present system does, which is a lottery for plaintiffs and a bonanza for those who represent them.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, I yield the distinguished Senator from Alabama 15 or more minutes, as he may require.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. HEFLIN. Mr. President, I just found out that Senator ROCKEFELLER is going to vote for the conference report. Senator GORTON has said that Senator ROCKEFELLER could never vote for a bill if it had a cap in it, a definite cap. And as I read it—now, maybe he can, in some way or another, explain this language —we have a language on page 10 of the report relating to punitive damages. First, the language in the report says the ''greater'' of two times the sum of the amount awarded to a claimant for economic loss and noneconomic loss, or $250,000. That is not a definite cap because the amount of economic loss and noneconomic loss is a variable. But language immediately thereafter says, ''special rule.'' This applies to the rule on punitive damages for small businesses where these corporations have 25 employees or less. I might add that this language applies also to individuals. The ''special rule'' provides that punitive damages shall not exceed the ''lesser'' of two times the economic loss and noneconomic loss, or $250,000. So punitive damages cannot exceed, in any event, $250,000. So that is a definite, established cap.

I am not going to hold Senator ROCKEFELLER to that since he did not make the statement to me. He must have made that statement to Senator GORTON who is present on the floor. I would not want to put him in an embarrassing situation. But I think this special rule shows very definitely that there is a cap in the bill.

Now, that also points out that a lot of language in this bill is slyly inserted, and so craftily placed, that I think some of its key features have escaped a great number of people's attention. That is true with regard to the biomaterials provision. The biomaterials provisions, to which Senator LIEBERMAN refers regarding raw materials, also contains language regarding component parts. There are numerous implants that have component parts. I mentioned before that I have a pacemaker which has numerous component parts. There is a battery, and there are various wires that go down into the chambers of the heart that causes electrical charges to emit; it has various sensors and a computer that records the history of my heartbeats over a period of time. When doctors check it, they can check and see whether or not there was some unusual rhythm or unusual activity taking place. Basically under the provisions of title II, on an implant that has component parts, there is complete immunity in regard to the supplier of the component parts, or the raw materials of an implant.

Now, there is an exception in the event the manufacturer of the component part is also the manufacturer of the entire device or also the seller. But most medical devices are made from component parts, such as the batteries, and people furnish those separately. Title II gives complete immunity to suppliers with no chance to even discover whether or not there was any negligence on the part of the supplier. It is interesting to see where the crafty language is written. It indicates that ''implant'' means—and this is the definition on page 17 of the conference report—

> a medical device that is intended by the manufacturer of a device to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days, or to remain in contact with bodily fluids, or internal human tissue through a surgically produced opening for a period of less than 30 days.

Well, what is less than 30 days? I would assume that less than 30 days could mean 2 seconds or 1 second. It is very craftily designed. What is a surgically produced opening? Well, there is no definition in here, but a surgically produced opening would appear to me to be an opening in which you use surgical tools. Of course, that would mean that you normally think of a knife, of a scalpel, or of something like that. But what about intravenous materials, one of these locks where you tie it into you? You have devices where they put it in and out of your body, and they can put fluids into the body such as a blood transfusion. Consider a hypodermic needle—is that a surgical tube?

You have a situation where we find that title could have some applicability with a blood transfusion. We should consider where a blood transfusion occurs, and we know that blood has to be highly inspected and is subject to the highest standard of care because of AIDS and other matters. This bill is designed toward an interpretation that could mean that AIDS in blood is subject—where someone has made a mistake, who has been negligent or otherwise—to the provisions and the limitations and protections that are put within this bill.

It is very carefully crafted, as I pointed out yesterday, in inserting a comma in the definitions section of durable goods, now within the purview of the report is any type of a product that has a life of more than 3 years—baby cribs, lawn mowers, toasters, or virtually any type of kitchen appliance.

There are a great number of provisions in the bill that disturb me, in particular, the way that they are designed to favor the manufacturer or the seller, and it puts the injured party at such a disadvantage. For example, there is the misuse or alteration provision, which provides that in a product liability action, the damages of a defendant will be reduced by the percentage of responsibility for a claimant's harm attributable to the misuse or alteration. But I see problems where there could phantom defendants—the phantom defendants where there is nobody there to be held responsible—and they can try to invoke the several liability provisions in the report as to noneconomic damages. These phantoms are the ones that are all at fault and there is nobody left responsible for a claimant's injury.

Then we have a situation in regard to employer and coemployee, as to whether or not they might have misused or

altered, or were at fault. So, in order to leave the impression on the jury, this bill requires that that be the last issue that is presented to a jury, because when they leave and go back to the jury room to decide, that is the last thing that they heard. So they are trying to put it off—the negligence or the lack of responsibility on the part of the manufacturer—and impose it on someone else and to give it to that person just as he goes into the jury room as the last thing that they hear that will be predominantly on their mind. Is that fair to the claimant?

There are numerous other aspects of that which disturb me. I suppose one of the things that I just cannot understand at all in regard to this is how—if it is good for the goose, why is it not good for the gander? And they exempt business losses. One business suing another business can bring his suit for commercial losses, losses of profit, unlimited amount, unlimited amount relative to punitive damages, and different statutes of limitation.

The Uniform Commercial Code, I assume, is uniform everywhere. I understand there are a few differences in it. But in our State in Alabama, you have a 4-year statute of limitations in regard to the Uniform Commercial Code. The conference report imposes a shorter 2-year statute of limitations.

The Senate-passed bill contained an exception to the 2-year statute-of-limitation provision stating that if a civil action under the bill is stayed or enjoined, the statute of limitation is suspended or tolled until the end of the injunction. That provision was deleted from the conference report. Is that fair? I think not.

I yield the floor.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. GORTON. How much time remains?

The PRESIDING OFFICER. Thirty-four minutes.

Mr. GORTON. How much of that time does the Senator from Connecticut request?

I yield 15 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair. I thank my friend from the State of Washington.

Mr. President, I have been thinking as I listened to the debate this morning, and what preceded it yesterday and before that, that there is a way of thinking around the Capitol that is not the way of thinking that I hear back home in Connecticut. It is what I call either-or. You know if an idea is put forward by a Republican, no Democrat shall be for it. If an idea is put forward by a Democrat, no Republican should be for it, or, in this case, if something is good for business, it has to be bad for consumers. That does not figure, particularly if you look at the overall effects of this bill.

What I want to contend here is that because of the extraordinary work done by Senators GORTON and ROCKEFELLER, and by the conferees from the Senate and the House, this is a win-win bill.

This is a bill that is good for consumers and good for business. In that sense, it is good for our country overall.

There is a way in which the opponents to the legislation approach it with such skepticism, turning every word in the most potentially damaging light and not considering the intentions of the sponsors and the authors and the record that we have tried constantly to build on the floor.

Everybody in America knows, at least most everybody knows, that our civil justice system is not working well. I do not think anybody really can stand up and defend the status quo of the litigation system in America. Nothing is wrong with it. That is preposterous. The average person on the street—I stop them in Hartford, New Haven, Bridgeport—knows that lawsuits take too long; that people do not get justice in a timely fashion; that too much of the money goes to lawyers. They know that.

I think the question is, how are we going to make it better? Why should we make it better? Because of the specific problems and shortcomings of the current system I just referred to and also because the public, the people have as little faith as the people of our country do today in our system of justice. That is a profound problem that goes beyond tort reform and anything else. It strikes at the very heart of people's faith in the Government they have. Lord knows, we know they have enough lack of confidence in the legislative branch, maybe some in the executive, but it goes to the judicial as well.

I honestly believe, deeply believe that this bill—moderate, modest, sensible, small, incremental reform—is a step in the direction of beginning to restore some faith in the system, making it work for people who are injured and making sure that it does not destroy faith in the system by punishing people who are not guilty and letting those who are guilty often off without being punished.

So I say this is win-win. It is good for business and it is good for consumers. It will create jobs by removing a deterrent to innovation and investment. It will reduce consumer prices by making litigation less expensive. If 20 percent of the costs that we are paying for a ladder is litigation-related costs, the cost of that ladder is going to go down if we can reduce that litigation cost some, and it goes on and on throughout the system.

I wish to talk particularly again about this biomaterials section of the bill of which I am a cosponsor. It comes from something that is very real that is threatening something very good. The very real element here is that there is an unnatural shortage of raw materials. Judge HEFLIN referred to it. Thank God, Judge HEFLIN is healthy and well today because of the pacemaker he has. He is one of 8 million people who have benefited from medical implants of one kind or another. The device is put together by a manufacturer but it takes parts they buy from people who do not make these parts particularly for this purpose. They are not making much money on selling those parts. Batteries are one. The information I put into the RECORD yesterday shows that one of the manufacturers of batteries—a couple actually—used in pacemakers have stopped selling to the manufacturers of pacemakers because they are afraid they are going to get sued for something that is not their fault. They would just as well sell the batteries to somebody else where the chance of a lawsuit is not as great. They are not worried about the negligence. They are worried about what it is going to cost them if they get tied up in a lawsuit.

In the debate there is such skepticism expressed about these medical devices and pharmaceutical companies, et cetera. Sometimes when I look back and read history and I say, now, how far have we really come; how much better is the human race? I wonder if we have ascended very far in the way in which we deal with one another.

However, there is one way we can objectively show that there has been extraordinary progress in human experience and that is in our health. We are living longer. You can see it year-by-year. We are up, I guess, in the mid-seventies now in terms of average lifespan. A lot of that has to do with pharmaceuticals, these wonder drugs that have been invented. And a lot of it has to do with these medical devices that we are trying to protect by making sure that the manufacturers can continue to get the parts, the materials and the component parts, and are not frightened out of supplying those parts because of the fear of lawsuits.

I said yesterday, when I talked about the allegations, the opponents of this bill keep lighting fires around the periphery to sort of stop people from voting for the bill. Those of us who support it put out one or two fires and there are three more burning over here. And one of the fires has been lit about how this bill would affect the existing breast implant procedure. I said at length yesterday—I will not repeat it today—the bill will not impact this procedure. This is prospective, only affects people who may file claims later. Breast implants are not being done any more. They were stopped by the FDA, except for a small number of clinical trials in 1992.

With regard to new products, you cannot escape liability under the biomaterials section of this bill, if you are not just a supplier but you are a manufacturer or a seller or what you have done is negligently done in the sense that it violates either the contract requirements that the manufacturer has given you for the raw material or component part, which obviously would be for a part or material

that is not negligently made, or the specifications for that part that are issued as part of the approval process. Every one of these medical devices has to go through the FDA before it can be sold and used to benefit people.

Senator GORTON has spoken about one young girl and the extraordinary benefit to her life from the shunt that was put in her brain. We had testimony at a hearing I conducted from a Mr. Martin Reily of Houston, TX, about his young child, Thomas, who was discovered when he was 8 months old to have water on the brain, hydrocephalus. Mr. Reily said:

Jane and I will never forget the Saturday in late October 1985, when we learned that Thomas had hydrocephalus. We initially were told that based on the level of fluid accumulated on his brain and the resulting pressure, he would surely have brain damage, probably severe. Surgery to place a shunt in Thomas was scheduled for the first thing Monday morning [2 days later]. The hours from late Saturday to Monday morning were the longest and darkest we have ever experienced.

The thought of waiting even 1 day to have the surgery was almost unbearable, for each minute that passed the pressure was building in Thomas' head, which could further damage him. . . .

On Monday morning, Thomas received a shunt. Within hours, he was showing improvement. His lethargy disappeared. He was alert. He smiled again for the first time in weeks and even stood up in his hospital crib. Within 36 hours, we were back home with the new Thomas. How different the outcome would have been for Thomas that day without the availability of the medical device he so desperately needed.

What a miracle. Mr. Reily continues:

Six months after his original surgery, Thomas' shunt clogged and required revision. In the 6 hours that Thomas waited for his shunt revision surgery, he became violently ill, vomiting continuously and finally becoming semi-comatose. Mercifully, his revision was successful and immediately he regained his old form, laughing and smiling while playing games in his hospital bed. Again, how different yet predictably sad and final would have been Thomas' fate without this medical device. As I reflect on Thomas' brief life, I see a child who has already overcome a lifetime of medical difficulties.

* * * * *

Early on, Thomas' mother and I went through a grieving process. We were grieving for the death of our vision of our perfect child. It was not until we let that vision go that we were able to see something much more beautiful; a young boy with an indomitable yet loving spirit who will not let his personal medical setbacks defeat him. I think that must be surely God's spirit living inside him.

Mr. Reily concluded:

So I stand before you today, as the guardian of that spirit, as Thomas' father, beseeching you to do everything in your power to ensure that the biomaterials necessary for Thomas' medical implant device be readily available and of the highest quality. For some time in the future, perhaps next month or next year, Thomas will wake me in the middle of the night to tell me that his head hurts and that he thinks his shunt has broken. He will ask if we can go to the hospital to get a new one right away. I pray I will be able to give him the only acceptable answer.

It is remarkable testimony. We had other testimony that day from a most impressive woman, Peggy Phillips, who has worked for awhile as chief of congressional affairs for the Air Force Surgeon General, going to law school in the evening, getting home at 10 p.m., working until midnight, and so on, office work, very busy. ''However, on November 26, 1986,'' as she says, ''my life changed. I am told that I collapsed as I walked from my office to my car. I stopped breathing. I had no pulse. I had no blood flow to my brain, I was clinically dead.''

The story ends happily. She agreed to have an automatic implantable cardioverter defibrillator put into her stomach.

''Following a few minor adjustments,'' she says, ''life with the AICD has not been much different than before.'' She goes on to document changes that have occurred, and appeals to us to make sure that some of the simple parts of that AICD, which keeps her going, monitors her heartbeat, gives her a shock when there is a danger that her heart is going to stop, keeping her alive—that flow of materials is not going to stop.

These are consumers. Does this help business? It helps the businesses that make the medical devices; it helps Thomas Reily; it helps Peggy Phillips; it helps 8 million other people who are going to be kept alive, allowed to live normally by these devices.

Earlier this morning my friend from California made some references about the impact of this legislation—somewhat on breast implant cases which I have spoken to earlier—but on women generally. I do want to put into the RECORD a statement here. I am going quote from it.

Phyllis Greenburger, who is the executive director of a group called the Society for the Advancement of Women's Health Research, testified on April 4, 1995, to that same Senate subcommittee, that, ''* * * the current liability climate is preventing women from receiving the full benefits that science and medicine can provide. That,'' she says, ''is the reason I am here before you today.''

She went on to say:

. . . there is evidence that maintaining the current liability system harms the advancement of women's health research.

She completed her testimony by stating:

Manufacturers of raw materials, unwilling to risk lawsuits, are limiting, and in some cases, terminating the sale of their product for use in an implantable medical device. . . . The threat to health is further magnified in cases where suitable substitute materials are not available.

Women may be disproportionately impacted by such a shortage simply because they live longer than men, and as a result, suffer more from chronic disease, increasing their chances of needing a medical device, such as hip or joint replacements. For those of us currently in good health, the loss of these substances seems inconsequential. Yet for those like Peggy Phillips . . . [Whom I spoke of before] and others suffering from osteoporosis, heart disease, rheumatoid arthritis, and other diseases, access to a full range of medical devices is crucial.

I wonder if I might ask the Senator from Washington for 5 more minutes?

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. The Senator from Nebraska also wishes to speak on our side. Will the Senator from Connecticut settle for 2?

Mr. LIEBERMAN. I will settle for 3.

Mr. GORTON. Fine.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. LIEBERMAN. A study by the Committee for Contraceptive Development, jointly staffed and administered by the National Research Council and the Institute of Medicine, found that only one major U.S. pharmaceutical company still invests in contraceptive research. Why? The study blamed the legal climate, fear of lawsuits, for this situation. H.R. 956, this bill before us, would make these drugs and other medical devices more available.

We have said over and over again, this bill protects the right of an injured plaintiff to get full recovery for damages, cost of medical care, loss of wages, any other provable item. It goes beyond, and says you can get recovery for noneconomic losses, intangibles like pain and suffering, from those who are responsible for the negligence.

It simply puts a small limit on punitive damages. In doing so, yes, it helps some businesses expand, provide the miraculous products I have talked about, sell products for less; but it helps millions of other people. In a way, the beneficiaries of this legislation are not so visible. That is why I read from this testimony. But they, and millions and millions of others of them, are counting on us to pass this bill to bring balance and trust back to our legal system.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, let me just for a minute respond.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I will yield to the distinguished Senator from Nebraska.

The distinguished Senator from Connecticut is very persuasive and I wanted to answer these pleading comments about ''walking down the street'' and ''everybody knows the litigation system is in disrepair.'' Absolutely false, with respect to the civil justice system.

We have all seen the O.J. case and that jury of 12 let him go. But the American public jury did not let him go. Everybody knows that.

We have, here, just this past week, March 18, U.S. News & World Report:

In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was ''bruised but not disfigured,'' lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death.

In another case:

Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps.

Come on. I ask unanimous consent to have this list of cases printed in the RECORD

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. We are all disturbed about the criminal court system. But not, where the distinguished Senator from Connecticut served as the majority leader in the State legislature of Connecticut, he acts—''walking down the street,'' that he is the only one walking down the street talking.

Come on. We even had one former member went up as Governor and pull an income tax on the people of Connecticut, Governor Weicker. The people of Connecticut will respond, with leadership. And they do have a product liability statute in that State.

But these folks come and talk about fair. ''Yes, I hope I can certainly get this shot so I can continue breathing.'' I mean, grown folks, men and women in the U.S. Senate, acting like this? That case would be thrown out. Talking about what is not good for the consumer, good for business.

I ask unanimous consent to have printed in the RECORD ''Suing For Safety.'' It is by Thomas Lambert, Jr. I ask to have this printed in the RECORD, included with the ''Stupid Court Tricks.'' Include them both.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. HOLLINGS. Mr. President, that ''Suing for Safety'' gives case after case after case where it had not been good for the consumer. The consumer had to get a trial lawyer, had to go before 12 jurors in his community, had to go up on appeal and pay all the court costs and finally get a verdict.

Why is it good for the consumer and good for the business? On account of product liability. We have it at the State level, and it is working. That is why I put that case in the RECORD.

We know what business does. Some businesses will cut corners, they will not give warnings, they try to save money. Everybody knows there were a few dollars in the Pinto case. Now we see time and again, week after week, recalls. They just recalled one of my cars to put another safety device on.

Why do you think that was done? On account of the trial lawyers. Product liability. That is why they have done it, and everybody in the Senate knows it. But the little poll says get rid of the lawyers, like Dick the Butcher in Henry VI, ''Kill all the lawyers.'' That is a popular thing.

So that is what we have. I reserve the remainder of my time.

EXHIBIT 1

[From U.S. News & World Report, Mar. 18, 1996]

STUPID COURT TRICKS

(By John Leo)

Some judges and some judges' decisions are better than others. Here are some others:

In New York City, a movement is under way to impeach Criminal Court Judge Laurin Duckman. A 33-year-old woman sought court protection from a former boyfriend, a convicted rapist, who had attacked her three times. Despite the beatings, Judge Duckman coolly noted that the woman was ''bruised but not disfigured,'' lowered bail in the case and suggested that the man would stop bothering the woman if she gave back his dog. Three weeks later, the man shot her to death. In another domestic violence case, Judge Duckman allowed a beater to go free hours after a jury had found him guilty. Last month, the man was charged with another attack on the same woman.

North of the border, the loopiest judicial decision of the year came when the Canadian Supreme Court ruled that drunkenness was a defense against rape charges. It ordered a new trial for a Montreal man who had been convicted of sexually assaulting a 65-year-old woman in a wheelchair. The court predicted that the alcohol defense would be rare, but within weeks drunks and addicts were being acquitted across Canada. Sanity prevailed, however. Parliament passed a law banning the drunkenness defense.

Judge Rosemary Barkett, a Clinton appointee, has brought sexual harassment litigation into the fifth grade. Writing for the majority on the 11th Circuit Court of Appeals last month, she said that the mother of a fifth grader who was repeatedly pestered by another fifth grader could sue the school district under Title IX of the 1972 Education Amendments. In a recent dissent in another case, Barkett implied that a statute requiring drug tests for some state jobs in Georgia may violate the First Amendment by seeking to keep persons ''who might disagree with the current policy criminalizing drug use'' out of government.

Another Clinton appointee, Judge Harold Baer, caused a spreading uproar with his colorful botching of a drug case. Police in a high-activity drug area at 5 a.m. noticed a slowly moving car with out-of-state plates. The car stopped, the driver popped the hood of the trunk and four men placed two large duffel bags inside. When police approached, the men moved away rapidly in different directions. One ran. Police searched the trunk and found 80 pounds of cocaine. The driver, a Michigan woman, confessed in a 40-minute videotaped statement, saying that this was just one of more than 20 large drug buys she had made in Manhattan. But Judge Baer ruled that police had conducted an unreasonable search. What about the men bolting from the scene? Since residents in the area regard cops as corrupt and abusive, opined the judge, it would have been unusual if the men hadn't run away, so fleeing was no cause for a search. In other words, the perps had reason to be suspicious of police, but police had no reason to be suspicious of the perps. Since the confession stemmed from the search, Baer threw it out. The prevailing New York opinion: Judge Baer is an idiot.

Can the state legally confiscate the property of innocent people? The U.S. Supreme Court said yes this month in a Detroit case. A 5-to-4 ruling allowed confiscation of a 1977 Pontiac half-owned by a woman after her husband was arrested for having sex with a prostitute in the car. The Wayne County prosecutor's office had sued to confiscate the car under Michigan's public nuisance statutes. In a dry dissent, Justice John Paul Stevens said that until this case, no state had ''decided to experiment with the punishment of innocent third parties.''

In a notably tortured decision, the federal 10th Circuit Court of Appeals ruled that a male prisoner who wishes to become a female is not entitled to get hormone injections at public expense under the 14th Amendment, but he may be entitled to them under the Eighth Amendment, which bans cruel and unusual punishment.

Much egg on is on the faces of federal judges of the Fourth Circuit Court of Appeals for their handling of the Rodney Hamrick case. While serving prison time for threatening the life of President Reagan, Hamrick built five bombs and threatened to blow up a courthouse, an airplane and NAACP headquarters. While serving more time for threatening to kill the judge in his case, he built and mailed a bomb to a U.S. attorney who had prosecuted him. The bomb fizzled, scorching the envelope but not detonating. Hamrick was convicted, but a three-judge panel of the Fourth Circuit reversed the conviction on grounds that the bomb was not a deadly or dangerous weapon because it had been badly built. This decision flew in the face of a relevant Supreme Court ruling that even an unloaded gun could be considered dangerous. For some strange reason, Solicitor General Drew Days did not request a rehearing on the Hamrick ruling by all the judges of the entire Fourth Circuit. But the judges decided to do so on their own, and they narrowly upheld Hamrick's conviction. Eight judges thought that the faulty bomb qualified as dangerous, while six judges disagreed. No word yet from Drew Davis. Is anybody in charge here?

EXHIBIT 2

[From the Trial magazine, November 1983]

SUING FOR SAFETY

(By Thomas F. Lambert, Jr.)

It has been well and truly said, ''If you would plant for a year, plant grain; for a decade, plant trees; but if you would plant for eternity, educate a man.'' For nearly four generations, ATLA has been teaching its men and women, and they have been demonstrating to one another, that you can sue for safety. Indeed, one of the most practical measures for cutting down accidents and injuries in the field of product failure is a successful lawsuit against the supplier of the

flawed product. Here, as well as elsewhere in Tort Law, immunity breeds irresponsibility while liability induces the taking of preventive vigilence. The best way to make a merchant responsible is to make him accountable for harms caused by his defective products. The responsible merchant is the answerable merchant.

Harm is the tort signature. The primary aim at Tort Law, of the civil liability system, is compensation for harm. Tort law also has a secondary, auxiliary and supportive function—the accident prevention function or prophylactic purpose of tort law—sometimes called the deterrent or admonitory function. Accident prevention, or course, is even better than accident compensation, an insight leading to ATLA's longstanding credo: ''A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below.''

As trial lawyers say, however, ''If you would fortify, specify.'' The proposition that you can sue for safety is readily demonstratable because it is laced and leavened with specifics. They swarm as easily to mind as leaves to the trees.

ACCIDENT PREVENTION THROUGH SUCCESSFUL SUITS IN THE PRODUCTS LIABILITY FIELD

(1) Case for Charcoal Briquets Causing Death from Carbon Monoxide. Liability was imposed on the manufacturer of charcoal briquets for the carbon monoxide death and injury of young men who used the briquets indoors to heat an unvented mountain cabin. The 10-pound bags read, ''Quick to Give Off Heat'' and ''Ideal for Cooking in or Out of Doors.'' The manufacturer was guilty of failure to warn of a lethal latent danger. Any misuse of the product was foreseeable because it was virtually invited. Next time you stop in at the local supermarket or hardware store, glance at the label on the bags of charcoal briquets. In large capital letters you will find the following: ''WARNING. DO NOT USE FOR INDOOR HEATING OR COOKING UNLESS VENTILATION IS PROVIDED FOR EXHAUSTING FUMES TO OUTSIDE. TOXIC FUMES MAY ACCUMULATE AND CAUSE DEATH.'' Liability here inspired and exacted a harder, more emphatic warning, once again reducing the level of excessive preventable danger.

(2) Case of the Exploding Cans of Draino. When granular Drano is combined with water, its caustic soda interacts with aluminum, another ingredient in its formula and produces intensive heat converting any water into steam at a rapid rate. If the mixture is confined, the pressure builds up until an explosion results. The manufacturer's use of a screw-on top in the teeth of such well known hazard was a design for tragedy. The expectable came to pass (as is the fashion with expectability). In Moore v. Jewel Tea Co., a 48-year-old housewife suffered total blindness from the explosion of a Drano can with a screw-on top, eventuating in a $900,000 compensatory and $10,000 punitive award to the wife and a $20,000 award to her husband for loss of conjugal fellowship.

A high school chemistry student could see that what was needed was a ''flip top'' or ''snap cap'' designed to come off at a pressure of, say, 15–20 pounds per square inch. After a series of adverse judgments, the manufacturer substituted the safer flip top. Of course, even the Drano flip top will be marked for failure if not accompanied by adequate testing and quality control. Capers involved a suit for irreversible blindness suffered by 10-year-old Joe Capers when the redesigned flip top of a can of Drano failed to snap off when the can fell into the bathtub and the caustic contents spurted 8½ feet high impacting Joe in the face and eyes with resulting total blindness. The shortcomings in testing the can with the reformulated design cost the company an award of $805,000. As a great Torts scholar has said, ''Defective products should be scrapped in the factory, not dodged in the home.''

Drayton v. Jiffee Chemical Corp., is a grim and striking companion case to the Drano decisions mentioned above, and it underscores the same engineering verities of those cases: the place to design out dangers is on the drawing boards or when prescribing the chemical formula. A one-year-old black girl suffered horrendous facial injuries, ''saponification'' or fusion of her facial features, when an uncapped container of Liquid-Plumr was inadvertently tipped over. At the time of the accident, this excessively and unnecessarily caustic drain cleaner was composed of 26 percent sodium hydroxide, i.e., lye. No antidote existed because, as the manufacturer knew, Liquid-Plumr would dissolve human tissue in a fraction of a second. To a child (or any human being) a chemical bath of this drain cleaner could be as disfiguring as falling into a pool of piranha fish. Liquid-Plumr, mind you, was a household product, which means that its expectable environment of use must contemplate the ''patter of little feet,'' as the children's hour in the American home encompasses 24 hours of the day.

At the time of marketing this highly caustic drain cleaner, having made no tests as to its effect on human tissue, within the existing state of the art, the defendant could have reformulated the design to use 5 percent potassium hydroxide which would have been less expensive, just as effective and much safer. After some 59 other Liquid-Plumr injuries were reported to defendant, it finally reformulated its design to produce a safer product. In Drayton the defendant was allowed to argue in defense and mitigation that its management was new, that it had learned from its prior claims and litigation experience and that it had purged the enterprise of its prior egregious misconduct.

To open the courtroom door is often to open a school door for predatory producers.

(3) Case of the Tip-Over Steam Vaporizer. A tip-over steam vaporizer, true to that ominous description, was upset by a little girl who tripped over the unit's electric outlet cord on the way to the bathroom in the middle of the night. The sudden spillage of scalding water in the vaporizer's glass jar severely burned the 3-year-old child. The worst injuries in the world are burn injuries. The cause of the catastrophe was a loose-lidded top which could have been eliminated by adopting any one of several accessible, safe, practical, available, desirable and feasible design alternatives, such as a screw-on or child-guard top. The truth is that the manufacturer, Hankscraft, had experienced a dozen prior similar disasters. In the instant case, the little girl recovered a $150,000 judgment against the heedless manufacturer, impeaching the vaporizer's design because of lack of a screw-on or child-guard top. When the manufacturer, with icy indifference to the serious risks to infant users of its household product refused to take its liability carrier's advice to recall and redesign its loose-lidded vaporizer, persisting in its stubborn refusal when over 100 claims had been filed against it, the carrier finally balked and refused to continue coverage unless the company would recall and redesign. Then and only then did Hankscraft stir itself to redeem and correct the faulty design of its product, thereafter proudly proclaiming (and I quote), ''Cover-lock top protects against sudden spillage if accidentally tipped.'' Once again Tort Law had to play professor and policeman and teach another manufacturer that safety does not cost: It pays. Under what might be called the Cost-Cost formula, the manufacturer will add safety features when it comes to understand that the cost of accidents is greater than the cost of their prevention. The Tip-Over Steam Vaporizer case is the most graphic example known to use showing that corporate management can be recalled to its social responsibilities by threat of stringent liability, enhanced by deserved civil punishment via punitive damages, and that belief in such a proposition is more than an ivory tower illusion.

A good companion case to the Tip-Over-Steam-Vaporizer case, serving the same Tort Touchstone of Deterrence, is the supremely instructive Case of the Remington Mohawk 600 Rifle. While a 14-year-old boy was seeking to unload one of these rifles, pushing the safety to the ''off'' position as required for the purpose, the rifle discharged with the bullet entering the boy's father's back, leaving him paralyzed and near death for a long time. The agony of his guilt, his feeling that he was to blame for his father's devastating injuries, pressed down on the boy's brow like a crown of thorns and almost unhinged his sanity. Assiduous investigation by the family's lawyer unearthed expert evidence of unsafe design and construction and lax quality control of the safety selector and trigger assemblies of the Mohawk 600.

The result of the exertions of the plaintiff's lawyer, deeply and redoubtedly involved in challenging the safety history of the rifle model, was a capitulation by Remington and an agreement to settle the father's claim (he was a seasoned and successful defense trial lawyer) for $6.8 million. Remington also wrote the son a letter, muting some of his anguish by stating that the weapon was the whole problem and that he was in no way responsible for his father's injuries. Then, facing the threat of cancelled coverage from its carriers for skyrocketing premiums in the projection of other multimillion dollar awards, Remington commendably served the public interest by announcing the recall campaign in which we see another electrifying example of Tort Law litigating another hazardous product feature from the market.

Remington's nationwide recall program affected 200,000 firearms; notices in newspapers and magazines similar to this one that appeared in the January 1979 issue of Field and Stream cut back on the harvest of hurt and heartbreak: ''IMPORTANT MESSAGE TO OWNERS OF REMINGTON MODEL 600 AND 660 RIFLES, MOHAWK 600 RIFLES, AND XP–100 PISTOLS. Under certain unusual circumstances, the safety selector and trigger of these firearms could be manipulated in a way that could result in accidental discharge. The installation of a new trigger assembly will remedy this situation. Remington is therefore recalling all Model 600 rifles except those with a serial number starting with an 'A' . . . Remington recommends that prior to any further usage of guns included in the recall, they be inspected and modified if necessary. [Directions are then given for obtaining name and address of nearest Remington Recommended Gunsmith who would perform the inspection and modification service free of charge.].''

Tort Law forced Remington to look down the barrel and see what it was up against. Once again Tort Law was the death knell to excessive preventable danger.

For a wonderfully absorbing account of the Mohawk 600, see Stuart M. Speiser's justly praised Lawsuit (Horizon Press, New York, 1980) 348–55.

(4) Case of MER/29, the Anti-Cholesterol Drug Which Turned out to Cause Cataracts. Many trial lawyers will recall the prescription drug MER/29 marketed for its benign and benevolent effect in lowering blood cholesterol levels and treating hardening of the

arteries but which turned out to have an unpleasant and unbargained-for effect on users, the risk of causing cataracts. As Peter DeVries recently observed, ''There is nothing like a calamity to help us fight our troubles.'' Blatant fraud and suppression of evidence from animal experiments were proved on the manufacturer's part in the marketing of this dangerous drug. Who did more—the federal government or private trial lawyers—in getting this dangerous drug off the market and compensating the numerous victims left in its wake? The question carries its own answer. The United States drug industry has annual sales of 16 billion dollars per year, while the Food and Drug Administration has an annual budget of 65 million dollars to oversee all drug manufacture, production and safety. How can the foothills keep the Alps under surveillance? Worse, as shown by the MER/29 experience, enforcement of the law in that situation, far from being vigorous and vigilant, was lame, limp and lackluster. It was only private suits advanced by trial lawyers that furnished the real muscle of enforcement and sanction, compensation for victims, deterrence of wrongdoing, and discouragement of corporate attitudes toward the public recalling that attributed to Commodore Vanderbilt.

As to the indispensible role and mission of the trial lawyer in Suing for Safety, it should not be overlooked that the current Administration has moved to sharply restrict the regulation of product safety by the Consumer Product Safety Commission. The 1982 budget for the commission was reduced by 30 percent in the first round of Reagan Administration budget cuts and is marked for further cuts in the future.

As the Thalidomide, MER/29, Dalkon Shield, Asbestos, DES, Slip-into-Reverse Transmissions and Fuel Tank scandals have been starkly revealed, we have crime in the suites as well as crime in the streets. Corporate culpability calls for corporate accountability, and our society has developed no better instrument to encourage socially responsible corporate behavior than the vehicle of adverse judgments beefed up by punitive damages. In the MER/29 situation, for example, the criminal fines levied on the corporate producer and its executives were slap-on-the-wrist trivial when contrasted with the deterrent impact of punitive damage awards in current uncrashworthiness cases where flagrant corporate indifference to public safety was established.

Our leading scholar in the field of punitive damages, writing with verve and virtuosity on that subject, concluded in 1976 that punitive damages awards should be permitted in appropriate products liability cases. Writing in 1982 with the same unbeatable authority, Professor David G. Owen traces the ferment and developments of doctrine in the ensuing years and then delivers a conclusion informed by exhaustive research, seasoned reflection, and an obvious morality of mind. ''I remain convinced of the need to retain this tool of legal control over corporate abuses. . . .''

(5) Case of the Infant Who Died from Drinking Toxic Furniture Polish Where Manufacturer Failed to Warn Mother to Keep Toxic Product out of Reach of Children. This is the celebrated case of Spruill v. Boyle-Midway, Inc., in which a 14-month-old child reach over from his crib and pulled a doily off a bureau, causing a bottle of Old English Red Oil Furniture Polish, manufactured by the defendant, to fall into the toddler's crib. During the few minutes his mother was out of the room, the baby got the cap off the bottle and drank a little bit of the polish. He was dead within two days of resulting chemical pneumonia. The bottle had a separate warning about combustibility in letters ⅛ inch high, but only in the midst of other text entitled ''Directions'' in letters 1/32 inch high did it say ''contains refined petroleum distillates. May be harmful if swallowed, especially by children.'' The mother testified that she saw the warning about combustibility but did not read the directions because she knew how to use furniture polish. In a negligence action against the maker, the jury found that both defendant and the baby's mother were negligent and awarded wrongful death damages to the child's father and siblings but not to the mother. The Fourth Circuit in keeping with the grain of modern authority held that it was irrelevant that the child's ingestion of the toxic polish was an unintended use of the product. The jury could properly find that in the absence of an adequate warning to the mother that she could read and heed—to keep the polish out of the reach of children—such misuse of the product was a foreseeable one. The defect was to be tested not only by intended uses but by foreseeable misuses.

The jury could find that the manufacturer's placement of the warning was designed more to conceal than reveal, especially in view of the grater prominence given the fire warning (⅛ of an inch compared to the Lilliputian print, 1/32 of an inch, as to the contents containing ''refined petroleum distillates''). The poison warning could be found to fall short to what was required to convey to the average person the dangerous nature of this household product. The label suggested that harm from drinking the polish was not certain but merely possible, while experts on both sides agreed that a single teaspoon would be lethal to children.

The warning in short could properly be found to be inadequate—too soft, mispositioned and not sufficiently eye-arresting. Defendant admitted in answer to interrogatories that it knew of 32 prior cases of poisoning from ingestion of its ''Old English Red Polish.''

Did the imposition of liability in this seminal Spruill case supra stimulate, goad or spur the manufacturer to take safety measures against the foreseeable risk of ingestion by innocent children? A trip to the local hardware store a couples of days ago reveals that Old English Red Oil Polish now sports the following on its label: ''DANGER HARMFUL OR FATAL IF SWALLOWED. COMBUSTIBLE. KEEP OUT OF REACH OF CHILDREN. SAFETY CAP.''

An error is not a mistake unless you refuse to correct it.

(6) Case Holding Manufacturer of PAM (Intended to Keep Food from Sticking to Cooking Surfaces) Liable for Death of Teen-Ager from Inhalation of PAM's Concentrated Vapors. Harless v. Boyle-Midway Div. of Amer. Home Products, involved an increasing number of teenagers who were dying of a ''glue-sniffing syndrome,'' inhaling the concentrated vapors of PAM, a household product intended to keep food from sticking to cooking surfaces. Originally, the manufacturer used only a soft warning on the can's label: ''Avoid direct inhalation of concentrated vapors. Keep out of the reach of children.'' However, to the knowledge of defendant, the children continued sniffing and dying. Then the manufacturer, as an increasing number of lawsuits were pressed upon it for the preventable deaths of such children, changed the warning on its labels. shifting to harder warning: ''CAUTION: Use only as directed, intentional misuse by deliberately concentrating and inhaling the contents can be fatal.'' This was, of course, a much harder and more emphatic warning. The Fifth Circuit held that it was reversible error to exclude plaintiff's evidence (in an action for the wrongful death of a PAM-sniffing 14-year-old) that no deaths had occurred from PAM sniffing after the defendant had hardened its warning by warning against the danger of death, the ultimate trauma.

On remand the jury brought in a verdict for the boy's estate in the amount of $585,000 with an additional finding by the jury that the lad's administrator was entitled to an award of punitive damages. Prior to the punitive damages suit, the case was settled for a total of $1.25 million. It was uncontested that prior to the lad's death the manufacturer knew of 45 inhalation deaths from foreseeable misuse of its product, and upon remand admitted to an additional 68 from the same expectable cause.

If you will examine the label on the can of PAM on your shelf, as the writer has just done, you will find: ''WARNING: USE ONLY AS DIRECTED. INTENTIONAL MISUSE BY DELIBERATELY CONCENTRATING AND INHALING THE CONTENTS CAN BE HARMFUL OR FATAL.'' Once again the pressures of liability stimulated a producer to avoid excessive preventable dangers in its product's use by strengthening its warning label, thereby enhancing consumer protection.

(7) Case of the Poisonous Insecticide Holding That Warnings Must Contain Appropriate Symbols. Such as Skull and Crossbones, Where Manufacturer knows That Product May Be Used by Illiterate Workers (Spanish-Speaking Imported Puerto Rican Laborers) Who Would Not Understand English. This is the salutary holding in the celebrated case of Hubbard-Hall Chem. Co. v. Silverman. The First Circuit upheld judgments entered on jury verdicts for the wrongful death of two illiterate migrant farm workers who were imported by a Massachusetts tobacco farmer and killed by contact with a highly toxic insecticide manufactured and distributed by defendant. Even though the comprehensive and detailed danger warnings on the sacks fully complied with label requirements of the Department of Agriculture, the jury could properly find that because of the lack of a skull or crossbones or other comparable symbols the warning was inadequate. Use of the admittedly dangerous product by persons who were of limited education and reading ability was within the range of apprehension of the manufacturer. While evidence of compliance with governmental regulations was admissible, it was not decisive. Governmental standards are ''minimums,'' a floor not a ceiling, and so far as adequate precautions are concerned, federal regulations do not oust the possibly higher common-law standards of the Commonwealth of Massachusetts.

The steady, unflagging pressures of litigation against the inertia, complacency and moral obtuseness of manufacturers have not only resulted in enhanced safety in the field of conscious design choices (substituting child-guard screw-on tops on tip-over steam vaporizers or over-the-axle fuel tanks for those mispositioned more vulnerably in front of the axle or adding rear-view mirrors to blind behemothic earth-moving machines whose design obstructs the vision of a reversing operator, etc.) But also in inducing product suppliers to reduce marketing defects in the products they sell by strengthening the adequacy of the instructions and warnings that accompany their products set afloat in the stream of commerce.

The net effect of such benign and beneficial litigation has been to improve the adequacy and efficacy of the educational information given to consumers by producers via improvements in the conspicuousness of warnings given; making them more prominent, eye-arresting, comprehensive, complete and emphatic; placing the warnings in more effective locations; avoiding ambiguous warning; extending warnings to the safe disposition of the product; and avoiding any dilution of the warnings given. In short, the

bottom line, as indicated in the cited representative sampling of cases, is that successful lawsuits operate as safety incentives to ''inspire'' product suppliers to furnish instructions and warnings that are in ratio to the risk and in proportion to the perils attending foreseeable uses of the marketed products.

Here, too, we see the conspicuous usefulness of the lawsuit as the weapon for ferreting out marketing defects, whether ingenious or ingenuous, in selling dangerously defective products.

(8) Case of Marketing Carbon Tetrochloride Using Warnings Found to Be Inadequate Because Inconspicuous. Suppose a defendant sells carbon tetrachloride and places on all four sides of the can, in large letters, the words ''Safety Kleen,'' and then uses small letters (Lippiputian print) to warn of the serious risk of using the cleaning fluid in an unventialated place (of places the fine print warning only on the bottom of the can). It requires no tongue of prophecy to predict that this warning will be found inadequate because too inconspicuous. It was so held in Maize v. Atlantic Refining Co. Not only was the warning inadequate because not conspicuous enough, but the representation of safety (''Safety Kleen'') operated to dilute, weaken, and counteract the warning. Moreover, in Tampa Drug Co. v. Wait, the court upheld a judgment for the wrongful death of a 38-year-old husband who died from carbon tetrachloride poisoning after using a jug of the product to clean the floors of his home. While the label warned that the vapor from the liquid was harmful and that prolonged breathing of it or repeated contact with the skin should be avoided and that the product should only be used in well ventilated areas, the court with laser-beam accuracy ruled that the warning nonetheless could be found inadequate because of its failure to warn with qualitative sufficiency as to deadly effects or fatal potentialities which might follow from exposure to its fumes.

Decisions such as Maize and Wait supra were the prologue and predicate for the action taken by the FDA in 1970, under the Federal Hazardous Substances Act, to ban and outlaw carbon tetrachloride.

Torts archivists know that successful private lawsuits to recover for harm from products simply too dangerous to be sold at all, regardless of the completeness or urgency of the warning given, frequently lead to a recall and reformulation of the product's design or to a decision to ban the product from the market. Life and limb are too important to trade off against unmarketed inventory.

(9) Case of the 8-Year-Old Boy Who Choked to Death from Strangling on a Quarter-Inch Rubber Rivet, Part of a Riviton Toy Kit Given Him for Christmas. This case will indeed rivet the attention (in the sense of attract, fasten and hold) of concerned citizens who wish to understand how the threat of liability operates as a spur to safety on the part of product producers. The present example involves a toymaker whose work is indeed ''child's play.''

Parker Brothers, a General Mills subsidiary headquartered some 18 miles north of Boston, had big plans for Riviton. This was a toy kit consisting of plastic parts, rubber rivets and a riveting tool with which overjoyed children could put together anything from a windmill to an airplane. In the first year on the market in 1977, the Riviton set seemed on its way to becoming one of those classic toys that parents will buy everlastingly. However, one of the 450,000 Riveton sets bought in 1977 ended up under the Christmas tree of an 8-year-old boy in Menomonee Falls, Wis. He played with it daily for three weeks. Then he put one of the quarter-inch long rubber rivets into his mouth and choked to death. Ten months later, with Riveton sales well on their way to an expected $8.5 million for the year, a second child strangled on a rivet.

What should the company do? Just shrug off the two fatal child strangulations, ascribe the deaths to freakish mischance, try to shift the blame to parental failure to supervise and police their children at play, or assign responsibility to the child's abnormal misuse or abuse of their product? Could not the company cap its disavowal of responsibility by a bromidic disclaimer that, ''After all, peanuts are the greatest cause of strangulation among children and nobody advocates the banning of the peanut.''

However, as manufacturers, Parker Brothers well knew that they would be held liable to an expert's skill and knowledge in the particular business of toymaking and were bound to keep reasonably abreast of scientific knowledge, discoveries and hazards associated with toys in their expectable environment of use by unsupervised children in the home. The toymaker knew that the Riveton set must be so designed and accompanied by proper instructions and warnings that its parts would be reasonably safe for purposes for which it was intended but also for other uses which, in the hands of the inexperienced, impulsive and artless children, were reasonably foreseeable. When you manufacture for children, you produce for the improvident, the impetuous, the irresponsible. As a seasoned judge put it: ''The concept of a prudent child, God forbid, is a grotesque combination.'' Much must be expected from children not to be anticipated when you are dealing with adults, especially the propensity of children to put dangerous or toxic or air-stopping objects into their mouths. The motto of childhood seems to be: ''When in doubt, eat it.'' Knowledge of such childish propensity is imputed to all manufacturers who produce products, especially toys, which are intended for the use of or exposure to children. Cases abound to document this axiom.

Recently, Wham-O Manufacturing Co. of San Gabriel, Calif., voluntarily recalled its Water Wiggle, a garden hose attachment that drowned a child when it jammed in its throat. Still more recent, Mattel, Inc. of Hawthorne, Calif., initiated a recall of missiles fired by it Battlestar Gallactica toys when a 4-year-old boy inhaled one and died. The manufacturer of a ''Play Family'' set of toy figurines would have been well advised to pull from the market and redesign the small carved and molded figures in the toy set, intended for children of the teething age. A 14-month-old child swallowed one of the toy figures 1¾″ high and ⅞″ in diameter, and before it could be extricated from his throat at a hospital's emergency room, the child was reduced to vegetable status as a result of irreversible brain damage from the toy's windpipe blockage of air supply to the brain. The manufacturer's dereliction of design and lack of product testing were to cost it a $3.1 million jury verdict for the child and his parents.[24]

Against the marketing milieu and the legal setting sketched above, what should be the proper response of Parker Brothers, manufacturers of the Riviton toy set, when its executives learned of the second child's death from strangulation on the quarter-inch rubber rivet in the toy kit? Should they have tried to tough it out or luck it out in the well known lottery called ''do nothing and wait and see''? The company was sensitive not only to the constraints of the law (liability follows the marketing of defective products), but also to the imperatives of moral duty and social responsibility, and the commercial value of an untarnished public image. Parker Brothers decided to halt sales and recall the toy. As the company president succinctly stated, ''Were we supposed to sit back and wait for death No. 3?''

Business, the Frenchman observed, is a combination of war and sport. Tort Law pressures business to realize how profitless it may provide to war against children or to trifle and jest with their safety. The commendable conduct of Parker Brothers in this case is one of the most striking tributes we know to the deterrent value and efficacy of Tort Law and the example would make a splendid case study for the nation's business schools.

(10) Case of the Recycling Washing Machine That Pulled Out a Boy's Arm. In Garcia v. Halsett, the plaintiff, an 11-year-old boy, sued the owner of a coin-operated laundromat for injuries inflicted while he was using one of the washing machines in the launderette. He waited several minutes after the machine had stopped its spin cycle before opening the door to unload his clothing. As he was inserting his hand into the machine a second time to remove a second handful of clothes the machine suddenly recycled and started spinning, entangling his arm in the clothing, causing him serious resulting injuries. The evidence was clear that a common $2 micro switch—feasible, desirable, long available—would have prevented the accident by automatically shutting off the electricity in the machine when the door was opened. The reviewing court held the launderette owner strictly liable for defective design because the machine lacked a necessary safety device, an available micro switch. Shortly thereafter the defendant obtained 12 of these micro switches and installed them himself on the machines. Once again, the threat of tort liability serves to deter—the prophylactic purpose of Tort Law at work. The deterrent function of Tort Law is not just an idea in the air; it has landing gear, has come down to earth and gone to work.

SUMMARY

The foregoing 10 cases and categories are merely random and representative examples, not intended to be complete or exhaustive, of the deterrent aim and effect of Tort Law in the field of product failure or disappointment.

It needs to be emphasized that the preventive aim of Tort Law is pervasive and runs like a red thread throughout the entire corpus of Torts. For example, the private Tort litigation system has served, continues to serve, as an effective and useful therapeutic and prophylactic tool in achieving better health care for our people by discouraging and thereby reducing the incidence of medical mistakes, mishaps and ''misadventures.'' An error does not become a mistake unless you refuse to correct it. For example, successful medical malpractice suits have induced hospitals and doctors to introduce such safety procedures as sponge counts, electrical grounding of anesthesia machines, the padding of shoulder bars on operating tables, and the avoidance of colorless sterilizing solutions in spinal anesthesia agents. Remember, the fraudulent butchery practiced on defenseless patients by the notorious Dr. John Nork was not unearthed, pilloried or ended by the vigilant action of hospital administrators, peer review groups, or medical societies but by successful, energetically pressed malpractice actions prosecuted by trial lawyers in behalf of the victimized patients.

So we come full circle and end as we began: Accident Prevention Is Better Than Accident Compensation: ''A Fence at the Top of the Cliff Is Better Than an Ambulance in the Valley Below.'' A successful lawsuit and the pressures of stringent liability are one of the most effective means for cutting down on excessive preventable dangers in our risk-beleaguered society.

My hero in the foregoing chronicle of good lawyering has been the hard-working trial lawyer with his care, commitment and concern for public safety, the civil religion of us all.

He more than any other professional has proved that we can indeed Sue for Safety. My tribute to him is in words Raymond Chandler used to salute his hero: ''Down these mean streets a man must go who is not himself mean, who is neither tarnished nor afraid.''

PRODUCT LIABILITY DOES NOT EXTEND TO NEGLIGENT ENTRUSTMENT

Mr. ROCKEFELLER. Will the Senator from Washington yield for a question about the applicability of the bill?

Mr. GORTON. Yes, I would be glad to do so.

Mr. ROCKEFELLER. Mr. President, we have been seeing a lot of paper about this conference reports' effects on so-called dram shop laws which allow victims of drunk driving crashes to seek recovery from those individuals or establishments who negligently sell, or serve, alcoholic beverages to persons who are intoxicated or to minors who subsequently kill or injure someone while driving under the influence.

Mr. GORTON. Yes, we have. I believe those laws can be valuable and help enhance highway safety and antidrunk driving initiatives, as well as encourage the responsible service of alcoholic beverages. Section 104 of the conference report is an example of a provision in the very bill we are considering which tries, in a small way, to discourage alcohol and drug abuse in this country. Section 104 tells persons that, if they are drunk or on drugs and that is the principal cause of an accident, they will not be rewarded through the product liability system.

Mr. ROCKEFELLER. I agree. I am troubled that I continue to hear opponents of product liability reform, claim that these laws will be adversely affected by the proposed legislation.

Mr. GORTON. The short response, Senator, is these laws will not be adversely affected or affected in any way. The Senate Commerce Committee report, which has been adopted as the legislative history of the conference report, states unequivocally at page 25, footnote 90:

[T]he provisions of the Act would not cover a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a ''straw man'' fronting for children or felons. These actions would not be covered by the Act, because they involved a claim that the product seller was negligent with respect to the purchaser and not the product. Such actions would continue to be governed by state law.

Clearly, H.R. 956 will not in any way affect State law regarding the liability of those individuals who serve additional alcohol to persons who are obviously under the influence. Similarly, H.R. 956 will not affect State law regarding the liability of a product seller who fails to exercise reasonable care in selling a weapon, such as a handgun, to a minor or known criminals. The legislation also will not affect State law regarding the liability of a rental agency that fails to exercise reasonable care by renting an automobile to someone who, at the time, is obviously unfit to drive.

Mr. ROCKEFELLER. Mr. President, I think we should say to our colleagues that the product seller provision's application does not mean that these cases will be affected.

Mr. GORTON. The Senator is absolutely correct, these cases are not affected. First and foremost, this is a product liability bill and it applies to product liability actions. Product liability actions generally involve harm caused by alleged product defect.

As all are aware, the harm in cases involving drunk drivers is often severe, indeed, and may even mean the death of an innocent person or a child. It is important, however, to avoid the misleading arguments by those who oppose legal fairness and who intentionally attempt to confuse product liability actions, which are covered by the conference report, with negligent entrustment cases, which are not covered by the legislation. As in the past, they use attention-getting, but totally irrelevant examples, such as drunk driving cases and gun violence.

Mr. ROCKEFELLER. And that remains true, regardless of the fact that the applicability section of the conference report, says that the act applies to ''any product liability action brought in any State or Federal Court on any theory for harm caused by a product.'' Is that not right?

Mr. GORTON. The reason for this broad definition is to assure that the bill covers all theories of product liability, such as negligence, implied warranty, and strict liability. It is not broadly defined in order to extend to cases beyond product liability, and certainly not to extend the bill to cases involving negligent entrustment, such as in cases involving the sale of alcohol to an obviously intoxicated individual or the sale of a gun to a known felon.

Mr. ROCKEFELLER. Mr. President, section 103 of the bill, the so-called product sellers provision, imposes liability when a product seller fails to exercise reasonable care with respect to a product. If a tavern owner fails to exercise reasonable care in selling alcohol to an intoxicated person, would that case be subject to the bill?

Mr. GORTON. No. The case against the tavern owner is based on the tavern owner's action; it is not based on an alleged defect in the product, that is, the alcohol. Cases in which a tavern owner sells alcohol to an intoxicated person involve negligent entrustment and are not subject to the provisions of the conference report; State law continues to apply.

To hold that such laws were affected by the bill would be a clear and obvious misconstruction of the bill. To make this clear, one only need look to the acts covered by product sellers in the conference report. This appears in the definition of product seller, which is set forth in sections 101(11)(B), 101(16)(A). H.R. 956 is applicable to product sellers, ''but only with respect to those aspects of a product (or component part of a product) which are created or affected when before placing the product in the stream of commerce.'' The definition then addresses those things where the product seller ''produces, creates, makes, constructs, designs, or formulates * * * an aspect of the product * * * made by another.'' This is classic product liability and simply does not apply to the negligent tavern owner.

Mr. ROCKEFELLER. And would you agree with me that the ''product sellers'' provision, as it applies to rented or leased products (section 103(c)(2)) in the conference report which states that a '''product liability action' means a civil action brought on any theory for harm caused by a product or product use,'' cannot be interpreted to mean use of alcohol, or use of a gun?

Mr. GORTON. The Senator is correct. First, the clarification is only included in the rented or leased products portion of the product seller provision. Thus, by way of example, in a situation where a car rental agency has exercised reasonable care with respect to maintaining and inspecting a vehicle, for example, the brakes, the engine, or the tires, and the person who shows up at the desk to rent the vehicle has an impeccable driving record, does not appear unfit to drive, and has a valid driver's license. The renter then takes the car and is subsequently involved in an accident. The product use language in section 103(c)(2) holds that the rental company cannot be held vicariously liable for the negligence of the renter simply because the company owns the product and has given permission for its use.

In contrast, if the rental agency rented a car to an obviously intoxicated person and that person was in a subsequent accident, then the rental agency would have been negligent in renting, or in negligently entrusting, the car to the person who was, at the time, obviously intoxicated. As spelled out clearly in the legislative history, ''Such actions would continue to be governed by State law,'' and are not subject to H.R. 956.

Thus, even in the renter and lessor context, the distinction comes down to whether the seller was negligent as to the product, such as by failing to inspect the brakes, or negligent as to the person, such as by renting to a person with no driver's license and a notorious criminal record. H.R. 956 covers product liability actions; it does not cover negligent entrustment actions.

Mr. ROCKEFELLER. Thank you for that discussion. I hope it will help counter some of the misinformation that has been circulating regarding this provision. Is there any special provision of the bill that emphasizes what you have said here today?

Mr. GORTON. In fact, in order to address these very concerns you have

thoughtfully raised, Senator, the product seller section specifically provides that the conference report does not cover negligent entrustment or negligence in selling, leasing or renting to an inappropriate party. Section 103(d) expressly states: ''A civil action for negligent entrustment shall not be subject to the provisions of this Act, but shall be subject to any applicable State law.'' Frankly, I believe this provision is superfluous, and for this reason, it does not matter if, or where the provision appears in the conference report.

In sum, the product liability bill covers product liability, not negligent entrustment or failure to exercise reasonable care with regard to whom products are sold, rented or leased. H.R. 956 clearly would not cover ''a seller of liquor in a bar who sold to a person who was intoxicated or a car rental agency that rents a car to a person who is obviously unfit to drive or a gun dealer that sells a firearm to a 'straw man' fronting for children or felons.''

Mr. ABRAHAM. Mr. President, I rise today in support of H.R. 956, a bill to reform product liability law.

A few months ago, the 104th Congress took the first momentous step toward legal reform. Over President Clinton's veto, we passed H.R. 1056, a bill to reform securities litigation.

This legislation will significantly curb the epidemic of frivolous lawsuits that are diverting our Nation's resources away from productive activity and into transaction costs.

In passing H.R. 956, the Senate will be taking an equally important second step on the road toward a sane legal regime of civil justice.

Our current legal system, under which we spend $300 billion or 4.5 percent of our gross domestic product each year, is not just broken, it is falling apart.

This is a system in which plaintiffs receive less than half of every dollar spent on litigation-related costs. It is a system that forces necessary goods, such as pharmaceuticals that can treat a number of debilitating diseases and conditions, off the market in this country.

This is a system in which neighbors are turned into litigants. I was particularly struck by a recent example reported in the Washington Post. This case involved two 3-year-old children whose mothers could not settle a sandbox dispute—literally, a pre-school altercation in the sandbox—without going to court.

Something must be done about this situation and this litigious psychology, Mr. President, and this bill puts us on the road to real, substantive reform.

It institutes caps on punitive damages, thereby limiting potential windfalls for plaintiffs without in any way interfering with their ability to obtain full recovery for their injuries.

It provides product manufacturers with long-overdue relief from abusers of their products.

And it protects these makers, and sellers, from being made to pay for all or most non-economic damages when they are responsible for only a small percentage.

First, as to punitive damages. No one wants to see plaintiffs denied full and fair compensation for their injuries. And this bill would do nothing to get in the way of such recoveries.

Unfortunately, punitive damages have come to be seen as part of the normal package of compensation to be expected by plaintiffs. George Priest of the Yale Law School reports that in one county, Bullock, AL, 95.6 percent of all cases filed in 1993–94 included claims for punitive damages.

Punitive damages are intended to punish and deter wrongdoing. When they become routine—one might say when they reach epidemic proportions—they end up hurting us all by increasing the cost of important goods and services.

For example, the American Tort Reform Association reports that, of the $18,000 cost of a heart pacemaker, $3,000 goes to cover lawsuits, as does $170 of the $1,000 cost of a motorized wheelchair and $500 of the cost of a 2-day maternity hospital stay.

We can no longer afford to allow this trend to continue. I am glad, therefore, that this bill begins to cap punitive damages—although in my judgment it only makes a beginning in that area.

I am particularly glad that the bill imposes a hard cap of $250,000 on punitive damages assessed against small businesses—the engine of growth and invention in our Nation.

Of course, punitive damage awards are not the only things increasing the costs of needed products.

Throughout the debate over civil justice reform I have been referring to the case of Piper Aircraft versus Cleveland. I use that example because it shows how ridiculous legal standards can literally kill an industry—as they did light aircraft manufacturing in America—and cost thousands of American jobs.

In Piper Aircraft, a man took the front seat out of his plane and intentionally attempted to fly it from the back seat. He crashed, not surprisingly, and his family sued and won over $1 million in damages on the grounds that he should have been able to fly safely from the back seat.

These are the kinds of decisions we must stop. Drunken plaintiffs, plaintiffs who abuse and misuse products—plaintiffs who blame manufacturers and sellers for their own misconduct—should not be rewarded with large sums of money. They may deserve our concern and sympathy, but we as a people do not deserve to pay for their misconduct through the loss of entire industries.

I am happy that this bill establishes defenses based on plaintiff inebriation and abuse of the product because I believe these defenses will benefit all Americans.

Finally, it seems clear to me that no manufacturer should be held liable for non-economic damages which that individual or company did not cause.

In its common form, the doctrine of joint liability allows the plaintiff to collect the entire amount of a judgment from any defendant found partially responsible for the plaintiff's damages.

Thus, for example, a defendant found to be 1 percent responsible for the plaintiff's damages could be forced to pay 100 percent of the plaintiff's judgment.

This is unfair. And the unfairness is aggravated when noneconomic damages are awarded.

Noneconomic damages are intended to compensate plaintiffs for subjective harm, like pain and suffering, emotional distress, and humiliation.

Because noneconomic damages are not based on tangible losses, however, there are no objective criteria for calculating their amount. As a result, the size of these awards often depends more on the luck of the draw, in terms of the jury, than on the rule of law. Defendants can be forced to pay enormous sums for unverifiable damages they did not substantially cause.

This bill would reform joint liability in the product liability context by allowing it to be imposed for economic damages only, so that a defendant could be forced to pay for only his proportionate share of noneconomic damages.

As a result, plaintiffs would be fully compensated for their out-of-pocket losses, while defendants would be better able to predict and verify the amount of damages they would be forced to pay.

This reform thus would address the most pressing concerns of plaintiffs and defendants alike.

Mr. President, problems will remain with our civil justice system after this bill is made into law—if this bill is signed by President Clinton and made law.

Charities and their volunteers will remain unprotected from frivolous lawsuits.

Our municipalities will remain exposed to profit-seeking plaintiffs.

And the nonproducts area of private civil law in general will remain unreformed—3-year-olds and their mothers may still end up in court over a sandbox altercation.

In the last session I and some of my colleagues fought for more extensive, substantive, and programmatic reforms to our civil justice system. These were consistently turned back.

I believe at this point it is time for us to consider more neutral, procedural reforms, such as in the area of Federal conflicts rules, to rationalize a system we cannot seem to tame.

But I am certain, Mr. President, that this bill marks an important step toward a fairer, more reasonable and less expensive civil justice system.

This is why I am frustrated that President Clinton has threatened to veto this bill.

The President has stated repeatedly that he would support balanced, limited product liability reform. He has been singularly unhelpful in his opposition to more far-reaching reforms that would do more for American workers and consumers. But he has claimed that he would support product liability reform.

Now the President is claiming that this legislation is somehow ''unfair to consumers.''

Mr. President, is a system in which fifty-seven cents of every dollar awarded in court goes to lawyers and other transaction costs fair to consumers of legal services?

Is it really pro-consumer to have a system in which, as reported in a conference board survey, 47 percent of firms withdraw products from the marketplace, 25 percent discontinue some form of research, and 8 percent lay off employees, all out of fear of lawsuits?

Please tell me, Mr. President, are consumers helped by a system in which, according to a recent Gallup survey, one out of every five small businesses decides not to introduce a new product, or not to improve an existing one, out of fear of lawsuits?

The clear answer, I believe, is that consumers are hurt by our out-of-control civil justice system, a system which makes them pay more for less sophisticated and updated goods.

I respectfully suggest that President Clinton look beyond the interests of his friends among the trial lawyers to the interests of the American people as a whole.

If he looks to that interest he will find a nation hungry for reform, yearning to be freed from a civil justice system that is neither civil nor just, seeking protection from egregious wrongs, but not willing to sacrifice necessary goods, important public and voluntary services, and the very character of their communities to a system that no longer produces fair and predictable results.

If we in this chamber consult the interest of the people, Mr. President, we will pass this bill. If President Clinton consults that primary interest, he will sign the bill and make it law.

Mr. President, I yield the floor.

Ms. SNOWE. Mr. President, for those who were becoming skeptical, the conference report before us demonstrates that bipartisanship is still alive and well in the U.S. Congress.

First, I would like to express my appreciation to those who have contributed so greatly to the completion of this legislation—not only in the 104th Congress, but in some cases for more than a decade. The chairman of the Commerce Committee, Senator PRESSLER, has been instrumental in shepherding this legislation from the committee, to the Senate floor, into conference, and now back to the Senate floor. Also, Senator ROCKEFELLER and Senator GORTON—whose commitment and leadership on this issue have been unsurpassed in the Senate, and without whose efforts we would not be voting on this conference report today—were invaluable in crafting this legislation.

As I stated during the markup of S. 565 in the Senate Commerce Committee, and later during consideration of the bill on the floor of the Senate, I believe there is a compelling case for product liability reform in this country.

I firmly believe the legislation the Senate adopted early last year was a critical and long overdue first step to reforming an area of law that touches each and every one of us as consumers in America. Therefore, I am now eager to see a well-conceived and balanced bill accomplishing this goal enacted during the 104th Congress. It is a goal I think we can and should reach. I believe the conference report before us is well-conceived and balanced, and am particularly pleased that it contains the punitive damage cap I offered, and which was adopted, during consideration of the Senate bill.

In my statement on product liability on the floor of the Senate many months ago, I established my own personal checklist of critical issues I believed this legislation ought to address to make the bill fair, equitable, and effective. That is now also true for this conference report.

First, we must allow safe consumer products to be developed to meet consumer needs, and ensure that consumers can seek reasonable compensation when injuries and damages occur.

Second, the law must dissuade consumers from filing frivolous lawsuits, without discouraging Americans who have substantive complaints from filing legitimate suits.

Third, a uniform law must encourage companies to police the safety of their own products—both by providing incentives for excellence in safety and strong punishment when product safety is breached.

Last, and perhaps most importantly, one of our fundamental goals must be to ensure that this legislation protects the interests of the average American consumer who makes hefty use of products, but knows little of their innate safety or risk.

I believe that this conference report—like the Senate-passed bill—meets these criteria. One component of this conference report that I considered crucial to fulfilling these requirements is the cap on punitive damages.

To understand the issue of a punitive damage cap, I think it is valuable to remember what punitive damages are—and are not. I believe this issue is particularly important before today's vote because of recent reports in various news sources that have confused a cap on punitive damages with a cap on pain-and-suffering, or a cap on economic damages.

Punitive damages are punishment that serve an invaluable role in deterring quasi-criminal behavior by businesses. They have nothing to do with providing compensation to a person who has been harmed and are not intended in any way to make the plaintiff. That purpose is served by compensatory damages, which provide recovery for both economic damages—which include lost wages and medical expenses—and noneconomic damages, which include pain and suffering and other losses, such as those cased by the loss of one's sight, appendage, or reproductive organs.

One of the overriding problems in our current system is the absence of any consistent, meaningful standards for determining whether punitive damages should be awarded and—if so—in what amounts. The absence of consistent standards not only leads to widely disparate and runaway punitive awards, but it also affects the settlement process. Individuals and companies that are sued often face a catch 22: pay high legal fees to fight a case through trial, verdict, and appeal—or simply settle out of court for any amount less than these anticipated legal fees.

Even for the defendant who recognizes the cost of proving innocence to be too great, or simply hopes to avoid the lottery nature of a possible punitive award—seeking a settlement carries a hidden cost. The lack of a uniform national standard—or simply the existence of vague State standards—forces the defendant to include a punitive premium in their settlements, even when the likelihood of a punitive award is small or even nonexistent. In addition, the high reversal rate of punitive damage awards underscores the absence of clear and understandable rules.

Therefore, in establishing a cap, I considered it vital that the measure we chose be fair, uniform, act as adequate punishment, and serve as an adequate deterrent. I believe a cap based on compensatory damages accomplishes all of these objectives, which is why I fought to include such a measure in the Senate bill. This measure is fair because it is blind to the socioeconomic position of the plaintiff. In addition, because a punitive cap that includes noneconomic damages in its formula is inherently unpredictable, one cannot argue that a business with quasi-criminal intents will be able to predict the ultimate cost of all possible punitive claims and make a financial decision to produce a dangerous product.

At the same time, I do not believe that a cap based on a measure of economic damages alone would accomplish all of these objectives in all circumstances. Although such a measure might serve as adequate punishment and act as an adequate deterrent in many cases, it relies too greatly on the economic position of the plaintiff in establishing a sufficient level of punishment.

While the Senate bill also included an additur provision that allowed the judge to impose a higher punitive damage award in particularly egregious circumstances—and this conference report also includes a modified additur

provision—I believe the measure based on compensatory damages will work for everyone and will subject egregious offenders to strong punishment. This standard is fair and nondiscriminatory. It will apply to all litigants equally—whether you are a man or woman, wealthy or poor, a child or an adult. Therefore, I am particularly pleased that the conference report before us maintains the Snowe amendment on punitive damages. And while I believe that the additur will be proven to be unnecessary due to the inherently even-handed and unpredictable nature of total compensatory damages, I accept its inclusion in the conference report as a means of providing the opportunity for additional punishment in cases where a judge—staying within the parameters set by the jury—deems it necessary.

Mr. President, the bill before us—as outlined by Senators GORTON and ROCKEFELLER—is a targeted bill that brings common sense and reform to one class of lawsuits: those pertaining to product liability. I believe this legislation is sound and will benefit consumers and businesses. As a result, I share the disappointment of other Members of this body in President Clinton's statement that he would veto this bipartisan legislation. At the least, I found it surprising that President Clinton opposes legislation that he endorsed as a member of the National Governors' Association when he was Governor Clinton. I remain hopeful that President Clinton will reconsider his opposition in the coming days. I think a strong bipartisan vote in favor of this legislation is just what the President needs in order to see the light on this issue.

Mr. President, we must be able to show the American people that we not only considered this essential and historic legislation, but that we passed it with strong bipartisan support as well. There is simply no question that, if enacted, this reform will have a positive and wide-ranging impact on millions of Americans. Thank you, Mr. President, I yield the floor.

Mr. COHEN. Mr. President, I continue to oppose the product liability reform bill for two main reasons: it unnecessarily intrudes upon the prerogatives of our State governments and the purported problem the bill attempts to address—the impact of punitive damages—is overstated.

For over two centuries, tort law has been developed by our common law courts and State legislatures. The same is true for our contract law, real property law, insurance law, and a host of other subjects. The core principles of tort law are the same across the country, but each State has adjusted its laws to suit its individual needs, experimented with liability reforms, and attempted to strike a careful balance the interests of business and consumers.

The Federal product liability bill would put an end to this era of local experimentation and adjustment. Instead, it would contribute to the trend of the last half century of centralizing power in Washington. Unfortunately, the product liability bill will be only the first step in this process. Once it is completed other interests will follow with pleas for Federal intervention. And eventually the States will be stripped of yet another area of authority. This trend runs entirely counter to the generally accepted principle that the Federal Government is too big and that more authority should be returned to the States and localities.

Ironically, we are taking this step at a time when the States are vigorously engaged in the topic of tort reform. Just this year, New Jersey, Indiana, Wisconsin, Illinois, and Texas have passed tort reform legislation. In fact, since 1986, 31 States have altered their product liability laws, 30 States limit the amount of punitive damages in some manner and 41 States have changed or abolished the rule of joint and several liability. With this much activity on the state level, there is no justification for this sweeping, intrusive Federal bill.

I also believe that the case for tort reform has been exaggerated. Unfortunately, the debate over this legislation has been driven more by anecdote and horror stories than objective facts. Indeed, the dearth of solid, unbiased research led the Wall Street Journal to conclude last year that ''Truth Is the First Casualty of the Tort-Reform Debate.''

A review of some data collected by the Bureau of Justice Statistics, a neutral arbiter on this topic, demonstrates that runaway jury verdicts are not as great of a problem as the tort reform advocates suggest. The study showed that courts in the 75 largest counties in the country decided 762,000 civil cases in 1992. Punitive damages were awarded in only 364 of these cases—.04 percent. Only 360 of the 762,000 cases involved product liability. Punitive damages were awarded in only three of those cases. And the total amount of punitive damages awarded was only $40,000.

The study also suggests that if we are looking to solve problems with the application of punitive damages, perhaps we should be addressing other areas of the law. Of the cases in which the plaintiff won a jury verdict, punitive damages were awarded in 30 percent of all slander cases, 21 percent of all fraud cases, but only 2 percent of all product liability cases.

I do not deny that there have been abusive cases where excessive awards have been made for minor injuries. But to address this problem, we need to do more to punish attorneys who bring frivolous cases or use the force of the legal system to coerce companies to settle meritless claims. We also need to encourage judges to intervene when juries run amok. Instead of taking these steps, this bill places caps on damages and limits the ability of injured parties to collect judgments imposed against wrongdoers. In essence, it limits the ability of those with meritorious claims to gain full compensation in order to rid the system of shameful cases that should have never been filed in the first place.

In my view, this is an unwise approach that will do damage to our principle of federalism. I will vote against this conference report.

Mrs. MURRAY. Mr. President, I would like to explain why I voted against this product liability conference report.

All of us in this room have heard horrific stories about people who got hurt when they did stupid or silly things with a product and then recovered tremendous amounts of money from innocent businesses. Those few stories have gotten a lot of mileage. They have gotten us to a conference report that takes power from consumers and gives it to corporations.

Mr. President, I am a mother who wants to be responsible for passing laws that improve the chances for my children to live healthy, safe lives. I am glad that victims have used the current State-based product liability laws to force manufacturers to make safe toys, nonflammable pajamas, and cars and trucks that don't explode. The current legal system forced companies to be responsible or face the possibility of significant financial loss.

I also want to be responsible for passing laws that provide the hard working men and women of this country an opportunity to be fully compensated for injuries that are a direct result of products they use in the workplace. This conference report makes it much harder for our workers to recover damages from those responsible for their injuries. It is designed to give advantage to corporations and disadvantage to our workers through its limits on joint liability for noneconomic damages, on punitive damages, and on seller liability, as well as its broadly drawn defenses to liability, such as the statute of repose.

In addition, I want to support legislation that allows our citizens to trust that the medical devices they are receiving are safe. So many women needlessly suffered when the maker of silicone gel breast implants refused to heed initial warning signs that their product was flawed. Today, there is no dispute that there is a strong correlation between silicone breast implants and serious health disorders, including joint and muscle pain, tremors, and autoimmune diseases. And, unfortunately, not all of the victims of these implants are known. For those who have not yet filed, this bill will block them from seeking redress from this grossly negligent company. That is wrong.

Finally, I want to be responsible for legislation that improves our citizens' quality of life. This bill could severely limit lawsuits involving products that damage the environment, such as pesticides and toxic chemicals. In particular, the provision addressing joint and

several liability could make it nearly impossible for victims to receive full and fair compensation for harm caused by a mixture of toxic substances where a victim is unable to prove the percentage of damage caused by each chemical. Especially now, when we see efforts to scale back Government's role in environmental protection, the civil justice system is an even more important mechanism for deterring environmental degradation.

I know that responsible businesses feel threatened by the current system. I believe we should seek to reform and improve our system. But this approach is too sweeping. We need to take smaller steps and make more incremental reforms.

Mr. President, I have voted against this conference report for all of the above reasons. I cannot support a products liability law that shifts power from the States to the Federal Government and takes power away from our children, the elderly and working people and gives it to the companies that produce harmful products.

Mr. DOMENICI. Mr. President, today I am pleased to support the conference agreement on product liability litigation reform—reached after tremendous efforts by my colleagues in both the House and Senate. The Senator from Washington [Mr. GORTON], the Senator from Utah [Mr. HATCH], and the Senator from West Virginia [Mr. ROCKEFELLER] deserve a lot of credit for putting together a thoughtful, bi-partisan approach to solving the problems associated with products liability lawsuits. This is a bill that President Clinton should sign.

I also must commend the House conferees, particularly the distinguished chairman of the House Judiciary Committee, Mr. Hyde, for their willingness to reach a compromise on some of the more controversial provisions in their bill, in order that we could successfully pass a conference report that still will have a positive impact on our products liability litigation system. There are some, and I am among them, who would have liked to see a conference report which went even further on some issues than the agreement we have before us. However, I realize that we would have had a difficult time passing a more expansive and comprehensive legal reform bill. Clearly some reform is better than no reform at all. Our legal system needs it.

I have watched the products liability reform debate over the past several months with great interest. There was a time when many believed that this type of legal reform would not be possible. No one, least of all me, underestimates the power of the trial lawyers to derail even the most reasonable lawsuit reform efforts. Senator DODD and I fought for years to fix our Nation's securities class-action system, and late last year the Congress overrode President Clinton's veto of the bill and enacted comprehensive securities litigation reform. I hope that the President will examine this bill closely, because if he does, the only conclusion he should reach is that this is a reasonable, commonsense approach to reform that is good for the country.

There can be no doubt that our current products liability system extracts tremendous costs from the business community and from consumers. The great expense associated with products liability lawsuits drives up the cost of producing and selling goods, and these costs are passed on to the American consumer. I have heard many tell me about how half of the cost of a $200 football helmet is associated with products liability litigation, and how $8 out of the cost of a $12 vaccine goes to products liability costs. We can no longer afford to require our consumers to pay this tort tax.

Because of the high costs associated with products liability litigation, American companies often find it difficult to obtain liability insurance. The insurance industry has estimated that the current cost to business and consumers of the U.S. tort system is over $100 billion. Insurance costs in the United States are 15 to 20 times greater than those of our competitors in Europe and Japan. Much of this money ends up in the pockets of lawyers, who exploit the system and reap huge fee awards while plaintiffs go under compensated. Meanwhile, businesses which create jobs and prosperity in America suffer.

For companies involved in the manufacture of certain products, like machine tools, medical devices, and vaccines, this means that beneficial products go undeveloped, or after they are developed, they do not make it to the marketplace out of fear of generating a products liability lawsuit. This hampers our competitiveness abroad, and limits the products available to consumers. Harvard Business School Prof. Michael Porter has written about how products liability affects American competitiveness. He has written:

> In the United States . . . product liability is so extreme and uncertain as to retard innovation. The legal and regulatory climate places firms in constant jeopardy of costly, and, as importantly, lengthy product liability suits. The existing approach goes beyond any reasonable need to protect consumers, as other nations have demonstrated through more pragmatic approaches.

In the case of manufacturers of vaccines and other medical devices, the cost of our unreasonable and certainly un-pragmatic products liability litigation system often means that potentially life-saving innovations never make it to the American public. Products liability adds $3,000 to the cost of a pacemaker, and $170 to the cost of a motorized wheelchair. It also has caused the DuPont Co. to cease manufacturing the polyester yarn used in heart surgery out of fears of products liability litigation. Five cents worth of yarn cost them $5 million to defend a case, and DuPont decided that they simply could not afford further litigation costs. Now, foreign companies manufacture the yarn, but will not sell it in the United States out of fear of also being sued. These are products which could save lives and improve the quality of living for all Americans.

In cases where a truly defective product has injured an individual, the litigation process is too slow, too costly and too unpredictable. This bill, because it creates a Federal system of products liability law, will return some certainty to a system that now often undercompensates those really injured by defective products and overcompensates those with frivolous claims.

Those injured by defective products often must wait 4 or 5 years to receive compensation. This leads some victims to settle more quickly in order to receive relief within a reasonable time. Companies often must expend huge amounts of money in legal fees to settle or litigate these long, complicated cases. These again are resources that could be better spent developing new products or improving the designs of existing ones.

I believe that the most important reform in this conference report is the way it treats punitive damages. As their name implies, punitive damages are designed to punish companies and deter future wrongful conduct. They are assessed in these cases in addition to the actual damages suffered by injured victims.

Unfortunately, these damages do not do much, except line the pockets of lawyers. They serve relatively little deterrent purpose and led former Supreme Court Justice Lewis Powell to describe them as inviting ''punishment so arbitrary as to be virtually random.'' Justice Powell wisely has commented that because juries can impose virtually limitless punitive damages, they act as ''legislator and judge, without the training, experience, or guidance of either.'' Justice Powell is absolutely correct, and I applaud the drafters of this bill for dealing with the problems associated with these types of damages.

The Washington Post also agrees that punitive damages reform is necessary. An editorial in support of the conference report printed last week notes that ''there are no ground rules for judges and juries in this area'' and that ''the whole thing is like a lottery, which is terribly unfair.'' The editorial concludes that ''the compromise should be accepted by both houses and signed by the President.''

Reform of punitive damages will return some common sense to the system. Huge punitive damage awards threaten to wipe out small businesses and charitable organizations and I applaud the conferees for providing special protection for these important entities, which are particularly vulnerable to legal extortion by trial lawyers.

By capping the amount of punitive damages available in product liability cases and raising the legal threshold for an award of punitive damages, the conference report will relieve some of

the pressure on even the most innocent defendant to settle or face an award which could potentially bankrupt the company. It however reasonably allows judges some flexibility to go above the cap in truly egregious cases, where increased punitive damages might be warranted.

The conferees also have taken the wise step to reform joint liability, without limiting the ability of plaintiffs to recover their economic damages. The new law will abolish joint liability for noneconomic damages, like pain and suffering, but allows States to retain it for economic damages like hospital bills. This will reduce the pressure on defendants who are only nominally responsible for the injury to settle the case or risk huge liability out of proportion to their degree of fault, while ensuring that injured victims get compensated for their out-of-pocket loss.

The compromise also limits liability in cases where the victim altered or misused the allegedly defective product in an unforeseeable way. It simply is unfair to hold manufacturers liable in cases where consumers use products in ways for which they were not intended. It also is unfair to hold defendants liable in cases where the plaintiff's use of alcohol or drugs significantly contributed to their injury. I am happy to see that the new law will provide an absolute defense in such cases.

Mr. President, as I said earlier, I am no stranger to legal reform. Many of those who are responsible for this important and well-crafted legislation were cosponsors of the securities reform bill Senator DODD and I authored earlier this Congress. Our tort system is badly in need of reform, and the conference report on products liability before us is a step in the right direction. I support it, and I hope that my colleagues and the President will as well.

Ms. MOSELEY-BRAUN. Mr. President, I voted for S. 565, the Senate product liability bill, when it was before the Senate last May, and I support this conference report, which is, in virtually all of its essential provisions, identical to that bill. I supported the bill last year, and I continue to support it now, because I believe that Federal product liability reform makes sense for Americans, and because it makes sense for America.

Lets be clear what product liability reform is and is not about. It is not about an explosion of litigation that our courts physically cannot handle. It is about the chilling effect that product liability judicial decisions in one State can have on businesses across the Nation.

It is not about making it more difficult for Americans injured by products to get justice from those who injured them. It is about reducing the number of frivolous suits and unnecessary legal costs.

It is not about tilting the playing field in favor of business and against consumers or employees. It is about taking a step toward making the playing field more level for consumers, employees and businesses all across this Nation.

And it is not about taking powers away from States in order to disadvantage ordinary Americans. Rather, it is a narrow, carefully crafted approach to reform based on the realities of commerce today.

The basic fact that underlies this bill is that commerce is not local, but national and international. Over 70 percent of what is manufactured in Illinois is sold elsewhere, and Illinois is not unique in that regard. Because commerce is national, and indeed, increasingly international, the laws of any one State are simply not effective in establishing product liability standards for manufacturers in that State. Our Nation's Governors have recognized that fact, which is why the National Governor's Association has three times unanimously approved resolutions supporting Federal product liability reform.

Article I, section 8 of the Constitution grants Congress the power to regulate interstate commerce. Given the interstate and international nature of commerce, and the importance of having a healthy climate for manufacturing here in the United States, reform is essential, both so we can compete successfully in an ever-more competitive world marketplace and so we can generate the kind of economic growth needed to offer every American the opportunity to achieve the American Dream.

Achieving that dream depends on being able to find a good job at good wages, jobs that make it possible for American families to purchase their own homes and to send their children to college, and that suggests a healthy climate for manufacturing—which tends to produce the kinds of jobs Americans want and need—is in our national interest.

The current fragmented product liability system offers less certainty than a casino. That lack of certainty means that the current product liability system imposes costs far greater than the amounts awarded to successful plaintiffs, or the costs involved in defending and pursuing product liability cases. It adds costs to products, even when a company has never been sued, and unnecessary higher costs hurt consumers, and hurt job creation. And, while it is impossible to quantify, there is no doubt that the current product liability system causes some companies not to produce some products. That, too, means fewer good paying manufacturing jobs.

I do not suggest that Americans who might be injured by products should sacrifice their rights to redress for their injuries in order to help our economy generate new, good paying jobs—and this bill does not ask that of any American. But we must all remember that Americans aren't just consumers; they don't have just one interest at stake. Instead of dividing Americans from one another, therefore, we should be working together for the kind of reform that is in all of our interests.

By creating greater certainty, by reducing unnecessary cost, and by addressing the inadvertent chilling effect the current system has on new product creation, product liability reform will help generate new economic growth, and new jobs. And reform will add to the competitiveness of U.S. manufacturing, something that is essential in this ever more competitive world economy.

Some continue to argue that we should leave this issue to the States to address. However, the fact is that, given today's economic realities—and tomorrow's—product liability, no less than health care and other components of our social safety net, is a legitimate and necessary subject for Federal action. And the fact is is that the right kind of product liability reform, like the right kind of health care reform, and the right kind of welfare reform, and expand opportunity, and help create a brighter future for Americans individually and for our Nation collectively.

While this bill is not perfect, I think that, in general, it is the right kind of reform. It will bring greater uniformity to product liability law. It will help cut out the unnecessary costs the current product liability system imposes on businesses, consumers, and employees. And it tries very hard to appropriately balance the competing concerns involved.

I know that some Americans do not share the view that Federal product liability reform is needed, and that there are a number of concerns regarding specific provisions of the bill. I think it is worth noting, however, that the conference report now before us is, with very modest changes, the bill this Senate sent to conference. I ask unanimous consent, Mr. President, that a table comparing the original Senate bill and the conference report be printed in the RECORD at the conclusion of my remarks.

I know the statute of repose has generated some controversy. I would simply point out three things. First, the 15-year statute of repose applies to workplace goods only.

Second, no State with a statute of repose provides a more liberal time period than the one in the conference report; and

Third, the bill permits plaintiffs in every State to file a complaint after she or he discovers or should have discovered both the harm and its cause, a provision that is particularly important to plaintiffs who have trouble identifying the cause of the injury they suffered. For example, a person who developed a cancer many years after exposure to a chemical would be able to file suit anytime up to 2 years after the link between the chemical, and the harm he or she suffered, was identified.

The punitive damages provision has also been controversial. However, this

provision is virtually identical to the bill as it passed the Senate last year. And it is more proconsumer than the laws in about half of the States.

Moreover, the bill does not put a hard cap on punitive damages. For cases involving all but the smallest of businesses, it allows punitive damages to be imposed up to the greater of $250,000 or twice the plaintiff's economic and noneconomic damages, including pain and suffering, and allows the judge in the case to increase the award by up to double those limits—in other words, to go up to four times the plaintiff's economic and noneconomic damages—if necessary ''to punish the egregious conduct of the defendant.'' This approach was modeled on a recommendation made by the American College of Trial Lawyers, and it will permit huge punitive damages awards in cases where such awards are justified by the nature of the conduct and the severity of the harm involved, even when the harm is mostly noneconomic in nature.

As to the concerns regarding joint and several liability, I think it is worth pointing out that the conference report, like the original Senate-passed bill, only eliminates joint and several liability for noneconomic damages. This formulation is already the law in California, and it provides reasonable protection both for plaintiffs and for businesses who have only a minor involvement in the harm suffered by the plaintiff, but who can be held responsible for the entire amount of damages if the other defendants in the case are not able to pay their share of the amount awarded.

It is also worth noting that the conference report does not contain the broad, unjustified preemption of State civil justice systems that was in the House-passed bill, provisions that could of undermined the civil rights of Americans, and which would have almost casually overturned our whole State justice system. And it does not contain the medical malpractice provisions that were in the House bill, provisions that did not and do not belong in a product liability bill.

Moreover, the conference report does not contain the so-called FDA excuse that I strongly opposed in the last Congress. The bill that emerged from conference is the kind of narrow, carefully tailored approach that was needed, and the only approach that I could possibly support.

Mr. President, I said in 1994 that the problems present in our product liability system are problems that this body must address. Last year, when the product liability bill was before the Senate, I reiterated my view that reform is necessary, and I supported S. 565 as a reasonable approach to achieving that necessary reform. The conference report before now before us does not contain the provisions from the House bill that I believe have no place in this legislation. And, as I said at the outset of my remarks, it is close to identical to the bill I voted for last May. I therefore voted for cloture yesterday, and will vote in favor of sending this conference report to the President. I hope he will reconsider his position, and sign it, because enacting this bill into law is in the interest of every American.

Mr. President, I want to conclude by congratulating Senators GORTON and ROCKEFELLER for their leadership in bringing the bill to this point. I particularly want to thank my colleague from West Virginia. He went to great lengths to consult with me, and with other Senators, and to make all of us part of that conference, even though we technically were not among the conferees. I greatly appreciate his commitment to the kind of balanced, narrowly crafted reform that is so greatly needed and so long overdue. I am pleased to have this opportunity to vote with him, and with the other supporters on a set of reforms that are based on common sense, and that make sense for America.

Mr. KERRY. Mr. President, our laws play an important role in fostering a competitive economic environment by establishing ground rules for fair competition and by helping to reduce the costs of doing business. But our laws play an even more critical role in protecting the rights of individuals, workers, and consumers. Congress, therefore, has a special responsibility to ensure that the laws we write are reasonable and fair.

The conference report on H.R. 956, the so-called Common Sense Product Liability Reform Act of l996, fails the ''reasonable and fair'' test.

The conference report, if enacted, will take away the rights U.S. citizens enjoy today in seeking redress for harm caused by unsafe products while giving manufacturers no incentive to produce safer products. This conference report is not fair to the working men and women of this country. It is biased against low-income individuals, women, and the elderly and it is plain dangerous for consumers. The products liability conference report will overturn the laws of every State and, I fear, will do great harm.

Consider that every year thousands of workers are injured or killed as a direct result of defects in products they use in the workplace. For many of them, the tort system is the only recourse for full redress of their injuries. Yet, this conference report will make it harder for workers to hold fully accountable those who cause the injury. The limits on joint liability for noneconomic damages, on punitive damages, on seller liability and the greatly expanded coverage under the statute of repose are all one-sided. Together, these provisions clearly favor wealthy corporations at the expense of working Americans.

The 15-year statute of repose would affect more than one-half of the products claims filed against machine tool manufacturers. Under the conference report, workers injured by defective machinery 15 years after first delivery would be prohibited from seeking to prove in court that even a grossly negligent manufacturer was responsible for their injury. On the other hand, the right of the business to pursue an action against the same manufacturer for commercial loss would be fully preserved.

The conference report would cap punitive damages at $250,000 or two times compensatory damages, whichever is greater, except in cases involving small businesses with fewer than 25 employees, where punitives would be capped at $250,000 or two times compensatories, whichever is the lesser amount. Such limits clearly undermine the deterrent value of punitive damages.

The threat of punitive damages has in part contributed to the recall, discontinuance, or change in the use of many dangerous and defective products, including the Ford Pinto, asbestos, the Dalkon shield, the Suzuki Samurai, heart valves, and silicone breast implants. Punitive damages have also helped make products safer: the redesign of the Jeep CJ–5; adding guards to chainsaws; the replacement of lap-belts with rear-seat three-point safety belts in passenger cars; the use of roll bars on farm tractors; warnings on toxic household chemicals; the use of flame-retardant fabric in children's sleepwear; and the list goes on and on. The conference report will defang the threat inherent in punitive damages.

But perhaps the most disturbing aspect of this legislation is that Ford Motor calculated that it was cheaper under the current tort system to settle rather than to try to protect the lives of every Pinto owner with a recall. The manufacturers of silicone breast implants calculated it was cheaper under the current tort system to continue selling implants that their own sales force reported had leakage problems rather than to alert the more than 1 million women in this country with implants about the danger of the products. Playtex calculated it was cheaper to continue to market its super-absorbent tampon than to try to warn women about the deadly effects of toxic shock syndrome. If Ford Motor, Dow, Playtex, and other major manufacturers failed to take corrective action to make their products safer under the present tort system, there is no reason to expect this conference report will encourage them to act more responsibly.

Would anyone settle for $250,000 in exchange for losing a loved one to death by a product that the manufacturer knew was unsafe? If this conference report becomes law, no one would be able to get even $250,000 because there is not a lawyer in this country who would take the case. No law firm could afford to go up against companies like Ford Motor or Dow or others with their host of attorneys and huge legal budgets and an infinite ability to push motions and appeals to the

limit and slow down the process to their advantage. It just would not happen.

Proponents of this legislation stress that the current tort system is biased against them: they point to insurance rates that disable American manufacturers by forcing them to pay 10 to 50 times more for product liability insurance than their foreign competitors; they claim there is an ''explosion'' in products liability litigation, with uncontrollable punitive damages awards; and they argue that the present system of ''lottery'' liability, where liability differs from state to state, does not enhance the safety of U.S. products. The proponents are wrong on each of these points.

Over the past decade, products liability insurance cost 26 cents per $100 of retail product sales, or about $26 on the price of a $10,000 automobile. Two recent reports by the National Association of Insurance Commissioners confirm there is no ''crisis'' in the cost of product liability insurance. In fact, the Association reported in January 1995 that earned premiums for product liability have steadily dropped from more than $2.1 billion in 1989 to $1.6 billion in 1994—a drop of 26 percent. The Association pointed to shifts to self-insurance and competition in the industry as reasons for the decline, but did not mention tort reform as a factor. Moreover, the Association reported in October 1995 that the premium volume for product liability insurance premiums has remained virtually flat from 1986 through 1994.

The so-called explosion in products cases is another myth. While consumer products are responsible for some 39,000 deaths and 30 million injuries each year, a 1993 study by Boston's Suffolk University Law School and Northeastern University found there were only 355 awards in products suits from 1965 through 1990, and that half of these were overturned or reduced. Indeed, the National Center for State Courts reported that product liability cases accounted for .0036 percent of the total civil case load in 1992, and the Legal Times reported that products claims in Federal courts declined by 36 percent from 1985 to 1991. In my own state of Massachusetts, there were absolutely no punitive damages awarded in products cases; punitive damages are only permitted in wrongful death cases.

The conference report on H.R. 956 will not resolve the problem of 51 different products liability laws in the United States. On the contrary, it will only serve to further complicate the tort system and tilt it strongly in favor of manufacturers and against consumers. The conference report contains only one-way preemption.

The conference report places caps on punitive damages in products cases, yet allows the laws to stand in the 39 States where those laws prohibit punitive damage awards or where they place more restrictions on victims' rights. On the other hand, the conference report does not require that these States award punitive damages.

The conference report preempts State law on misuse or alteration of a product only to the extent state law is inconsistent with the conference report, meaning that the 37 States that provide a complete defense to liability in some cases of product misuse or alteration would not be preempted.

The conference report prohibits lawsuits involving durable goods that are more than 15 years old, but specifically preserves State laws with shorter limitations.

The Products Liability Fairness Act, S. 565, will overturn the laws of every State that enable people who have been harmed by unsafe or faulty products from obtaining full and fair recovery. It will prevent citizens from holding wrongdoers accountable. It will preempt legitimate claims that deserve to be heard. It will strip citizens of their rights and it should be rejected.

I cannot support legislation that would have placed limits on punitive damages for the family of the 5-year-old boy in New Bedford, MA, who died in a house fire after igniting a couch with matches. I cannot support legislation that would have limited damages for the family of the 8-month-old boy who suffered second and third degree burns on his arms, legs and back in a house fire that started when the bedding in his crib was ignited by a portable electric heater that had been placed within 6 inches of his crib to keep him warm.

I surely cannot support legislation that would have limited the liability of the big corporations in Woburn, MA, whose highly toxic pollutants killed and injured children. The Woburn case, in which eight working class families sued two of our Nation's biggest corporations because they suspected the companies had polluted the water supply with highly toxic industrial solvents, took 9 years. The young attorney that pleaded the case spent $1 million of his own money on it. The jury ultimately found one of the companies negligent, and the scientific research done during the 9-year trial demonstrated the link between the industrial solvents in the water supply and human disease. The company is now helping to cleanup the polluted aquifer. The attorney has said that if this bill were law today, he would never have considered the case.

Mr. President, the conference report on H.R. 956 will take away the right every American enjoys today through the jury box to force accountability for dangerous, careless or reckless behavior. In the jury box, every American can bring about positive change. If we take away this fundamental right, we will have compromised our Nation's core values.

The conference report promotes the interests of business at the expense of the rights of consumers. It will create a nightmarish new legal thicket that should be avoided rather than embraced. After we have argued all the complicated points of law, after we have poured over horror story after horror story, the issues boil down to one simple point: this bill is not fair, it is not reasonable and it should be rejected.

Mr. GLENN. Mr. President, I rise in support of this legislation and want to commend the efforts of Senators ROCKEFELLER and GORTON on their work. This legislation has been needed for a long time and I am pleased that we will be taking this positive step forward today.

I have been concerned for years about our current product liability system and I believe that meaningful reform is long overdue. I believe that this bill will benefit both consumers and businesses. Under our current system, manufacturers of products are subject to a patchwork of varying State laws which contribute to unpredictable outcomes. In some cases plaintiffs receive less than they deserve and in others, plaintiffs receive too much. Because of the unpredictability, cases that are substantially similar receive very different results.

The Congress is currently debating the proper role of the Federal Government across a broad range of issue areas. Many believe that functions now conducted at the Federal level should be moved to the States. On this issue I believe that we need a more uniform system of product liability and therefore Federal standards are necessary.

I believe this legislation will improve the competitiveness of our industries which means jobs. I also believe that the biomaterials provisions will help insure that much needed medical devices will remain available to many Americans. Because of liability concerns many products are becoming unavailable. Examples include materials used in heart valves, artificial blood vessels, and other medical implants. In Cincinnati, OH, Fusite, a part of Emerson Electric Co., has been in business since 1943. They supply glass-to-metal sealed hermetic terminals. One terminal body is used by the makers of implantable batteries in heart pacemakers. In 1995, because of the liability concerns, Fusite determined it would no longer supply this product.

The current system is unfair to consumers. Much too much money is spent on litigation rather than compensation and the high cost of product liability insurance means higher costs for consumers.

Without doubt an injured party deserves fair compensation, however the cost of litigation is substantial. More and more is spent on legal fees and less is spent on important areas such as research and development. In some cases manufacturers decide not to invest in or develop new products because of product liability concerns. Ultimately this burden of product liability makes our companies less competitive in world markets than foreign companies.

I have been particularly concerned that as we reform our product liability

laws we do not affect the rights of individuals to bring suits when they have been harmed. On the contrary, it is my intent to bring rationality to a system that has become more like a lottery. For me, legal reform does not mean putting a padlock on the court house door.

There are several very important improvements that this legislation will provide. A statute of repose of fifteen years is established. Joint liability is abolished for noneconomic damages in product liability cases. Defendants are liable only in direct proportion to their responsibility for harm. Therefore, fault will be the controlling factor in the award of damages, not the size of a defendant's wallet.

Another important area is punitive damages. Although I am concerned about the establishment of caps on punitive damages, I believe that the judge additur provision included in the bill will allow for appropriate punitive damages in egregious cases.

Mr. President, not every provision in this legislation is written the way I would have preferred, but I believe that it is significant reform and urge its passage.

Mr. GORTON. Mr. President, I would like to clarify an issue I discussed in a lengthy, and frankly, rather confusing colloquy with my colleague from North Dakota, Mr. DORGAN.

Mr. DORGAN sought clarification of a provision on the Product Liability Conference Report dealing with the way in which this legislation will apply to utilities. Although I had characterized a change made in conference as technical, he asserted that the change was substantive.

The intent of the bill is to cover all products. This intent is expressed in the comprehensive definition of a product found in section 101(14) of the conference report, which defines products to include ''any object, substance, mixture, or raw material in a gaseous, liquid, or solid state * * *'' This definition clearly encompasses electricity, water delivered by a utility, natural gas, and steam. To simplify this discussion I will refer only to electricity.

Another goal of the legislation, however, is to leave in place state determinations of when electricity is a product. Most States treat the transmission of electricity as a service. For this reason, the Senate bill excluded electricity from the definition of product. This exclusion, however, overlooked the fact that once electricity has passed through a customer's meter, many States consider it to be a product, and subject it to a strict liability standard.

Because of this oversight, the Senate provision created an unintended conflict between the two goals of this bill: First to cover all products, and second, to leave undisturbed the state determination of whether or not electricity is a product. The desire to meet both these goals is reflected on page 24, footnote 86, of the Committee on Commerce, Science, and Transportation Report on the Senate bill. But to repeat, the language of the Senate did not do what it needed; it exempted electricity, whether or not it was treated as a product by state law and whether or not it was subject to a rule of strict liability.

In conference, the statutory language was made explicitly consistent with those dual intentions. That is to say, the bill should respect state choice as to whether or not a utility is a product, but the bill should apply evenly to all products. Consequently, language was added to the conference report saying that electricity was excluded from the definition of product, unless it was subject under State law to strict liability, that is to say, is treated as a product.

Senator DORGAN is correct that the conference report does change the substance of this provision. I think it does so wisely and in order to make the legislation clearly express our intent.

Mr. SPECTER. Mr. President, after extensive deliberation, on a very close call, I have decided to vote against the conference report on product liability legislation.

This is a close question for me because the conference report corrects my concern on punitive damages and there is a need to make American business more competitive in world markets to provide economic expansion and job opportunities.

In the final analysis, my judgment is that the disadvantages of the bill outweigh the advantages. For example, the 15-year statute of repose would deny recovery to injured parties from products intended for and used long after 15 years.

The changes in the law involving workmen's compensation make it more difficult for plaintiffs to recover where a coworker or the employer is at fault. That provision also limits the employer's traditional subrogation rights leading to the opposition of homebuilders, workmen's compensation insurance carriers and other business interests because workmen's compensation costs will escalate.

The conference report further limits the manufacturers' liability in cases where injuries result from a defective product where alcohol has been used. A defective seat belt is supposed to protect the car's driver regardless of his/her condition.

This vote against the conference report is consistent with my vote yesterday for cloture. As I said in my statement on yesterday's vote, I believe the Senate's final determination on product liability legislation should be decided by majority vote rather than the super majority of 60 required for cloture.

A decision on whether to support cloture depends upon a variety of factors such as whether there should be more debate to fully air the issue or whether a constitutional issue or some other fundamental issue is involved which warrants a super majority of 60.

On this bill on the merits, I believe it should be decided by the traditional majority vote because it is such a close question without an underlying constitutional issue or some other fundamental matter. On the merits of the bill, in my judgment the disadvantages outweigh the advantages.

Mr. GRAMS. Mr. President, today is a day of victory and celebration for America's manufacturers, consumers, and taxpayers. Congress has finally succeeded in taking the first important step in overhauling our Nation's badly broken product liability system.

Mr. President, I would like to commend my colleagues, Senators GORTON and ROCKEFELLER for their endless hours of hard work and commitment to enacting long-needed product liability reforms. This truly is a significant accomplishment.

Unfortunately, the President has already issued his press release stating that he will stop this important bill—dead in its tracks—with his veto pen. Despite bipartisan support, he claims this bill fails to ''fairly balance the interests of consumers with those of manufacturers and sellers.'' Mr. President, I disagree.

This bill is a good compromise; it's fair; and it does protect sellers, manufacturers and most importantly, consumers.

Mr. President, too many people today are filing lawsuits in the hopes that they will hit the jackpot even if there is little merit to their case. The lawyers get wealthy, but under our current system, that wealth comes at the expense of America's consumers.

Our society has become so accustomed to suing that a recent study showed that 90 percent of all U.S. companies can expect to be named in a product liability lawsuit. Furthermore, 89 percent of Americans believe that ''too many lawsuits are being filed in America today.''

Mr. President, the price tag of lawsuits is astronomical. In fact, some experts have estimated that the total cost of all lawsuits filed in America exceeds $300 billion each year. And according to the Product Liability Coordinating Committee, the cost of product liability lawsuits, alone, ranges anywhere from $80 to $120 billion annually.

American consumers ultimately pay the price of frivolous lawsuits which are paralyzing our country's economic growth and ability to create new jobs. Instead, prices increase and jobs are eliminated when businesses close, downsize or decline new product introduction for fear of a frivolous lawsuit.

As a former small businessman, I understand how devastating the threat of a potential lawsuit can be on any company. Our laws have created a hostile business climate that has compromised the competitive position of many companies, forcing them to reduce salaries or lay off employees to avoid going out of business.

Companies who are sued have two choices: endure a lengthy and costly trial in the hopes of proving their innocence or settle out of court to save

trial costs. Small businesses don't have the time or resources to spend countless days in a courtroom when they are struggling to make payroll and meet customer needs.

Everyone agrees that an injured person should have a day in court, and this legislation will not prevent legal recourse for justifiable claims. However, it will put an end to the fishing expeditions that trial attorneys use to extract huge, unwarranted settlements from businesses fearful of protracted litigation costs.

Businesses, taxpayers, and consumers can no longer bear this burden, making passage of this legislation critical. Americans understand that our current system is a litigation lottery which increases the costs consumers pay when they purchase a product. It even forces companies to lay-off employees.

Far too often, the cost of meeting these outrageous judgments eats up resources that could have gone toward new jobs and better salaries. The President and the trial lawyers are kidding themselves if they believe these costs are not passed on to you and me as consumers. Appropriately, this is called the tort tax.

Mr. President, most of my colleagues know that I am a strong opponent of tax increases of any kind. I believe the Product Liability Conference Report will lessen the tort tax on America's consumers.

This legislation addresses many of the problems in our current system. It limits manufacturer liability when a product is misused or altered by the user; it caps punitive damages to twice the compensatory damages or $250,000, whichever is greater; it allows judges the flexibility to impose higher damages in extreme cases; and, it eliminates joint and several liability for certain damages, such as pain and suffering, so defendants pay only for the damages they cause—not those caused by others.

In addition to the overall benefits consumers will enjoy after enactment of this bill, Minnesota will see an additional benefit. The reality is our current system is stifling technological innovation, in particular, the production of medical devices.

Mr. President, Minnesota is a world leader in the development of lifesaving medical technology and this industry is a vital part of Minnesota's growing economy.

In 1994, there were 568 registered medical device establishments in Minnesota. Furthermore, Minnesota ranks 2nd in the Nation with over 16,000 people employed in medical device manufacturing.

More than 11 million Americans rely on implanted medical technologies to sustain or enhance the quality of their lives. Many of these products are manufactured in my State including artificial joints, cardiac defibrillators, drug infusion pumps and heart valves.

Unfortunately, many suppliers of the raw materials used to make medical devices are restricting the use of their products in medical implants for fear of exposing themselves to costly product liability litigation.

Suppliers of raw materials play no role in the design or manufacture of the medical device and courts have consistently found them free from liability. Unfortunately, the costs of the lawsuit ''discovery'' process are surpassing the profits raw material suppliers will receive from selling their products to device manufacturers.

If biomaterials suppliers refuse to sell their raw materials to America's medical device companies, device manufacturers are forced to either substitute another material, which many times is impossible, or discontinue production of a device which is fulfilling a vital need for patients.

A recent example was highlighted in the Wall Street Journal by a mother whose daughter suffers from hydrocephalus, or water on the brain. The only medical therapy that treats this is a surgically implanted device, called a shunt, made of silicone.

Fifty-thousand Americans depend on shunts to keep them alive, but because of recent lawsuits, companies who supply silicone for the production of devices like shunts are no longer willing to sell the raw materials. This situation is devastating to patients who desperately need these lifesaving devices.

Essentially, this legislation's Biomaterials Access Assurance provision would allow suppliers of the raw materials or biomaterials used to make medical devices, to obtain dismissal, without extensive discovery or other legal costs, in certain tort suits in which plaintiffs allege harm from a finished medical device.

This provision would allow raw materials suppliers to be dismissed from lawsuits if the generic raw material used in the medical device met contract specifications, and if the biomaterials supplier cannot be classified as either a manufacturer or seller of the medical device. Most importantly, this provision would not affect the ability of plaintiffs to sue manufacturers or sellers of medical devices.

As the chairman of the Senate's Medical Technology Caucus, I would like to thank the Senator from Connecticut for all his hard work to ensure that the Product Liability bill recognizes the urgency of providing much-needed relief to suppliers of bio-materials who have no direct role in the raw material's ultimate use as a ''biomaterial'' in a medical device.

Mr. President, I would like to note that even President Clinton recognizes this provision as ''a laudable attempt to ensure that suppliers of biomaterials will provide sufficient quantities of their products'' to medical device manufacturers.

The bill before us today is the first step in the right direction, but certainly not the last. While we have made great progress toward reforming our current system, I believe we should do more. We need to extend protections to America's consumers in civil liability cases which have devastated local girl scout troops, neighborhood little leagues and community recreational organizations.

Furthermore, Congress should pass medical malpractice reforms to ensure that the doctor-patient relationship is protected from lawyers. Doctors complain that many times they are forced to order unnecessary tests just to protect themselves against frivolous lawsuits. This practice called ''defensive medicine'' costs our country over $15 billion each year.

Mr. President, the Senate should adopt this first step and continue moving forward to reform our overall liability system. Failing to enact this legislation will result in even higher costs to customers, fewer products developed and fewer jobs as companies downsize to adjust to increasingly high legal costs.

I urge my colleagues to recognize the positive impact this legislation will have on countless businesses across our country. Ultimately, it will benefit the employees whose jobs will be secured as a result of enactment of this long overdue legislation, while at the same time, we continue to protect consumers seeking judgements against companies who have manufactured faulty products.

Mr. DORGAN. Mr. President, today the Senate will vote on the conference report on H.R. 956, the Common Sense Product Liability Legal Reform Act of 1996. I intend to vote in favor of this legislation because I believe that modest legislation in this area is necessary.

The issue of product liability reform is one of those circumstances where I think there is some truth on both sides. Tort reform is by its very nature controversial. The ability of citizens to seek redress through the courts for harm caused to them is a very important right we must respect and protect. At the same time, it is a fact that our court system in the United States is deluged with a flood of lawsuits, many of which have no merit.

Unfortunately, the excesses of some force a reaction that affects everyone. I appreciate the sensitivity with which we in the Congress must proceed in passing any Federal legislation that reforms tort laws. I realize that because of our court system and because of the activism of well meaning consumer advocates, our Nation does have safer cars, toys, and other products. If it had not been for key cases that put the fire to the feet of corporations who would rather cut corners to enhance the bottom line than concern themselves with the safety of consumers, I am convinced that there would be more exploding cars and more dangerous toys that hurt children.

Deadly and dangerous products such as asbestos, flammable children's pajamas, and exploding Ford Pintos were all removed from the market only after action was taken in court to hold the

manufacturers of these products accountable. Because these cases occurred, our lives are safer as a result. There have been many cases where manufacturers were legitimately held liable for their negligent or egregious actions.

However, these cases do not tell the entire story about our tort system. Unfortunately, there are so many other cases that may have little merit that are filed, not with the goal to seek fair compensation or change the behavior of a manufacture, but are filed with a goal to get rich quick. The result is that many manufacturers and businesses are strangled in liability cases that defy common sense. These cases don't help consumers.

It seems to me that Federal action is warranted in the area of product liability suits. But, I believe that any Federal action in this area must be modest and narrowly construed. Over the past few years, I have been an active participant in the development of this legislation. In the 103d Congress, I fought against a provision that would have provided complete immunity to manufacturers of medical products and aircraft manufacturers from all punitive damage awards. The FDA/FAA defense provision, as it was called, took this reform effort way too far in my judgment. That is why I fought to have the provision removed and if this provision existed in the legislation before the Senate today, I would be voting no.

Fortunatly, the bill sponsors saw fit to not include the FDA/FAA defense provision in the conference report we are considering today. As a result, we have a bill which I believe advances some modest reform without closing the door on consumers who legitimately need to look to the courts for compensation.

I believe it is important to advance this modest tort reform legislation. It is my hope that if this legislation becomes law, it will result in more reasonableness in our tort system.

I am under no illusions that this legislation is going to create a perfect world in the courts. However, I hope this legislation will create a better world that restores some moderation to excessive litigation, while not destroying the rights of consumers to seek redress for their grievances in the courts.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. EXON. Mr. President, I thank the Chair and thank my friend and colleague from Washington. I signed the conference report with regard to the product liability measure that is before us. I recommend that the Senate accept this. I hope the President will not veto it, as he has threatened.

I have been listening to the debate, and I have studied this issue for a long, long time. Over 20 years ago, when I had the opportunity to serve my State as Governor, we worked on and we enacted a piece of legislation that is related to this whole area. It was with regard to malpractice in the health care field. There were concerns about that. I listened to both sides at that time. I finally decided, in the best interest of Nebraska, that malpractice piece of legislation should go into effect to provide adequate and better health care, to keep everyone involved.

I must say, that was one of the early pieces of legislation with regard to placing caps on malpractice legislation, and I must say that it has been a resounding success in Nebraska.

I recognize and have heard the debate on both sides of the issue, and, as so often is the case, Mr. President, we do not pass perfect legislation here, but ignoring the problem that we have today, that we have had for all of these years—this is as near a place we can solve it with what I think is a reasonable piece of legislation, a piece of legislation that where, if there is gross misconduct on the part of the manufacturer or the inventor, there is some relief.

I think we accomplish very little by citing this case and citing that case. If we continue with that kind of a proposition, we will simply confuse the public at large, and maybe the House and Senate, that we should do nothing. I think if there is one thing that is obvious, it is that we have to do something. I think the ''something'' is this bill that has been carefully crafted, that has been worked out in committee, that has been worked out in the conference between the House and the Senate, and I believe if there was ever a true workable compromise, this is a principal example.

So, I simply salute the people who have provided the leadership in this over the years. I hope the bill will be resoundingly approved by the Senate with our vote around noontime today. Maybe we can get on with solving this problem. There is a problem. No one can deny that. I am sure many of my colleagues feel very strongly that this is a bad piece of legislation. It is not a perfect piece of legislation, but it is a piece of legislation that has been carefully crafted, compromised. I think it is the best we can do under the circumstances, and I believe we should do it.

I intend to vote enthusiastically in support of this legislation. I thank the Chair and thank my friend from Washington.

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Washington. The debate now is about over, and we are about to vote. We are about to vote on a bill which I think is profoundly important, not only in the symbolism of it but in the reality. You cannot have an engine in a car that is invented by 51 separate people who do not communicate with each other and expect the engine to move the car forward.

Similarly, you cannot protect and extend predictability and fairness and consumer protection—for example, as witness the statute of limitations—to help people in this country get justice from injury, from defective products if the engine that they have to depend upon is invented by 51 separate people who never talk to each other, and then somebody turns the key on and who knows where the system goes, or where the car goes. Probably nowhere.

We have a system that works particularly well for a few. We have, however, a system that works particularly poorly for the most. It is the job, it seems to me, of the U.S. Senate and the U.S. Congress to try to improve the condition and the lot of our people in a fair and balanced manner. One cannot reasonably come into this Chamber all the time and say, ''I'm only going to do things which will help an injured person but pay no attention to other aspects of their life,'' for example, whether they are employed, whether they have a reasonable expectation of having a job.

What we have tried to do in this product liability conference report is to make a fair, reasonable balance between the interests of consumers and business. We have done that. We have had asserted constantly against us that we have not, assertions which are made every year we discuss these things, which are wrong.

So now we are prepared to do something, and I fully expect the Senate will adopt this conference report. It is an important bill. I repeat that I hope the President of the United States, who I think very much wants to sign a product liability reform bill—in fact, I am told very directly that he wants to sign a product liability bill. The question is what condition must it be in. I think we are presenting the President with a fair bill, one in which the Senate did not try to expand beyond products, one in which the Senate rejected virtually all other suggestions in which the only basic change was the statute of repose.

It is a very good bill. There is no other way to say it than that. I also want to thank the Senator from Connecticut, Senator LIEBERMAN, for his enormous role in all of this product liability debate, and his chief of staff, Bill Bonvillian, who is also an extraordinary person, who has been unbelievably kind and attentive to my legislative director, Tamera Stanton, to whom I referred earlier, who is going through a difficult situation just now.

This is fair. This is the way America ought to work. The bill, I believe, will pass. I can only pray that the President will sign it. I thank the President and yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina has 12 minutes.

Mr. HOLLINGS. How much, Mr. President?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. HOLLINGS. I thank the distinguished Chair. I want to reserve time for the distinguished minority leader, the Senator from South Dakota, who just notified us he would like a little time here.

Mr. President, I rise to urge my colleagues to reject this legislation. The only thing that stands in the way of an act of Congress overturning 200 years of State law and placing severe restrictions on the civil rights of American citizens is the vote on this conference report.

Some try to simplify this issue as a debate between trial lawyers and manufacturers. But this issue is larger than that. This matter goes to the heart of our Nation's constitutional federalism. I am convinced that to the extent Congress can selectively preempt State law, override State constitutions, overturn State legislative decisions, and dictate to State judges and juries the standards they must follow on matters that have nothing to do with Federal constitutional rights, then States essentially have lost their sovereignty. Maintaining an independent civil justice system is the essence of a free state. This freedom, however, would be seriously eroded by this bill.

I. STATE SOVEREIGNTY/DUAL FEDERALISM

The stated purpose of this bill is to erect barriers regarding the use of the civil justice system for redress of injuries caused by dangerous products. However, I would remind my colleagues that, unlike the judicial systems of other countries, the American judicial system is rooted in democratic principles of individual redress, the right to a jury trial, and reliance on the people to resolve disputes. These were principles established by the Founding Fathers when they adopted the 7th and 10th amendments to the Constitution. Surely, issues such as whether to limit access to courts, limit redress remedies, or penalize citizens for merely bringing suits were considered by the Founding Fathers, as well as the judges and State officials that have administered our system of justice for over 200 years. But they decided against such measures, and opted instead to maintain a system that features free access to the courts, common law, and giving the people the ultimate authority to resolve conflicts.

The supporters of this bill, however, are seeking to overturn this longstanding American history and judicial precedent. They would prefer to ram through this sweeping and unprecedented legislation.

I am, indeed, confounded that the Senate is even considering this legislation. At the beginning of this Congress, Member after Member came to the floor during consideration of S. 1, the unfunded mandates bill, to declare that this would be the Congress of States' rights, where Government would be returned to the people. The Jeffersonian democracy of government was revived. If we've heard it once, we've heard it a million times, that State and local governments know best how to protect the health and safety of their citizens, and that they do not need Congress telling them what to do. How many times did we hear that the one clear message sent by the voters in November 1994 was that the people wanted to get the Federal Government off their backs and out of their pockets?

The 10th amendment, lost in the shuffle for many years, was given new light. The majority leader himself, in his opening address to the new Congress, proclaimed:

> . . . America has reconnected us with the hopes for a nation made free by demanding a Government that is more limited. Reigning in our government will be my mandate, and I hope it will be the purpose and principal accomplishment of the 104th Congress.
>
> . . . We do not have all the answers in Washington, D.C. Why should we tell Idaho, or the State of South Dakota, or the State of Oregon, or any other State that we are going to pass this Federal law and that we are going to require you to do certain things . . .

The majority leader went on to say:

> . . . Federalism is an idea that power should be kept close to the people. It is an idea on which our nation was founded. But there are some in Washington—perhaps fewer this year than last—who believe that our states can't be trusted with power. . . . If I have one goal for the 104th Congress, it is this: That we will dust off the 10th Amendment and restore it to its rightful place.

If we are going to respect the 10th amendment, Mr. President, then we must be consistent.

But consistency is not something in which this Congress seems to be interested. The same Congress that has championed States rights regarding welfare is now advancing the power of the Federal Government over State civil courts. It appears that some believe the States have all the answers when it comes to welfare and education, but for some reason are incapable of running their own courts.

To the extent any reforms are needed, the States already have instituted such measures. Since 1986, over 40 States have enacted tort reform legislation. This includes my home State of South Carolina, which enacted a major tort reform measure in 1988. The States—through their work with members of the bar, the chamber of commerce, the insurance industry, and consumer groups—have addressed concerns about the tort system, and have crafted legislation they believe is in the best interest of their citizens. The proponents of this bill, however, would override the enormous and commendable efforts and time the States have devoted to this issue, and force their own brand of reform on the States.

Ironically, during the 1994 elections, when many of those who now so vehemently champion States rights were elected, the people of Arizona considered a State-wide tort reform referendum that consisted of many of the initiatives in this conference agreement. By a 2-to-1 vote, the people of Arizona rejected the referendum. Now some Members would like to reward them by using their Federal power to force on the citizens of Arizona the initiatives they soundly rejected at the ballot box.

II. REFUTATION OF CLAIMS REGARDING NEED OF LEGISLATION

The conference report contains a number of ''findings'' regarding the need for this legislation. Most of the findings are repeats of the various claims that have been made over the last decade. Nevertheless, it is necessary again to set the record straight with the facts.

Finding No. 1 states:

> Our nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy.

Rebuttal:

This is the old litigation explosion claim. However, there has never been any evidence of a litigation explosion as the following data demonstrate:

A 1991 Rand study found that only 2 percent of Americans injured by products ever file a lawsuit.

A 1994 report by the National Center for State Courts found that product liability cases are less than 1 percent of all civil filings.

A 1995 study by the National Center for State Courts found that, of the 2 percent of lawsuits that are filed, 90 percent are disposed of by nontrial, such as dismissals or settlements.

In June 1994, the New York Times featured a front page story on how juries are growing tougher on plaintiffs. Citing the latest research by Jury Verdicts Research, Inc., the Times stated that plaintiffs' success rates in product liability cases have dropped from 59 to 41 percent between 1989 and 1994. A 1995 report by the National Center for State Courts shows that tort filings have declined 6 percent since 1991.

Profs. James Henderson, a supporter of State product liability reform, and Theodore Eisenberg of Cornell University released a study in 1992, which showed that product liability filings had declined by 44 percent by 1991. They concluded that by ''most measures, product liability has returned to where it was at the beginning of the decade,'' beginning in the 1980's.

BUSINESS LITIGATION

Where is the real litigation explosion? It is in the corporate board rooms. According to professor Marc Galanter of the University of Wisconsin Law School, the real litigation explosion in recent years has involved businesses suing each other, not injured persons seeking redress of their rights. He found that business contract filings in Federal courts increased by 232 percent between 1960 and 1988, and

by 1988 comprised the largest category of civil cases in the Federal courts.

In August 1995, the National Law Journal released the findings of its study of judicial emergencies in Federal courts. The study found that 33 percent of the judicial emergencies involved business litigation.

Between 1989 and 1994, of the 83 largest civil damage awards nationwide, 73 percent involved business suits. Between 1987 and 1994, just 76 of the top business verdicts alone accounted for more than $10 billion. They included: Litton Systems versus Honeywell, a patent infringement dispute—$1.2 billion; Rubicon Petroleum versus Amoco, a breach of contract dispute—$500 million, including $250 million in punitive damages; Amoco Chemical versus Certain Lloyds of London, a breach of contract dispute—$425 million, including $341 million in punitive damages; Avia Development versus American General Reality Investment, a breach of contract—$309 million, including $262 million in punitive damages. Of course, this does not include the greatest verdict of them all—the $10.5 billion awarded in 1985 in the Pennzoil versus Texaco case.

Notwithstanding the excessiveness of business suites, however, the bill specifically exempts business litigation from the legislation.

II. COMPETITIVENESS

Finding No. 2 of the conference report states:

Excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services.

Rebuttal:

To refute these unfounded claims about competitiveness, I simply cite the comments of Mr. Jerry Jasinowski, president of the National Association of Manufacturers [NAM], that appeared in the Washington Post editorial section on Sunday, March 17, 1996. Mr. Jasinowski severely decried those who have criticized American business competitiveness.

According to Mr. Jasinowski: the American industrial renaissance over the last 4 years has restored the United States ''to the top spot among the world's economies.'' While some are ''busy berating our capitalist system, the U.S. economy has become the envy of the industrialized world.'' ''The American economy has quietly grown richer—gaining 8 million new jobs since 1992 and putting the unemployment rate at an historically low 5.5 percent.'' ''In the past 25 years''—during the midst of the so-called product liability crisis—''U.S. employment has increased 59 percent and we have created more than 5 times as many net jobs as all the countries of Europe combined.''

OTHER STUDIES ON COMPETITIVENESS

Mr. Jasinowski's editorial affirms other studies which have found no evidence relating product liability to U.S. competitiveness.

A 1987 Conference Board survey of risk managers of 232 corportions shows that product liability costs for most businesses are 1 percent or less of the final price of products, and have very little impact on larger economic issues such as market share or jobs.

The Rand Corporation found that less than 1 percent of U.S. manufacturers are ever named in a product liability lawsuit, and that ''available evidence does not support the notion that product liability is crippling American business.''

In 1991, the GAO released a study of the effects of product liability on competitiveness, and stated that it could find ''no acceptable methodology for relating product liability to competitiveness.''

FINDINGS ON INSURANCE COSTS

Finding No. 7 states:

The unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost.

Rebuttal:

The claim that there was an insurance crisis was one of the first justifications put forth by supporters of the legislation in the 1980's. However, there is ample evidence that there never was, and is not currently, a product liability insurance crisis.

A study released in March 1995 by Bob Hunter of the Consumer Federation of America, who was formerly the Texas Insurance Commissioner, shows that product liability insurance costs for U.S. businesses amount to no more than 26 cents for every $100 of total costs.

In January 1995, the National Association of Insurance Commissioners reported that between 1989 and 1993 product liability insurance premiums declined by 26 percent.

According to the Insurance Information Institute, insurance companies' surplus, assets minus liabilities, rose from $29 billion to over $230 billion between 1977 and 1995. Surplus is the money available after all losses and bills have been paid. These figures show that, to the extent there was an insurance downfall, it sure was not felt by the insurance industry.

Additionally, according to the testimony of the American Insurance Association [AIA], the legislation will have no effect on insurance rates anyway.

UNIFORMITY

Finding No. 10 states:

The rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the states, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce.

Rebuttal:

This finding is part of the proponents' claim regarding uniformity. However, contrary to the proponents' claims, the bill does not, and is not intended to, create uniformity. State law is preempted in this bill only to the extent it favors defendant corporations. For example, with respect to punitive damages, the legislation would not disturb the law in the State of Washington since that State prohibits punitive damages, but would preempt the law in South Carolina, which permits punitive awards.

The Chief Justices of the States have indicated that the legislation is likely to create considerable confusion, and lead to more litigation, as a result of the varying interpretations and applications of its provisions by different State courts.

The bill imposes its own set of rules on State courts without imposing the same rules directly on the Federal courts. Because of the absence of a Federal cause of action, Federal courts will hear cases involving the legislation only if there is diversity of citizenship or location of the parties.

CONFERENCE REPORT HURTS CONSUMERS MORE THAN SENATE BILL

Proponents continue to state that the conference report is not expanded beyond the Senate amendment. However, the conference agreement extends well beyond the Senate amendment in undercutting the rights of victims. The bill now limits victims' rights to be compensated for harm caused by energy and utility related disasters, such as hazardous gas storage facilities, and negligent entrustment cases, including the unlawful sale of dangerous products to minors. In addition, the statute of repose has been reduced from 20 to 15 years. Once restricted to workplace products, this provision has also been expanded to cover any product that has an expected life span of more than 3 years. Further, products now covered by the legislation include used cars, elevators, children's toys, and medical devices made for handicapped citizens.

The bill has retained the abolition of joint liability for pain and suffering damages. The restriction is applicable even if there is proof that defendants worked together as a joint venture, or as parent and subsidiary.

The bill has maintained discriminatory punitive damages caps. By basing the cap on income and wealth, the bill permits higher punitive awards for individuals with the most economic advantages. In an effort to rectify the disparate treatment of high income and low income victims, a provision was added on the Senate floor to permit judges to increase punitive awards beyond the cap. Federal judges, and judges in most State jurisdictions, however, are constitutionally prohibited from increasing damages without the consent of the parties. Indeed, we find it hard to believe that any defendant would consent to higher punitive awards. The proponents stated the constitutional issue would be resolved in conference. The conference agreement, however, has actually enhanced the

power of judges to increase damages, all but ensuring the provision will be deemed unconstitutional. The end result will be that additur will be removed, and the discriminatory cap will remain. Additionally, we question why Congress would pass a law it recognizes as unfair, and then shift the responsibility to judges to rectify the problem.

CONCLUSION

Simply put, Mr. President, there is no product liability crisis. Indeed, if there are problems that need to be examined in the tort system, they already are being addressed by the States, where this issue belongs.

This legislation is the epitome of congressional arrogance. It takes away from the States an area of the law that has been reserved to the States for 200 years.

What will this bill do? It will make it more difficult for consumers to be compensated for their harm from products; it will shield from liability manufacturers which consciously manufacture defective products; it will take away from the States rules of law they have carefully developed; and it will remove incentives for manufacturers to make their products safe. These are some of the results of this bill, results which are not in the best interests of our citizens.

I conclude by urging my colleagues to reject cloture on this conference report. Despite years of effort, no case has ever been made for Federal product liability law. The proponents move from claim to claim about the need for this bill, because they know that this is a sham. If there ever was special interest legislation, it is this bill. It is special interest at the expense of the constitutional and civil liberties of the American people. I urge my colleagues not to be misled by the proponents' claims, and to vote against this conference report.

There are so many things to say in the limited time. But section 106(b)(3)(C) refers to a general aviation statute of repose limitation period. It is for 18 years. That is the way the distinguished Senator from Washington started talking about this bill yesterday. It was all about Cessna and aviation and everything else like that.

All the provisions of the products bill apply to general aviation, so there are no longer protections for people injured, of course, on the ground or the air ambulance people, even though the 1994 law provided those protections. But what I wonder about, if this general aviation provision of 18 years has done such a remarkable revival of the aviation industry, why are we limiting it? There we go.

No. The Senator from Nebraska says there is a real problem and everybody knows it. That is absolutely false. We know that the States have taken care of this problem. Yes, there is a political problem, because Presidential politics has preempted everything up here in Washington.

I saw some article in one of the magazines about the campaign starting. The campaign started early last year. In 100 days we were going to do this, get rid of everybody, 10 things in the Contract, we are going to pass them in 100 days, and whoopee. And we were off, and everything else of that kind—until reality set in.

But now there is the time of some embarrassment, since some of these things have not been passed—and for very, very good reason. A good reason, of course, assuming the truth of everything that the Senator from Connecticut says, is that the State Legislature of Connecticut is ready, willing, able, alert, and responsive. He was a majority leader of it. The State of Connecticut has taken care of these problems. We all take care of these problems in the several States.

But right to the point, this bill is a travesty, Mr. President. The Presiding Officer knows it. It separates people. It separates them according to their economic worth. That is a dastardly thing to do. I cannot see people of good sense and reason voting for a thing of this kind and hoping the President will sign it. The President knows the facts. He has reiterated them in the letter. He said, if it is so good and so fair, as they plead, then why does it not apply to business—the very people who drew it up? This thing was drafted by business, of business, for business, greedy business. That is what it has been for, and the proponents all know it.

I say that advisedly. I have gotten every business award you can find. I am proud of them. I work closely with business. We have more business coming to our State than all these other States that these Senators represent. I challenge them to compete with us on taking care of business. That has been my 40-year record of public service.

So I know when they step over the line. The fact of the matter is, there is a small segment, Victor Schwartz and his crowd, stepping over the line that has picked up the political fever of ''kill all the lawyers.'' It is the business of travesty that increases the legal costs for those trying to really try their cases. They know that these are contingency fees.

So if you get a good verdict, and it is a punitive damage verdict, you do OK. We put in the RECORD where punitive damages have disciplined these businesses. Thank heavens it has because we are all safer on account of it. That is why we get the recalls, because the manufacturers are put on notice. The proponents know that is why we are getting the recalls in our society. But now they have to go through a whole new hearing. And they talk about simplicity and transaction costs.

How can they claim simplicity with all the different proceedings they have here now, trying to limit legal costs? They tell the utilities they can forget about strict liability, they can forget about the highest degree of care. The Senator from North Dakota and the Senator from Washington got into a very clear dialog about simple negligence. Let the boilers blow up, let the gas blow up, let it explode. The highest degree of care now is no longer required under this bill.

Yes, we put in the RECORD about the drunk drivers. I reiterate, in the letter of MADD in opposition, Mothers Against Drunk Drivers, they oppose this bill. They know and they read and they understand and they stand by their particular opposition.

It encourages the lack of care with that statute of repose on manufacturers. Manufacturers here are exercising the highest degree of care. They are not in these other lands. But now the proponents want to talk about global competition. I have touched on that. They are competing with themselves. They want to take down the high degree of care by overriding the strict liability. Punitive damages is another thing that has given us safe products in this land, safe places to work, safe places to sleep, safe drugs and food, and everything else of that kind.

More than anything else, Mr. President, it is just patently unconstitutional. Amendment VII:

> In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States. . . .

This particular bill says reexamine it at the trial court level, but keep it a secret. The judge is supposed to charge the jury under the law, stay out of the facts. But this bill says, by gosh, reexamine it in violation of amendment VII. Of course, it ignores amendment X that the distinguished majority leader has run all over the entire United States talking about, saying, ''I've got one thing here in my pocket, the 10th amendment.''

These folks all come up here and act like they never heard of the States from which they were sent. The States have acted on product liability over the 15 years that the Senator from Rhode Island complained about. They have acted very judiciously. It is not a problem. It is a little political gimmick in the contract. It is a shame and disgrace that we have taken up the time of the National Congress on this matter that the States have taken care of.

I reserve the remainder of my time. How many minutes do I have?

The PRESIDING OFFICER. The Senator from South Carolina has 3 minutes 30 seconds.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I thank the distinguished Senator from South Carolina for yielding. I will use whatever leader time I may require to finish my statement.

Let me commend the Senator from South Carolina for the arguments he has again made in his summary on this

debate. I applaud him for the leadership and the effort he has put forth. I very enthusiastically endorse his position. Let me also thank the distinguished Senators from Washington and from West Virginia and from Connecticut that have, as well as they have, brought this bill closer to a bill that is reasonable.

As the distinguished Senator from South Carolina said, Mr. President, it is ironic in the extreme that, in this era of devolution, in this era of States rights, in this era of empowering States with more opportunities to deal with issues at the local level, this Congress, of all Congresses, would now pass a bill that says the Federal Government knows better. It is especially ironic that this Congress would say the Federal Government knows better on an issue as profound as this, affecting victims in the worst set of circumstances.

I respect the Presiding Officer for his consistency in suggesting that devolution and new Federalism, or whatever we call it, ought to be sustained, regardless of the issue, that we ought not pick issues depending on the special interests, that we really have a responsibility to be consistent.

Certainly in this case it would require, I believe, a second look. We can do better than this. We can do better than what we are going to be voting on this afternoon.

I am very troubled by a couple of provisions. One in particular troubles me. Mr. President, to say that someone working on a defective piece of machinery is going to be protected if that machinery is functional for 15 years, but not for 16 years, to me is amazing. To ask people on the work line, to ask people on the combine, to ask people in whatever set of working circumstances they face, to accept the risk that this equipment is going to hold out after that period is more than I can support. To ask American companies to live up to their obligation, to understand how important it is that people working on assembly lines or in a field have the protection and the certainty and the opportunity to come to work knowing they will be able to come home whole is not too much to ask. A 20-year statute of repose is not too much to ask.

Mr. President, the other issue has to do with component parts. We have gone through some terrible situations in the last several years involving defective component parts. One example involves women who were given breast implants that were defective, when it was well known that a component of the breast implants posed severe health risks in the body of a woman. Now to immunize from liability people who manufacture defective component parts and to say we are going to, through statute, give them our blessing is wrong. It is wrong.

Mr. President, we can do better than this. We have to do better than this. Those of us opposing this bill will continue to do so. This fight is not over. The President has said in no uncertain terms this bill will be vetoed. I predict we will have more than enough votes to sustain a veto.

Again, this fight is not over. We can do better than this. We ought to do better than this. In working with the President, the Presiding Officer and others, we will. I yield the floor.

Mr. GORTON. Mr. President, I yield 3 minutes to the Senator from Missouri.

Mr. ASHCROFT. Mr. President, I thank the Senator from Washington. I commend the Senator from Washington and the Senator from West Virginia for bringing to the floor of the Senate a reasonable, moderate product liability bill which the President ought to sign.

The representations in this Chamber that we should do better and could do better belie the current performance of this Chamber, which for 15 years has sought to enact a bill like this, but never really brought one forward that could be passed. This is a bill that can be passed.

There can be debate about whether or not there is a litigation explosion in this country. Some can say we have too much litigation or too little. Let me give you a fact. The fact is that tort costs are 2.3 percent of the Gross Domestic Product in the United States, according to the Tillinghast study. That is 2½ times the world average. In short, we have the most expensive tort liability system in the world. It is time for us to change that. We must stop wasting money by exchanging it between the trial lawyers and punitive damage recipients instead of using it to create the competitive and economic edge that will allow us to be successful—to create jobs and build equipment, and to grow this economy. We need to revitalize the industrial base of the United States of America.

Uniform standards in product liability law would help return good products to the markets, reduce the price of consumer goods, and break the legal shackles on American businesses to help them become more competitive internationally.

This bill will make products safer. Litigation, which we have had plenty of, stifles innovation that makes products safe. Overall product safety in the United States improved steadily in the first half of this century, when a much more limited liability system was in effect. We need to make sure that safety, not greed, is what is emphasized by our laws in this area.

Let me make another point. We need to make this fundamentally clear: No person will be denied the right to recover actual damages under this bill. Every cent of damages, even damages for pain and suffering previously that has been available, is available under this bill. The bill has limits on punitive damages, but those are damages to punish. Those are not damages to make a person whole for what has happened to them.

One last point that I raise, this bill was pared down from what it ought to be and what it should be—in an effort to accommodate the President. We ought to really be extending some tort reform protection to our charities. This bill does not provide protection to churches, to voluntary and charitable organizations, which means there will be no liability protection for volunteers in the Little League, the American Red Cross, the Salvation Army, the American Cancer Society, for people who run soup kitchens. We need an explosion of people helping solve America's endemic social pathologies. What do we have in the United States instead? A tort system which threatens everyone who tries to help his neighbor with the potential of bankrupting liability.

Dick Aft, president of the United Way & Community Chest of Cincinnati, put it this way, ''The litigious climate imposes a cost for all charities, costs that can be measured in resigning trustees, lost volunteer hours and sky-high insurance premiums. These are tough times for charities. The last thing we need is a legal system that adds to our burden.''

Mr. President, as long as our litigation system forces a would-be volunteer to consider whether the risks of being sued outweigh the benefits of contributing one's time and talent to charitable organizations efforts to solve society's problems will continue to be unnecessarily stymied.

In order to try to entice the President of the United States to go back to his previous position supporting federal product liability reform, the Senate has had to take the protections for non-profits out of this bill. Then the President still comes out and opposes the bill. As a result, I do not know how to trust the President on anything he says. He previously said he supports it. Now he says he does not.

Maybe we should distrust his latest representation that he will veto this. We should pass this legislation and give the President a chance to flip-flop back to the right side of the agenda, and I do not mean political right, I mean right versus wrong as a matter of good government policy. This bill is right, it provides a reasonable framework to do business in the United States. It will protect consumers. I believe it should be enacted for the good of consumers and the good of the country.

Mr. GORTON. I yield 30 seconds to the Senator from Virginia.

Mr. WARNER. I thank the distinguished managers of the bill. I strongly support the bill and commend the managers of this bill.

Mr. President, this is a jobs bill. It throws a liferaft to small business. Small business today is being buffeted in the turbulent seas of lawsuits, yet it affords adequate protection in litigation for those who are wrongfully hurt.

Mr. President, I rise in support of the Commonsense Product Liability and Legal Reform Act of 1996. I do so because I believe that this bill is strongly

proconsumer. The opponents of this bill may claim to be defending the rights of the injured. Well, this bill not only defends their rights to be fairly compensated for injuries caused by defective products, but also defends the rights of the rest of us not to pay for the outrageous verdicts, settlements, and insurance payments that American businesses pass on to consumers because of our broken legal system.

It is important to remember what exactly this bill does. There are a number of commonsense provisions which nobody besides the trial lawyers could oppose. For example, no longer would companies be liable when the injured party was drunk, on drugs, or otherwise responsible for their own injuries, or when the consumer had altered the product. It also would provide protection to companies producing biomaterials for use in medical implants: These sections are necessary to allow these companies to help save lives and to worry less about being sued for merely providing raw materials which ended up in a heart valve or pacemaker.

Then there is the issue of punitive damages which have been the subject of so much discussion. Again, it is important to remember what punitive damages are. Imagine a plaintiff injured by a defective product, say a car with faulty brakes which causes an accident. The plaintiff will be able to recover every last penny of lost income, medical costs, and financial losses he can demonstrate. In addition, he will be entitled to recover for pain and suffering as the jury sees fit and in relation to the injuries suffered. Then, on top of being completely compensated, he can ask for punitive damages which may have no relation to the amount he received for compensatory damages. Sometimes punitive damages are granted, sometimes not: more often a company is forced to settle a case to avoid the possibility of a outrageous jury verdict. This is a pure lottery having nothing to do with the injuries suffered by the plaintiff which mainly benefits the lawyer working on a contingent fee. It is a crazy way to dispense justice.

My State of Virginia has recognized this problem and placed a reasonable cap on punitive damages. But Virginians buy products produced in other States and pay for the costs of this legal lottery created by the legal systems in other States. President Clinton says that this bill usurps the power of the States. Commerce, however, is nationwide and where States are placing undue burdens on interstate commerce, Congress is correct to step in and make reforms.

Now remember also that when President Clinton was Governor, he endorsed uniform legislation for punitive damages. Even the Washington Post has recognized that the President and the opponents of this bill are on the side of the trial attorneys, rather than American consumers and businesses.

I urge that the Senate move to consideration of this badly needed legislation and that it be enacted as soon as possible.

Mr. GORTON. Mr. President, article 1, section 8 of the Constitution of the United States reads in part as follows: ''The Congress shall have power to regulate commerce among the several States.'' The purposes of this bill, as outlined in this bill, read as follows:

> Based upon the powers contained in Article 1, Section 8, Clause 3 of the 14th amendment of the United States Constitution, the purposes of this act are to promote the free flow of goods and services, to lessen burdens on interstate commerce, and to uphold the constitutionally protected due process by, (1), establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers and product sellers; (2), placing reasonable limits on damages over and above the actual damages suffered by a claimant; (3), ensuring the fair allocation of liability in civil actions; (4), reducing the unacceptable cost and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; (5), establishing greater fairness, rationality, and predictability, in the civil justice system.

That is precisely what this bill is designed to do, Mr. President. That is precisely what this bill does.

I yield the remaining 2 minutes to the distinguished chairman of the Commerce Committee.

Mr. PRESSLER. Mr. President, I rise in strong support of this legislation. I want to pay tribute to both Senator ROCKEFELLER and Senator GORTON who have had such great courage, leading this controversial bill and bringing it here. This is perhaps one of the most important pieces of legislation this Congress will consider because of the benefits it will have for small business.

Senator GORTON, who has appeared before the Supreme Court 14 times, is a legal expert. His expertise in explaining this bill, both in the committee and on the floor, have been very, very valuable. This bill would not be here without Senator SLADE GORTON. He has been able to explain this bill, the technical parts of it.

Senator ROCKEFELLER, in my opinion has shown great courage. I wanted to use my time to pay tribute to those two leaders who have fought so long and hard through the committee.

I strongly support this legislation.

Mr. GORTON. Mr. President, I simply would like to say after this extended debate, not only over the period of the last 2 days but over the period of the last year, and for that matter several Congresses, that it is wonderful to have at least this phase of it completed. This very important element in the reform of our country's legal system would not have been completed with this degree of success without the help of both many Members and a significant number of staff.

When one names names, one runs the risk of leaving out many people who deserve credit, but particular credit from my perspective belongs to Lance Bultena of the Commerce Committee staff, and my own Jeanne Bumpus and Trent Erickson. Together they have put in so many hours on this subject that it cannot possibly be measured, and have done a wonderful job in educating and advising me.

For Senator ROCKEFELLER, Jim Gottlieb, a magnificent and skilled attorney, and Ellen Doneski have provided similar services. All of my cosponsors I wish to thank. All those who voted with me, I wish to thank. Most particularly, however, is the Senator from West Virginia [Mr. ROCKEFELLER]. We have come to be close personal friends during the course of the many years that we have worked together on this subject. He is a wonderful, thoughtful, and hard-working individual. In this connection, he is a courageous individual with the willingness to take on a majority of his own party and his own President.

His devotion to the public interest is not exceeded by any Member of this body. The ability to become such a close personal friend has been an important ancillary privilege of leading the debate on product liability.

With that, Mr. President, I am sure it is time to move on.

Mr. President, I yield the remainder of our time.

The PRESIDING OFFICER. The question is on agreeing to the conference report to accompany H.R. 956.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 46 Leg.]

YEAS—59

Abraham	Glenn	Mack
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Moseley-Braun
Brown	Grassley	Murkowski
Burns	Gregg	Nickles
Campbell	Hatch	Nunn
Chafee	Hatfield	Pell
Coats	Helms	Pressler
Cochran	Hutchison	Pryor
Coverdell	Inhofe	Rockefeller
Craig	Jeffords	Santorum
DeWine	Johnston	Smith
Dodd	Kassebaum	Snowe
Dole	Kempthorne	Stevens
Domenici	Kohl	Thomas
Dorgan	Kyl	Thompson
Exon	Lieberman	Thurmond
Faircloth	Lott	Warner
Frist	Lugar	

NAYS—40

Akaka	Feingold	Moynihan
Baucus	Feinstein	Murray
Biden	Ford	Reid
Bingaman	Graham	Robb
Boxer	Harkin	Roth
Bradley	Heflin	Sarbanes
Breaux	Hollings	Shelby
Bryan	Inouye	Simon
Bumpers	Kennedy	Simpson
Byrd	Kerry	Specter
Cohen	Lautenberg	Wellstone
Conrad	Leahy	Wyden
D'Amato	Levin	
Daschle	Mikulski	

NOT VOTING—1

Kerrey

So the conference report was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WHITEWATER DEVELOPMENT CORP. AND RELATED MATTERS

CLOTURE MOTION

The PRESIDING OFFICER (Mr. FAIRCLOTH). Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Senate Resolution 227, regarding the Whitewater extension:

Alfonse D'Amato, Dan Coats, Phil Gramm, Bob Smith, Mike DeWine, Bill Roth, Bill Cohen, Jim Jeffords, R.F. Bennett, John Warner, Larry Pressler, Spencer Abraham, Conrad Burns, Al Simpson, John H. Chafee, Frank H. Murkowski.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Senate Resolution 227 shall be brought to a close? The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Vermont [Mr. JEFFORDS] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 47 Leg.]

YEAS—52

Abraham	Frist	McConnell
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Bond	Grams	Pressler
Brown	Grassley	Roth
Burns	Gregg	Santorum
Campbell	Hatch	Shelby
Chafee	Hatfield	Simpson
Coats	Helms	Smith
Cochran	Hutchison	Snowe
Cohen	Inhofe	Specter
Coverdell	Kassebaum	Stevens
Craig	Kempthorne	Thomas
D'Amato	Kyl	Thompson
DeWine	Lott	Thurmond
Dole	Lugar	Warner
Domenici	Mack	
Faircloth	McCain	

NAYS—46

Akaka	Bumpers	Feinstein
Baucus	Byrd	Ford
Biden	Conrad	Glenn
Bingaman	Daschle	Graham
Boxer	Dodd	Harkin
Bradley	Dorgan	Heflin
Breaux	Exon	Hollings
Bryan	Feingold	Inouye
Johnston	Mikulski	Robb
Kennedy	Moseley-Braun	Rockefeller
Kerry	Moynihan	Sarbanes
Kohl	Murray	Simon
Lautenberg	Nunn	Wellstone
Leahy	Pell	Wyden
Levin	Pryor	
Lieberman	Reid	

NOT VOTING—2

Jeffords Kerrey

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 46. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

PRIVILEGE OF THE FLOOR

Mr. GORTON. Mr. President, I ask unanimous consent that A.J. Martinez of Senator BENNETT's staff be permitted privilege of the floor during consideration of the Public Rangelands Management Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC RANGELANDS MANAGEMENT ACT

The PRESIDING OFFICER. The Chair lays before the Senate, S. 1459, the Public Rangelands Management Act, with 75 minutes equally divided on the Bumpers amendment.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Domenici amendment No. 3555, in the nature of a substitute.

Bumpers modified amendment No. 3556 (to amendment No. 3555), to maintain the current formula used to calculate grazing fees for small ranchers with 2,000 animal unit months [AUM's] or less, with certain minimum fees, and establish a separate grazing fee for large ranchers with more than 2000 AUMs.

AMENDMENT NO. 3556, AS MODIFIED

Mr. DOMENICI. Mr. President, Senator BUMPERS is here. Might I inquire of Senator BUMPERS, we do not need our entire 37 minutes. Is there any chance, in the interest of moving the Senate's business along, you might get by with a little less of your time so that we could vote a little earlier?

Mr. BUMPERS. I am quite sure we will not use our all of our time, either. We will be happy to yield the balance of such time. I only know of two people on this side, Senator JEFFORDS and I, who will be speaking.

Mr. DOMENICI. Thank you. Mr. President, on this side, might I say in earshot of staff and administrative assistants, that some Republican Senators have indicated they want to speak on this very amendment. Senator CAMPBELL has indicated, the distinguished Senator from the State of Colorado; I think Senator CRAIG has indicated that he would like to speak; and perhaps a couple of others. Let me put the word out, we are trying very hard to move this bill along and use as little time on the amendments as possible. If you could get hold of me, perhaps I could set up a time, and perhaps we could agree at a certain time that Senator CAMPBELL will speak for 8 or 9 minutes. If we can work to arrange that, I will not have to be here anxiously wondering who is coming because they will have a time set.

Mr. President, let me suggest that this amendment with reference to grazing fees, if it were adopted and if it becomes law, would put out of business, in this Senator's opinion, hundreds and hundreds of small ranches and ranching families that have been the backbone of this kind of activity for a long time. Let me yield myself 5 minutes and see if I can make the case for that, and then I will yield back to Senator BUMPERS.

Mr. President, first of all, this amendment attempts to set up a two-tier fee system. That two-tier system that is established here, the distinguished Senator indicates it is only going to have an impact on the very large ranches. I want to get to that in a moment to try to make sure that the Senate understands that all grazing permits do not have the same tenure. Some are for 3 months, some are for 5 months during the year. In a State like New Mexico, parts of Arizona, parts of California, and parts of a few of the other States that have year-long grazing.

Some private property, small portion of State property, and Federal leases make up a ranching unit in a State like mine. We are called water-based States. Essentially, the water and everything is on that unit. So you do not move the cattle off to public property for part of the year. The livestock are there all the time.

As a consequence, when the distinguished Senator who had in mind that this would be just for very, very large ranches, those numbers did not take into consideration a ranch in New Mexico, Arizona, or California, that had 12-month-a-year permits and was substantially—that is, a lot of the property—federally controlled. I will come back to that point when I get the actual numbers.

Having laid the foundation to establish this fact that it will apply to small ranches, not large ranches, that are on a 12-month basis and have a lot of public domain, let me tell you what we try to do in the bill. We attempt to increase the grazing fee 37-percent. We intend it go up to $1.85. This is a 37-percent increase. Now, Mr. President, in addition to a 37 percent increase, we are aware of the fact that you cannot have ranching units continue to operate, and have prices go arbitrarily up in total disregard for the market, based upon what the State might charge for completely different land. Ours is based upon the 3-year rolling average of the gross value of the commodity, which takes into account such things,

Mr. President, as this year where cattle prices have come down 30 percent to 35 percent. It is obvious you should not be increasing fees. You could not on private land. The market would not bear that. You should not increase it arbitrarily under a formula when the gross value of the product is coming down.

I stress gross value. Senator BUMPERS, in the mining reform debate, has always wanted gross value. We use gross value.

In addition, we use it on figuring out the interest component, so we get a market movement, the 10-year average of the 6-month Treasury bills, so that we have a very good way to establish stability and let the leases go up, but not go up in total disregard to the market.

Now, Mr. President, under the Bumpers proposal, the permits could be as much as $3 per animal unit per month up to $10 per month. I must say to the Senate, not even Secretary Babbitt, in his wildest dreams about what we should charge, had anything like $5, $6, $7, or $10, which some of the permits would be worth under the Bumpers proposal. And he had $4.60 once and came off that because everybody told him it was absolutely ludicrous and the ranchers would go broke.

Incidentally, the Department of Interior and Secretary Babbitt never supported, and to this day do not support, having two different fee schedules, depending upon the size of the ranch and the number of units and the number of cattle you graze, for a lot of reasons. It is arbitrary. It was said it will not work, and obviously there are many other reasons.

I note that the distinguished Senator from Arkansas would suggest that because States have a different fee schedule, we should follow them. I want to make three or four points about that. First, Senators must note that many of the State leases are exclusive leases. That means the only thing you can do on them is graze. From the very beginning, the Federal leases are not exclusive. They must be used for multiple purposes. That is a very different concept of what you can use it for. If you can only use it for that, to the exclusion of all the other uses, obviously, it would be worth more.

Likewise, many States have very few regulations, as compared to the Federal Government, making it more attractive for the rancher. Last but not least, for the most part, the State lands are a very small portion of a unit of ranching. The Federal land is more often a very large part of that unit. And so, to be able to exist, you have to have stability on that Federal side, and you have to have something that is reasonably consistent with a formula that acts upon the price of the commodity, such as ours.

I will put in the RECORD that under the amendment which purports to save small ranches, and charge large ranches a lot more—I will give you just two numbers. If 95 percent of a unit is Federal land—and there are a number of those—in the State of New Mexico, the maximum number of cows that you can have on this ranch to get into the lower-tier price is 176—not 500, not 1,000, but 176. The ranching unit could be between 50 and 95 percent Federal land, and the number of head would be between 334 and 176.

Mr. President, this just shows when you try to establish these arbitrary formulas, you have to find out really everything that is involved.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PERCENTAGE OF NEW MEXICO RANCHES WITH VARIOUS LEVELS OF RELIANCE ON FEDERAL LAND FOR GRAZING CAPACITY

Reliance on Federal land	0–5 percent	5–50 percent	50–95 percent	>95 percent
Percent of all ranches in New Mexico	49	21	26	5
Max. number of cows for small rancher exemption to apply	>3,340	3,340–334	334–176	176–167

Adapted from Torell et al. (1992).

Mr. DOMENICI. Mr. President, this amendment will not, as it purports to, have any positive effect on small ranchers staying in business in New Mexico and in the other States of the Union. There is a lot more to say, but distinguished Senators are here on our side. I have used 8 minutes, which means we have about 25 minutes left.

Senator CAMPBELL, how much time would you like?

Mr. CAMPBELL. About 10 minutes.

Mr. DOMENICI. The Senator from Wyoming needs 10 minutes. As soon as Senator BUMPERS yields the floor—does he want to speak now? We can yield to Senator BUMPERS for 8 or 10 minutes and come back and have them use their time.

Mr. BUMPERS. Is the Senator yielding the floor?

Mr. DOMENICI. I was trying to get an agreement so we would know who was speaking on our side.

Mr. BUMPERS. I do not have a schedule in mind. I do not have a certain length of time that I am going to speak. I will yield myself such time as I will use.

Mr. DOMENICI. On our side, when one of our Senators is able to get the floor, we have agreed that Senator CAMPBELL will speak for 10 minutes, and the Senator from Wyoming will speak for 10 minutes.

I yield the floor.

The PRESIDING OFFICER (Mr. GREGG). Who yields time?

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. Mr. President, before I stepped on the floor a few minutes ago, something happened. I have a friend that came here from Colorado. He ranches out there. He was teasing me, and he said, ''What is Congress' only Indian doing in here defending the cowboys?'' I have to tell you, Mr. President, I had a good laugh with him, but this is not about cowboys and Indians. This is about real families. Some happen to be Indians, who are cowboys, by the way.

Anybody who knows the ranch lifestyle out West knows that ranchers grew up with guns. They learn how to use them from childhood, and they get good with them. They use them for protection and for hunting. I guess the first thing they learn about guns is that you try to hit what you aim at. I have to tell you, I admire my colleague from Arkansas and, certainly, Senator JEFFORDS, too, but they are not going to hit what they are aiming at.

As I understand both of their amendments, it is like hunting a wolf that gets in your lambs or your calves with a shotgun. You may get the wolf, but with a scatter-gun approach, you get everything else, too.

I believe Senator BUMPERS' amendment and Senator JEFFORDS', too, is really aimed at corporate freeloaders. But by putting everybody in the same category, it is certainly going to hit ranchers that are full-time ranchers, with no other income except ranching. I think that is a very sad mistake. I think they should both be opposed. To put them in the same category is simply not fair.

They are trying to define, as I understand both amendments, the difference between real ranchers and nonranchers. But the approach they have taken puts the large ranchers and the small ranchers in the same category as the nonranchers. And so when we hear the debate, they often use Hewlett-Packard, Simplot, Anheuser-Busch, and many of the big corporations who, somehow, in the past, have gotten some of the permits and, in fact, probably use them as tax writeoffs or some kind of a tax structure in order to get tax breaks from the products they are producing. But they are not what we call ''real ranchers.'' I do not think anybody here from the West is trying to defend people who have used the ranching industry for a tax writeoff. What we are trying to defend and protect are the real ranchers, the family ranchers.

There was some reference made to ranchers who have made it big. Clearly, some ranchers have made some money. As Senator GRAMM, our friend from Texas, said, ''Welcome to America.'' What is wrong with that if they made it by honest labor, made the ranch grow, and have weathered storms, drought, wolves, cats, and everything, and they managed to make a little more money and invest in something else or buy some more land? What in the world is wrong with that in this country? Yet, when they succeed, they are sort of put in the category of preying on the American public and somehow taking advantage of the American public because they have succeeded.

I think that also is not only unfair but it is wrong. This shotgun approach

very clearly of putting the ranchers in the same category as those people who use ranching as a tax break is simply wrong to do.

Senator BUMPERS said yesterday—I mentioned it last night —that we should watch where the money goes. And I have to tell you, I live among family ranchers. I know where the money goes. It goes to Main Street by and large—to the hardware stores, to the movie theaters, to the used car lots, to the school districts through property taxes, to the fire district, and to every other special district you can imagine. Very little goes to recreational pursuits. If they have any money left usually it is put back into the herd, or into the land, or some way to improve their own family lot. They do not, I know, take vacations to Nice, France, or to Montserrat, or somewhere else like the corporate people do that the Senator is aiming to get.

So I think both of these amendments are probably going to miss the target and get the wrong people.

We also dealt a little bit last night with the question about fair market value. And the accusation, of course, is that ranchers on public lands are not paying a fair market value because, if you compare it with what the rancher is paying on private lands, it is much lower. That is right. It is probably much lower.

We have a small ranch. And we sometimes let other ranchers rent some of our pasture. And I know there is a difference. But there is also a difference in the amount of work they have to put up with on private land, whether it is rotating the fields, whether it is irrigation, or a lot of other things that come into play that make the difference.

To try to charge the person on public lands the same amount I frankly just think would simply run a lot of them out of business, and it simply will not work. I often compare that question of fair market value with some of the other things that we have out West. I live near Durango, CO. Durango is near a world famous archaeological site called Mesa Verde, a cliff dwelling that everybody in this country knows about. It is run by the National Park Service. If you go to the cliff dwellings it costs you $3—as I recall from the last time I went—to go in, for an adult to get really a great historic cultural experience. You can stay in there for half a day, or all day, for that $3.

Just down the road apiece in downtown Durango is another cultural and historic activity. It is in private ownership. It is the old train called ''The Durango to Silverton Train.'' It has been there 100 years. That old train carries about 250,000 people every year, and you get a marvelous western experience. But it costs you about $30 to go on that train. If you say that we are not getting fair market value from the things that are being done on public land, maybe we ought to raise the park fee to $30 to compare it with the other experiences that people are getting a few miles away on the train. If you said that to the people in this audience, or to the people watching the proceedings today, most of them would tell you that you are nuts. They simply will not pay it.

Yesterday, I mentioned the zoo in Denver. It cost $6 when you go to the zoo. You see wild animals. They are caged but they are basically wild, whether it is deer, or elk, or bear, or wolves. Yet, when you go into the national forests you can often see those same animals for free. Maybe we ought to charge everybody that goes in the forests $6 so we get a fair market value for viewing those animals as they get when they go to the zoo.

I could go on and on about the difference it would cost. Go cut a Christmas tree. You need a $5 permit from the Forest Service. But it cost $5 per foot if you go downtown. If you suggested to people that we are going to charge $5 a foot when they go into the forest to cut a Christmas tree, you would have a rebellion on your hands.

So I think the whole discussion of fair market value simply does not wash.

So I want to come in and restate my opinion on this. I think we ought to leave this bill alone. It has been worked on for virtually years. I have been involved in it myself for over a decade. Senator DOMENICI has taken a leadership role in bringing to the floor of the Senate what I think is about as good a balance as we could put together.

I hope my colleagues will resist any attempt to change that and oppose both the Bumpers amendment and the Jeffords amendment.

Thank you, Mr. President. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may use.

First, I want to point out that while this is commonly referred to as a western issue, it is also a national issue. The 270 million acres of land that people control to graze cattle in the United States belong to the taxpayers of America. The public land may be located in Wyoming. It may also be located in Wyoming, Idaho, or Nevada. However, it is owned by the taxpayers. And 100 United States Senators have a solemn duty to protect the taxpayers' interests.

Unhappily, these so-called ''western issues'' somehow or other fall into the category of what my mother used to say as ''Everybody's business is nobody's business.'' Unless you have a significant number of grazing permits in your State, you do not immerse yourself into these kind of issues.

Why am I involved in it? No. 1, I sit on the committee from whence the Domenici bill was reported out. No. 2, I am an unabashed environmentalist and I am concerned about the conditions of the rangeland. Third, and above all, I am totally committed to fairness.

Yesterday afternoon, speaking on this amendment, I pointed out that when I first discovered that the U.S. Government was selling its land for $2.50 an acre for miners to mine gold and silver, I was utterly awestruck and did not believe it. I found out that it was indeed true. That law is still on the books. The mining law was originally intended to encourage people to go west and help small mom- and pop-mining operations succeed.

As I delved into the mining law, I discovered that it ain't mom and pop at all. Who is it? Who is mining the billions and billions and billions of dollars worth of gold, silver, platinum, and palladium off of Federal lands? It ''ain't'' mom and pop. It is Bannister Resources, the biggest gold company in the world, who bought the gold for $2.50 an acre. They are still doing it. It is Newmont Mining Co., one of the biggest gold producers in the world. It is Crown Butte, and the list goes on. It is not mom and pop. It is the biggest corporations—not in America but in the world—who are mining not only gold but mining the U.S. Treasury which also happens to belong to the taxpayers of America.

So when I began studying the grazing issue I found that, No. 1, the amount of money involved is infinitesimal. It is about $2 billion worth of gold that is being mined off Federal land every year, for which we do not get a dime—$2 billion worth. All of the 22,000 grazing permits in this Nation only produce $25 million. I would be willing to forsake all of the grazing fees except for just the element of fairness. It is not that much money. But it is not fair.

So what is my amendment about? I invite you to look at a chart.

We permit our public rangelands to people on the basis of what we call an AUM. That is an ''animal unit month.'' Right now we receive $1.35 per AUM for every cow, or horse, or five sheep that graze on Federal lands under these permits. The fee was $1.85 in 1986. It is $1.35 now.

So who are these people that have the permits—these little mom and pop ranchers you have been hearing about?

Here they are. Here are the 91 percent of the small ranchers my colleagues on the other side say they want to protect. Count me in, Mr. President. I do, too. My amendment would cost less by the year 2005 than the amendment of the Senator from New Mexico would cost, so do not talk to me about who is being fair to small ranchers. These 91 percent of the permittees control only 40 percent of the animal unit months. They are not hurt under my amendment. They should have no squawk at all. Do not shed any tears for them because of my amendment.

What else does my amendment do? Look at the right-hand side of that chart. Mr. President, 60 percent—60 percent—of the animal unit months are held by this 9 percent. Nine percent of the permittees own 60 percent of the AUM's. If you want to think of it in

pure terms of acreage, 2 percent of the permittees own 50 percent of the 270 million acres.

Is that fair? You say yes. Let me add something else to the equation then. Who is that 9 percent of the permittees? There they are. This is just a smattering, just a small list. Anheuser-Busch, the 80th biggest corporation in America. In 1994, they were on Forbes list as the 80th. Anheuser-Busch has 4 permits controlling more than 8,000 AUM's. My amendment only raises the fees on people who have more than 2,000 AUM's. Yes, my amendment would affect Anheuser-Busch. My amendment would affect Newmont Mining Co,, the biggest gold company in this country. Newmont Mining Co. controls 12,000 AUM's. Small mom and pop operation. Poor little old rancher out there struggling to survive. Biggest gold company in the United States.

Who else? Hewlett-Packard. Maybe you have one of their computers in your home. Poor little old rancher Hewlett-Packard, we have got to protect them. Hewlett-Packard runs cattle on only 100,000 acres of public rangelands. They run cattle on those public rangelands because those lands adjoin their ranch.

What are we doing here? It is sickening. Here is a man—one Senator rose in the Chamber yesterday and said he is a wonderful man, a very engaging person, a good citizen. I do not know him. I am sure people who know him like him a lot—an 85-year-old billionaire, not a small mom and pop rancher, a billionaire, J.R. Simplot, from the State of Idaho. What does he have? Well, he is not all that big. He only has 50,000 AUM's. Mom and pop rancher?

Here is a Japanese company. They control 6,000 AUM's on 40,000 acres. You look at those. The list goes on and on. I have another list here. I am not going to bore you with all of them. The biggest corporations of the United States of America mining the U.S. Treasury, and who can blame them as long as they know this body is not going to do anything about it.

A Senator who is no longer here, a Republican Senator, whom I admired very much, when I first took on the mining issue I walked over to him, and I said, ''I need a Republican colleague to cosponsor this bill if we are going to change the mining laws of this country.'' I explained to him how the Department of the Interior actually issued deeds to people for $2.50 an acre that had billions of dollars worth of gold under it. I said, ''All you have to do is put up 4 stakes for every acre you want to claim. If you find gold underneath, it is yours for $2.50 an acre. How about joining me in this crusade?'' He said, ''I'd like to, but I think I will go to Nevada and start staking claims.'' At least he was honest about it. He was being facetious, of course,

All we are saying in our amendment is that Anheuser-Busch and Hewlett-Packard and people like that are going to have to pay an average of what you would pay if you were renting State lands. The States cannot afford to give away the public domain like we do. They do not own the public domain. They own some land. The State of Arkansas owns some of its lands. Your respective States own some of the lands there, too. If those little mom and pop operators go to the State of Montana or the State of Wyoming and say, ''I would like to lease some of this land for $1.35,'' they would laugh them out of the State capital building.

The Senator from Colorado just left the floor. You want a permit in Colorado? Not for $1.35 per AUM but $6.50. They are not stupid. Do you know what else? There is a line of people waiting for a permit in Colorado.

Then look at Wyoming. Go into Cheyenne and say, ''I would like a permit on some State lands to graze some cattle.'' No. 1, they would say, ''We are sorry; we do not have any land at the moment, but if we did it would cost you $3.50 an AUM,'' not $1.35 like ''Uncle Sucker'' gets. And in Montana, the home of my distinguished good friend across the floor, $4.05.

Our amendment says to that 9 percent, mostly America's biggest corporations, we would rather you leave the land and make it available to small people to make a living, but if you insist on keeping it, we want you to at least pay the weighted average for permits that the State lets in the State where your land is located. Who can quarrel about that?

Mr. President, I will close by just simply saying two things. You know who my amendment affects? Ten percent, 10 percent of the permittees, and they are the biggies. Only one State, Nevada, would have more than 10 percent of its permittees covered by my amendment. I did not know until I looked this over.

For the interest of my colleagues who may or may not be in the Chamber but who I hope are listening, here is how your State would be affected: Arizona, 10 percent; California, 8 percent; Colorado, 5 percent; Idaho, 7 percent; Montana, North Dakota, and South Dakota, 2 percent; Nevada, 39 percent; New Mexico, 10 percent; Oregon, Washington, 8 percent; Utah, 10 percent; Wyoming, 9 percent.

Is it any wonder people think campaign contributions play a role in what happens around here? There is no justification for allowing this to happen. Since 1981, the grazing fee for cattle grazing on private lands has gone from $7.88 to $11.20 per AUM. The fee on State lands has increased from $3.22 to $5.58, and Federal grazing fees in real dollars have gone from $2.31 to $1.61, to this year's $1.35.

I say to my colleagues, I would like to appeal not only to your sense of fairness but to your sense of compassion. At a time when 100 Senators committed to a balanced budget and we are cutting education, we are cutting environmental funds and housing funds and school lunches and Medicaid and Medicare, and everything that is necessary to give people at least a fighting chance at a piece of the action, a piece of the rock, we allow things like this to go on. It is unconscionable.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield myself 1 minute, and I want to yield to my colleague from Montana.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I guess I am sorry the Senator has suggested anyone who does not agree with him is a victim of contributions. I think that is not a very appropriate remark.

Mr. BUMPERS. Senator, I want to apologize for that remark. I am sorry. There is a certain personal thing in that, and I regret it. I regret I said it. I am sorry.

Mr. THOMAS. Mr. President, there are a couple of things I think are important here. One is the predication of this idea. This amendment is based on the idea that there is a subsidy here.

Yesterday I reported on the Pepperdine University study, an unbiased study that indicates very clearly this is not a subsidy. If you come from this area, where we have 8 inches of rain instead of 40, you will find that this is not a subsidy and Pepperdine University says that Montana ranchers—this was in Montana—who rely on Federal lands do not have a competitive advantage over those who do not.

Second, it seems to me we enter here into a great deal of class warfare which I think is unnecessary. Yesterday, the Rock Springs Grazing Association was mentioned as one of these corporate robbers. Let me tell you what the Rock Springs Grazing Association is. It was started in 1909 in southwestern Wyoming to stop overgrazing which was taking place in the Red Desert, which, by the way, is the largest grazing district in the whole BLM in this country. The association breaks down roughly this way: 550,000 deeded acres are in here. This is what is called the checkerboard; 450,000 are leased from private and 900,000 are Federal permits in the checkerboard. They are all intermixed. There is no fencing. You cannot use one from the other. There are 11,000 there.

What is the association? It is 64 shareholders, 64 family ranchers, that is who it is. It is not a corporation. It is 64 family ranchers that use that.

So I think, really, when we take a look at this thing, as I said yesterday, this is a unique circumstance. It is very easy to come from somewhere else and say, ''This is the way it is at home.'' Well, this is not home. This is a unique aspect where your State is 80 percent owned by the Federal Government. We do have some feeling about it. It is our economic future.

I yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank the manager of the bill. Let us just talk about it from an environmental standpoint.

Basically, what the amendment of my friends from Arkansas and Vermont does, or the amendments do, is throws us right back into this old class warfare again, the ''haves'' and the ''have-nots.'' Nobody is asking for that kind of situation.

There is no doubt in my mind, my friend from Arkansas is a dedicated and a wild environmentalist. Every figure that we can give you is backed up by facts, that there is more wildlife on public lands now than ever in the history of this country. When you take off grazing management—we cannot tell the antelope not to graze the same time the cattle do, or the deer, or the elk. They all have the same forage. They all get along on the same range. That is why we have more of them now.

But when the management of that resource goes away, do you know what goes away? Water. And, folks, nothing living goes out there in that country without water. Strictly from an environmental standpoint, pull all the cattle off, get all the people out of there, and watch that range turn into the way it was at the turn of the century, with nothing on it—no life, no water. Wind erosion is rampant. That is what we get into.

If these amendments prevail, the impact it has on cooperative—as my friend from Wyoming said. These things sound big, but they are a bunch of little folks who throw together enough to run their cattle and their sheep. Rock Springs, WY is a perfect example.

Another thing, we have two cooperative agreements, in Fleece Creek and Wall Creek. This is where environmental groups, U.S. Fish and Wildlife, Montana Fish and Wildlife, the Stock Growers, BLM, and the Forest Service, all got together and made out a grazing pattern and developed a plan, to where they can graze and where they cannot graze on what part of the year.

Do you know what? It is working. It is working on the ground. It is working because local groups got together and solved a problem, instead of going down this road of throwing everything back into the courts again, into an adversarial environment in which we have to do business, because it cracks up communities both within and from without.

I know there are folks around here, in the sound of my voice, who say as soon as some outsider comes into our town and tries to make a decision for us, what happens? Polarization.

Montana has three fees. There are different fees for different Federal lands, State lands—but, you know, there is a lot of difference in the lands, the carrying capacity, what they will produce, where they are, access. There is a multitude of factors that go into it before you set a rental. Private lands are pretty accessible. You have somebody going up those gravel roads every day. Some of these Federal lands you cannot even get to unless you are on horseback, and that is another cost that has to go into the grazing fees.

So there is the difference. If I take an acre out of Arkansas, maybe I want to give the same price for an acre in southeast Arkansas as I do for an acre in northwest Arkansas. Are they the same? Will they produce the same, just because it is designated a State land? I do not think so.

The same is true out where we live, too.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BURNS. So, from an environmental standpoint, this is an antienvironmental vote if you take everything into consideration, and I ask for its defeat.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I believe the Senator from Arkansas has yielded me time.

The PRESIDING OFFICER. The Senator yields to the Senator from Vermont?

Mr. BUMPERS. I yield such time as he may wish to use.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, this is not the first time we have had these issues raised. I have been here, now—this is my 8th year. I do not know how many times we have had this issue raised.

I remember when I first raised these issues in the early 1990's, I learned a lot about what the situation was in the West. In fact, I even traveled out to Wyoming and met with ranchers and saw the land and examined the situation. At that time there were assurances from those who were out there saying, ''Yes, we know we have to raise the grazing fees. We know that they are too low. We know that it is not fair, relative to those who graze on private lands and State lands.''

What has happened since that time? Have the rates gone up? Have they made an effort to try to remove the inequities between these beef producers and other beef producers who are grazing on State lands and private lands? No. The fee has gone down, whereas, the private land fees have gone up. The State land fees have gone up; the fees on the Federal lands have gone down.

I also just point out for those who wonder what happened between the time I offered this amendment yesterday and now—I want to thank Senator BUMPERS and Senator DOMENICI for incorporating my second-degree amendment into the original Bumpers amendment—it is that yesterday I had second-degreed the amendment of the Senator from Arkansas. They agreed that my concept of trying to help the small farmers out was a valid one and ought to be adopted. So that was done. So you have now the Bumpers-Jeffords amendment.

Mr. THOMAS. Will the Senator yield?

Mr. JEFFORDS. Yes.

Mr. THOMAS. Does the Senator recognize that under this bill the rate goes up 40 percent, under the bill as Senator DOMENICI presents it?

Mr. JEFFORDS. That may be. But in the interim it has gone down, so you have not gotten to ground zero yet.

Mr. THOMAS. This bill brings it up 40 percent.

Mr. JEFFORDS. But 40 percent of what, though? That is the problem.

Mr. THOMAS. Higher than yours.

Mr. JEFFORDS. But a lot lower than it should have been relative to what it has been, is my point. In fact, mine is low, if you consider that my amendment is to help the small farmers out. So in the sense that you want to help out the small farmer, as I do, then perhaps you would want to vote for this amendment so that you can improve that aspect of the amendment.

I do not have a problem with that, because that is not my problem. My problem is with giving a huge subsidy, which would happen without my amendment, to the corporate entities and the large owners that are going to get a huge benefit without any need or any rationale for it.

The Senator from Arkansas has gone through, and I went through yesterday, the people that are going to be benefited by this. Yesterday, you heard on the floor a great deal about the merits and detractions of the underlying bill. Whether or not we agree on the merits of the bill, I think the majority of this body can agree on the merits of this amendment, which is now included in the amendment you will be voting on, that is, the Bumpers amendment.

My amendment is very simple. It protects 90 percent of the ranchers. So, I do not understand why anyone can disagree with it. Small ranchers, who embody the history of the West, are going to get a benefit better than the underlying bill. But it also rectifies an ongoing injustice relative to the large users of the AUM's.

For 9 percent of the ranchers, the large, wealthy corporate ranchers that consume over 60 percent of the total AUM's—over 60 percent of the total AUM's—who forage on public land, this amendment will simply have them pay the same price—the same price—that they would pay if it were State lands, that the rancher using the rangeland next to them are currently paying to the States. Now, how in the world can that be inequitable, wrong or inappropriate to say that those on Federal lands who are huge corporate owners should not pay the same as they are paying on the State lands?

Organizations who have been calling for sound spending in the balanced budget, such as the Cato Institute—that is a conservative organization—believe it is time to change the fee structure. I was told several years ago,

''Yeah, we're going to change the fee structure.'' The Cato Institute has been promoting grazing fee reform for years, highlighting the need to adjust needs to reflect their true value so you would not have that inequity between those that are grazing on State lands and those that are grazing on private lands and the rest of the beef farmers of this country.

I spoke to this issue yesterday, as did my colleague from Arkansas, quite thoroughly, I might add. I want to reiterate that this amendment not only makes good budget sense, but it makes good common sense. There is no reason why a large rancher on Federal land should be paying up to five times less to use what is basically the same land that his neighbor is grazing just because he is sending his check to Washington instead of to the State capital.

The point has been made that there are a lot of wild animals grazing on this. There are a lot of wild animals grazing on the State lands and a lot of wild animals grazing on the private lands. So there is no inequity to be rationalized out by giving a lower fee on the Federal lands.

But there are other benefits of this amendment I want to discuss today. Farmer protection, land stewardship, and local input.

First, as I mentioned, this bill protects the small rancher by keeping the grazing fee he or she pays low. We are all aware of the plummeting beef prices and the economic hardships facing these ranchers. I firmly believe that we have a responsibility for the success of small ranchers. But I tell you, my dairy producers, they do not get a higher milk price when the price of grain goes up. No way. But they are trying to say now, when the price of the beef goes down, they should allow the price of the rangeland to go down. That does not happen to those on State lands or private lands.

Not only by keeping their fee low for the small farmers, but by raising additional revenue that we could return to the local governments—this money would go back to the local governments for range improvements, most of it—by increasing the fee to the large ranchers, additional revenue will come into the Range Betterment Fund, a program that has helped countless ranchers.

Second, by addressing the large ranchers, this amendment will begin to reduce the significant proportion of the environmental degradation taking place on the public lands. Studies have shown that it is the large ranchers who are causing ecological degradation of the public lands. So the ones we are giving the most benefit to are the ones that are causing the most damage.

Currently, the low Federal grazing fee encourages overstocking on Federal lands, which has been shown to be detrimental to the environment and the grazing lands. A comparison of the size of herds on Federal lands versus the average size on private and State lands shows that Federal lands bear a much higher number of large ranching operations than the other lands. Why? Of course; it is cheaper.

Third, this amendment brings the Federal grazing program closer to the local level. In the past years, on numerous issues, we have heard from State and local government that they want greater participation in the decisionmaking. This amendment accommodates this request by saying the fee will be at the State level. My amendment will make the system more equitable and make it more responsive to local ranchers.

Yesterday, Senator DOMENICI discussed how one program cannot fit all ranchers. But by leaving the fee schedule as it is in the Domenici bill, we are making one size fit all. This amendment will put more flexibility into the fee system. Large ranchers will be paying what their neighbors on State lands are paying, not what everyone else in the West is paying. As land costs and transportation costs, fee costs and beef prices in the State change, all things will be taken into consideration, and the State fee will change, and the Federal fee for large ranchers will also change.

Again, in summary, let me emphasize how this amendment not only makes good balanced budget sense, but also good environmental and economic sense. Although this amendment is fairly simple in its concept, it builds upon many of the themes in Senator DOMENICI's bill. It protects the small rancher and promotes good land stewardship, and it brings the Federal grazing program closer to the local level. It is time we face this issue. We have been talking about it for years and years and years with promises of review and promises of change and promises otherwise. What has happened? Nothing has happened. The fee is going down again.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THOMAS. Mr. President, I yield 4 minutes to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, in my comments here on the floor, I will simply make two points: First, this has been described repeatedly as having something to do with balancing the budget. We are being told how many millions—by implication, billions—of dollars of corporate welfare are going to the huge ranchers because of the Domenici bill. I would like to put that in context, Mr. President.

If the revenue projections of the Secretary's proposed raise in grazing fees are met, which I do not believe they will be, we will generate in increased revenue less money than it took us to put the subway in between the Capitol and the Hart Building. We are not talking about enough money to make any difference whatsoever in terms of the balanced budget circumstance. I repeat, Mr. President, it cost us more to renovate the subway cars running between the Capitol and the Hart Building than the administration will generate in increased fees if their projections are correct.

I do not believe their projections are correct for this very reason. That is a tiny amount of money as far as the Federal Government is concerned. The amount of increased grazing fees is an enormous amount of money for those families who are living, literally, on the edge right now. They will be unable to pay the increased amount called for by the Secretary, so they will go out of business. We will not only not get the increases the Secretary is projecting, we will not get any money at all.

I believe the Federal revenues will go down rather than up if the Domenici position is not maintained. I believe that we will see significant financial damage throughout all parts of the rural West. That is my first point.

My second point, Mr. President, is illustrated with this photograph. Some of you may have seen the pictures that were in full-page ads in the New York Times and the Washington Post and other national publications in which this part of the land was shown in a photograph. The question was asked, whose public lands are they? The implication was that we were getting degradation on the lands. I have heard that again here—degradation on the lands.

Well, I call your attention to the lower photograph. Maybe it is difficult to see across the Senate. It is very clear that the riparian areas in this part of rural Utah are substantially better off in the lower photograph, the more recent photograph, than they were in the first paragraph. What is the difference? The first photograph was taken before grazing was allowed in the area, before the cattle were allowed to get into the area, break up the hard crust of the land with their hooves, allow water to get below the ground surface, allow seeds that were in the air to take root and fertilize the ground with their urine and defecation. We see here lush, lush growth in the riparian area. We see a better environmental circumstance than we saw before the cattle were there.

I wish every Member of this body could have been here last night when the senior Senator from Wyoming [Mr. SIMPSON] had a series of photographs showing 100 years' difference in the State of Wyoming. In every case, the environment was substantially better 100 years later because cattle had been in it.

This is an environmental vote, Mr. President, and the proper environmental vote is to vote with Senator DOMENICI.

Mr. President, I appreciate the leadership shown by my colleague, Senator DOMENICI in bringing this legislation to the floor. I am pleased to join with many of my colleagues in support of this revised and significantly improved legislation.

Grazing of livestock on western Federal lands has been increasingly and unfairly referred to as a subsidized form of welfare. Yet, the western livestock industry is key to preserving the social, economic, and cultural base of rural communities in the West. This lifestyle helped open the West to productive development and responsible stewardship. Grazing is a healthy way to sustain and utilize renewable resources.

We are all familiar with the administration's highly controversial regulations, and the significant impact on the way grazing on public lands are to be managed. I believe these regulations pose a serious threat to the stability of the industry.

The Interior Department's Bureau of Land Management and the Agriculture Departments U.S. Forest Service manage 268 million acres, or 37 percent of the 720 million acres of public and private rangelands in the West. The State of Utah is 69 percent controlled by the Federal Government. We have 22 million acres of BLM lands and an additional 8 million acres of Forest Service lands. Detractors of grazing speak of continued rangeland degradation, yet the professional range managers for these agencies have admitted that Federal rangelands are in the best condition they have been in this century. Great strides have been made in improving the range lands through the use of partnerships and promotion of good stewardship. Furthermore, through shared stewardship with the livestock industry and the general public, populations of wildlife are increasing and stabilizing, and water quality on Federal lands has improved significantly. I believe that S. 1459 will eliminate the controversy caused by the administration's grazing regulations and help mitigate the firestorm they caused in the West.

I am as concerned about the public's right to be part of the planning and decisionmaking process as I am about the bureaucratic quagmire caused by frivolous appeals and protests. Our legislation provides for full public participation in the planning process, allows for protest by affected interests and encourages public involvement through the Resource Advisory Committees and the NEPA process. The general public has the opportunity to comment on actions and site specific NEPA documents, by attending scoping meetings, hearings, and by responding to requests for comments by the agencies.

Since the BLM and U.S. Forest Service offer service to the same list of customers, often from the same building. This legislation would cut bureaucratic redtape and simplify the management of livestock grazing by simply managing all Federal land grazing by the same rules, regardless of jurisdiction. This makes it convenient for the permittee and/or lessee and greatly reduces conflict while reducing the costs of Federal land management.

Grazing is only one of the many uses that occur on Federal lands. This legislation supports and strengthens the concepts of multiple use management, which is basic to the management strategies of both agencies. The privileges of all Americans to access and use these lands is protected. The investments made by the livestock operator in range improvements, which have significantly helped wildlife, are protected. Our legislation seeks to eliminate the on-going clash over water between State and Federal levels by simply recognizing each State's right to allocate and manage water in their jurisdiction.

Mr. President, I believe this legislation provides a vehicle for our professional Federal land managers to join with livestock men and women in managing our Federal rangelands. We can do this while protecting the rights and privileges of all Americans, enhancing wildlife and riparian values and maintaining the viability of the livestock industry in the West. Grazing on Federal lands is economically and socially important in my State and in the West. I encourage my colleagues to support this legislation in the hope that common sense can once again prevail in Federal land management decisions.

I ask unanimous consent to have a summary printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

State Land grazing fees can be higher because the states are generally not shackled by the regulatory burden carried by Federal Land management agencies.

In some western states, because of the checkerboard effect, state lands are managed by federal land managers by default.

SIZE OF RANGELAND PERMITS, BLM NATIONALLY

	Number of permits	Percent of total permits	Number of AUM's (millions)	Percent of total AUM's
<100 AUM's	8,600	45	1.6	12
>100–500 AUM's	8,600	45	5.5	41
>500 AUM's	1,900	10	6.2	46

Very few of the ''large'' ranchers (over 2000 aums in Bumpers amendment) are owned by major corporations such as Turner Broadcasting or Prudential. However, many of the family ranches in this category are incorporated for tax purposes, thereby meeting the definition of ''corporate ranches.''

The majority of these ranches (over 2000 aums) are family owned corporations and most make 100% of their income from federal land grazing.

Because their sole source of income is from federal lands and tend to be heavy indebted, they are probably the most susceptible to even moderate increases in fees.

These ranchers tend to be the best stewards of BLM lands because they live on the land, not in Los Angeles.

These ranches tend to invest heavily in federal land multiple use range improvements and generally have the lowest management costs to the federal land managers.

Bottom line: If they fail, there could be significant ecological changes on federal lands, major range improvements will not occur and costs to the federal government could increase due to the higher cost associated with management of numerous small permits.

Mr. BUMPERS. I yield myself such time as I may consume.

Mr. President, the Senator from Montana a moment ago discussed a large grazing association, individual ranchers, and he said that they would be considered somebody who had more than 2,000 AUM's.

Senator, our bill specifically—specifically—takes care of that. Your association in Montana would be judged according to the AUM's of each individual member, not the association.

No. 2, my good friend from Utah, and I have utmost respect for him, began his statement by saying that we talk about this amendment producing millions and billions in balancing the budget. I have said time and time again the amount of money in this would not wet a whistle. If my amendment passed, it might accidentally produce up to $13 million a year.

But, Senator, I have also said the issue here is not money except in the context of fairness. It is not fair for us to have a law on the books under the guise of helping small ranchers make a living out West, and allowing the biggest corporations in America to slurp up that land and deprive the very people you say you want to defend from grazing permits.

That is the ultimate fairness we are talking about. That is all that my amendment does. My amendment affects less—repeat, less—than 10 percent of the 22,000 permittees in this country. Who are they? Need I repeat it? The biggest corporations in America, slurping up the lands that ought to be used by your small ranchers who need the land, who could make a living on it.

Class warfare? Somebody used that term a moment ago. How foolish can you get? We are not talking about class warfare. We are talking about a basic, elemental fairness. Some day these issues are going to catch on with the American public. Right now, the American public does not have a clue about grazing fees.

I might say they are beginning to hone in on these mining claims. That is getting to be a topic across the country. It has only taken 7 years to raise the voters' awareness slightly on that issue. Not one single State except Nevada will suffer a raise in rates for more than 10 percent of the permittees in that State. Montana and the Dakotas all combined, only 2 percent of their permittees.

I hope that the Senators from Montana and from the Dakotas certainly would vote for my amendment because they would never know it passed out there.

Let me just say, Senator JEFFORDS and I may not prevail, but it will be sort of like my fights with Betty Bumpers. Those I win are just not over. I plead with my colleagues to think very seriously about whether you want to go home, and on those rare occasions when somebody says, ''Senator, how did you vote on the grazing fee bill,'' you will have a good answer. If

you vote against this amendment, you are going to have some tall explaining to do. I yield the floor.

Mr. CRAIG. Mr. President, I yield myself 6 minutes.

Mr. President, let me tell the Senator from Arkansas how I am going to vote. I am going to vote against the Senator from Arkansas and his amendment and the amendment that he has modified. In doing that, I will vote for fairness and equity and balance in the sale of a publicly held resource, the public grass of the public land States of this Nation.

What the Senator from Arkansas did not tell you is that he has never asked for a two-tiered rise in the sale of the trees of the Ozark's St. Francis forest. The reason is because he thinks it is fair that the largest timber companies in the world and the smallest man with a sawmill in his backyard ought to pay the same price for trees.

The only thing the Senator from Arkansas has done, and I agree with him, is say the small mill operator ought to be given some advantage through small business set-asides. I think we have agreed with that over the years. But the tree he buys or that Boise Cascade buys is sold on the market at the same price.

Now, when it comes to selling the grass of the public lands, that grass should be sold in a fair way. Those who are buying it ought to be able to purchase it in a fair way. Should we ask that a blade of grass bought by a small rancher be less in value than one bought by a large rancher? No. I think when the Energy and Natural Resources Committee of this Senate—who took it as their responsibility this year to revise grazing law, grazing policy, and we did. I say to the Senator from Arkansas, we heard you. We heard the American people that public land grazing policy ought to be adjusted and changed.

We introduced a bill earlier this year. It was not as pleasing to some as it ought to be. The Senator from New Mexico and I pulled that bill back, along with our colleague from Wyoming and other Western States, reviewed it, and reached out to a variety of public interest groups.

They made 27 different recommendations, and we pooled those recommendations together. The legislation you have before you today does a variety of things, but one thing it does is it raises grazing fees. It puts in place a new formula. It brings about a fairness and equity that every permittee that is a rancher, large or small, who has grazing on public lands, agrees with, and that is that the fees ought to go up. But what I do not believe in—and I do not think the Senator from Arkansas wants to do it—is to establish class warfare in the selling of public resources for the public good.

We do not say to rich people who go to the U.S. parks, ''Oh, I am sorry, you are a millionaire, so you have to pay $2 more to use the campground.'' Maybe we should. Maybe the Senator from Arkansas ought to propose that. What about the backpacker that pays the fee to enter a wilderness area? Should they pay more if their portfolio says they are a multimillion dollar person? I think not.

We in this country have always spoken to fairness, equity, and reasonable values. But what the Senator has offered is not fair, not equitable, and, in my opinion, it is class warfare. It makes great headlines in the newspapers.

So if it is none of those things, what is it? Why is the Senator asking for this kind of dramatic change from the policy that the committee he serves on has crafted? I do not think it is anything to do about money, and he has admitted that. Whether you charge the big multimillion-dollar ranchers much, much more for the going market rate of grass than you would the smaller—the Senator from Utah said it would not even pay for the subway the Senate purchased a year ago. And if it would not, then what is the issue? The issue is power and control, to get a few more folks off the land so we can have a different image or a different idea as to how the lands ought to be managed. That is what we are really talking about here.

I sincerely believe—coming from a public land State, where ranching is an important part of our economy—that it is good public policy to have a sound grazing policy in our country that says that grass ought to be grazed in a reasonable fashion, that it is a resource of our country that ought to be utilized for the development and the growth of red protein, for the consumption of our country and for the health of our citizens. We have always held that value in this country. What we have done over time is change the way the lands are managed, and that is fair. We should not be managing the grazing lands of the West the way they were managed in 1935, and we are not. The public is telling us today that they ought to be managed differently in 1996 than they were in 1995. Our legislation does that.

So we accept change. We should accept change. But I plead with the Senator from Arkansas to accept fairness and equity. Public resources, whether it is the campground, whether it is the trail, whether it is the log, minerals, or grass, what we are talking about here is that it should be managed responsibly, and it should be marketed in a fair and equitable fashion.

We have never in this country engaged in class warfare, nor should we now, whether it is the sale of public grass, the sale of the public tree, or the public resources. I plead with my colleagues in the Senate to vote down the amendment of the Senator from Arkansas.

Mr. CAMPBELL. Mr. President, raising the grazing fees under the Bumpers amendment is fundamentally unfair to ranchers. This proposal does not fully consider the investments that ranchers already have made in building their lots.

In addition, the profit margins for many ranchers is small, and many ranchers already have fallen into bankruptcy. Raising the fees as this amendment proposes to do will make things even more difficult for ranchers and may force more ranchers to exit the business during the next few years.

Mr. President, a look at the increasing losses suffered by ranchers paints a bleak picture. In the business of ranching, analysts consider the industry average for the ''estimated calf break-even'' prices in tracking trends.

In the industry, we refer to the ''calf break-even price'' to mean the cost of supporting a cow to produce a calf for a year divided by the weight of the calf. There are many costs associated with supporting cows, such as summer pasture, winter feed, breeding costs, health costs, veterinary visits, and medications. Producers in the northern regions, including my home State of Colorado, have even higher winter feed costs and have to pay more out-of-pocket expenses for the winter.

In the fall of 1993, the estimated industry average calf break-even price was $81.95 per 100 weight. The average profit was $42 per head.

Since then, however, the industry average shows increasing losses.

In 1994, the break-even price was $80.78 per 100 weight, but there was a $12 per head loss.

In 1995, the break-even price was $80.41 per 100 weight, but the losses increased to an average of $59 per head.

For 1996, industry analysts already are predicting another year of losses which will be even to or greater than the losses incurred in 1995.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a table which shows the industry average for the ''estimated calf break-even'' prices and the average losses sustained by the producers. I also ask unanimous consent to have printed a second table in the RECORD which reflects the average sale price and profit or loss per hundred weight.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1—COW/CALF PRODUCER PROFITABILITY

TABLE 1—COW/CALF PRODUCER PROFITABILITY

[Industry average for costs versus returns]

	Number of permits	Percent of total permits	Number of AUM's (millions)	Percent of total AUM's
1993	$81.95	[2] $42		
1994	80.78	[3] 12		
1995	80.41	[3] 59		
1996	TDB	([4])		

[1] Estimated calf break-even prices (per 100 weight).
[2] Profit.
[3] Loss.
[4] Projected loss is even to or greater than less in 1995.

TABLE 2—COW/CALF PRODUCER PROFITABILITY

[Industry average sale price and profit/loss per hundred weight]

Year	Est. calf break-even (per 100 weight)	Avg. sale price (per 100 weight)	Profit/loss (per 100 weight)
1993	$81.95	$94.50	+$12.55
1994	80.78	78.36	−2.42

TABLE 2—COW/CALF PRODUCER PROFITABILITY—Continued

[Industry average sale price and profit/loss per hundred weight]

Year	Est. calf break-even (per 100 weight)	Avg. sale price (per 100 weight)	Profit/loss (per 100 weight)
1995	80.41	63.43	−16.98
1996	TBD	TDB	(1)

[1] Projected loss is even to or greater than loss in 1995.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes, 25 seconds.

Mr. BUMPERS. Mr. President, I yield to my distinguished colleague, Senator JEFFORDS, 2 minutes.

Mr. JEFFORDS. Mr. President, if you only listened to the facts right now, you would come out with completely different conclusions than you would from the positions people have been taking here. Let us remind ourselves, as far as this class warfare argument, just yesterday all of my friends voted in favor of the product liability bill, which has quite a different situation for small and big business. Why? Because small business obviously gets a greater hit, with a smaller amount of money. Well, the measure we are dealing with now will have a fee lower for the small farmers, the small users. All your small farmers—the only ones you are going to benefit, or the only ones my friends arguing so strongly against me are going to benefit, are the large corporate guys, the ones that do not need any help, the ones getting a benefit far above what the present price is for State lands, which we would charge them for private lands.

So why in the world do my colleagues, who want to give all their smaller farmers a lower rate, want to vote against the amendment that would do that, when it only charges the wealthy and huge corporate ranchers the same as they pay on State lands? It does not make any sense at all. I do not understand it. It is just because we are so used to taking positions on one side or the other, and you cannot recognize when we are doing something to benefit you. It is purely to establish a system of equity and sense in the fee system.

I urge all my colleagues to vote for the Bumpers-Jeffords amendment. I yield the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time?

Mr. DOMENICI. How much time remains?

The PRESIDING OFFICER. The Senator from Arkansas has 3 minutes, 30 seconds. The Senator from New Mexico has 1 minute.

Mr. BUMPERS. Mr. President, the Senator from Idaho raised a question about timber. I do not understand the relevance of it. We do set aside timber for small business people. Even so, timber is sold on a competitive basis.

If you want to start leasing 270 million acres of public rangelands for grazing on a competitive basis, I may or may not vote for that, but we do not do that. Do you know how you get a permit? You have to own land. Hewlett-Packard may own 400 acres of land, which they have to do in order to be eligible for a permit. If they have a 400-acre ranch that they own themselves, they can run cattle on 100,000 acres of Federal land.

I am telling you something else. You could not pry these permits from permittees with a wedge. They literally hand these permits down from generation to generation. Under the current regulations, the term of a permit is 12 years. The Senator from New Mexico, his bill originally considered 15 years—is it 15 or 12 now?

Mr. DOMENICI. I believe it is 12.

Mr. BUMPERS. Twelve years is a long time. You cannot compare timber sales, which are let competitively, to a permit which you give some corporation like Anheuser-Busch or Hewlett-Packard, simply because they own a few hundred acres in their own right, give them 50,000 to 100,000 acres to raise cattle on for $1.35 a month per cow.

Everybody here knows what this is—corporate welfare, pure and simple, just like the Market Promotion Program where we give McDonald's money to advertise the Big Mac in Moscow. That is more of the same. Here we are trying to make just a small dent and say that these big corporations who own 60 percent of this 270 million acres pay at least what the State would charge you if you were renting lands from the State.

Why is it that the Government only receives $1.35, and that is way under what any State in the Nation charges for the same thing? It is politics. It is corporate welfare. And it is grossly unfair. I plead with my colleagues to come in here and search their consciences about whether this is right or wrong.

Should we allow this practice to continue? As I say, these things are so patently unfair. They never go away, Senators. They never go away. Let us address it now. If my amendment is not perfect, we will go to conference and make it perfect.

My fee is actually less than the fee of the Senator from New Mexico in the year 2005. We are not talking about what we are charging the small ranchers; we are talking about what Hewlett-Packard, Newmont Mining, Anheuser-Busch, and the biggest corporations in America ought to pay.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I wonder if I could get 1 additional minute. Does Senator BUMPERS object?

Mr. BUMPERS. Not at all.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to give two reasons why you should vote against Senator BUMPERS' amendment. First of all, let me suggest that if this were an issue of politics, if this were an issue of how many people are ranchers and cowboys in the State of New Mexico versus those that are not, the politics would be to vote for the Bumpers amendment and put all the small ranchers in New Mexico out of business because there are not very many of them. This argument about the big corporate users—I am not here trying to protect them. They will protect themselves. I am here to protect the small guy.

Let me tell you, in Arizona, New Mexico, parts of California, and in other States, this amendment that is pending will say to ranchers with 176 animal units who use it year long, ''You are a big rancher, and you pay up to $10 in some States, and you are out of business.'' That is what this amendment will do. For another huge portion of them, 354 head will qualify as being large under that amendment that we are debating. They are not big ranchers. They will go broke under this formula.

And last, my second point, Senator BINGAMAN, who has been working on this for a long time, has a bill, and what do you think his fee schedule is? His fee schedule is exactly the same as that in the Domenici bill. I think he has looked at it. He does not agree with everything that we are for, but he does agree that the fee schedule that is being sought by Senator BUMPERS is outrageously high for many, many ranchers in the United States. And if you want them to quit, fold up their tents and go home, vote for the amendment that the Senator from Arkansas has before us.

Mr. BUMPERS. Mr. President, I ask unanimous consent to be granted 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, Karl Hess, Jr., a senior fellow at the Cato Institute—that is not exactly the citadel of liberalism down here—says:

> Domenici's bill is bad for ranchers, bad for public lands, and bad for the American taxpayer. It will not improve management of public lands and it will not be a fix for the hard economic times now faced by ranchers. What it will do, however, is deepen the fiscal crisis of the public land grazing program by plunging it into an ever-deepening deficit. If western ranchers insist on supporting this bill and the additional costs associated with it, they should be prepared to pay the price.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bumpers amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to lay

on the table the amendment, as modified, of the Senator from Arkansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 48 Leg.]

YEAS—52

Abraham	Dole	Kempthorne
Ashcroft	Domenici	Kyl
Baucus	Dorgan	Lott
Bennett	Faircloth	Lugar
Bingaman	Feinstein	Mack
Bond	Ford	McCain
Breaux	Frist	McConnell
Brown	Gorton	Murkowski
Bryan	Gramm	Nickles
Burns	Grams	Pressler
Campbell	Grassley	Reid
Coats	Hatch	Shelby
Cochran	Hatfield	Simpson
Conrad	Heflin	Stevens
Coverdell	Helms	Thomas
Craig	Hutchison	Thurmond
D'Amato	Inhofe	
Daschle	Kassebaum	

NAYS—47

Akaka	Hollings	Pell
Biden	Inouye	Pryor
Boxer	Jeffords	Robb
Bradley	Johnston	Rockefeller
Bumpers	Kennedy	Roth
Byrd	Kerry	Santorum
Chafee	Kohl	Sarbanes
Cohen	Lautenberg	Simon
DeWine	Leahy	Smith
Dodd	Levin	Snowe
Exon	Lieberman	Specter
Feingold	Mikulski	Thompson
Glenn	Moseley-Braun	Warner
Graham	Moynihan	Wellstone
Gregg	Murray	Wyden
Harkin	Nunn	

NOT VOTING—1

Kerrey

So the motion to lay on the table the amendment (No. 3556), as modified, was agreed to.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent Amy Lueders, a congressional fellow, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I also ask unanimous consent that Philip Kosmacki, who is a fellow in Senator WELLSTONE's office, be granted the privilege of the floor for the remainder of the debate and voting on S. 1459.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, Senator BINGAMAN is to be recognized for an amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. Might I say, from the Republican side, there are no time limitations on this amendment. I do not believe we want to speak a long time on it. There are a lot of Senators who would like to get some votes behind them here today. I am going to do everything I can to accommodate, without jeopardizing Senator BINGAMAN and those who support him having their opportunities to speak on the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3559 TO AMENDMENT NO. 3555

(Purpose: An amendment in the nature of a substitute to the Domenici substitute to S. 1459, the Public Rangelands Improvement Act of 1995)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE, proposes an amendment numbered 3559 to amendment No. 3555.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. BINGAMAN. Mr. President, this is a substitute amendment I am offering on behalf of myself, Senator DORGAN, Senator REID, Senator BRYAN, and Senator DASCHLE. I know there will be at least three other Senators who wish to speak in favor of this substitute.

Mr. President, there are some basic differences between the bill as proposed, Senate bill 1459, and the substitute that I have just sent to the desk and which we are going to vote on here at some point. Senate bill 1459 deals with BLM land and Forest Service land.

Let me just say generally what I believe it does in regard to each of those. On BLM land, it repeals all the existing regulations the Department of the Interior has in place with regard to grazing on BLM land. It would also put in statutory form a significant amount of the policy that has previously been handled by regulation in the Department of the Interior with regard to BLM land, grazing on BLM land.

Then it states that with regard to any subject that is not covered by this new statute, Senate bill 1459, it would reinstate the old regulations which were developed during James Watts' administration in the early 1980's and which have been in place since that time. So that is what it does on BLM land.

On Forest Service land, it changes the statutory law that the Forest Service has operated under for grazing in our national forests for at least 60 years. It changes it in a way that, in my view at least, encourages more use of the national forest for grazing rather than less use of the national forest for grazing. That is the underlying bill, Senate bill 1459.

The substitute I and my colleagues have offered here has a very different purpose. Its purpose is to identify the portions of the new BLM regulations that have raised legitimate concerns among people who are affected by them, and it proposes that we legislate new statutory policy in those areas. The goal of the amendment is to ensure that the public maintains adequate input into the process of policymaking on our public lands, ensure that land managers have adequate authority to maintain the health of our public lands and, of course, maintain the use of our public lands for all of our citizens.

The substitute that I want to address here works to accomplish these goals. I believe it will provide real stability for permittees and lessees as well. In some detail, I would like to describe, first, what the substitute does and then some of the things that it clearly does not do.

First of all, what the substitute does. I have a chart here, Mr. President, that tries to identify the key policy changes contained in this substitute and the issues we have tried to address. As I said before, what we have tried to do is listen to the concerns of people who are permittees and lessees, listen to the concerns of others who have need to use the land or desire to use the public land, and put in statute those things we believe need to be statutorily provided for because they are not adequately covered by existing regulations.

We otherwise leave in place the existing regulations on the BLM land, and, of course, we do not apply most of this bill—all but three provisions of this bill do not apply to the Forest Service. We allow the Forest Service to continue to administer the lands under the existing law that they have in place.

The first thing we have changed is that we provided that ''interested publics,'' as described in the existing regulations of the Department of the Interior, are replaced by a definition of ''affected interests.'' Now, what does this mean?

One of the complaints we heard from ranchers about these new Department of the Interior regulations was that those regulations expanded the group of people who were entitled to be consulted or notified about grazing decisions. The old regulations provided that, in order to be notified, you had to be a so-called affected interest, as determined by the Bureau of Land Management.

Under the new regulations, anyone who is part of the interested public—that is the phrase that is used in the new regulations; the ''interested public''—anyone who is part of the interested public has a right to be notified.

In our view, this was a legitimate concern by ranchers. They did not believe that anybody who just had an interest should be given equal standing to be notified. What we have done in this substitute is return to the old language in the old regulation instead of the broader definition of an ''interested public.'' We believe that that is an appropriate change in the law that responds to a legitimate concern that was raised and brought to our attention.

The second item here is regarding NEPA, the National Environmental Policy Act. A concern was raised, again by permittees and lessees, that the application of NEPA had become so pervasive by the land management agencies that many of the actions and decisions which the permittees and, in fact, the agencies considered to be fairly routine and not posing any threat to the environment, they were being required to go through long procedures under NEPA, and it was slowing down the process of getting a response from the agencies.

Let me point out that this is not something you can blame on Secretary Babbitt. There is a lot of criticism of Secretary Babbitt from many corners here in this debate. But he cannot be blamed for this. Neither can Dan Glickman, our Secretary of Agriculture. This requirement that applies NEPA to all of these different activities applied before those two individuals ever came into office. It is not the result of regulations that have been adopted; it is the result of the law that we in the Congress passed.

The question is, how do we deal with the problem? Senate bill 1459 tries to deal with the problem of NEPA application to all of these routine activities by essentially saying that NEPA only applies in the preparation of a land use plan and saying that, after that, any action or decision related to grazing is not covered by NEPA and therefore NEPA does not have to be complied with with regard to those other items.

In our view, that exemption is too broad. We propose a much more limited exception for NEPA. We say that renewal and transfer of grazing permits, and only the renewal and transfer of grazing permits or leases, can be done without complying with NEPA; that that can only happen where it is determined by the Secretary that the renewal or transfer will not involve significant changes in management practice or use and that significant environmental damage is not occurring or imminent. But where he can determine there is no significant change in management practice or use and no significant damage is imminent, then clearly he can go ahead and renew a lease or transfer a lease or a permit without complying with NEPA.

We have done one other thing, Mr. President, with regard to NEPA. That is, we have included in the substitute a provision that directs both the head of the BLM and the head of the Forest Service to prepare a list of NEPA so-called categorical exclusions for nonsignificant grazing activities. The effect of having categorical exclusions for nonsignificant grazing activities will be to expedite the process. This is not a new loophole or a change in NEPA; it is a clear congressional direction that they should, under NEPA as it now exists, go ahead and use these categorical exclusions.

In our view, this is a much more limited and targeted way to deal with the problem of routine concerns that are not involving significant damage to the environment. It addresses the specific problem. It does not blow a major hole in the application of NEPA to everything that relates to grazing except that at the land-use-plan level.

The next item I want to mention is that in our substitute we reinstate grazing advisory boards. Again, Mr. President, this is a change in the existing regulations. The new regulations that were adopted this last year eliminated grazing advisory boards. They became, essentially, defunct. They had not been appointed, and the Secretary did not reestablish those in the new regulations. We have done what I believe the underlying bill does, and that is to provide for the reestablishment of these grazing advisory boards.

In my view, it is appropriate to do so because they would provide a significant forum that ranchers, permittees, and lessees could use to have input. Half of the membership is to be made up of permittees and lessees, and half to be made up of other local individuals chosen by the Secretary.

Another change that we have adopted in this substitute, another provision, is that we do adopt the grazing fee formula that is in S. 1459, but we have put in a stabilizing provision. We have put in a minimum fee of $1.50 per animal unit month. This would involve some slight increase from $1.35, which is what the formula now results in, to $1.50 per month. Then the fee would go ahead and be whatever fee was higher than that, if the new fee that Senator DOMENICI devised would call for that.

Quite frankly, I do not know if that is the exact right level of the fee. I do not think that the main issue here is how much money can be obtained from people for use of this land. I think that is a very secondary issue. The main issue here is what laws do we put in place to preserve the health of the rangeland.

The next provision deals with indirect control. The indirect control provision is removed from the affiliate provisions. This is a fairly arcane item. The concern here is that looking at renewals, permittees were being held accountable for actions of people who were not under their control. That was the concern that was brought to us.

To the extent that problem exists, we have corrected it in our substitute. The new regulations that are in place can look at actions of persons under the indirect control of the permittee. Our substitute bill makes it clear that the BLM could only consider the actions of the permittee and persons under that permittee's direct control in deciding whether or not to renew that lease or that permit. That is a very small item that was called to our attention and seemed legitimate.

The next item is the surcharge exemption. In cases where subleasing is occurring, the new regulations provide an exemption from any surcharge only for sons and daughters of the permittee or the lessee. We heard the complaint from permittees and lessees that that was too narrow a provision, that there should be an exemption from surcharges for other immediate family members, as well. So we have put a provision in saying that the surcharge exemption should be expanded to include a spouse, a child, or a grandchild. Again, we have proposed a specific solution to a specific concern that was drawn to our attention or brought to our attention.

The next item on our list is for fallback standards and guidelines. The substitute that we are proposing does not require any minimum national standard or guideline. Instead, the Secretary, in consultation with the resource advisory councils, the grazing advisory boards, appropriate State and local government and educational institutions, and after providing an opportunity for public participation, will establish statewide or regional standards and guidelines. We believe that is more acceptable to many of the people involved. That seemed like a reasonable resolution of that problem from our perspective.

The final item I have is the resource advisory councils and the grazing advisory boards are to be involved in developing criteria and standards for conservation use and temporary nonuse. Our substitute expressly provides for conservation use. That is a major difference between our bill and the underlying bill.

The resource advisory councils and grazing advisory boards should be consulted when the Secretary develops criteria and standards. Conservation use can be conducted if the agency approves the use, because it is necessary to promote rangeland resource protection, and the use is consistent with the land use plan. A permittee under our proposal does not need to be engaged in the livestock business to practice conservation use.

When I spoke yesterday about the underlying bill and read the letter from the Nature Conservancy where they expressed their concern about this in the underlying bill, the substitute makes it clear that they do not need to pass a test, a threshold test, of being in the livestock business in order to attain a permit and engage in conservation use.

Now, what we have done is to leave the decision to the land management agency as to whether or not to permit or to allow a permit to be transferred to a person who wants to use it for a conservation use. In my view, that discretion is appropriate. It is important this issue is resolved both for the permittees and the lessees who reside in our States.

The underlying bill authorizes coordinated resource management agreements which could be, presumably, used for conservation purposes. It appears that under the underlying bill, a rancher could agree to enter into a conservation agreement with other groups, but those groups—groups such as the Nature Conservancy—cannot by themselves hold a permit and enter into a conservation use. We try to correct that problem.

Mr. President, this is a fairly good description or a fairly complete description of what is in our bill and a summary of the problems that were brought to our attention as a result of the new regulations of the Department of the Interior. We did solicit concerns from permittees and lessees and others who had problems. With the exception of these provisions, we do allow those regulations to remain in place.

We had several speeches on the floor yesterday about how both the Department of the Interior through BLM and the Department of Agriculture through the Forest Service were, in the view of some, trying to run the ranchers off the land; they were trying to end this way of life that the cowboy has had historically in the West. I have heard those speeches, Mr. President. I have heard them now for several years. I just need to say for all my colleagues to hear that I do not think that reflects the reality that I see in my home State.

I do not dispute that there have been instances where one or both of those agencies have overstepped, or where permittees and lessees have been unfairly treated, but I also do not dispute that there are some provisions in the existing regulations of the Department of Interior that should be changed. We have tried to change those in this proposed substitute.

I want all of my colleagues to know that what we are trying to do in the substitute is to correct specific problems that have been pointed out to us. We are not trying to create new problems. It is a very difficult balance that is required between those who graze on the land and those who want to use the land for other purposes. I believe the agencies themselves have been trying to find that balance, sometimes ineffectively, but they have been trying to.

I believe Senate bill 1459 will bring imbalance to this relationship. For that reason, I do not support it. I think our substitute is preferable. I will briefly recite the concerns I have with S. 1459 later in the debate, Mr. President.

I see I have a colleague here from North Dakota anxious to speak. I yield the floor.

Mr. DORGAN. Mr. President, I commend the Senator from New Mexico, [Senator BINGAMAN]. I want to follow his statement with some observations of my own about the substitute that he offers with myself and others today on this issue.

I view this issue not only from a national perspective, but also, especially, from the perspective of western North Dakota. That is where I was raised, where I grew up. It includes the grasslands and badlands and a lot of wonderful territory. I have, when I was younger, ridden a horse with my father through most of the badlands and much of western North Dakota. I have spent a lot of time on horseback, riding across those wonderful tracts of land. I do not have any interest, in any way, in injuring the scenic value, in interrupting the multiple use, or in preventing the American public, who owns much of this land in western North Dakota, from having full access to and full use of the land.

But I also know from having been there, especially when I was younger with my father, and since then as a public official, I have been there visiting ranches and going to meetings with ranchers and others. I also know there are a lot of people who live out in western North Dakota, who make their living out on a family ranch, who invest a little money, maybe raise some cattle, do not quite know what the price will be when they get to the point where they are going to sell cattle. They have an enormous risk. They rent some land to graze on. They pay a grazing fee to the Federal Government and run some cattle on that land. Most of them have an interest in treating that land well. They understand that stewardship. Most of them are environmentalists, in my judgment. Most of them care about wildlife and care about the shape that land is in.

I thought it would be interesting to read for my colleagues a letter from Merle Jost, from Grassy Butte, ND, because there is a lot of hyperbole about these issues. People stand up and wave their arms and talk about the Bingaman substitute, the Domenici bill, or this or that, or the other approach will destroy wildlife, destroy hunting, destroy the scenic beauty. I have heard all of these things. I have some feelings about what we ought to do and ought not to do today. But I want to say to you that on behalf of a lot of people out in my part of the country, who are trying to make a living and do a good job and be good stewards of the land, they also care about the same things that many of us care about in here, that stand up and talk about wildlife. Here is a letter from Merle Jost:

> As I write this letter, the deer are sneaking into the bird feeder—guess I'll have to put out more sunflower seeds.
>
> There goes another bunch—after the pheasant food—more of that. There goes a flock of sharptales—to dine on my oat bales.
>
> The antelope are in the alfalfa field again. Oh, well, spring coming; they will soon scatter. My neighbor to the north is feeding 200 turkeys these days. He deserves a medal—turkeys are hell.
>
> My neighbor to the east has 30 deer a night—eating ground feed out of his augers.

I see a lot of press conferences screaming about ranchers wrecking this and that or destroying this and that. He said, ''We support wildlife.'' He is right. Anybody that knows much about ranching could exist with the wildlife in western North Dakota. This is an issue for a lot of people, an issue for ranchers. It is an issue for people who also want to use that public land for hiking, for hunting, for a whole range of issues. That land will be, and ought to be, open to multiple uses.

We are here because, especially in my part of the country, ranchers who are involved in the use of that land for grazing purposes—that is one of the uses—have had some difficulty with respect to the management of that land. Let me give you an example. One permittee, the McKenzie County Grazing Association, has been denied a permit for a dozen years to construct a crossfence along a pipeline corridor in this allotment. He was going to construct it at his expense. A dozen years, no permit. The Forest Service agrees that the fence would improve the range conditions. But only now, after pressure from the association, are they going through the scoping process.

Another permittee is unable to construct a water pipeline into a crested wheat-grass area, which the Forest Service also agrees would result in better range conditions. Why? Because, after 3½ years, the Forest Service has not been able to do a biological survey. It is not that somebody says it is not a good idea. It is a good idea and ought to be done. But the landlord is not able to do the survey, does not have the money, does not, apparently, have the will, or is not interested in the speed to do a survey. So 3½ years later, something that probably ought to be done, and will be done at the expense of the rancher on public lands, is not even started. Ranchers say, ''Wait a second, why can we not get answers and have better stewardship on the part of the managers of this land?'' It is a reasonable request.

When those of us who evaluate these things look over these kinds of complaints—I have concluded that we ought to respond to them. There ought to be a better management scheme and management system on these public lands so that in those areas where we have grazing use, those who are grazing these lands, if they need to have a water pipe come in, or have a water tank moved, or construct a fence someplace, you ought not have to wait 18 months or 12 years for answers about that. That is what this is about. It is not about anything more than that.

I have seen editorials in the last couple of days that talk about this is a land grab, and that this is giving public property to the ranchers, this is turning the keys over to the ranchers, it is

trying to disrupt multiple use, and it means turning our back on wildlife. That is not the case.

Now, we have before us a couple of choices today. One is the Bingaman-Dorgan substitute, which we now offer on the floor of the Senate. The other is the underlying Domenici bill. Let me say this about the Domenici bill. It has changed some, and I think along the way it has been improved some. I think it could be and should be improved more. But the fact is, it has moved. This has been a process over a series of months where there have been a series of changes. The Bingaman substitute, which we offer, I think, is a better solution. They are, in fact, almost identical with respect to title II. The substantial differences in the substitute are in title I. Let me go through a couple of points with respect to the substitute and why I think it is a better approach.

First of all, it is a better way to construct law. It is a shorter piece of legislation. The Domenici bill started with the proposition they were going to—I said in the committee that the Domenici bill is really a letter to Secretary Babbitt. There is a better way to write to him than to write 95 pages of codifications of regulations. I do not think you ought to codify regulations in law. I respect the fact that there are some problems with the Babbitt regulations. What Senator BINGAMAN and I are trying to do is determine, with the ranchers and others, what are the problems, and then address the solutions to the problem. That is the best way to legislate. That is what the substitute does.

We, I think, come to a better conclusion and a more appropriate conclusion on the issue of public participation. These are, and will be, multiple-use lands. Hunters have a right to these lands; hikers have a right to these lands; and a myriad of other users have a right to these properties, and that will remain the circumstances under the legislation we have proposed. They will remain in a situation where they will have access to these decisions, and they will be consulted as affected interests on the major decisions, and the significant decisions about the use of these lands.

We also recognize that we are addressing some language in this legislation to respond to real problems ranchers face. We do this, as Senator BINGAMAN said appropriately, in a manner designed to solve problems, not create new problems. I think that our approach is an approach that addresses legitimately the problems that ranchers have described to us—and they are real problems—but doing it in a way that does not cause additional problems and does not diminish the opportunities of other multiple users to use this property.

One of the issues that we were at odds about, which was never resolved in a whole series of negotiations we had, was the issue of conservation use. I firmly believe that conservation use ought to be available. If an organization such as The Nature Conservancy wants to have a permit on 500 acres in North Dakota for its own reasons and has decided it does not want to graze cattle on that, I think that ought to be allowed. It is explicitly prohibited in the underlying Domenici substitute. That is one of the areas we were simply never able to resolve.

Would I want there to be a circumstance where someone came in and said they were going to take all of that grassland in western North Dakota and make it conservation use and graze nothing on it? No, I would not want that. The fact is that too much of western North Dakota is already becoming a wilderness area without a designation because too many people are leaving. We need more people coming to our part of the country. My home county, which is in western North Dakota, has lost 20 percent of its population in the last 15 years.

So, would I think it is appropriate for us to have a circumstance where an organization comes in and tries to buy it all up and says, ''By the way, we bought it for the purpose of deciding not to graze it''? No; I would not support that. But do I, on the other hand, believe that we ought to expressly prohibit someone from taking a small tract of land for the purpose of trying to nurture some specific kind of wildlife and then say to them that they cannot get a permit and decide not to graze that? I do not think that is appropriate either. We have had circumstances, even in our State, where it has been to the benefit of all of the surrounding ranchers that a conservation use on a small acreage has helped all of the other surrounding ranchers who are grazing other acreage, with respect to wildlife production.

So I think the expressed prohibition in the Domenici bill is inadvisable.

In the substitute that Senator BINGAMAN and I have offered, in title II, we incorporate a portion of title I which deals with a conditional NEPA exemption for permit renewal and transfers. We think that makes sense. We think what you ought to do is invoke NEPA when you have significant actions. We think that when you have insignificant actions, such as a permit transfer renewal, which is not a significant action and which would not affect the condition or circumstances of that land, we think that NEPA should not be traded.

So those are the kinds of things that we have included in this substitute. I have mentioned three of them. But there are about 10 that make this substitute a much more advisable piece of legislation for this Senate to enact.

I feel very strongly that the kinds of things we have done in this substitute are the kinds of initiatives that are designed to address the problems that have been brought to us by ranchers, but to address the problems in a way that does not cause other problems or does not restrict in any unfair way others who want access to and have every right to have access to this property.

Let me conclude, without going through all of the details of the substitute because I think Senator BINGAMAN has done an excellent job of that, by ending where I began.

I would not come to the floor of the Senate supporting any initiative under any condition if I felt it was an attempt by anybody to grab land for one specific interest in western North Dakota. These lands are owned by the public. The public has a right for multiple use of these properties. That right shall remain. But I also understand, having grown up there, that this land has been populated for many, many years by a lot of families out there struggling to make a living raising cattle. One use of this land has been grazing, and the circumstances under which this land has been managed have in some cases been acceptable but in other cases been deficient. Both of us, Senator BINGAMAN and I, as well as Senator DOMENICI, are offering initiatives today to say we would like to address those problems. We address them in different ways. I think ours is preferable to Senator DOMENICI's. I say that, at the end of the day, I hope the Senate will have spoken in a way that says these are real problems, here is a solution that is appropriate and is a satisfactory solution that solves the problems without creating additional problems.

Mr. President, with that, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The distinguished Senator from New Mexico is recognized.

Mr. DOMENICI. Might I ask Senator BINGAMAN if he has any idea of how many more speakers he might have?

Mr. BINGAMAN. Mr. President, in response, I know that Senator DASCHLE wanted to speak for a very short period, and I know that Senator REID asked to be allowed to speak for up to 45 minutes. Senator REID had a meeting at 3, and he will get here as quickly as he can. We just sent word to see if Senator DASCHLE is able to speak now.

Those are the only two that I am aware of that want to speak. There may be others.

Mr. DOMENICI. Did the Senator indicate that Senator DASCHLE would like to speak now?

Mr. BINGAMAN. I indicated that we are trying to check to see when he wants to speak.

Mr. DOMENICI. We do not need very much time at this point.

Does the Senator from Idaho want to speak to the water issue? Could he take a short amount of time in his succinct way to address this important issue?

Mr. CRAIG. No more than 5 minutes.

Mr. DOMENICI. I yield 5 minutes to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I thank my colleague for yielding.

Mr. President, I will be succinct. But I do think that we have a great concern

about Senator BINGAMAN's substitute and how he deals with water. It is very clear in our legislation that the States have primacy in all water issues and that the Federal Government must comply with State water law. We know that Congress after Congress has affirmed this very position. In the Democrat substitute that Senator BINGAMAN has offered, it declares that new water rights shall be acquired, perfected, maintained, and administered in connection with all livestock grazing in accordance with State law.

The key word here is ''new'' water rights. The Democrat substitute makes no provision against the extortion of water rights as a condition to grant a grazing permit or leased range improvements, cooperative agreements, or range improvement permits as provided in the Republican substitute, nor does the Democrat substitute require that the Secretary follow State law with regard to water rights ownership and appropriation as provided in the Republican substitute. Both substitutes protect valid existing water rights, but the operative word here is ''new.'' Let me repeat, ''new'' water rights.

What about all water rights? What about existing water rights? Does anyone seriously believe that this Secretary of the Interior, who I think helped write this legislation, is not concerned about water and trying to grab back as much water as he can off the lands where valid and existing water rights have already existed?

In the 1995 appropriation act, the Secretary of the Interior tried directly to assert Federal ownership and control over all water rights on Federal lands. This time he plans to do it indirectly through this kind of legislation by talking about dealing only with new water rights and leaving it up to his solicitor to interpret the language of excluding all existing water rights.

Mr. President, this is a concern that I hope, if my interpretation of it is wrong, the Senator from New Mexico, the junior Senator, will correct. We know where Secretary Babbitt is. He is very clear, and he has even sidestepped NEPA and the ESA to stage a media event with his friends and special interests in the Grand Canyon with an artificial flood event that could jeopardize important ruins, threaten endangered species, and jeopardize blue ribbon trout fisheries.

I say this in all sincerity. I hope that the junior Senator from New Mexico could clarify for me because it is very important that we stay within State law on this water issue; that we stay with ''existing and new water rights.'' I believe his legislation speaks only to ''new,'' and that must be clarified. I hope he can do that.

I yield back the remainder of my time.

Mr. BINGAMAN. Mr. President, let me just respond to the questions because I think what has been raised is a classic red herring. In the West, many more people have been killed for water than for infidelity to their spouse, and I think this is obviously a hot button issue. We have provided as explicitly and as clearly as we can understand the English language that valid existing water rights are protected. We say on page 11, line 14, ''Valid Existing Water Rights.'' That is the title of the sentence, or the section. It says, ''Nothing in this title shall be construed as affecting valid existing water rights.'' Period.

I do not know how to make it any clearer than that.

In the previous sentence, we say, ''No Federal reserved water rights.'' We say, ''Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States.''

So we have covered the exact concern that the Senator from Idaho is raising.

In the previous sentence we say:

> New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

That is appropriate. Clearly that is what we intended the law to be. And we have covered valid existing rights in section (c) of that same section. I do not understand what the issue can be. If there is a more plain-English way to say that valid existing water rights are not affected than to say ''nothing in this title shall be construed as affecting valid existing water rights,'' I would like to hear it.

Mr. CRAIG. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. If the Senator had said ''all'' water rights, I would agree with him. The Senator did not. His amendment explicitly singles out ''new'' water rights. It is very important that we have that understood for the record, and it is important, I think, if we are to protect these State rights and individual rights, that language comply with the bill of the senior Senator from New Mexico because it clearly sets out that whole issue.

Is there a reason for a singling out of ''new'' versus the interpretation of, and excluding all existing rights?

Mr. BINGAMAN. Mr. President, what I said before was that we have the section, section 112, broken down into three subsections. The first section deals with new water rights. The second section deals with Federal reserved water rights. The third section deals with existing water rights. So we have covered all three. I do not understand what the problem is. We have covered existing water rights in section (c). We have covered new water rights in section (a). We have covered Federal reserved water rights in section (b). What is the problem?

Mr. CRAIG. It is this Senator's opinion that by selectively singling out ''new'' water rights, you leave open to opinion by a very unfriendly solicitor and by a very unfriendly State water rights Secretary this issue. I think the question must be closed or you place those water rights in jeopardy.

Mr. BINGAMAN. Obviously, differences of opinion are what makes for horse races, Mr. President, and the Senator from Idaho can believe what he will about what the language provides. I can tell him that my intent was and our intent was in drafting this language to make it crystal clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, we were not changing the law. And that is what we say.

Mr. CRAIG. Yes. Will the Senator yield?

Mr. BINGAMAN. I am glad to yield.

Mr. CRAIG. I think the Senator has answered my question.

The Senator has argued an interpreted point of view. We can stumble around on interpretations when it comes to western water. The Senator and I must be in agreement with exactly what is said or the Solicitor of the Department of the Interior will jump squarely into that hole.

Now, I believe the language of the senior Senator from New Mexico is much clearer. It says, ''No water rights on Federal lands shall be acquired, perfected, owned, controlled, maintained, administered or transferred in connection with livestock grazing permits other than in accordance with State law concerning the use and appropriation of water within the State.''

The Senator and I both know that water is critical in the West and water is especially critical as it relates to the grazing on these arid public lands, and who controls that water oftentimes controls the grazing. We already know the position of this Interior Department on water. They want it. They want to control it. In 1995, the Secretary went directly at us on that. We must not allow this to be interpreted. I hope that the Senator could agree with the language that appears on page 19, section 124 under ''Water Rights of the Underlying Bill, S. 1459.''

Mr. BINGAMAN. Again, Mr. President, I think the Senator from Idaho is pointing out a problem that does not exist. I think we have made it very clear that with regard to existing water rights, with regard to new water rights, with regard to Federal reserved water rights, there is nothing in this bill and there is nothing intended in this bill that is to change the law with regard to it. That is exactly what we have said. That is exactly what we mean.

There is no hole for the Solicitor of the Department of the Interior to jump into. There is no ambiguity here that needs an interpretation. Nobody in the committee raised this issue. The Senator chairs the appropriate subcommittee. This was not raised. This language has remained unchanged through the markup. Nobody has raised this concern until right now on the Senate floor. I do not think it is a valid concern. That is my response.

Mr. CRAIG. Will the Senator yield for one more question?

Mr. DOMENICI. Mr. President, I will yield another minute.

The PRESIDING OFFICER. The junior Senator from New Mexico has the floor unless he yields.

Mr. BINGAMAN. I will yield the floor.

Mr. DOMENICI. I yield 1 minute to the distinguished Senator, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. I only say to the junior Senator from New Mexico that his language was not at issue because it was not the document that makes it to the floor of the Senate coming out of the committee for the one area of the committee of jurisdiction that I was responsible for.

All I say is I believe there is a difference. I believe there is an opportunity to interpret. I think it ought to be closed, and the way that can be closed is for the Senator to accept the language in section 124 of the language of the senior Senator from New Mexico. If the Senator will do that, I then have no argument.

Mr. DOMENICI. Wait a minute. The Senator will have no argument with that provision.

Mr. CRAIG. I thank the Senator for the clarification—with that provision.

Mr. BINGAMAN. Mr. President, I respond that if we could pick up the Senator's vote for our substitute, we clearly would be willing to consider that. But I should say that our language is, in my mind, very clear and clearer than the language in the underlying bill. So I suggest that the Senator accept our language rather than we accept his.

Mr. CRAIG. Returning to my time, when you speak of no water rights, that is all. That is inclusive. And when we speak specifically of no action, no water rights unless they are in accordance with State law, you have broken it out and allowed interpretation. I know this solicitor and I know this Secretary of Interior, and I know westerners do not trust them. And this is one Senator who does not trust them either. I do not want to give them a chance to play interpretive games with western water.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Does the Senator from Wyoming desire a couple of minutes?

Mr. THOMAS. Just a couple of minutes.

Mr. DOMENICI. I yield 2 minutes to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Mr. President, in general terms, it seems to me that what we have been doing in Congress for a year, year-and-a-half and continue to do is to try to find a way to cut through some of the kinds of regulations, maintain the effort without all of the difficulties, and one of the places—and I have worked very closely with it—is NEPA. I think we have to remember that NEPA was designed and developed as a process for major Federal action, major Federal action. That is precisely what we have done in the Domenici bill, is to hold that to major Federal action.

Now, the problem that has happened in the past, particularly with the Forest Service—we did it this year; we had to go through with some legislation—was that it was uncertain, it was uncertain, so the lawyers over at Justice and over at the Department of Agriculture said to the Department, said to the Forest Service, ''Look, you have to do it. It doesn't say to in the law, but it is uncertain, and the Secretary may decide or may not decide.'' And that is how we ended up with all the NEPA things on grazing allotments. We have been through that the whole year long.

This substitute continues with that kind of uncertainty, and it says you do not have to do it if the Secretary does this, if the Secretary does that. We will end up right back as the subject of lawsuits.

Mr. President, that is precisely what we are trying to avoid, and the substitute puts us right back in that field where in the other one we have tried to make it clear that the NEPA requirement is there, the NEPA process is there for land use planning, the NEPA process is not there for those rather mundane, daily decisions that are made on grazing allotments and the kinds of things that in no stretch would constitute major Federal action.

That is where we are. So I just think that the whole point of this thing is to try to do away with that ambiguity. And the fact is that this substitute puts it right back there.

I do not understand what the sponsor was talking about on surcharge. There are two opportunities within the Domenici bill for subleasing. One, of course, is in the case of death or illness. The other is with a cooperative agreement, which we have had. You have to have an agreement with the agency to have subleasing. We want to continue with that. It is a very important part of grazing in our part of the country and our bill does that. This one does not talk about subleasing. It simply talks about surcharges.

So I think that moves away from what we are seeking to do. It is a matter of conservation use. There is an opportunity for conservation use. I think, though, if you are going to have a land use plan which requires grazing, which is part of the community, and part of what upholds these communities is grazing, then to say maybe you do not need to have any grazing, that you dissociate base land—we went through our map yesterday. There is a very real relationship between base land and winter feed, for wildlife or livestock, and these leases. The idea that you can come in from Cincinnati and have a lease, here, with none of the other portions that go with it, is not realistic. That does not reveal much understanding of the way these lands are interdependent.

So I think the Domenici bill, in these cases, deals both with conservation nonuse—it allows that, with an agreement with the agency—it allows for subleasing, and it deals with the surcharge. But most important of all, it clarifies this area of NEPA process.

Mr. President, I feel very strongly that the substitute simply weakens this process that we have been through for so long a time.

I yield the floor.

Mr. DOMENICI. Does the Senator desire some additional time? I will be pleased to yield 5 more minutes, because we are waiting for Senator REID. He will not be here for some time, so we are going to use up some time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. DOMENICI. I yield 5 minutes.

Mr. THOMAS. Mr. President, I know we are talking here about the whole question of our bills. I do want to talk about how important it is that we have passage of this bill and I am pleased that, in the process of the discussion, it has been demonstrated that there is not a great deal of difference here. We have already talked about the fact that these fees do not amount to a great deal, in terms of money. But we are talking here, now, about trying to establish a long-term economy in our States. We are talking about stability in the area of grazing. We are talking about moving some of the decisions more close to the States and to the users.

Of course this is public land. I understand that. That is why we are so careful and so clear in the Domenici bill, to say this is multiple use. There can be no question about that. This question of dominant use is simply not a valid observation.

But we do need to begin to involve more closely, people who are in the area. For instance, Secretary Babbitt came out to the West all last year and the year before. We had these series of meetings. He talked to all these folks and, yet, came back with his proposal last year that was exactly the same as it was when it began.

We need to involve, for instance, land-grant colleges in the development of the policy that is involved here. We need to involve State departments of agriculture. And we are there to do that. We need to make it a situation where communities can depend upon this economy. It is one that is very important.

I think, most of all, what is not understood generally, and I know why—because it is unique to the West—is that these lands are interdependent. These are low-production lands, for the most part, these BLM lands. They do depend on winter feed. They depend on deeded land for winter feed. They depend on deeded land for water. Sometime earlier this afternoon someone

was saying you could have 400 acres of base land and lease 100,000 animal units. That is not the case. You cannot do that. You have to have someplace to take care of this livestock in the wintertime.

So we are looking for some balance here. I think we have worked at this, now, for more than a year. We have made considerable accommodations. Both the Senators from New Mexico have worked at this, and I salute both of them.

We have some basic difference. One of them, I think, is bureaucracy. I think we are seeking to reduce bureaucracy. Frankly, I think the substitute increases bureaucracy. We do not need to deal with that. We need to deal with NEPA. It is there, clearly there. I am the chairman of the subcommittee that is taking a look at the NEPA process and we need to find ways to reduce some of that bureaucracy.

I met with the new supervisor of the Black Hills Forest 2 weeks ago. They are in the midst of a forest plan. He has documents higher than his desk, the things they have done.

The people on the ground are beginning to understand that we need to reduce that NEPA process. Not do away with the purpose, not do away with input, not reduce the opportunity for people to participate, but not to have that process in the minutia of the management of a grazing unit.

We also need to do something with the forest. I think the Domenici bill treats it very well. It says ''substantially the same.'' Our folks feel very strongly about that. There is no real reason to have two unique opportunities here. We have not told them to be exactly the same. We said you should be substantially the same.

So, I think we have made a great deal of progress here. Frankly, other than the water thing, the department does not want this because they like what they have. But I can tell you they have not moved very fast on the implementation of their regulations. If we do not make some changes now, a year from now, if they are still there, Babbitt is still there, you will see a real rush to change. I believe that very strongly. Now is our opportunity to soften some of those kinds of things that we think are difficult and troublesome.

We have this opportunity. So I really feel very strongly about the efforts that we have made. We have accommodated the other side to a great extent. And now we have a few areas in which we have different views. I think the one we just talked about in water is a different view. I happen to have the idea that States rights are very important in water. We have part of that in the agriculture bill that is going on right now. The water, when you live in a State where much of the water comes from snow pack, and much of it on the forest, then you have to have some real strong State rights in water. We make some progress, we make some progress in that.

I certainly encourage my colleagues to support this bill. I think we can pass it here in a very short while. I hope we do not accept the substitute and go back into this maze of NEPA regulations that are not necessary to have the proper outcome.

I yield the floor.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to say to my good friend from Wyoming, I kind of got myself carried away for a bit, because all the previous debate was under a time limit. But we are not under one now. So, nobody has to ask for time. They just have to get the floor.

As a parliamentary inquiry, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I want to speak for a few minutes and I want to say to anyone on the other side who arrives, who wants to speak, in the interests of an early evening I will try to cut it short when anyone arrives who wants to speak.

First, I would like to say that an awful lot has been said across this land about the National Environmental Policy Act as it applies to grazing leases. We have heard across this land those who side with the environmentalists, or those who are at least joined together in an effort to minimize the use of the public domain by the grazing community—we have heard talk about the National Environmental Policy Act as it applies to grazing as if it were the Bible for environmental protection. I mean that in both contexts of the Bible—specific and ancient. Neither is true.

The Bureau of Land Management, the entire Bureau of Land Management, does not use National Environmental Policy Act statements to control, manage, or evaluate the public domain.

Let me repeat. They do not use them. Frankly, I commend them. Just because there is a request for a National Environmental Policy Act implementation, or a NEPA statement, does not mean that it is the best, that it is even the prescribed, that it is even close to being the appropriate way to evaluate the environmental impact and the overall management, or land use as it pertains to managing a permit. The reason is because nobody had in mind when they drew up NEPA that we would even consider applying NEPA to a grazing permit and its renewal.

I say that because I have read the early history, and I cannot find anything in it that refers to such. Mr. President, do you know what it says? It says, if there is a major Federal action, then NEPA applies.

I cannot believe that with thousands upon thousands of grazing permits that anyone really believed that every time one of those was going to be renewed that it was a major Federal action. Again, the Bureau of Land Management does not use them. Frankly, the reason was precisely stated on the record at a hearing. No. 1, they are not very good for this kind of evaluation. No. 2, they are very, very expensive, anywhere from $50,000 to $1 million. And No. 3, they are very, very time consuming, anywhere from a quick turnaround of 6 months to a year and a half.

Frankly, accolades to the Bureau of Land Management for saying that does not even apply to grazing permits on the public domain lands.

How many times has it been written across this land by those who oppose the Domenici bill that you are taking away environmental protection because you are abolishing and abandoning NEPA? Let me repeat, NEPA does not apply today to the issuance of Bureau of Land Management grazing permits, and I have just told you why, because there is nothing magical about it being the only evaluating tool around to determine whether a 50,000-acre grazing permit in a State which might have 20 million acres or 30 million acres—there is nobody saying that is a major Federal action.

Let us move over to the other part of the public lands, the Forest Service. The best that can be said about NEPA and the Forest Service is that there has been a gradual movement in this administration in the last 3 years to use NEPA on public lands of the Forest Service where grazing is involved. It was used sparingly for the very reasons I just stated. But there are those who want no grazing on the public domain. They have had mottos to speak of how long cattle can be on the public domain. ''Cattle free in '93'' was a cry not too many years ago. I am glad they have not won yet, but we have been moving in that direction.

That kind of entity will begin filing lawsuits against the Forest Service, and sure enough, we will get some court someplace that will interpret this to mean NEPA applies to even the renewal of a grazing permit, and then they will come and tell us that is the law.

The law is what Congress says is the law. We are asking Congress in this bill to make sure the Bureau of Land Management's policy remains intact. We are also asking that with reference to the Forest Service and the Bureau of Land Management that there be one major use for NEPA, and it is big and it is important, and it is appropriate in its full implementation.

NEPA will be applied to the Forest Service and the BLM when the land use plan is developed for a national forest that is being reviewed for all of the various competing uses. A full environmental impact statement will be obtained; all the citizens will be involved. As the plan is put together, there will be rights to go to court, to litigate. But we contend in this bill, contrary to what my friend, Senator BINGAMAN, provides, we provide that beyond that, you use other tools to evaluate, not

NEPA. I do not think that is antienvironment.

Senator BINGAMAN chooses to say there may be other cases. It is left up to the discretion of the Secretary. Frankly, I do not want to do that. This whole problem is before the Senate because of this Secretary of the Interior. That is why we are here, because Secretary Bruce Babbitt declared a war on the ranchers and decided that he would go all one way. How am I going to sit here with the understanding that he might be around for a while and give him the authority to determine when we are going to use environmental impact statements on the public domain when we have a bill right here before us? This is the place to decide it. We determine the law. I do not believe we should open that approach to the thousands of permits on the public domain. It is not the right tool.

Because I am standing here saying that does not mean for one second that I am for degrading the public domain. I am saying that a NEPA statement can be used for long delays, for reasons never intended by the act and, in particular, by those who would like to see ranching off the public domain. I do not want to sit here and hide under a tent and say that does not exist, because it does.

But I want to make one more point, one more time. The environmental impact statement approach to assessment is not currently being used on the BLM land day by day for issuances or renewals, and it is being used sparingly by the Forest Service. If there ever was a time when we had an opportunity to take a look at this, it is right now. Let us see how we really ought to apply it and how it ought to be done.

Frankly, I am so tired of having people interpret the bill that I have written and write reports and use this famous word ''may.'' ''It may have an impact.'' They do not tell you it will. That last report by the Congressional Research Service, if you read it, they have about six or eight mays—m-a-y. They do not say it will, they say it may.

I would like to say, as I read my friend and colleague's bill, I can find a lot of ''mays'' that I am sure he did not intend. But if I sent it over to the Congressional Research Service and said, ''You look at it my way,'' they will say, ''Maybe it does the following and maybe it does the following.''

For instance, in our bill, we unequivocally state that nothing in this legislation shall change the rights, privileges and all the other things that you talk about for hunting and fishing. We put it in because we kept getting bombarded that we were trying to take away fishing rights and hunting rights. I might say that provision is not in the bill you produced, the bill before the Senate. It may be that since that provision is not in there, there may be a serious negative effect against trout fishing and hunting under the BINGAMAN substitute.

I hope everybody is listening carefully to what I am saying, because that is the way the underlying bill we have before us has been treated more times than not. I can go through and cite a number of others. The substitute before us does not iterate or reiterate that multiple use is the order of the day, if I understand from the staff who have read it. It does not say that.

Senator BINGAMAN would say, I am sure, it does not have to be in there. I would say, like some of those who have reported on the Domenici-Craig bill, ''Well, since it isn't in there, it may be intended to have a negative impact on multiple use.''

I am not suggesting Senator BINGAMAN intended that. But neither do I believe others ought to insinuate that our bill does that when they have some difference of opinion, or when they approach the interpretation from a position that I do not have.

I do not intend to go through Senator BINGAMAN's bill in detail. But I want to say one more time—and perhaps a better way than yesterday; and it is good that the distinguished Senator from Rhode Island is in the Chamber because I have talked to him about this issue for a number of times—let me say to the U.S. Senate, sometimes we come to the floor and talk politics and sometimes we exaggerate our position and sometimes we state or understate, depending upon how the debate proceeds, but this Senator, from the State of New Mexico, one of the most beautiful States in America, this Senator who has seen more wilderness created in New Mexico under bills that I have introduced than any in history, I do not intend to spoil the public domain nor to turn it over to one of the myriad of multiple users.

If I thought for a minute that the bill I have before the U.S. Senate was calculated to make the public domain worse or to degrade it, or to take away the power of the Forest Service managers and the BLM managers, I would tell everybody to vote against it today. I am not here for that reason. I am here simply because I am convinced that multiple use can be made to work. It is the law of the land. I think it should continue to be. But I do not believe ranching can continue under the regulations established by Secretary of the Interior Bruce Babbitt.

I believe if those stay in effect there will be no more ranching. For those who would say, wait a minute, Senator, it has been in effect for 6 months, well they are written such that none of the impact will occur for a long time. If the Secretary has time to implement them, he will not implement them until after the election. I do not say that very often. But I believe that from the very soul of myself that this Secretary made a mistake when he adopted the so-called ''Babbitt Rangeland Reform '94 regulations.'' If I were a poet I would phrase something about that.

Anyway, we are going to do away with Secretary Bruce Babbitt's set of regulations and substitute some that we think will manage the range properly, and do three very important things—stabilize the public domain from the standpoint of the ranching community so that they are not on a constant roller coaster depending upon the administration, depending upon the regulator, depending upon who gets them into court under some lawsuit.

We will try to stabilize it at a level and we will see, once and for all, can ranching as a way of life exist in the public domain in America? This may be a debate about whether you want to have any more cowboys out in the West that are true, or whether you want them all to come from Hollywood. This may be the debate. There will be plenty of it in Hollywood because it is a fantastic culture. The lifestyle is tremendous.

I did not come from that lifestyle. I did not know anything about it when I became a Senator. In fact, I was from a place where you could be city folk in the State of New Mexico; that was Albuquerque. Anywhere else, because the towns are all smaller, I probably would have been somewhat associated with ranching. I was not, but I have been since then.

I believe we ought to stabilize that environment without jeopardizing the other multiple users. I think there is a chance of doing that. The only thing that stands in the way is a vote here in the Senate and a pen in the hand of the President of the United States. He will have the last shot when we get this bill through here. I hope we can get this accomplished.

My third point is, that for those who insist that the ranching community are abusers of the public domain, that the community is not a conservation community, for those who insist that they are the ones who will ruin the range and the other people will preserve the range, that they are the ones against wild animals and habitat, let me suggest they are the best conservationists around. Let me suggest, but for their actions, habitat would disappear in many areas of America. Not just a little bit, but in a manifold manner it would start disappearing.

Those who live and work on the land provide the water, they provide the management, and yes, a few riparian areas have been overgrazed because of the water being short in other areas, but most ranchers take as good a care of the resources as they possibly can. So I am here because I have confidence that this system will work, but I do not have one bit of confidence that multiple use will be preserved with equanimity and fairness for all to use if we leave the Babbitt regulations in place. It is just that simple.

I commend my friend, Senator BINGAMAN, my cohort from New Mexico, because to some extent he agrees. He does not come before the Senate saying we want to leave every one of Secretary Bruce Babbitt's regulations in place. He has selectively decided

some of them must go. I believe our bill is fairer for the ranching community and is more apt to add stability to the range and protect the other users.

So this may be the last word I have on this. I would not have spoken this long if there were Members on the other side ready to speak. I see Senator BRYAN is here. I yield the floor, and I thank the Senate for listening.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. I thank the Chair, and I thank my friend, the distinguished senior Senator from New Mexico, for yielding the floor.

Mr. President, most of those who are privileged to represent the West on both sides of the political divide recognize that we need to enact responsible grazing legislation that balances the concerns of the livestock industry with the concerns of the conservation community. It is in seeking that illusive goal of balance that we find ourselves operating from a slightly different approach.

In my view, notwithstanding the best efforts of the distinguished senior Senator from New Mexico, his bill fails to achieve that balance and, in my view, would seriously threaten the multiple-use concept which has governed public land policy for decades. It is for that reason that I rise this afternoon to support the substitute amendment offered by the distinguished junior Senator from New Mexico, which I believe represents a preferred course of action. The Bingaman substitute is a thoughtful, balanced approach to correct what is wrong with the current grazing regulations.

Let me just also note for the RECORD, Mr. President, that each summer on the occasion of our recess I spend most of that recess traveling throughout rural Nevada. Today Nevada, paradoxically, is the fastest growing State in the country, although 87 percent of the total land area is under Federal jurisdiction. It is also one of the most urban states in the country, with most of the population located in the metropolitan Las Vegas area, which today exceeds 1 million people, and in northern Nevada in the so-called Truckee Meadows, embracing Reno-Sparks. One might logically say it extends to Carson City and Douglas County, that they are as well in a metropolitan area.

Although rural Nevada represents a small part of the population, I have been concerned, since the time I first assumed statewide office in 1979 as attorney general, with the concerns of those good people who choose, as our colleague and friend, Senator DOMENICI, points out, a lifestyle which has been part of the heritage of the West and part of the heritage of our State.

Their concerns are legitimate. They are good people. They work hard. They want to protect a livelihood and a lifestyle which is terribly important to them. It is for that reason, Mr. President, for the last 6 months I have been a participant in a bipartisan group of western Senators and their staffs in an effort to reach a consensus on grazing legislation.

Notwithstanding the hours of effort made on both sides of the political aisle, it is my view the negotiations failed because of the approach insisted upon by the distinguished senior Senator from New Mexico, that is, his insistence on using S. 1459, his bill, as a baseline for discussions. Because of that methodology or that approach, which sought to codify a series of old grazing regulations, superimposing a new series of regulations and statutory provisions as well, it became very difficult to modify his bill, and ultimately we failed to achieve a consensus in working out an issue which we all share a legitimate interest in resolving.

I would note that some improvements were made to the Domenici bill, as a result of our discussions. But I have never been of the view that Congress should micromanage grazing policy to the extent that is provided for in the Domenici bill. For example, the bill limits public participation in grazing decisions by listing seven arbitrary instances in which an ''affected interest''—those are words of art—occur and individuals are entitled to be notified of a proposed grazing decision. It denies the public the opportunity to protest a grazing decision; it exempts on-the-ground grazing management decisions from the National Environment Policy Act; and finally, it does not target specific, troublesome regulations for repeal, rather, it contains a blanket repeal of all the current BLM grazing regulations.

What we are presenting here today in the Domenici bill in many respects takes a step back from the policies originally established during the Reagan administration under the tenure of Interior Secretary James Watt. To put that in some context, the former Secretary has been accused of many things, but he has never been accused of being an environmentalist. I believe we ought to make the necessary changes to the so-called rangeland reform proposals that have been offered under Secretary Babbitt.

Efforts to limit the public's right to be involved in grazing decisions will not, in my opinion, bring stability to the ranching industry, nor will it improve rangeland conditions. It will only lead to continued turmoil and lawsuits that are a drain on the resources of both the ranching community and the Federal Government.

By way of contrast, the substitute amendment offered by Senator BINGAMAN, which I am pleased to cosponsor, reflects a balanced approach that, in my opinion, addresses the legitimate concerns of the ranching industry. I repeat, again, I believe that there are many such legitimate concerns.

It also addresses the equally valid concern and interests of the conservation community. It does not arbitrarily repeal the current grazing regulations and replace them with an inflexible statutory scheme which, in my view, S. 1459 would create.

For example, in response to concerns raised by Nevada ranchers and others, the Bingaman substitute waives the application of NEPA for permit renewals and transfers unless significant changes are made. It contains expedited NEPA provisions where grazing activities would not have a significant effect on the environment. I believe those are positive and instructive changes that meet some of the concerns raised by the Nevada ranchers. It also reinstates the grazing advisory boards and expands the surcharge exemption to include spouses and grandchildren, or children which Nevada ranchers have raised.

On the other hand, however, in response to concerns expressed by conservation groups, those who enjoy the public land for outdoor recreational use, whether hunting, fishing or hiking, these organizations, as well, have legitimate interests. I believe the Bingaman substitute protects public involvement in grazing decisions and requires that other public land values, as important as grazing is, it is not the only important public land value that needs to be protected, but wildlife is given equal consideration in the decisionmaking process in the goal of achieving a balance, recognizing that we want to be fair to Nevada ranchers, we want to make sure they are able to continue to use the public lands as they have for generations and to provide for themselves and their families.

We also need to recognize that the West has changed. The demand made upon public lands for outdoor recreational uses have grown exponentially over the years, as Nevada in my own lifetime has gone from a State whose population the year I started school in Las Vegas in 1942 had slightly more than 100,000. We used to say, somewhat tongue-in-cheek but true, that every person, every man, woman, and child in Nevada, could be comfortably seated in the Los Angeles coliseum in 1942. Today, it is the fastest growing State in the Nation. Our population, small by contrast with some of our larger States, is 1.6 million. So the uses of public land, where we strike that balance, is very important to this Senator in making sure that public recreational values are considered in the decisionmaking process, as well as grazing interests.

In addition, the substitute offered by Senator BINGAMAN specifically authorizes conservation use so that nonranching entities can hold a permit and rest an allotment if the practice is not deemed inconsistent with the land use. Conservation use, as a management practice, is particularly important to us in southern Nevada. It is an integral part of the Clark County's Habitat Conservation Plan, a plan devised in response to the concerns advanced by

many about the federally listed endangered species, the desert tortoise. Without that habitat conservation plan, a moratorium might very well have gone into effect with potentially catastrophic economic impacts for those of us who make southern Nevada our home. That habitat conservation plan was a compromise achieved as a result of the ability to use conservation use as a management practice.

Another important provision of the Bingaman substitute concerns the use of the portion of grazing fees that are returned to the States and dispensed to local grazing boards. The substitute provides that these funds may only be used for on-the-ground range improvements and for the support of local public schools in the counties in which the fees were generated. Currently, those fees are subject, in my opinion, to an abuse, an unconscionable abuse, in that these moneys are currently being used to finance lobbying activities and litigation.

Nye County, NV, has used more than $40,000 of these funds to finance a legal battle against the BLM, where they have asserted a claim of ownership over all of BLM publicly administered land in Nye County. This is indefensible. I acknowledge that my friends and neighbors in Nye County have every right to avail themselves of the Federal court system to make these claims, but they do not, in my view, have the right to rely on federal grazing fees returned to local grazing boards to fight these causes. Those ought to be confined to on-the-ground improvements for public schools in the county in which the fees are generated.

The Bingaman substitute, in my view, strikes an appropriate balance by reinstating the grazing boards but prohibiting this outrageous behavior and improper use of these funds.

As I began, I mentioned over the year I have had a chance to visit extensively with Nevada's ranchers and to hear their legitimate concerns about the new grazing regulations, concerns that I feel should be, but are not, addressed by the legislation before us today. The ranchers I have met with are honest, hard-working people who asked Congress, in essence, to set ground rules for grazing on public lands that will bring a sense of stability to the ranching community. If stability is of paramount concern to the ranching community, it is my view that S. 1459 is not the answer.

Finally, Mr. President, let me conclude by reminding my colleagues that the administration has promised to veto S. 1459 as it is currently written. Our only hope, if we are interested in achieving that stability and balance to which I have addressed myself earlier this afternoon, is to enact a balanced piece of legislation which the administration can sign into law.

For those reasons, I strongly encourage my colleagues to join me in the Bingaman substitute so this issue can be put to rest and a sense of stability can be brought to our friends and neighbors in the ranching communities. I yield the floor.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Montana.

Mr. BURNS. I thank the Chair. My statement will not be very long, but I just wanted to make a couple of comments. We just completed debate on the salvage timber, and the package offered by Senator BINGAMAN is, at best, described as yet another example of a mindset that prevails here in Washington, DC.

Yesterday, I stated in this body that in order to answer that question, we, this generation—this generation—if we are to hand over to the next generation, our children and our grandchildren, a better Earth than we were handed, a world that will sustain them and their daily needs for food and fiber, we have to approach the way the Federal Government writes rules and regulates them.

In the salvage logging debate, there were examples of actions taken by local authorities to protect the integrity of the law and the intent of the law. It has, in my State, brought some peace to the woods. There are examples of how land managers went the extra mile involving the local groups in the decisionmaking process of salvage. The involvement was loggers, environmental groups, local government, and land managers themselves. We should really congratulate the region I director of the U.S. Forest Service, because he used that process to determine a timber sale and used the same guidelines that we have always used, adhering to current environmental law. As dedicated as he is to the forest, he used all of those, and the result was that local folks signed off on the salvage sale.

Forest health is the goal, and it was then. Salvage is part of that goal. It is a dual goal. Loggers have gone back to work, mills are turning out wood products again for Americans—all Americans—and we are having and using forest resources that have been tied up in the courts for a long time.

Decisions that are made on the ground work best. Yet, this substitute calls for decisions to be made thousands of miles away from the resource that is now being used by all Americans, we all benefit.

At this point, I want to associate myself with the words of my friend from Iowa last night, Senator GRASSLEY, in his brief statement made on this floor. There are times in this country when we who are involved in agriculture get a little bit timid about what we do, telling the people what we do. Well, I am here to tell you it is about time, and this country better wake up and realize what the production of food and fiber does for this Nation. Yes, we like to call ourselves agriculturalists, proclaiming the importance of it. I think we get timid because we go under the false assumption that everybody understands and knows the importance of agriculture and knows that we produce the largest segment of the GDP in this country, over 20 percent. Yet, that GDP has produced a raw product by less than 2 percent of the population. It is also the largest export this country has. In other words, we feed the world.

Now, why do we so distrust the direction in which the present Secretary of the Interior is taking us? Can I cite one example? Wolf reintroduction into Yellowstone Park. Hearings all over the West. We did not hear a lot of support for that. Yet, it has caused some polarization of groups that actually share the same goal in my State—share the same goal of a better world and, yes, the environment. But the actions of the Federal Government and the arrogance of this particular occurrence have damaged the relationship within and without the communities in Montana. Not only is it expensive, spending your tax dollars, but if you contrast that, exactly the same thing is happening in Glacier National Park. But that is a natural migration of wolves from Canada. That does not seem to get any headlines in the newspaper. In that area of Montana, there is hardly any contact between man and wolf because, basically, both have learned the hard reality of the rules of survival. One never hears of that occurrence. Yet, we have wolves up there in Glacier Park and in the Bob Marshall. But one hears of the artificial introduction of that animal into that Yellowstone Park, which, in my opinion, is doomed to fail.

There are different fee rates. In my opinion, there is one main problem of this debate. We are trying to find the answer to a very, very difficult question. I say this: We are trying to recommend a policy of ''one size fits all,'' when there are differences in the lands, the topography, thus, the production capability of the lands. Those differences are huge.

I guess that is why I so strongly recommend that we allow all the major decisions to be made on the ground locally, to involve local people. There is no way that we, in Montana, run and manage our range the same way as they do in New Mexico, Colorado, Nevada, or anywhere else. There are different soils, different growing seasons, different weather conditions, different patterns, all dictating managing our range differently. It is just like privately owned land. All Federal lands and locales are not alike. The management scheme has to be different to attain the same result. Anyone who has ever had anything to do with land understands that. I understand that. I was raised on a small farm of 160 acres, with two rocks and one section of dirt in northwest Missouri. Every acre was not the same on that little 160 acres either. But you knew how to handle them. You farmed each one sort of differently in order to get the desired results.

That is hard to explain to folks who have not had a personal relationship

with the land or a real understanding of it. Most times, they do not care about the knowledge, or the common sense, or even less caring and respect for the thousands of families who have the sense, knowledge, history, and responsibility to manage this land that sustains them, and the rest of America, as well.

Let us not go backwards. Let us make those decisions on the ground. The Bingaman substitute takes us backward. Let us force people to sit down and talk, but let us base our decisions on the right decisions and on what has to happen on rangeland. Take the management. If hunters are worried about access, in the Domenici bill there is express language dealing with access. If you are worried about wildlife, we have already given you the figures that we have more wildlife today than ever in the history of this country. Water quality, that, too. Once you take the management of the land away—and this could well do it because there are folks who do not have a real good understanding—then we are in real trouble in the communities that derive a living from this resource. It is resource management.

So what I suggest and what I tell my colleagues is to defeat the Bingaman substitute and let us pass the Domenici bill, because there have been so many hours and so much work that has gone into this bill, working with the administration and with everybody concerned. No, everybody will not get everything they want. But everybody is going to want what they get. Let us put people into the equation whenever we start talking about resource management on public lands because real people are involved and will be impacted.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I rise in support of the Bingaman substitute. In August of 1994, as a member of the Interior Appropriations Subcommittee, when we were attempting to work out differences with the House, we had adopted in that conference a measure that was debated long on this Senate floor. In fact, the debate went on for several weeks. Four or five cloture votes were held on that matter. I believe we got 57 votes on several occasions, but we were never able to reach that magic figure of 60 to terminate debate and go forward with a revision of the grazing law. Had we done so, Mr. President, we would not be here today debating whether or not the Babbitt regulations were good or bad. We would have been working under a series of rules that would bind one administration to another. Ranchers would have had some defined rules in law to work under. They would have been able to obtain loans on their property, and there would be peace and quiet in ''Ranchland U.S.A.'' The problem is, however, Mr. President, that there were those who felt it was better not to adopt that.

Following the unsuccessful effort to invoke cloture, even though the majority of this body and the other body approved the compromise, Secretary of Interior Babbitt issued a series of regulations that are now in effect. The proposed compromise that was debated so long and hard here in my opinion was better than the Babbitt regulations, much more defined, not nearly as complicated, direct to the point, and would have allowed the ranchers of western America to be able to determine how they should run their properties. There were many months that went by before the regulations were promulgated. They were phased in. The ranchers even today really do not know for sure what the impact of those regulations are going to be. They are all in effect. They certainly are not as disastrous as prophesied by a number of people.

I say this: I think what has gone on this past year has been constructive. It has been educational, I think. I extend my appreciation to the western Senators, particularly Senator CRAIG THOMAS and Senator JOHN KYL. Those two Republicans and this Senator were appointed by the western Senators to try to come up with a compromise. We were making great headway when the House ducked grazing reform and reconciliation, and had the work terminated that we had done. But even that was not a failure because the work that I did with the Senator from Wyoming and the Senator from Arizona was helpful in the next wave of negotiations that we had. Senator DOMENICI's first bill that was offered had around 65 pages in it. After indicating to him that the bill was too complex, too broad, he came out with another draft about half that size. That is what we have been working from.

We have made progress. There are matters in this Domenici bill that are ones that I asked to be put in that bill. I appreciate that. Progress has been made. That is one reason that the debate today is not as acrimonious as it was in August 1994. The debate is constrained. It is deliberative and constructive. I have listened to almost all of the debate that has taken place, and I think it is something that the Senate should feel good about.

But I reiterate that we would have been better off, there would have been finality, if we had adopted the compromise of August 1994 that came out of Interior appropriations.

We are now faced with reality. We have been told by the administration that if the Domenici bill is adopted it will be vetoed. I think it is quite clear that, if it is vetoed, the veto will be sustained. That is one reason I feel so strongly about the alternative, the substitute, that has been put together by a group of western Democratic Senators. I believe that we could prevail upon the President not to veto that bill.

I understand the importance of livestock grazing in the western part of the United States. The small town that I was raised in southern Nevada had both mining and ranching. I worked as a boy and as a young man for those permittees of grazing in the southern part of the State around Searchlight. I did all kinds of things for them. Most of it was manual labor. But I understand—having gone out and taken water to cattle, taken feed to the cattle, cleaned out wells, generally helped those ranchers maintain their ranch on this very arid land—how important it is.

Most all ranchers, Mr. President, are hard working, good citizens—really the epitome of what is good about our country. They have great respect for the land. They consider it their land. I have no problem with that. But, Mr. President, we have talked today about western ranchers in a flattering way. And I repeat that the vast majority of those in the ranching community are good citizens. There are some who are not. There are the so-called proverbial rotten apples that spoil the barrel. What did they do? There are all kinds of things that these few rotten apples do. One is they deny access to public land. Others do not have a concern for the continued health of the land.

Mr. President, in 1986 we debated in this body the Forest Service Wilderness bill for the State of Nevada. There had been 25-plus years since the Wilderness Act was passed. And Nevada basically had not done their work. I worked on that for a long time. Even though I started in the House of Representatives before I came here, after Senator BRYAN arrived in the Senate we were finally able to get it passed preserving in Nevada beautiful land.

Nevada is the most mountainous State in the Union. Most people think it is arid with no greenery on it. That is not true. We have great mountain meadows and streams. We have animal life, antelope, and mountain sheep. We even have mountain goats in Nevada, and beaver, and eagles. It is beautiful country. After the wilderness bill was passed some ranchers in Nevada blocked off their land. As an excuse for not allowing hunters onto public lands they said it was because of wilderness. It is simply not true.

We have, for example, in northern Nevada a public land rancher who has blocked access to public lands on a road that was public in the mid-1800's to the mid-1980's. This same individual has harassed hunters on public land that come near his land. Also, this individual rides his horse onto public lands in an effort to disrupt hunting. Not coincidentally this same individual operates a guide service, and has a financial incentive to disrupt public hunting. He wants it to be private hunting. It is only one rotten apple. But it is enough to spoil the barrel.

Another example that has been brought to my attention is a grazing permittee in northern Nevada who, armed with a rifle, harassed hunters on public lands.

Mr. President, we need to ensure that the legitimate users of the public lands are not prohibited from hunting on these public lands, nor prohibited from using these public lands, nor even discouraged from using these public lands.

We need legislation that will provide land managers with the flexibility to protect the environment with multiple use without placing an administrative burden or undue restriction on hunters.

Mr. President, as my colleague from the State of Nevada indicated, when he started high school there were less than 100,000 people in the State of Nevada. We are now approaching 2 million—not large by the standards of the State of Pennsylvania, the State represented by the Chair. But it is a big State in our mind, and we have tens of thousands, now in the hundreds of thousands of hunters throughout the State of Nevada. It used to be, when my colleague and I were young men growing up in Nevada, that rangelands were used basically by no one other than cattlemen, but it is not that way anymore. There is competition for those lands: off-road vehicle users, all-terrain vehicle users, snowmobilers, backpackers, cross-country skiers, and family outings to go on picnics. There is lots of competition for those public lands in addition to the hunters and fishers and the ranchers.

We need to make sure that those people who ranch on public lands treat them the way they should treat the lands. They are not the lands of the individual rancher. They are public lands and should be treated accordingly.

As I have indicated, in the past, ranchers have had the public lands to themselves. The West is different today with many competing uses for these public lands. We cannot go backward. Today, in Nevada, we have had a tremendous increase, as I have indicated, in the number of hunters and other people who want to use the land. Because of these competing interests, it is essential we get a bill that provides for a balanced approach to multiple use. The Domenici proposal does not adequately provide for this.

Now, Mr. President, as I complimented my friend from Wyoming, my friend from Arizona, I also compliment the senior Senator from New Mexico. He has come some ways in this bill, and I appreciate that very much. I also compliment the junior Senator from New Mexico who I think with this alternate proposal has done a good job in really framing the issues before this body.

As I have indicated, a balanced approach to multiple use is not adequately contained in this bill. It elevates a single use of the public lands above other multiple uses, and it reduces the agency ability to protect the rangeland environment and limits citizen involvement in public lands management.

It is not my goal to prohibit livestock on public lands, although that is how some opponents of the Domenici bill were characterized yesterday. I think that I have had as much experience as most western Senators, more than others, in grazing land, ranch land generally. It is not my ultimate goal to prohibit livestock grazing. I think we should maintain it. I think grazing livestock, if done right, makes land healthier. It makes it better. But it has to be done right. And we have to allow the land managers to make sure that those few rotten apples that are going to spoil the barrel are taken from the barrel, they have the ability to take the rotten apple out of the barrel.

That is all we are asking in this alternative, this substitute. The substitute represents a compromise designed to provide a balance between providing stability to the livestock industry and the need for the BLM and Forest Service to have the flexibility necessary to responsibly manage Federal grazing lands and ensure multiple uses of the public lands.

My concerns with this bill of my friend, the senior Senator from New Mexico, I will talk about. The alternative prohibits use of the State's share of grazing fees for litigation, ensuring that the money is used to benefit the land or community, that is, making improvements in the land, riparian improvements, other improvements on the land. Currently, in Nevada, the State's share of Federal grazing fees is being used to sue the Federal or State government like the Nye County case, the so-called Sagebrush Rebellion II case. I have to tell you, frankly, Mr. President, everyone knew in the beginning that case was a loser. You would not have to graduate from Harvard Law School; I do not think you would have to graduate from Harvard elementary school to understand that that effort was doomed to failure.

In spite of that and the demagoguery that went forward based upon it, they used these moneys which were intended to be spent on the land in Nevada, improving water holes, fixing streams, building a road maybe—that is not what they used it for. They used in Nevada almost $300,000 of Federal moneys for legal counsel, foundation, associations, lawyers generally. This money was wasted, a total waste.

The bill that has been propounded by the senior Senator from New Mexico makes a provision for that. It does a good job. It is not as good as the substitute, but it is fine. It says those moneys can still be used for lawyers for administrative hearings. I do not think they should be able to use them even for that, and we have plugged that hole in the substitute.

The money that comes from these grazing fees that is returned to the States, Mr. President, I want used to improve the land, not to be spent on litigation or lobbying activities.

As I have indicated, the Domenici bill restricts the use of the State's share of the grazing fees, but it provides a number of loopholes. It may allow States to continue to use Federal moneys for lobbying and administrative appeals. We need these moneys used to improve the land.

The Domenici bill excludes grazing activities, management actions and decisions from NEPA.

The substitute that I am cosponsoring represents a compromise between sportsmen and ranchers. The renewal or transfer of permits is not subject to NEPA unless it will involve significant changes in management practices or significant environmental damage is occurring or is imminent.

This is not good enough. For example, when a rancher's permit comes up for renewal, if he or she has been a good steward of the land and has maintained the health of the land, that renewal will not be subject to NEPA nor should it be. If, however, as a result of an ongoing drought caused by nature or bad management practices of the rancher environmental damage has occurred or is occurring, renewal would be subject to a NEPA review.

That does not sound unreasonable. It also provides a mechanism to exclude grazing actions such as moving a fence or moving a stock tank from NEPA. That is what the alternative does, that is what the substitute does, when the activity is determined to have a significant impact on the environment. That is the way it should be.

The Domenici bill does not provide for public participation up front in the decisionmaking process. What this is going to cause is a lot more litigation because you cannot stop people from filing lawsuits, and that is what they will do early on. So what we need is to continue some semblance of administrative proceedings on these decisions that have been made. This will avoid litigation.

Yesterday, in the debate, it was stated that the Domenici bill does not take away rights from fishermen and hunters. I respectfully submit that perhaps the Domenici bill might not limit sportsmen's right to access. It does, however limit their access to the process. Sportsmen and other users of the public lands are precluded from involvement in the development of grazing decisions. They should be involved, because, Mr. President, they have rights to that public land. It does not involve the public up front in the decisionmaking process, and it should.

The substitute that I am cosponsoring allows persons defined as ''affected interests'' to be consulted on significant grazing actions and decisions taken by the Secretary. No formal, complicated process is mandated. What it does, though, is strike a reasonable balance between the Secretary's regulations, which would include involvement by the ''interested public,'' and the Domenici bill, which provides for participation only after a draft decision has been made.

In the Domenici bill, only permittees and lessees are able to protest proposed management decisions. This is wrong.

All other citizens could be excluded from taking an active role in a protest and appeal process. This restricts the ability to resolve conflicts early and, I believe, cheaply. So, in our substitute, affected interests are allowed to protest proposed decisions, allowing these conflicts to be resolved earlier and more informally, without litigation.

I also say that there are some who think, if you just eliminate this affected interest ability to challenge some of these administrative decisions, they are not going to challenge them. They will do it, but they will do it in the courts.

The Domenici bill limits the managers' ability to tailor and develop terms and conditions to protect winter forage for elk and deer, nesting habitat of game birds, water resources for wildlife, and water quality, and healthy riparian interests. Only allotments under an allotment management plan can have terms and conditions attached. But this will not work, because only 20 percent of the permits are currently under an allotment management plan.

So, under their proposal, 80 percent of the permits simply would not be under terms and conditions. And it would limit the manager's ability to do anything about tailoring and developing terms and conditions to protect the things that I have already outlined.

Allotment management plans look to the lands in a specific area and prescribe the livestock grazing practices necessary to meet multiple users' objectives. They can be costly and time consuming to complete. So we cannot decree that 100 percent of them be done. But, to the contrary, we cannot take away the managers' ability to put reasonable conditions on the land. The substitute balances the need for the BLM to have adequate authority to properly manage the public lands to ensure their long-term health with the need for ranchers to have some stability in terms and conditions of the grazing permit that we have talked about.

The proposed substitute ensures that ranchers will not be subject to arbitrary changes in the terms and conditions of a grazing permit. I think that should make the ranchers feel secure. One of the things we talked about when we had this long debate in August of 1994 was the fact that we needed to give the ranching community stability. We needed to give the ranching community certainty, so they could go forward and borrow money, make improvements. Here it is, almost 2 years later, and things are more uncertain than they have ever been. I respectfully submit, my friends who so badly want to get the Domenici bill passed, for what? The President is going to veto this bill. No matter what happens when we get it out of the House, the President said he is going to veto it.

I think we would do much better if we came with a bill that would be approved, that will be voted for by a majority of the Democratic Senators from the western part of the United States, and I am sure we could have some influence on the President to sign the bill.

Mr. President, the Domenici bill impedes permittees from employing proven restoration techniques, such as conservation use, by threatening permit loss if they do not make grazing use under the terms and conditions of a grazing permit.

What this means is that if someone wants to purchase a grazing permit, they cannot do it unless they want to ranch on it, unless they want to graze on it. It was stated last night that the minority chose to make nonuse of public lands a dominant use. This simply is not true. I recognize what the benefits of conservation nonuse can provide to the environment, and I believe it should be an option available to permittees.

In Southern Nevada, because of an endangered species problem, an animal called the desert tortoise, construction basically was brought to a grinding halt in the Las Vegas area.

Mr. President, we were able to work out our problems very quickly. One of the ways we were able to work out our problems under the terms of the Endangered Species Act was we had a conservation nonuse program. Clark County, NV, where Las Vegas is located, along with the Nature Conservancy, holds allotments in conservation nonuse for the benefit of this endangered species and allowed us to get back to work in building the most rapidly growing city and State in the United States.

Under our substitute, conservation use may be approved for periods up to 10 years if consistent with the land use plan. This is important. I will also suggest I do not know what my friends on the other side of the aisle are worried about, or I should say my friend the senior Senator from New Mexico, because under the present rules and regulations in the law, there is not a big line forming for people to sign up for conservation nonuse. It is used infrequently, but when it is used, it is important.

I repeat, there is not a long line of institutions or people saying, ''I want a conservation nonuse permit.'' It does not happen very often, but when it does, it is important.

If the Domenici bill were approved, it, in effect, would deny citizens of this country the ability to hold a grazing permit. I think that is wrong. In our substitute, permittees do not have to be in the livestock business to hold a permit.

Another problem I have with the bill of my friend from New Mexico is it requires managers—that is, someone from BLM or Forest Service—to provide 48 hours of advance notice to the rancher that they are going to take a look at the land. It inhibits the ability to manage the land. It also limits the flexibility of the manager to do complete monitoring. Mr. President, who are they trying to protect? They are trying to protect one of the bad apples. That is the only type of individual who would be concerned about someone coming on their land to see if they were grazing too many cattle in a riparian area or whatever else they were doing to degrade the environment.

So the substitute I am cosponsoring with others does not require advance notification for monitoring or inspection.

Also yesterday, it was stated that proponents of the Domenici bill were not here to defend the chief executive office's tycoons who bought some of this land out West. I acknowledge that. I think that is probably true. The subleasing provisions, though, of the Domenici bill limits the ability of the Forest Service and BLM to manage subleasing.

What do I mean by this? What I mean by this is if someone named Tom Jones has a grazing permit, under our provision, if he wanted to sublease this to his children or grandchildren, he could do it. But if he wanted to sublease it to Bob Jones from the State of Arizona or the State of New Mexico or someplace else, he would not be able to do it. The permit should run to the permittee and should not give them the right to start leasing Federal land and making money on it. That, in effect, is what they have been doing. It should be stopped. We should not allow subleasing unless it is to family members.

I would also suggest, Mr. President, that the Domenici legislation requires excessive amounts of costly time for monitoring rangeland studies and other delays before management actions that protect the environment can be implemented. That is not the right way to go. Agencies do not have the money nor the manpower to monitor all allotments. Our substitute allows agencies to rely on both monitoring data—and that means things they have actually seen—monitoring data, information they have collected, and also objective data that they have seen in making their decisions.

The Domenici bill excludes groups such as Ducks Unlimited, Trout Unlimited, and other hunting and fishing groups and State agencies from entering into cooperative agreements for the development of a permanent range improvement or development of a rangeland.

Mr. President, 5,000 cooperative agreements for range improvements are currently issued to nonpermittees. And 503 of these are in Nevada alone, representing about 15 percent of all range improvement permits and cooperative agreements in the State. The DOMENICI bill would dramatically limit agencies to leverage funds for range improvements. That is something we should not allow to happen.

The substitute that I am cosponsoring allows nonpermittees to enter into cooperative agreements.

Mr. President, in short, the Domenici substitute is certainly better than the

first draft we got of the bill. I say here that I appreciate the work that has been done by all western Senators. I am especially grateful to the staffs of all western Senators who have spent hours and days and weeks trying to come up with this. And there has been a spirit of cooperation. I wish we could have arrived at a bipartisan bill. We could not. But the issues have been narrowed significantly as a result of our sitting down and spending this endless time together.

In conclusion, Mr. President, what I believe that the substitute offers is balance. It provides balance between multiple uses and ensuring that no one use is put on a higher plane than any other.

The bill by my friend, the senior Senator from New Mexico, does not provide this balance. It elevates a single use of the public lands, grazing, above other multiple uses. That is not right. This is not what public lands are all about.

I extend my appreciation to the junior Senator from New Mexico for his tireless efforts in coming up with what I think is a veto-proof bill, one that we should all join in supporting, get it out of the House, get it signed and allow Nevada ranchers and other western ranchers to get about their business.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, for the last 2 days we have discussed the merits and shortcomings of the Public Rangelands Management Act. It is apparent that this is a complicated debate, riddled with hyperbole and misunderstanding.

Let no one misunderstand, however, the context within which this debate has been conducted. There exists today throughout the West a palpable sense of economic anxiety that has its roots in the issuance of new grazing regulations by the Department of the Interior 2½ years ago; regulations that fueled fear among ranchers that they face a campaign by the Government to permanently remove them from Federal lands.

This apprehension about Government insensitivity to the economic realities of ranching is tangible in my State of South Dakota and widespread throughout the West. Moreover, it has been aggravated by a prolonged period of extremely low cattle prices coupled with record high feed costs.

There is no doubt in my mind, Mr. President, that ranchers' frustration with current Federal grazing policy is justified. Their grievances are both procedural and substantive.

It was apparent that the regulations issued by the Interior Department in 1993 were conceived and issued in a manner that discounted the views of ranchers who earn their livelihood from public land.

Those rules clearly reflect the dominant views and interests of other users, including environmentalists, conservationists, sportsmen and other recreationists. While these groups all have legitimate interests in the quality of Federal land management, the new rules simply do not strike a fair balance among competing uses.

Like the first law of thermodynamics, every political action has a political reaction. The political reaction in the West to the new grazing rules was one of outrage and protest. Many in the ranching community understandably began to demonize these regulations. The legislation we are considering today was conceived in reaction to those rules.

But unlike the laws of physics, in politics the appropriate reaction is not always an equal and opposite reaction. Often a political reaction does not solve problems, but rather only recasts them.

That is the case with S. 1459. And that is why I will oppose the bill, and why I have worked with many of my Western States Democratic colleagues to develop an alternative to it.

The Bingaman substitute solves many problems for ranchers without harming the interests of other users of Federal lands. For grasslands ranchers in South Dakota and elsewhere, it would create a separate management regime apart from the National Forest System—a system that is ill-suited to dealing with the unique requirements of Federal rangeland.

Moreover, the Bingaman substitute overrides the language in the current regulations with respect to the United States Government perfecting all the water rights on Federal land. It places NEPA analysis in its proper perspective, ensuring that agency resources are spent evaluating the impacts of decisions that truly will effect the environment. And, it establishes a realistic fee formula with which ranchers can live.

In other words, the Bingaman substitute addresses the legitimate concerns of ranchers in the West. It represents a better way of addressing prevailing concerns about Federal grazing policy.

I do not question the commitment or motives of my colleagues who developed the committee bill. They have attempted to redress a serious matter through a serious effort. But their product moves Federal policy too far back in the opposite direction to the detriment of other public policy goals.

S. 1459 strikes me as an overreaction to a very real threat to American ranchers. It will not bring us closer to a reasonable and balanced compromise. It will simply shift the equilibrium. If this bill is enacted, I suspect it will not be long before we are back here on the Senate floor debating the same issue from the opposite perspective.

Mr. President, while we need grazing reform, S. 1459 shifts the balance past the sensible middle ground we should be seeking. Let me elaborate.

To begin with, S. 1459 curtails public input beyond what I consider to be reasonable or necessary by restricting the ability of the public to be involved in the development of grazing proposals and to challenge specific decisions.

What does this mean for users of Federal lands: campers, hikers, and scientists to name a few?

It means that those who may know and use the land will have their opportunity for input into the decisionmaking process restricted, despite the fact that they may be able to offer very credible and useful advice. It means that recreational users will no longer be able to challenge a decision they feel precludes them from having access to lands they have a right to use.

In contrast, Senator BINGAMAN's alternative retains the rights of ranchers and other interested parties to protest management decisions—a provision that exists in current law.

This is a very important point. The opportunity for public comment, protest, and appeal has become one of the most contentious elements in the grazing policy debate.

The history of public involvement by various interest groups has not always been constructive. Appeals and protests have not always been used to offer useful advice or to ensure that decisions are faithful to the letter and spirit of the law. On occasion, they have been used to delay and derail reasonable decisions, sometimes on the basis of flimsy or irrelevant evidence or argument.

Despite this acknowledgment, I am voting today to protect the public's right to comment on decisions that affect the public's lands. The course that some propose—to curtail comment process—is one that I do not feel can be justified by the historical evidence. Only through the unfettered competition of ideas will we be able to ensure development of the very best policies. No process of government should be sheltered by legal artifice from the force of a compelling argument. The management of our public lands demands no less a standard.

I am also concerned that S. 1459 creates an unworkable system for holding title to range improvements. The Bingaman alternative retains the title to permanent range improvements in the name of the United States, while the committee bill would share the title between the United States and the ranchers. Under the substitute, ranchers are compensated for their expenses if they give up the permit or the land use changes and they can no longer graze the land.

Further, S. 1459 restricts the ability of those outside the livestock business to obtain permits for conservation purposes. No longer would a Nature Conservancy be able to obtain permits and rest the land in conservation use. It simply is not fair to prohibit nonlivestock entities from obtaining permits to use Federal lands.

The Bingaman alternative amendment allows anyone meeting basic requirements to obtain permits and rest

the land in conservation use. The Nature Conservancy does this with 24 permits now and the Republican bill would curtail this ability.

In addition, S. 1459 significantly restricts the flexibility of the land managers to ensure adequate flows of water on Federal lands. If this proposal is enacted, the Federal Government will no longer be able to protect fish and wildlife populations on Federal lands. Under the substitute, no such punitive restrictions would be imposed.

Taken together, and particularly when read in the context of the objectives of the bill, these provisions persuade me that S. 1459 goes too far in one direction and fails to strike a reasonable balance among the multiple uses of public lands. It is not a solution to favor one group of users of the public lands over another. To manage this resource in a fair and equitable manner, a careful balance must be struck that responsibly addresses the legitimate concerns of all the public land users.

Passage of S. 1459 will not end the debate over grazing in the west. In its current form, this legislation will be vetoed, and that veto will be sustained. Under that scenario, we will not have accomplished anything except to have provided more grist for the political mill.

The Bingaman substitute will not please everyone.

Environmentalists may feel that in some respects it is too generous to the ranching community, while ranchers may feel that it does not adequately insulate them from appeals, protests, red tape and the whims of the Federal Government.

I believe it strikes a fair balance.

The Bingaman substitute will protect the public's right to participate in grazing management decisions. It will ensure that Federal land managers have the authority and flexibility to guarantee sound stewardship of the land and protection of fish and wildlife populations. It will allow conservation organizations the opportunity to obtain permits and rest the land.

In short, Senator BINGAMAN offers a sound, fair, and moderate amendment that will establish security for western ranchers, while genuinely protecting the interests of other users of the land. And, I believe, it can be signed into law.

I sincerely want to resolve this issue—for the permittees and lessees who reside in our States; for the communities that rely on the livestock industry; for the users of the public land; and for the American public in general. The uncertainty surrounding the management of the public lands must be clarified.

I believe the Bingaman approach will allow us to achieve our common goal—healthy public rangelands. I urge my colleagues to support the Bingaman substitute.

Mr. PRESSLER. Mr. President, ever since Department of the Interior Secretary, Bruce Babbitt, proposed Rangeland Reform '94, I have worked with other western Senators to pass meaningful legislation addressing the concerns raised in Secretary Babbitt's proposal. The bill before the Senate is the result of those efforts.

While we were able to postpone implementation of Secretary Babbitt's misguided reforms for some time, Rangeland Reform '94 is now operative. It became effective August 21, 1995. Ranchers are expecting and should get relief from those regulations. We must pass S. 1459.

Ranchers in South Dakota have told me one thing: Rangeland Reform '94 must be changed. Many of those reforms could have a detrimental impact on ranching operations in South Dakota. The Secretary's reforms are shortsighted, weigh in too heavy on the side of environmental extremists and could drive many hard-working ranchers off the land.

Hardest hit would be our young farmers and ranchers. Many have just started ranching on their own. These young farmers and ranchers are our future. They are agriculture's future. Yet they are the ones that could be most hurt if Rangeland Reform '94 is allowed to stand. I have heard from a number of ranchers who are more concerned with Rangeland Reform '94 than they are with low cattle prices. Now that is quite a statement. It clearly shows why this bill must be passed.

The legislation before us today represents nearly 2 years of hard work by many Senators and a vast number of individuals of different interest and professions who are most affected by Federal rangeland policies. I also want to commend the Senate staff who worked to develop our reforms into legislation. They worked late into the night and on weekends.

I do want to note that the bill has been significantly modified since it was first introduced last year. Every effort was made to reach a bipartisan consensus. Over the last 6 months Western States Senators from both sides of the aisle worked hard to reach a compromise that could ultimately be passed.

S. 1459 has bipartisan support and strong support throughout the country. I ask unanimous consent that a letter describing this support be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, many South Dakota organizations support this bill. First of all it is strongly supported by South Dakota ranchers. It is also supported by the South Dakota Public Lands Council, the South Dakota Farm Bureau, the South Dakota Sheep Growers Association, and the South Dakota Stock Growers, to name a few.

Let me outline specifically what this bill would do. Under S. 1459:

Ranchers who depend on the use of public lands would be able to continue operating in an economically viable manner.

Multiple-use management objectives would be achieved.

The rights of sportsmen, like hunters and fishers, would be protected and their use of Federal lands would not be restricted.

Water rights for livestock management grazing would be in accordance with State laws.

Local input from virtually every key interest into the management of public lands would be assured.

I urge my colleagues to keep in mind the fundamental goal of the legislation to remove a clearly objectionable rangeland policy.

If left alone, Rangeland Reform '94 will have a detrimental effect on ranching operations in South Dakota. Many of these reforms are short-sighted, take away local input and control, and could drive many ranchers off the land.

It is clear that extreme environmental groups support Rangeland Reform '94 and are waging a baseless scare campaign on S. 1459.

Supporters of Rangeland Reform '94 are spreading the laughable charge that this bill would hurt wildlife and restrict hunting on Federal lands.

I say this is laughable because it simply is not true. All one has to do is read the bill which specifically states:

> Nothing [in this title] shall be construed as limiting or precluding hunting or fishing activities on national Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

I originally had two important improvements to S. 1459. One was included in the bill and the second I intend to offer as an amendment. South Dakotans made it abundantly clear of the need for local and public input. I worked with Senator DOMENICI on an amendment to require consultation with State, local, and other interests in land-use policies and land-conservation programs for the national grasslands.

All users of Federal lands should have a voice in land-use policies. This added input will provide needed suggestions on better grazing practices that will protect the land and enhance wildlife management.

After discussing this with Senator DOMENICI, my amendment was included in S. 1459 as reported. I thank Senator DOMENICI and Senator CRAIG for working with me on this proposal.

The second improvement is designed to address concerns expressed by sportsmen. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsmen's haven.

Sportsmen have expressed concerns that S. 1459 could limit use of Federal lands for hunting, fishing, and other recreational purposes. My amendment would reinforce Federal policy to protect the interests of sportsmen who

hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen, and other sport enthusiasts to use Federal lands.

I hope this amendment can be accepted and made part of the bill.

Mr. President, the Congress needs to pass S. 1459. The bill would address the problems with Rangeland Reform '94, provide needed stability to farmers and ranchers, and help preserve the social, economic, and cultural base of rural communities in the western States. Current use of Federal lands could be greatly restricted in future years without S. 1459. I urge its adoption.

EXHIBIT 1

MARCH 14, 1996.

Hon. LARRY PRESSLER,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR PRESSLER: The undersigned organizations represent the diverse interests of millions of citizens who currently participate in the multiple use of America's public lands. On their behalf, we strongly urge you to support S. 1459, the Public Rangelands Management Act. This bill is the result of innumerable hours of bipartisan negotiations. It fosters balanced multiple use management of our public lands, resource protection and public participation. We have the following reasons for asking your support for this legislation:

The bill maintains widespread public participation in the management of federal lands. For the cost of a postcard, any individual or organization may qualify as an ''affected interest'' under the bill simply by writing to the Secretary to express concern for the management of grazing on a specific federal grazing allotment. They will then receive notice of and an opportunity for comment and consultation on proposed decisions made by the Secretary of the Interior affecting that particular federal parcel. Public participation extends down to the level of designation of allotment boundaries, development of allotment management plans, increasing or decreasing the use of the land by permittees, issuance and modification of permits and reports evaluating monitoring data applicable to a permit.

The legislation maintains the ''multiple use'' of public lands. There are those in the environmental community who would have you believe this bill somehow establishes ranching as a dominant use. You need not accept the word of these environmentalists or our word; the legislation speaks for itself. The bill states simply and clearly that ''multiple use as set forth in current law has been, and continues to be, a guiding principle in the management of public lands and national forests.'' Section 102 states that nothing shall affect valid existing rights, reservations, agreements or authorizations. The bill specifically states that nothing in the bill shall be construed as limiting or precluding hunting or fishing activities on federal lands in accordance with applicable federal and state laws, nor shall appropriate recreational activities be limited or precluded. The canard raised by these environmentalists that this bill would somehow lock in current livestock usage levels is simply wrong (see Section 101(a)).

The issue of NEPA compliance is important. The National Environmental Policy Act was well intended for the protection of the environment with regard to major federal actions. Unfortunately, over the decades since its passage, NEPA has been used by obstructionists as a tool to put a stranglehold on any use of federal lands. The statutorily required major federal action has devolved to the digging of a single post hole on federal lands. Everyone familiar with current agency interpretations of NEPA realizes the system is badly broken. The reality is that agency officials are not getting out on the land and monitoring multiple use; they are desk bound by NEPA paper shuffling and the fear of litigation. The NEPA provisions in the bill will protect the environment, restore the original intent of NEPA and free up federal land managers to do their job, all while saving the public money.

The Public Rangelands Management Act is a major cost saver for the federal government. The Congressional Budget Office has scored the new grazing fee formula contained in the bill and determined that enactment would decrease direct federal spending by about $21 million over the 1996 to 2000 period. CBO estimates that offsetting receipts would increase by about $28 million over the same period. The western livestock industry supports this new formula at a time when cattle prices are at a 13 year low. Ranchers are stepping up to the plate and expressing a willingness to pay more during the hard times.

If enacted, S. 1459, the Public Rangelands Management Act will be the first major revision of federal lands grazing activities since the 1934 Taylor Grazing Act. The time has come to restore common sense to the management of the federal lands and to allow ranchers utilizing those lands to continue the production of food and fiber. Support responsible land management, prudent resource conservation and continued multiple use of national lands. Please support S. 1459.

Sincerely,

Agricultural Retailers Association; American Chianina Association; American Farm Bureau Federation; American Forest and Paper Association; American Gelbvieh Association; American Horse Council; American International Charolais Association; American National Cattle Women; American Sheep Industry Association; Arizona Cattle Feeders' Association; Arizona Cattle Growers Association; Arizona Farm Bureau Federation; Arizona State Cowbelles; Arizona Wool Producers Association; Association of National Grasslands; Black Hills Regional Multiple Use Coalition; California Cattlemen's Association; California Farm Bureau Federation; California Public Lands Council; California Wool Growers Association; Cochise Grand Cattle Growers; Colorado Cattlemen's Association; Colorado Cattle Feeders Association; Colorado Farm Bureau; Colorado Public Lands Council; Colorado Woolgrowers Association; Dixie Escalante Rural Electric Association; Empire Sheep Producers, NY; Florida Cattlemen's Association; Gem State Hunters Association; Idaho Cattlemen's Association; Idaho Dairymen's Association; Idaho Farm Bureau Federation; Idaho Food Producers Association; Idaho Hunters' Association; Idaho Mint Growers Association; Idaho State Grange; Idaho Wool Growers Association; Independent Petroleum Association of America; Indiana Sheep Breeders Association; Iowa State Grange; Kansas Sheep Association; Michigan Cattlemen's Association; Michigan State Grange; Mississippi Cattlemen's Association; Montana Association of Grazing Districts; Montana Farm Bureau Federation; Montana Public Lands Council; Montana Stockgrowers Association; Montana Wool Growers Association; National Association of Counties; National Association of State Departments of Agriculture; National Cattlemen's Beef Association; National Grange; National Lumber and Building Material Dealers Association; National Mining Association; Nebraska Cattlemen; Nevada Cattlemen's Association; Nevada Farm Bureau Federation; New Mexico Farm and Livestock Bureau; North Dakota Lamb & Wool Producers; North Dakota Stockmen's Association; Oregon Cattlemen's Association; Oregon Farm Bureau Federation; Oregon Sheep Growers Association; Ozona Wool & Mohair; Public Lands Council; Regional Council of Rural Counties, California; Rocky Mountain Oil & Gas Association; Roswell Wool, New Mexico; South Dakota Public Lands Council; South Dakota Sheep Growers Association; South Dakota Stockgrowers; Southern Timber Purchaser's Council; Tennessee Cattlemen's Association; Texas Sheep & Goat Raisers Association; Texas & Southwestern Cattle Raisers Association; Utah Cattlemen's Association; Utah Farm Bureau Federation; Utah Wool Growers Association; Utah Wool Marketing; Washington Cattlemen's Association; Washington Farm Bureau; Washington State Grange; Wilderness Unlimited, California; Wyoming Farm Bureau Federation; Wyoming Stock Growers Association; Wyoming Wool Growers Association.

Mr. HATCH. Mr. President, I rise today in support of S. 1459, the Public Rangeland Management Act. I am proud to be a cosponsor of this bill. And, I congratulate Senator DOMENICI and others who have worked so hard to balance the many interests involved in this legislation.

Livestock grazing has always played a major role in our western lifestyle, providing a number of important economic, social, and cultural benefits to all Americans. Utah's rangelands are a renewable resource that can be used and reused without sharing the land. In fact, grazing has become a natural part of the ecological system. A 1990 report from the Bureau of Land Management states that ''Public rangelands are in a better condition than at any time in this century.'' [''State of Public Rangelands 1990'', U.S. Bureau of Land Management, emphasis supplied] This is true because livestock grazers, armed with the latest available knowledge, have become wise users of the resources available to them.

There have been instances in the past of overgrazing to the detriment of the land and the local ecology; today these cases are the exception. Now we hold those who abuse our lands responsible for their actions.

Mr. President, let me state clearly that the Public Rangeland Management Act provides no relief or protection to bad actors on our rangelands. Instead, it reinforces all environmental laws as they relate to grazing on public lands. This is as it should be.

But, Mr. President, I am extremely concerned for the plight of livestock producers in Utah and throughout the United States. I am not aware of any cattle producers in Utah who are making a profit. There are a number of factors contributing to this devastating

trend. But when I ask them what we can do to help, they unanimously plead for stability—stability in the fees they are charged and stability in the laws and regulations they must obey.

In Utah most of the livestock producers are small family-owned cattle and sheep operations. An increasing number of these families who have paid for grazing permits on public land, will be unable to afford to use the. They will simply be unable to survive under the difficult regulations promulgated by the Secretary of the Interior known as Rangeland reform 94. Even the possibility that these regulations will be implemented has been sufficient cause for many lenders to hold back their money rather than provide necessary loans to ranchers. Lenders know the business, and they know that Secretary Babbitt's proposal is bad for the industry. Without the necessary credit these families have little hope for survival.

Mr. President, it breaks my heart to watch as families, who have been in the livestock business for generations—in some cases since before Utah became a State—are forced to pull up their stakes and fold up the family business. These families have withstood terrible winters, devastating droughts, the depression, and other economic downturns. But faced with an all powerful, antipathetic Federal Government, their ability to endure is coming to an end.

Considering the serious situation of our livestock industry, one might wonder how far S. 1459 goes to provide for their relief.

Some fear that S. 1459 exempts grazers from some environmental laws. There is absolutely no ground for this fear. The language in this bill could not more clearly reinforce all environmental laws, and it does nothing to impede future changes or additions to current environmental law.

Some who oppose the bill believe it would restrict the use of permitted lands from sportsmen and recreationists. They are dead wrong. Senator DOMENICI went so far as to add an amendment to this bill stating plainly that multiple use of permitted land would not be inhibited in any way. Mr. President, those who continue to criticize the bill for this reason must oppose the idea of grazing on public lands altogether, because it is clear that this concern has been addressed.

Mr. President, even with the difficulty faced by families in the livestock industry, there are still those who argue that we do not raise grazing fees high enough. The truth is that this bill raises grazing fees by 30 to 40 percent from current law, generating millions more revenue for the Treasury than in the past.

These critics point to the higher fees that are charged for forage on private lands. But, there can be little comparison made between grazing on private land and grazing on public land. On one hand, the private landowner must provide all the livestock management services as well as continual forage. Of course private owners charge more, they provide all the necessary services for grazers and must maintain them. On public lands, it is the grazers who are required to install and maintain stock water ponds, fences, and other improvements at their own expense.

Before he was named as Secretary of the Interior, Bruce Babbitt said that ''multiple use has run its course.''—Public Lands Reform Vital, Denver Post, Mar. 9, 1990. This view is certainly disheartening to use in the West, and I, for one, regret that Secretary Babbitt has set in motion a number of challenges to multiple use. The Rangeland Reform '94 plan is amount the most difficult.

Besides putting grazing fees at a level that is sure to run a host of ranchers off of public lands, Secretary Babbitt's Rangeland Reform '94 proposal would lay down a long list of new standards and regulations that address all public grazing in a one-shoe-fits-all approach. This approach just does not make sense. Every grazing district throughout the country has its own set of challenges and resources that must be dealt with to ensure sustainable use of the that area.

S. 1459, the Public Rangeland Management Act, would set into law a framework for managing our lands according to each district's specific needs. And I might add that it would do so while keeping all current environmental protections in full force and effect. This bill would also set into law a fee formula that, although much higher than current law, would provide stability for families in the livestock business and their creditors. Fees should not be set by political appointees who come and go, and who bring with them differing philosophies of public land management.

Again, I commend Senator DOMENICI, Senator MURKOWSKI, and all my colleagues who have worked to develop this compromise legislation. This bill is long overdue. When this process began the need for these reforms was great. Since then, that need has taken on great urgency. We must pass this bill without delay.

Mr. KEMPTHORNE. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I would be pleased to yield for a question.

Mr. KEMPTHORNE. It is my understanding that the grazing bill S. 1459, the Public Rangelands Management Act does not affect the issue of grazing on national parks and national wildlife refuges.

Mr. DOMENICI. The Senator from Idaho is correct.

Mr. KEMPTHORNE. The reason I ask that question is that on many national wildlife refuges, including at least two in my own State, grazing is a traditional use of refuge lands originating in some cases before the land was acquired by the Fish and Wildlife Service.

Mr. DOMENICI. Have grazing rights been continued on those refuges?

Mr. KEMPTHORNE. It has taken a lot of effort to get the administration to admit that grazing rights on the refuges were retained by the previous landowners when the land was transferred to the Fish and Wildlife Service. As things stand right now, there may be room for some optimism that grazing will continue both as a retained right, and as a wildlife management technique.

Mr. DOMENICI. I thank the Senator from Idaho for his observation.

Mr. KEMPTHORNE. I thank the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I support Senator DOMENICI's Public Rangelands Management Act. I had hoped to support a substitute or a series of amendments to address the concerns I expressed in the Energy and Natural Resources Committee meetings. However, we are faced with an amendment that fails to address my concerns and a substitute that goes beyond the changes that I believe we called for in the Domenici bill.

I am concerned with two aspects of S. 1459—public participation and flexible management. We could have done a better job in these two areas.

Affected interests should be consulted and allowed to protest and appeal decisions;

Site-specific NEPA analysis should be allowed when it is determined to be useful; and

A permittee or lessee should not have to be engaged in the livestock business and own base property in order to practice conservation use.

The substitute makes an attempt to address these two areas, but fails in other respects:

It continues to advocate two distinct range management programs, one for the Forest Service and one for the Bureau of Land Management;

It fails to adequately address the water rights issue; and

It does not adequately credit permittees for their rangeland investments.

I oppose the amendment offered by Senators BUMPERS and JEFFORDS for the following reasons:

It would create two classes of rangeland users without improving natural resource management;

It would become an administrative nightmare for the regulatory agencies; and

It is bad policy for Government to ''reward'' small operators or ''penalize'' large operators. The goal is to charge a fair fee to all.

I therefore will support Senator DOMENICI's bill. I see it as a reasonable, if flawed, attempt to bring closure to this longstanding issue.

The long and often contentious rangeland management debate reflects the profound ties that we as a Nation feel for our public lands. These ties are more than economic or sentimental. They are true bonds we hold to our Nation's past and its future.

The decades of debate have not been wasted. They have produced information that is leading to new management strategies and cooperation where

previously rancor prevailed. We now have an inspiring number of coalitions of ranchers, conservation groups, and State and Federal agencies working together voluntarily to improve rangelands.

In Southeastern Oregon's Trout Creek, for example, permittees are working together with Oregon Trout (a private conservation organization) and State and Federal agencies to improve riparian areas and resolve conflicts between big game and livestock. Their efforts have been very successful in improving range conditions on private, State, and Federal lands.

The Malapai Border Project in my esteemed colleagues' State of New Mexico offers another example of cooperative management. Here, permittees, the Nature Conservancy, and State and Federal officials have come together voluntarily to solve regional ecosystem problems. Through their efforts, we hope to stop the encroachment of brush into grasslands.

These and other examples should encourage us all. The condition of our grasslands is improving and should continue to do so if we work together.

It is interesting to observe the evolution of grazing fee proposals. For years grazing fees provided the hot button for all sides of the argument. Ranchers let us know loud and clear that their fees were high enough. Today, by-and-large, they support the legislation before us, which would increase the fees. This change of heart reflects a better understanding of the issues and a desire to respond to others' concerns.

We need to capitalize on this spirit and ensure that it grows. It is too easy to focus on remaining differences and go away convinced that they are too great to resolve. If we do this, we will inspire the cooperation necessary to resolve the remaining differerences.

It is my hope that my Senate colleagues will work in conference, in cooperation with the House and the administration, to make the adjustments necessary to address my continuing concerns.

Mr. KEMPTHORNE. Mr. President, the final analysis is clear. Rangelands need grazing in order to be healthy. Given that understanding, do we work with the stewards now on the land to improve range health, and find the right balance of grazing? Or do we focus instead on regulations that will have the end result of driving many of those stewards off the range?

The second alternative is unacceptable to me, and should be to all of us here. But under the regulations now in place, that is the direction we are headed. Innovative managers, like conservation award winner Bud Purdy from Picabo, ID, are seeing their children leave a generations-old tradition because of the uncertainty of depending on Federal lands. And this all despite his nationally recognized conservation projects.

We should be encouraging, not discouraging, private enterprise and individual initiative. We should be looking out for the best interests of the public in the long term. Creating vast empty wastelands is not in the best interest of the American public, and it is the responsibility of this body to set policy that will plot the course to protect environmental health and economic stability for rural communities.

Mr. Chairman, as you might have guessed, this debate is a source of great frustration for me. The focus of this Congress, and supposedly of the administration, is to reduce and simplify government, to serve the public better by decreasing overhead cost, reducing needless oversight and review, and improving cooperation with the private sector. But the regulations which the administration implemented last August fly in the face of those goals.

We have to ask ourselves what our priorities are. Ranching is a primary industry across the West. Do we want to tap into the resources that industry has to offer, to encourage conservation and cooperation, to foster stewardship and local management? Or do we want to micromanage the top down, effectively pulling the rug out from under fragile rural economies?

Mr. President, there are efforts underway as we speak to support rural America. The President is supporting an aggressive rural development program that is being included in the farm bill. But does it make sense to undertake a significant rural development program on the one hand while implementing regulations that will stifle development on the other?

Mr. President, I believe the answer is clear, and further, that Senator DOMENICI's bill is the better path to achieving those goals. I urge my colleagues to support this bill.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. There are no other Senators on our side desiring to speak on this matter. I will speak maybe 3 to 4 minutes.

Mr. President, let us talk a minute about public input into decisionmaking. Senate bill 1459, as introduced, has been criticized for its provisions regarding public involvement in management decisions regarding grazing activities on the Federal land.

In fact, Mr. President, under the Domenici substitute amendment, public involvement has been expanded. For the first time the public will be given an opportunity to comment on reports by the Secretary of the Interior, and Secretary of Agriculture, summarizing range-monitoring data. The only area where the role of the public has been somewhat diminished is in the area of protests. Let me talk about that a minute.

Under the Domenici substitute, protests cannot be filed by so-called affected interests on very limited types of decisions, such as proposed decisions on applications for grazing permits or leases or relating to terms and conditions of grazing permits or leases or range improvement permits. Other types of protests are allowed, as are appeals of final decisions under the Domenici substitute.

The reason for limiting protests, Mr. President, is very simple: We have found that we need to reduce the potential for filing vexatious and frivolous objections by individuals not even remotely affected by proposed decisions on specific grazing allotments. We want the Government to work better, not worse. We want decisions to be implemented without being protested, then appealed and delayed, and then delayed some more.

Mr. President, the substitute defines an affected interest to include individuals and organizations that have expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments for the purpose of receiving notice and an opportunity for comment and informal consultation on proposed decisions of the Secretary affecting allotments.

As a result of being affected interests, an individual or organization, can receive notice of and the opportunity to comment on summary reports of resource conditions as well as proposaled and final decisions. They can also appeal final decisions, assuming they have standing to appeal.

If an individual, organization is an affected interest, notice of a proposed decision will allow a reasonable opportunity for comment and informal consultation regarding the proposed decision within 30 days, for designation or modification of allotment boundaries, development, revision or termination of allotment management plans, increase or decrease of permitted use, issuance, renewal of transfer of grazing permits, modification of terms and conditions, reports, evaluating monitoring data and the issuance of temporary nonrenewable permits.

In addition to all of the above, Mr. President, public participation occurs in the following areas under this substitute: First, resource advisory councils; second, grazing advisory councils; third, all the FLPMA processes, development of land use plans and amendments thereto.

The NEPA process, where it is used in land use planning, it is used to its absolute maximum. It is also applicable in the development of standards and guidelines.

It is not accurate, nor is it fair, to argue that 1459 or the substitute amendment to it significantly diminishes public participation in management decisions affecting grazing allotments. The intent of our legislation is to ensure fair and frequent public participation by interested individuals, but to curb frivolous and vexatious attempts by outsiders to micromanage —not macromanage, but micromanage—grazing on the public domain from a distance of 2,000 miles away.

In short, our bill attempts to keep those who would file with a 32-cent

stamp, from Boston, on a postcard, from spawning administrative and judicial litigation. That brings livestock grazing and economic activity in the West to a halt. This happens with more frequency than you might imagine. We think we have the right amount, which is a very significant amount of public participation, in the right type of decision points.

In some areas, our bill goes further than the Bingaman substitute; in others, it does not go as far. But I believe public participation is maintained in a very broad way and is very significant in this bill.

Mr. President, I have a number of responses in writing that I have written out with reference to other contentions that have been made here on the floor. I do not think, in the interest of time, that I will go through each and every one of them. But there are some significant differences in conservation partnerships that are allowed, cooperative partnerships, than have been stated here on the floor.

The only thing that concerns us and that is epitomized in our bill, is after the land use plan is put together, we do not permit those who would like to get rid of grazing to come in and pick the very best land and say, ''We'd like to take all the cattle off. We have enough money to pay for it. We would like to turn it into nothing more than a nongrazing area.''

We think there are other, better ways to improve conservation measures without doing that to the public domain. I might indicate that even in States which have a very, very broad-based approach to conservation uses, instead of just pure grazing, this idea of going and picking leases, picking the best of leases and taking them out of grazing and putting them into an exclusive conservation use, has been denied at the State level, not only in New Mexico but in other States.

Mr. President, another criticism of S. 1459 is that it provides for cooperative range improvement agreements with permittees and lessees only. Had Senator BINGAMAN read the Domenici substitute amendment, he would have known that his criticism of S. 1459 is utterly baseless. Section 105(b) directs the Secretary, where appropriate, to authorize and encourage coordinated resource management practices. Such practices shall be for the purposes of promoting good stewardship and conservation of multiple use rangeland resources. And, such practices can be authorized under a cooperative agreement with a permittee or lessee, or an organized group of permittees or lessees.

Language was specifically added at the urging of some conservation groups to provide that such cooperative agreements could include other individuals, organizations, or Federal land users irrespective of the mandatory qualifications required to obtain a grazing permit required by S. 1459 or any other act. This was done so that non-permittee or non-lessee conservation groups could voluntarily make improvements on the public rangelands.

So, Mr. President, contrary to what Senator BINGAMAN claims, a cooperative agreement is not limited to just permittees and lessees. Anyone can enter into a cooperative agreement with a permittee or a lessee and voluntarily make range improvements on grazing allotments.

I hope, Mr. President, that Senator BINGAMAN isn't suggesting that we should discourage or prohibit this type of voluntary rangeland stewardship, because one of the groups that urged us to change section 105 voluntarily makes $3 million in range improvements each year, based on funds raised at dinners and benefits. If Senator BINGAMAN wants to make it the policy of the United States that we should not allow this type of voluntarism, I think our colleagues should be skeptical about supporting his substitute.

Next, Mr. President, it has been said that S. 1459 denies the right of affected interests to protest grazing decisions on public land and national forests by providing that only an applicant, permittee, or lessee may protest a proposed decision. Again, Senator BINGAMAN should read the Domenici substitute more carefully. Either that, or he must be confused about what the Domenici substitute actually does. Section 151(b) of the Domenici substitute requires the authorized officer to send copies of a proposed decision to ''affected interests.''

Section 155(b) requires the Secretary to notify ''affected interests'' of seven different kinds of proposed decisions: first, the designation or modification of allotment boundaries; second, the development, revision, or termination of allotment management plans; third, the increase or decrease of permitted use; fourth, the issuance, renewal, or transfer of grazing permits or leases; fifth, the modification of terms and conditions of permits or leases; sixth, reports evaluating monitoring data for a permit or lease; and seventh, the issuance of temporary nonrenewable use permits.

Section 151(c)(3) states that any notice of a proposed decision to an affected interest must state that ''any protest to the proposed decision must be filed not later than 30 days after service.''

The only limitation on protests is found in section 152, which states, ''an applicant, permittee, or lessee may protest a proposed decision under section 151 in writing to the authorized officer within 30 days after service of the proposed decision.''

If there is a limitation on the filing of protests by affected interests, Mr. President, the Domenici substitute does not allow affected interests to file protests on very limited types of decisions, such as proposed decisions on an application for a grazing permit or lease, or relating to a term or condition of a grazing permit or lease or a range improvement permit. Each of these types of issues, Mr. President, involve the contract-like relationship between the permittee or lessee and the United States. In our view, these are the type of decisions that do not warrant armchair quarterbacking and second-guessing by those who want to micromanage livestock grazing on the public lands.

Other types of protests are allowed—as I have already more than adequately explained—as are appeals of final decisions, under the Domenici substitute.

On this one, Mr. President, Senator BINGAMAN is wrong again. So is the Congressional Research Service attorney who analyzed the bill for Senator BINGAMAN.

Next, Mr. President, Senator BINGAMAN claims that under S. 1459 only ranchers would qualify to appeal a final decision affecting the public lands. This is false. Persons who are aggrieved by a final decision of an authorized officer can appeal such a decision, so long as the agency's standing requirements can be met. The same would be true for a judicial appeal of a final agency action.

The reference to the Administrative Procedure Act simply clarifies that a person must actually be aggrieved—actually injured—as set forth in the APA and case law interpreting it. This does not mean that someone whose interest might be affected, or who might suffer some unknown injury at some point in the future can sue.

Mr. President, what we are trying to do here is to eliminate frivolous and vexatious administrative and judicial appeals by those who are not actually adversely affected by a land manager's decision, but who oppose grazing on public lands or have some particular ax to grind.

Senator BINGAMAN seems to think that being an ''affected interest'' should automatically confer rights to bring administrative or judicial appeals of final decisions. He cites the language in section 154 that states ''being an affected interest as described in section 104(3) shall not in and of itself confer standing to appeal a final decision upon any individual or organization.''

Mr. President, under the administrative case law of the Interior Board of Land Appeals, a clear distinction has been made as to the appeal rights of ''affected interests'' as opposed to those ''whose interests may be adversely affected.'' The IBLA has ruled in several cases, Mr. President, that being ''deemed'' to be an ''affected interest'' does not automatically confer upon a person a right to appeal. The Interior Department's regulations state that only a person ''whose interest is adversely affected by a final decision may appeal to an administrative law judge.'' (Donald K. Majors, 123 IBLA 142, 146 (1992)).

Mr. President, the Domenici substitute is consistent with the Interior Department's regulations.

Senator BINGAMAN also claims that S. 1459 exempts on-the-ground management from NEPA. NEPA has been eliminated in site-specific situations. He cites a CRS analysis that states that elimination of site-specific analysis is a significant change in current law and procedures. In place of NEPA, S. 1459 proposes a review of resource conditions.

The Domenici substitute states that grazing permit or lease issuance, renewal, or transfer are not ''major federal actions'' significantly affecting the environment under NEPA. This will spare the Government the time and expense—1½ years per EIS at a cost of about $1 million per EIS—of doing full-blown EIS' on the more than 20,000 grazing permits and leases on BLM and Forest Service lands.

Also, the Republican substitute places NEPA consideration of grazing activities at the appropriate place: at the land use or forest plan level. The Republican substitute does not trivialize the NEPA process by requiring an EIS for simple decisions such as where to locate a watering tank or whether a fence should be built.

What Senator BINGAMAN and the CRS analysis ignores is that the measure of whether NEPA analysis is done on ''site specific management'' is whether ''site specific management''—and it is not clear what Senator BINGAMAN means by this term—constitutes a major Federal action significantly affecting the quality of the environment within the meaning of NEPA. The Bureau of Land Management does not now perform NEPA analysis on grazing permit renewals, so this is not a significant change from current procedures.

Current law does not require NEPA analysis on ''site specific management.'' Current law requires NEPA analysis of major Federal actions significantly affecting the environment. For Senator BINGAMAN to say that S. 1459 eliminates NEPA analysis of site specific management is a gross mischaracterization of the process and of what NEPA requires. And, as I already mentioned, decisions on the location of a stock watering tank or construction of a fence cannot possibly be considered ''major Federal actions.''

Finally, Mr. President, Senator BINGAMAN is trying to dupe everyone into believing that the Domenici substitute eliminates NEPA analysis of grazing activities, and places instead a simple review of resource conditions. The facts about what the Domenici substitute does are these: first, NEPA analysis would be required at the BLM land use plan—also known as the resource management plan—level and at the Forest plan level. NEPA is not eliminated. Let me repeat—NEPA is not eliminated.

Mr. President, let me just say that the Bingaman substitute would not require the completion of any analysis under NEPA on renewals and transfers unless the Secretary determines that the renewal or transfer would involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent. Nowhere does the Bingaman substitute specify what ''significant'' is.

Second, Mr. President, the Domenici substitute would require monitoring of resource condition at an interval of no less than every 6 years. This is not required now. Neither BLM or the Forest Service conduct monitoring with any regularity, if at all.

Third, notwithstanding Senator BINGAMAN's complaints that monitoring data consists of very specific measures of vegetative attributes, or that, in many cases, it is not available, the Domenici substitute will ensure—for the first time—that adequate monitoring data are available to BLM and the Forest Service. Why is this so important? Because—for the first time—monitoring can help guide the agencies in determining whether grazing activities or land management practices should be changed to protect the public rangelands. The substitute of Senator BINGAMAN would do no such thing.

So, Mr. President, how in the world can Senator BINGAMAN criticize the Domenici substitute?

Last, Mr. President, Senator BINGAMAN claims that, under S. 1459, the public is not given a say in range improvements.

While no specific provision is made in the Domenici substitute for a public say in range improvements—just as the Bingaman substitute does not specifically give the public a role in range improvements—an opportunity for such input would be welcomed through input from the resource advisory councils and grazing advisory councils.

I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just summarize my response on a few of these areas, and then I think we will have concluded the debate as far as I am aware on this substitute amendment.

I wanted to talk briefly about three issues. First, the NEPA issue that was raised by several of my colleagues, and the difference between our bill and the underlying Senate bill 1459 on NEPA application; second, the opportunity to protest, which Senator DOMENICI was just referring to; then the question that was raised earlier in the debate about why our own substitute did not have a specific provision reserving the right of people to hunt and fish or otherwise use the public lands.

First on NEPA, let me state my understanding of NEPA. The statement I think was made earlier by my colleague that NEPA today is not applied or used in the management of the BLM lands. My understanding is very different, Mr. President. My understanding is the National Environmental Policy Act sets up a procedure which applies to all of the Federal land management agencies and essentially says that when you take an action or make a decision, you need to determine by virtue of the National Environmental Policy Act whether there is an impact, a major Federal impact on the environment.

You can do it one of three ways. If you are fairly confident that there is no impact on the environment to speak of, and it is clear that what you are doing is consistent with decisions you have otherwise made, you can make an administrative determination, and that is in compliance with NEPA, but you are complying with NEPA, as I understand it, by making an administrative determination that nothing more is required. If you think possibly a more serious impact on the environment might be involved you can, instead, make an environmental assessment, and only once you have made an environmental assessment and determined that there will be a significant impact on the environment are you required to do a full-blown environmental impact statement.

Now, whether you do an administrative determination or whether you do an environmental assessment or whether you do the full-blown environmental impact statement, the BLM in this case is complying with NEPA, so the notion that the BLM is not in compliance with NEPA in the way they presently operate and the way they have historically operated is just wrong. In fact, when you look at the CEQ regulations—not the new regulations that Secretary Babbitt promulgated—in the CEQ regulations, it is made very clear that based on regulation 1501.4, based on the environment assessment, the agency will make its determination on whether to prepare an environmental impact statement.

My understanding is that the BLM did comply with that. In most cases they determine that they should do an environmental assessment before renewing leases. We are trying to address that in our substitute, as I have explained here, and I think everybody concedes we are saying that NEPA should not apply when you are just renewing a lease, when you are just renewing a permit, unless there is some evidence that there is a change in the management or some evidence that there is danger to the land involved or to the environment. That is the first point on NEPA.

On the opportunity to protest, under our bill, under this proposed substitute we are offering, the department will determine whether or not a particular group or person is an affected interest. Not everybody who writes in or contacts the department is necessarily an affected interest. If a third-grade class in Hartford, CT, wants to write and they say they are an affected interest on the land in a ranch in New Mexico, it is very doubtful that any Secretary would determine that they were an affected interest under the language of

our substitute. We have made it clear that the Secretary is given discretion as to look at whether or not a group is, in fact, affected.

If they are affected, we provide they have an opportunity to protest. Now, the CRS report, which I know some are critical of, let me state I think they make a very good point here. They say a protest is similar to a predecisional appeal that gives the public an opportunity to object to a proposal, gives the agency an opportunity to change or modify its course before committing itself to a final course of action.

That is all we are saying. We are not saying that someone should have legal rights as such, except to state their position and do so at a stage in the process before a final decision is made. That is not permitted under the underlying bill. It is permitted in our substitute. I think, clearly, it should be permitted.

Again, it should be permitted for those who are determined to be affected interests—not for the so-called interested public, which is what the current Department of Interior regulations refer to. We have corrected that. We agree that is an overly broad category, the interested public. So we have said in the case of an affected interest, if you are determined to be an affected interest you should have a right to protest before they finalize the decision.

The other area I wanted to particularly point out, I know my colleague had said that someone could raise an objection to our bill on the grounds that we did not specify that hunting and grazing are, in fact, permitted. Well, we did not. I point out that the reason we did not is that in our bill we made it very clear that our legislation is not an amendment to all of the different statutes that are being amended in the underlying legislation. The underlying legislation, by its very language, section 102, page 5, says,

> The Act applies to the Taylor Grazing Act, Federal Land Policy Management Act, Public Range Improvement Act, Organic Administration Act of 1897, the Multiple Use Sustained Yield Act of 1960, the Forest and Rangeland Renewable Resource Planning Act, the National Forest Management Act.

Since they are saying that all of those acts are modified or changed to the extent necessary by this, they then have to come back later in that same section 102, and say nothing in this title shall limit or preclude the Federal language from being used for hunting, fishing, recreation, watershed management, et cetera.

We did not have that same proviso in there because we are not affecting those acts. Nothing in our bill affects those earlier acts. We are proposing very limited statutes which have the effect of correcting regulatory provisions that we had concerns about. That is a basic reason why we did not repeat that same provision that the Senator from New Mexico has in his earlier bill.

I gather he wants to speak in response to that.

Mr. DOMENICI. I just wanted to say, Senator, and ask you if you would turn to the section called Applications of the Act on page 5. It says, ''This act applies to,'' and then it says, ''(1), the management of grazing on Federal land by the Secretary of Interior under * * *'' So it is the management of grazing as affected by these acts.

All I said about your failure to include the provision was that somebody, if they wanted to treat your bill like they have treated my bill, would say, why does it not have in that language that says it in no way would affect, and all I said was somebody might write—since that is not there, maybe it affects them in some adverse way.

I do not believe with that language which says ''grazing on Federal land,'' that we are changing these acts. It is the management of grazing on Federal land.

Mr. BINGAMAN. Mr. President, let me respond that there are a great many groups and individuals around the country very concerned about preserving hunting and fishing rights. To my knowledge, none of them have raised concerns about whether our legislation impinges upon those or our proposed substitute impinges upon those rights, or fails to adequately protect those rights. I think those concerns have been raised about the underlying bill. Senate bill 1459, not about our substitute. So I think this is a problem which is not real, in my view.

Mr. President, I will conclude my comments by just going back to the basic point that I think needs to be understood by our colleagues. In putting together our substitute, which we are getting ready to vote on, we sent a letter to my colleague, Senator DOMENICI, in September of last year. It was signed by myself, Senators DORGAN, DASCHLE, BRYAN, and REID, all five of us, who have spoken here on this issue. We sent a letter saying that, in our view, the only way we should go forward and develop legislation that would do what needs to be done here is to identify the problems that exist in the new grazing regulations and then legislate corrections to those, legislate solutions to those, correct the specific problems that have been pointed out. Do not go beyond that and create new problems.

I believe that we have done that in the substitute. We have tried to strike a balance between those who graze the land, the authority of those who graze the land, and the authority of those who want to use the land for other purposes. I believe that balance is very important to maintain. I fear that the underlying bill gives us an imbalance, which we will be back here trying to correct in future years, if the underlying bill were to become law. With that, I believe we have concluded debate on this.

I yield the floor.

Mr. DOMENICI. Mr. President, before I move to table the Bingaman amendment, I want to say to Senator BINGAMAN, and other Senators who have worked with him on that side of the aisle, obviously, even with reference to the Domenici amendment, your work has not been in vain because we changed it rather dramatically in response to various meetings we held with Senator BINGAMAN, and the other Senators he mentioned. A number of changes have been made since he suggested them, and the major one was made because of a suggestion Senator BINGAMAN made—that we not provide by statute to wipe out all of the regulations and say these are the regulations. We left many of the old regulations in place, which he recommended we do. I thought that was a major change. That it reduced the bill by two-thirds in length, if nothing else, should be good. Many of us think we ought to have fewer words rather than more. In many areas we have complimented their efforts.

We believe that the Domenici amendment will create the balance, and that it will create more of a certainty for the ranching community to continue to exist. At the same time, it will protect all the other interests.

With that, Mr. President, I move to table the Bingaman amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. BURNS). Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 49 Leg.]

YEAS—57

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Baucus	Gramm	McConnell
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Hatch	Pressler
Burns	Hatfield	Roth
Campbell	Heflin	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Cohen	Inouye	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kohl	Thompson
Dole	Kyl	Thurmond
Domenici	Lott	Warner
Faircloth	Lugar	Wyden

NAYS—40

Akaka	Daschle	Harkin
Biden	Dodd	Hollings
Bingaman	Dorgan	Johnston
Boxer	Exon	Kennedy
Breaux	Feingold	Kerry
Bryan	Feinstein	Lautenberg
Bumpers	Ford	Leahy
Byrd	Glenn	Levin
Conrad	Graham	Lieberman

Mikulski	Pell	Sarbanes
Moseley-Braun	Pryor	Simon
Moynihan	Reid	Wellstone
Murray	Robb	
Nunn	Rockefeller	

NOT VOTING—3

Bradley	Gregg	Kerrey

So the motion to lay on the table the amendment (No. 3559) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. As I understand it, there is a request for the yeas and nays on final passage.

Mr. PRESSLER. Mr. President, I still have an amendment.

Mr. DOMENICI addressed the Chair.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. As I understand it, the Senator from South Dakota has an amendment.

Mr. DOMENICI. We are going to fix that right now and then vote on it.

Mr. DOLE. There has also been a request for final passage on the Taiwan resolution which has been agreed to. That can be the second vote, and then everybody can vote and leave.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 165

Mr. DOLE. Mr. President, I also ask unanimous consent at this time that when the Senate receives from the House House Joint Resolution 165, the continuing resolution, it be deemed considered read three times, passed, and the motion to reconsider be laid upon the table, all without any intervening action or debate.

The PRESIDING OFFICER. Is there objection to the majority leader's request?

The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Is there a sufficient second on the yeas and nays on final passage of S. 1459, the grazing bill?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. And on Taiwan.

The PRESIDING OFFICER. And on Taiwan? Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DOMENICI. Could we have a bit of order.

The PRESIDING OFFICER. May we have order, please. All conversations should be removed to the cloakrooms.

AMENDMENT NO. 3560 TO AMENDMENT NO. 3555

(Purpose: Amendment To make clear the intent of title II to preserve sporting activities on the National Grasslands)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

The Senator from South Dakota [Mr. PRESSLER] proposes an amendment numbered 3560 to amendment No. 3555.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 202(a)(3), after ''preserving'' insert ''sporting,''.

In section 202(b), strike ''hunting, fishing, and recreational activities'' and insert ''sportsmen's hunting and fishing and other recreational activities''.

In section 205(f), strike ''HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities'' and insert ''SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities''.

Mr. PRESSLER. Mr. President, my amendment is designed to address a concern expressed by sportsmen in South Dakota. South Dakota is probably the best hunting and fishing State in the Nation. I know there may be others who may disagree, but I will gladly promote South Dakota as a sportsman's haven.

Mr. WELLSTONE. I object.

Mr. DOMENICI. Could we have order, Mr. President.

The PRESIDING OFFICER. Could we have order. And the Chair will withhold comment.

Mr. PRESSLER. Mr. President, this amendment reinforces Federal policy to protect the interests of sportsmen who hunt and fish and use our public rangelands for sport. My amendment would preserve the rights of hunters, fishermen and recreationalists to use Federal lands.

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. PRESSLER. I will yield.

Mr. FORD. The longer the Senator talks, the less chance this amendment has of passing.

Mr. DOMENICI. I thank the Senator.

Mr. PRESSLER. Mr. President, I hope this amendment can be accepted and made a part of the bill.

Mr. DOMENICI addressed the Chair.

Mr. President, I wonder if the Senator would agree for a moment to set his amendment aside.

Mr. PRESSLER. I will.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATIONS TO AMENDMENT NO. 3555

Mr. DOMENICI. I send to the desk a Pressler amendment and two other technical amendments in behalf of Senator CAMPBELL and Senator DORGAN and one in behalf of Senator BURNS. They have been approved by Senator BINGAMAN in behalf of the minority. I send them to the desk and ask that my amendment be modified to include those amendments.

The PRESIDING OFFICER. Without objection, the underlying amendment is so modified.

The modifications are as follows:

In section 202(a)(3), after ''preserving'' insert ''sporting,''.

In section 202(b), strike ''hunting, fishing, and recreational activities'' and insert ''sportmen's hunting and fishing and other recreational activities''.

In section 205(f), strike ''HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities'' and insert ''SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities''.

On page 7, line 7, strike paragraph (7) in its entirely and insert a new paragraph (7) as follows:

''(7) maintain and improve the condition of Federal land for multiple-use purposes, including but not limited to wildlife and habitat, consistent with land use plans and other objectives of this section. ''

On page 9, line 10, after ''Service'' insert' ''in the 16 continguous Western States''.

On page 21, line 17, strike ''and'' and insert in lieu thereof ''or''.

On page 21, line 21, strike ''A grazing permit or lease shall reflect such '', and insert in lieu thereof ''The authorized officer shall ensure that a grazing permit or lease will be consistent with appropriate''.

On page 18, line 23, strike ''or'' and insert in lieu thereof ''and''.

On page 6, strike the present text in lines 9–13 and insert in lieu thereof the following: ''Nothing in this title shall affect grazing in any unit of the National Park System, National Wildlife Refuge System or on any lands that are not federal lands as defined in this title.''

On page 13, line 22: add the following subsection:

''(4) State Grazing Districts established under state law.''

On page 29, line 20: add the following subsection:

''(i) STATE GRAZING DISTRICTS.—Resource Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law.''

On page 31, line 13: add the following subsection:

''(f) STATE GRAZING DISTRICTS.—Grazing Advisory Councils shall coordinate and cooperate with State Grazing Districts established pursuant to state law.''

AMENDMENT NO. 3560 WITHDRAWN

Mr. PRESSLER. Mr. President, I withdraw my amendment.

Mr. DOMENICI. Senator PRESSLER has withdrawn his amendment.

Mr. President, I believe we are ready for final passage. Is that correct?

AMENDMENT NO. 3555, AS MODIFIED

The PRESIDING OFFICER. If there is no objection, the substitute amendment is agreed to.

The amendment (No. 3555), as modified, was agreed to.

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

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

UNANIMOUS-CONSENT AGREEMENT—HOUSE CONCURRENT RESOLUTION 149

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, on behalf of the leader, who did not read the unanimous consent request, I ask

unanimous consent that following the vote on passage of S. 1459, the grazing bill, the Senate proceed immediately to the consideration of House Concurrent Resolution 149 regarding Taiwan, with Senator Thomas to be recognized to offer an amendment, the amendment be considered agreed to, and the Senate immediately vote on adoption of House Concurrent Resolution 149, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Chair.

VOTE

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 50 Leg.]

YEAS—51

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Baucus	Gramm	McConnell
Bennett	Grams	Moynihan
Bond	Grassley	Murkowski
Brown	Hatch	Nickles
Burns	Hatfield	Pressler
Campbell	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Conrad	Inhofe	Smith
Coverdell	Johnston	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner

NAYS—46

Akaka	Feinstein	Moseley-Braun
Biden	Ford	Murray
Bingaman	Glenn	Nunn
Boxer	Graham	Pell
Breaux	Harkin	Pryor
Bryan	Hollings	Reid
Bumpers	Inouye	Robb
Byrd	Jeffords	Rockefeller
Chafee	Kennedy	Roth
Cohen	Kerry	Sarbanes
Daschle	Kohl	Simon
DeWine	Lautenberg	Snowe
Dodd	Leahy	Wellstone
Dorgan	Levin	Wyden
Exon	Lieberman	
Feingold	Mikulski	

NOT VOTING—3

Bradley	Gregg	Kerrey

So the bill (S. 1459), as amended, was passed.

The text of the bill will be printed in a future edition of the RECORD.

Mr. DOMENICI. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I wish to acknowledge the following staff for their important contribution to the passage of S. 1459, and I ask unanimous consent that their names be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD; as follows:

Charles Gentry and Gary Ziehe of Senator DOMENICI's staff.

Energy Committee Majority Staff: Gary Ellsworth, Jim Bierne, Mike Poling, and Jo Meuse.

The personal staff of the following members:

Dan Naatz—Senator THOMAS.
Ric Molen—Senator BURNS.
Nils Johnson—Senator CRAIG.
Rhea Suh—Senator CAMPBELL.
Kevin Cook and Greg Smith—Senator KYL.

Energy Committee Minority Staff: David Brooks and Tom Williams.

The personal staff of the following members:

Damon Martinez—Senator BINGAMAN.
Eric Washburn—Senator DASCHLE.
Mike Eggl and Doug Norrell—Senator DORGAN.
Bret Heberle—Senator BRYAN.
Bob Barbour and Peter Arapis—Senator REID.
Bryan Cavey and Kurt Rich—Senator BAUCUS.
Kevin Price—Senator CONRAD.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

DOMESTIC VIOLENCE HOTLINE

Mr. WELLSTONE. Mr. President, if I could just say this. I announced last week that as a part of the Violence Against Women Act we now have a national domestic violence hotline. Senator BIDEN, of course, did so much work on this, as did many others. Every day I come out and show this. It is 1–800–799–SAFE; and the TTD number for the hearing-impaired is 1–800–787–3224.

Mr. President, I spoke about this issue last week. But every day I want to announce this number for women and children and those who need to make this call. I thank the Chair.

EXPRESSING THE SENSE OF THE CONGRESS THAT THE UNITED STATES IS COMMITTED TO MILITARY STABILITY IN TAIWAN STRAIT

The PRESIDING OFFICER. The clerk will report the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to military stability in Taiwan Strait and the United States should assist in defending the Republic of China (also known as Taiwan) in the event of invasion, missile attack, or blockade by the People's Republic of China.

The Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

AMENDMENT NO. 3562

(Purpose: To amend the resolution)

Mr. THOMAS. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. THOMAS] for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, and Ms. MOSELEY-BRAUN proposes an amendment numbered 3562.

Mr. THOMAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

''That it is the sense of the Congress—

''(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

''(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

''(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

''(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

''(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision.''

Amend the preamble to read as follows:

''Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

''Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

''Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

''Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu

''Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

''Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a ''One China'' policy and, during the administration of President Clinton, the United States continues to adhere to the ''One China'' policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

''Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979 (22 U.S.C. 3301 et seq.) as the basis of continuing commercial cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

''Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

''Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

''Whereas the Taiwan Relations Act of 1979 states that peace and stability in the Western Pacific ''are in the political, security, and economic interests of the United States, and are matters of international concern'';

''Whereas the Taiwan Relations Act of 1979 states that the United States considers ''any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States'';

''Whereas the Taiwan Relations Act of 1979 directs the President to ''inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom'';

''Whereas the Taiwan Relations Act of 1979 further directs that ''the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger'';

''Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

''Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it.''

Amend the title so as to read: ''Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China.''.

Mr. THOMAS. Mr. President, under the order I believe we are to vote. I ask unanimous consent for 2 minutes—1 minute for the Senator from Alaska, 1 minute for the Senator from Louisiana.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am pleased the Senate will vote on this timely issue regarding the current situation in the Taiwan Strait. I am referring, of course, to the military action by the People's Liberation Army to intimidate the people of Taiwan on the eve of the first Democratic, direct election of their President.

The executive branch has criticized, correctly, the military exercises. The administration has backed up its words by sending a naval presence to monitor the exercises in the Taiwan Strait. The House has passed its own resolution. It is time for the U.S. Senate to also go on record deploring the military threat of the People's Republic of China, and recommitting the United States to the terms and conditions of the Taiwan Relations Act.

Senator THOMAS, the majority leader, Senator HELMS, and I, along with our staffs, have been in close consultation with the administration and with our colleagues on the other side of the aisle to address their concerns, and am pleased that we have crafted a compromise that will have broad bipartisan support. I think it is important for the leaders of the People's Republic of China to understand that America is united in maintaining the historical commitments we have made to Taiwan.

The Taiwan Relations Act clearly states that peace and stability in the Western Pacific are in the political, security, and economic interests of the United States, and makes clear that U.S. policy is to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic interests of the United States.

The amendment we have offered makes five important points. First, the amendment directs the President to consult with the Congress, as required by the Taiwan Relations Act, when it is determined that there is a threat to the security or the social or economic system of the people of Taiwan.

I do not believe this threshold has been met, both because the People's Republic of China ended the missile tests as scheduled on March 15 and one of its naval exercises on March 20 and because the People's Republic of China has indicated that it does not plan to attack Taiwan. We will have to wait and see if their actions match their words.

Second, the amendment directs the President and Congress, as required by the Taiwan Relations Act, to reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened threat. The purpose of this commitment, of course, is to deter China from considering any type of attack.

I am pleased that United States officials and officials from the Republic of China met this week to discuss additional sales of necessary defensive weapons. I hope the approved list is sufficient to maintain their self-defensive capability. I wonder, for example, whether the Patriot system that is scheduled for delivery in late 1997 is timely or adequate given the recent missile tests?

Third, the amendment deplores the missile tests and other military exercises that have the potential to disrupt air and shipping routes. The missile tests resulted in four unarmed warheads falling in waters near Taiwan's northern and southern ports. The naval exercises using live ammunition encroach upon international shipping lanes. These actions call into question the commitment of the People's Republic of China to the peaceful resolution of the future of Taiwan.

Fourth, the amendment calls on the People's Republic of China to cease its threats, and instead enter into a constructive dialog with the Government of the Republic of China on Taiwan, perhaps through their informal organizations, the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Straits in Beijing. In the past, these two organizations have dealt with many other issues between the two countries, from fishing to highjackers, and have helped fuel the enormous investment in mainland China by Taiwanese investors, estimated at some $20 billion.

Finally, the amendment notes that the Government of the Republic of China should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision, consistent with government policy.

Mr. President. I do not believe that China is on the verge of attacking Taiwan. I also do not believe that China's scare tactics will have their intended affect on Taiwan. When the roar of the military tests have subsided, and the last vote is counted in Taiwan, I hope the two sides will pursue a course of constructive dialog. Until the time, the United States must maintain its vigilance and monitor events in the Taiwan Strait.

Before I conclude, Mr. President, I want to comment on one issue that is related to the debate surrounding this resolution, an that is Congress' role in the visit of President Lee Teng-hui to his alma mater. There are some who have blamed that visit, and Congress' role in bringing about that visit, for the current crisis. Mr. President, that is simply not the case. I would refer my friends to a recent op-ed in the New York Times by Christopher Sigur that points out that it was not that visit, but the prospect of democracy in Taiwan, that has so upset the leaders in Beijing.

As Mr. Sigur notes, until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully.

They negotiated Taiwan's participation in numerous international institutions, from the Asian Development Bank and the Asia Pacific Economic Cooperation forum to the Olympics by sidestepping the independence question.

But as Taiwan moved closer to a full fledged democracy with the December parliamentary elections and the March Presidential elections, Beijing's leaders saw the island moving toward a less predictable future, because, of course, in a democracy, there will be many different voices that the leadership must accommodate.

All of this came at a time when Beijing is preparing to take over Hong Kong and thus test Chairman Deng's ''One Country, Two Systems'' proposition. In addition, the leadership in Beijing is still in transition as Chairman Deng fades from the scene.

Finally, Mr. President, I would argue that our own administration contributed to hardening the Peoples Republic of China's reaction to a private visit by Lee Teng-hui by not issuing the visa initially and assuring Beijing that this private visit did not constitute a departure from the ''One China'' policy. Instead, Secretary of State Christopher told President Jiang Zemin that such a visit would not occur, and therefore caused the President to lose face when the decision was reversed.

The United States was right to allow President Lee to return to his alma mater. The United States is right to continue to sell defensive weapons to Taiwan. And the United States is right to go on record deploring the recent missile tests and military exercises. Although these actions are condemned by the People's Republic of China they are consistent with United States policy under the four joint communiques with the Peoples Republic of China and the Taiwan Relations Act, the law of the land.

Mr. President, China must understand that missile diplomacy does not work. This amendment sends that message, and I ask my colleagues for their support.

Mr. President, I ask unanimous consent that the New York Times article, as well as a recent op-ed I authored in the Wall Street Journal entitled ''What We Owe Taiwan'' be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY TAIWAN SCARES CHINA

(By Christopher J. Sigur)

In the debate over China's military exercises in the Taiwan Strait, few have discussed a fundamental reason for its actions: Taiwan's emerging democracy. China's main concern is not any movement toward independence but rather the effects of Taiwanese democracy on the island's foreign policy.

Until recently, both China and Taiwan had implicitly recognized the island's de facto independence and dealt with it peacefully. They negotiated Taiwan's participation in numerous international institutions, from the International Monetary Fund to the Olympics, by sidestepping the independence question. China tolerated Taiwan's efforts to open embassies abroad. But the military exercises in the strait show that this implicit understanding is in tatters.

What has changed? With its first-ever direct presidential elections on Saturday, Taiwan will become a full-fledged democracy.

President Lee Teng-hui's controversial visit to Cornell University last summer was a symptom of Taiwanese democracy. To stay in power in a democracy, of course, one must respond to the opposition's views. The opposition in Taiwan does not want reunification with the mainland and has increasingly demanded international recognition of the island. Hence, President Lee's campaign to rejoin the United Nations, his trips to Asia, Latin America and Europe (which have been termed ''vacation diplomacy'') and the push to have Congress grant him a United States visa.

It is naive to think that if only Mr. Lee had chosen not to go to Cornell, if only he had not offered the United Nations a $1 billion gift in an apparent attempt to gain a seat, China would not be acting so belligerently.

Beijing's leaders recognize that Mr. Lee's actions are prodded by democracy and it horrifies them. China's state newspapers often refer to Taiwan's ''demands for independence in the guise of democratization,'' clearly linking one with the other.

What the People's Republic sees across the strait is a China whose people are ready to choose their own leaders, with all the demands that makes on a political system: regularly scheduled elections, a free press and political parties that must take their opponents' ideas seriously, because you never know who will be in power tomorrow. Beijing is not prepared to accept this model in Taiwan or on the mainland.

Thus, even if Mr. Lee renounced Taiwan's United Nations bid, canceled all his overseas trips and closed his country's few embassies, both he and Beijing would recognize that the moves are meaningless. Democracy institutionalizes uncertainty, and neither Beijing nor Taiwan could predict how the voters would react. China may not have liked seeing Taiwan under the firm grip of the Nationalists for the last four decades, but at least they were predictable.

The United States must recognize that it has a fundamental interest in promoting Chinese democracy, and in protecting its sole example in Taiwan. Thus, we must warn China in no uncertain terms that we will not sit idly by if Taiwanese democracy is threatened, encouraged our allies to make similar declarations and continue to back up our words with a show of American naval power.

Democracy's uncertainties will only increase the threats to the security and economic stability of the entire region. The United States is vital to any long-term solution. The Chinese on both sides of the strait are unlikely to reach a solution unless Washington keeps them talking.

WHAT WE OWE TAIWAN

(By Frank Murkowski)

President Nixon must be spinning in his grave.

When he first opened relations with Beijing some 20 years ago, Nixon believed that Asia could not progress if China remained isolated. His actions promised to help that country enter into a new and constructive relationship with the rest of the modern world. But Beijing's recent self-defeating actions can only turn back the pages of history and cripple China's economic progress.

Beijing's decision to start missile tests near Taiwan—and it is to be hoped nothing worse—effectively imposes a miniblockade of Taiwan's two major ports prior to Taiwan's first free presidential elections on March 23. The tests, while probably intended to affect the election, have ramifications beyond the Taiwan Strait.

For that reason, Sen. Craig Thomas (R., Wyo.) and I have introduced in the Senate a resolution recommitting us to the Taiwan Relations Act of 1979, which clearly states that America believes that peace and stability in the area are in the ''political, security and economic interests of the United States.''

The Taiwan Relations Act, which is the law of the land, commits the U.S. to ''resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan.''

We must remind Beijing that the decision of the U.S. to establish diplomatic relations with China was ''based upon the expectation that the future of Taiwan will be determined be peaceful means.''

Some China-watchers are inclined to rationalize Beijing's behavior. Apologists have blamed China's belligerence on the firm stands taken by Congress. But today it is clear that China, not Congress, is to blame for the current state of U.S.-China relations. Time and again, before and after the 1989 Tiananmen Square attack on student protesters, China's rulers have shown themselves to be almost oblivious to the fact that a larger world—one that is sensitive to human rights concerns, capable of helping improve China's quality of life, and with a firm belief in religious and political freedom—exists beyond the borders of the People's Republic of China.

President Jiang Zemin and his lieutenants must understand that this is why the U.S. finds China's missile diplomacy unacceptable. We support the peaceful settlement of differences between China and Taiwan, and cannot idly watch a peaceful, democratic ally be threatened—and certainly not attacked militarily.

We must, furthermore, continue selling Taiwan defense weapons to help counter any thoughts China might have of using military force against the island. Along with these weapons, we must let the leaders in Beijing know that threats are useless as tools of foreign policy and are the rusted relics of diplomacy from a bygone and dangerous era.

China's leaders must know that economic gains will evaporate if continued military threats (or worse) create havoc in East Asia. Beijing's officials must understand they cannot conduct business as usual with the world if missiles start falling. They also need to know that fear of war is every bit as chilling to investment as the real thing.

Congress should congratulate the people of Taiwan for their continued steps toward democracy. Congress should also state its support for the people of Taiwan to become involved in international organizations. Taiwan has emerged as a force for democracy and stability in Asia, and its people should be represented. The U.S. must continue at the same time to encourage a true dialogue between Beijing and Taipei that will lead to understanding and conciliation, rather than threats and confrontation.

With this latest round of threats against Taiwan—and the U.S.—it is time to step back and gather forces to support reason and dialogue, rather than the rumblings of hostility and war.

President Nixon was correct in seeing the vast potential importance of China as a world economic power. But more than 20 years later, the world still waits for Beijing to abandon its totalitarian ways and to behave consistently as a civilized nation.

Mr. MURKOWSKI. I thank the Chair and commend the Senator from Wyoming for his effort in this regard.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when the matter originally came up, I strongly opposed the resolution because it seemed to be a shift of ground away from the Shanghai Communique which has been the basis for almost a quarter of a century of our relationship to China.

Mr. President, we are deeply grateful, Senator NUNN, Senator FEINSTEIN, and I, and others, who had serious objection to the resolution in its original form.

With Senator THOMAS, Senator MURKOWSKI, and others, we are now working this out in a balanced way that makes clear that this Nation continues to adhere to the one-China policy, as enunciated in the Shanghai Communique and the communiques since that time under five American presidents. I believe it is not a perfect resolution, but it is a balanced resolution. On that basis, I can vote for it. I thank the Chair.

The PRESIDING OFFICER. The question in on agreeing to the amendment.

The amendment (No. 3562) was agreed to.

Mr. NUNN. Mr. President, the current tension in the Taiwan Strait creates a very dangerous situation. While I do not believe that China intends to invade Taiwan, there is always the risk that accident or miscalculation could lead to conflict. China's actions have been precipitated by its perception that Taiwan is unilaterally seeking independence. While I regret that it is necessary, I applaud the decision by President Clinton to send two carrier battle groups to the region.

I would have preferred that no legislation or concurrent resolutions be passed by Congress in the current tense situation but I am opposed to the resolution passed by the other body and believe that it is necessary for the Senate to go on record on this important matter.

Mr. President, the concurrent resolution we are considering this afternoon is reasoned and responsible and is designed to make a constructive contribution to the situation. It is important because it recognizes that the one China policy that is based upon the three United States-China joint communiques has been and is being adhered to by the United States. It is important because it deplores the People's Republic of China's recent military actions and urges China to cease its action and to enter into a meaningful dialogue with Taiwan. It is important because it reminds everyone of the provisions of the Taiwan's Relations Act. And finally it is important because it states that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with China by mutual decision.

Mr. President, as I noted in my floor speech on United States-China relations last month, the framework of the three communiques and the Taiwan Relations Act has served both sides of the Taiwan Strait as well as the United States well for almost 16 years. That framework made possible the relaxation of tensions in the Strait; has encouraged Taiwan to abolish martial law and become a prosperous democracy; made available to the Chinese on the mainland that talent and capital of the people on Taiwan; it played a major role in China's drive for modernization; and it produced a sense of security for China, for Taiwan, and the region. The thrust of this concurrent resolution is to remind both sides of the Taiwan Strait of these facts and to encourage them to maintain that framework—both its letter and its spirit.

Mr. President, I would like to repeat what I said at the end of last month's floor speech because it continues to sum up my thinking on this subject and is, I believe, totally consistent with this concurrent resolution.

Americans feel close to the people of Taiwan and are proud of their accomplishments. The people of Taiwan have made enormous strides economically and politically. They are an example to much of the developing world.

It is important for the United States, as a friend, to be clear with the Taiwanese that they must not misjudge China on the question of Taiwan independence.

It is important that the people of Taiwan understand that a unilateral declaration of Taiwan's independence would be inconsistent with United States foreign policy as set forth and followed by President Nixon, President Ford, President Carter, President Reagan, President Bush, and President Clinton.

It is also important for the Chinese to understand that the United States values its friendship and relationship with the people on Taiwan. It is crucial that the Chinese understand that if China uses force to resolve the Taiwan issue, the United States will not stand idly by but will surely respond.

For our part, the U.S. should make it very clear that we will oppose either side's attempt to change the status quo either by the use of force by Beijing or by unilateral declaration of independence by Taiwan. The United States position should be clear that we are prepared to live with any outcome negotiated in good faith between China and Taiwan. The future of Taiwan must be settled by mutual agreement between the parties, not by the unilateral actions of either. For that to happen, Taipei must stop its political provocations and Beijing must stop its military provocations.

The people of China and the people of Taiwan should resume a high-level dialogue to foster clear understandings and increased cooperation. Enormous progress has been made in economic cooperation and people-to-people contacts and visits on both sides of the Strait. While economic development and people-to-people cooperation are emphasized, political questions are complicated and emotional and their resolution will require a long-term effort. This will involve a trait for which the Chinese people are famous—patience.

Mr. President, I support this concurrent resolution.

Mr. KEMPTHORNE. Mr. President, I strongly support the resolution currently before the Senate reiterating this Nation's support for the people of Taiwan. I rise to speak about the recent escalation in military operations by the People's Republic of China—Mainland China—in the Taiwan Strait which is intended to intimidate the Republic of China—Taiwan. Mainland China announced on March 5, 1996, that it would test fire surface-to-surface missiles off the coast of Taiwan from March 8 through 15. China has made good on its threat and began missile firing and conducting amphibious live ammunition exercises on the southern tip of the Taiwan Strait on March 12. China plans to continue these exercises through March 24. The missile tests have forced the rerouting of commercial flights out of the Chiang kai-shek International Airport and have also impacted the shipping operations of the southern seaport of Kaohsioung. It has become painfully obvious that China's sole purpose in conducting these exercises is to attempt to demoralize the people and destabilize the government of Taiwan.

I am deeply concerned, as are other Members of Congress, with the rise in military activities in the Taiwan Strait meant to influence the first-ever Taiwanese presidential election on March 23, 1996. The importance of this election cannot be understated. It is the first election of president by popular vote in the 5,000-year history of China. The actions taken by mainland China have further hindered United States-China relations already convulsed by China's human rights violations, its failure to adequately deter the pirating of United States products in violation of copyright laws and suspected exportation and proliferation of nuclear equipment and technologies.

The primary reason for the renewed China-Taiwan tension is an ongoing power struggle within the Chinese government. The hardliners are using the Taiwan issue to exploit and capitalize on a vacuum in leadership caused by the continued failing health of Deng Xiaoping. These same hardliners will do whatever necessary to boost their own stock while simultaneously devaluing the stock of rivals.

The 1979 Taiwan Relations Act proclaims American support for the peaceful reunification of Taiwan and the mainland, and commits the United States to help Taiwan defend itself in case of Chinese aggression. The recent activity by the Clinton administration which includes the deployment of the carrier battle group U.S.S. *Independence* to the region to be joined later in the month by the U.S.S. *Nimitz* and its support ships, although a step in the right direction, does not clearly define our commitment to democracy in the region. The possibility of miscalculation leading to war cannot be ruled out as the Beijing government has refused to renounce the use of force against Taiwan.

With a population of more than 21 million people, Taiwan has much to contribute to the world. Its robust and vibrant economy ranks among the 20 largest in the world. Taiwan has one of the largest foreign exchange reserves of any nation with assets of approximately $100 billion. Taiwan has improved its record on human rights and routinely holds free and fair elections in a multiparty system. Taiwan has over the years demonstrated its continued support for humanitarian efforts through its contributions and response to international disasters, environmental destruction and famine relief operations. Additionally, Taiwan is a member of the Asian Development Bank and Asia-Pacific Economic Cooperation group.

In the face of psychological intimidation and outward aggression, the Taiwanese people stand firm in their commitment to full democracy. As stated by President Lee and Premier Lien, the Taiwanese presidential election will be held as scheduled. The Taipei government has repeatedly and adamantly expressed its pursuit of national reunification and strong opposition to Taiwan independence. Taiwan would like nothing more than to strengthen the cross-Taiwan Strait relation and further the security and prosperity of the Asia-Pacific region.

It must be made clear and in very specific terms that China's actions endanger the peace and security in the region and therefore merit condemnation by all peace-loving countries of the world. I am sure I speak for a number of my colleagues when I urge the Administration to make a more definitive commitment to Taiwan's sovereignty. I ask that the President take every measure necessary to ensure that the pursuit of democracy and democratic practices are not fettered by Chinese intimidation and aggression.

Mr. GRAMS. Mr. President, I rise in strong support for the Senate amendment to H. Con. Res. 148, a resolution which expresses strong House opposition to the Chinese military exercises in the Taiwan Strait. The Senate amendment contains the language of S. Con. Res. 43, which I have cosponsored.

The Senate amendment, drafted by the chairman of the East Asia and Pacific Subcommittee of the Foreign Relations Committee, Mr. THOMAS, and cosponsored by Senators DOLE, HELMS, MURKOWSKI, myself and others, is similar to the House resolution yet sends an equally strong message to China that the United States views the missile tests as a threat to Taiwan, contrary to the spirit of the Taiwan Relations Act as well as the three United States-China Joint Communiques.

Mr. President, we are all painfully aware of the sensitivity portrayed by China to any effort by Taiwan to cultivate relationships with other nations. These actions have been wrongfully perceived to be efforts to pursue independence. The Taiwanese Government denies the allegations.

I am disappointed that China has gone to this extreme to counter what it believes is a growing interest in independence among the Taiwanese people. Even though the Democratic Progressive Party, which supports independence, has picked up a few seats in the Taiwan Parliament, it appears to be far from a threat in the presidential election of March 23. The major party, the National Party, has supported future unification.

While the administration has recently sent elements of the United States 7th Fleet to provide support for Taiwan, these Chinese exercises have been conducted for over 8 months. There has been a very weak response by the administration until this time. I feel compelled to ask the question of why these exercises occurred in the first place. Why have we let our relationship with China deteriorate to the point where military exercises that threaten Taiwan, where sales of nuclear materials continue, and where many other disputes and differences have worsened with China.

It should be an important United States foreign policy objective to set our relationship with China back on track. The administration must place this as a very high priority before the situation worsens. Constant, high-level communication with Chinese leaders may have enabled us to avoid these harmful disputes.

We must work toward ensuring that, after the March 23 election, both China and Taiwan begin a high-level dialog to decrease tensions and to resolve the issue of the future of Taiwan. This must be done in a peaceful manner, consistent with the Taiwan Relations Act and the Three Communiques.

The harm done by the military exercises will not make this an easy task.

I urge support for the Senate amendment to the House resolution.

Mr. SANTORUM. Mr. President, the People's Republic of China has conducted a series of missile tests in the last few weeks in a clear attempt to intimidate the people of Taiwan as they prepare for the first direct democratic election of President. These military exercises are not in the spirit of the three United States China Joint Communiques and serve as a threat to the peace, security, and stability of Taiwan.

I join my other colleagues who have cosponsored H. Con. Res. 148 in condemning the recent actions of the Chinese Government. This action severely tests the assumption that was set when we normalized relations with the People's Republic of China in 1979. We did so on the expectation that the future of Taiwan would be settled solely by peaceful means. We codified this commitment and understanding in the Taiwan Relations Act. In this legislation, we state clearly that America believes that peace and stability in the area are in the political, security and economy interests of the United States. This Act also commits the United States to reset any resort to force or other coercion that would jeopardize the security of Taiwan's people.

I urge the Chinese Government to honor the intent of the Joint Communiques and the Taiwan Relations Act by seeking a peaceful solution to this situation through dialog with Taiwan, and by ceasing their military actions.

Mr. DASCHLE. Mr. President, I am pleased to cosponsor the amendment to the resolution, H. Con. Res. 168, condemning the missile tests and military exercises being conducted by the Peoples Republic of China near Taiwan.

Last week I suggested that China's missile tests and military exercises have been dangerous and provocative. Unfortunately, tensions between China and Taiwan have not subsided. In fact, with Taiwan's first democratic Presidential election just around the corner, China's rhetoric continues loud and unabated.

The Clinton administration has gone to great lengths to warn China about the potential consequences of its actions and to underscore United States policy that the future of Taiwan must be resolved by peaceful means. I am pleased the Senate has joined in sending a strong signal to China.

With one clear voice, the Senate is now on record deploring the missile tests China has been conducting near Taiwan and recognizing that such tests are a potentially serious threat to peace and stability in the region. As I mentioned last week, China's missile tests and military exercises are dangerous in and of themselves, and they increase the chances of an accident that could cause tensions to spiral out of control.

It is important to emphasize that this resolution also supports the commitment of the United States, China, and Taiwan to resolve the future of Taiwan through peaceful means. United States policy clearly stipulates that the future of Taiwan should be determined peacefully. Taiwan has made similar overtures. China must also begin conducting itself in a way that reaffirms its commitment to that goal.

China can do just that by ceasing its attempts to intimidate the people of Taiwan and influence their upcoming Presidential election. This resolution urges China to cease missile tests and military exercises and enter into ''meaningful dialog'' with Taiwan. I completely agree, and it seems to me that Beijing should begin to communicate with Taiwan in a nonthreatening and peaceful way rather than carrying out reckless missile tests and military exercises.

I hope the resolution adopted by the Senate today will encourage China to resolve its differences with Taiwan peacefully.

Mr. PELL. Mr. President, this resolution is a thoughtful, appropriate response to recent developments in the Taiwan Strait. With this resolution, the Senate deplores the People's Republic of China's recent missile tests

and military exercises in the Taiwan Strait as an unwarranted and dangerous attempt to intimidate Taiwan as it prepares to hold direct presidential elections this Saturday. It calls on China to return to negotiations at the highest levels between the two governments, negotiations which have successfully resolved a number of issues in the past. The resolution also reiterates our long-standing policy that maintaining peace and stability in the region is in the interest of the United States and that we expect Taiwan's future to be resolved peacefully and in a way that satisfies the Chinese on both sides of the Taiwan Strait.

As a sponsor of this resolution, I urge all parties involved to move away from provocative measures and to find new ways to de-escalate tensions. It is incumbent upon all parties to avoid taking steps which could lead unexpectedly, through mistake or miscalculation, to a conflict that no one wants. Now is the time for calmer voices to prevail and I hope that all governments will listen for them.

I think this is a thoughtful and appropriate response, worked in a bipartisan way. It is a resolution we can support with pride.

The PRESIDING OFFICER. The question on agreeing to House Concurrent Resolution 148, as amended. The yeas and nays are ordered. The clerk will call the roll. The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from New Hampshire [Mr. GREGG] is necessarily absent.

Mr. FORD. I announce that the Senator from Nebraska [Mr. KERREY] and the Senator from New Jersey [Mr. BRADLEY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 51 Leg.]

YEAS—97

Abraham	Faircloth	Lieberman
Akaka	Feingold	Lott
Ashcroft	Feinstein	Lugar
Baucus	Ford	Mack
Bennett	Frist	McCain
Biden	Glenn	McConnell
Bingaman	Gorton	Mikulski
Bond	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Breaux	Grams	Murkowski
Brown	Grassley	Murray
Bryan	Harkin	Nickles
Bumpers	Hatch	Nunn
Burns	Hatfield	Pell
Byrd	Heflin	Pressler
Campbell	Helms	Pryor
Chafee	Hollings	Reid
Coats	Hutchison	Robb
Cochran	Inhofe	Rockefeller
Cohen	Inouye	Roth
Conrad	Jeffords	Santorum
Coverdell	Johnston	Sarbanes
Craig	Kassebaum	Shelby
D'Amato	Kempthorne	Simon
Daschle	Kennedy	Simpson
DeWine	Kerry	Smith
Dodd	Kohl	Snowe
Dole	Kyl	Specter
Domenici	Lautenberg	Stevens
Dorgan	Leahy	Thomas
Exon	Levin	Thompson
		Thurmond
		Warner
		Wellstone
		Wyden

NOT VOTING—3

Bradley	Gregg	Kerrey

So, the concurrent resolution (H. Con. Res. 148) was agreed to.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that I may proceed as in morning business for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I come to the floor today to join Senator SMITH, the distinguished chairman of the subcommittee of the Environment and Public Works which deals with Superfund. Let me take a moment to describe our progress and plans for Superfund reform.

The Superfund Program is our most troubled environmental statute. No one could disagree that the Congress should enact Superfund reform this year. No one is happy with the status quo—not industry, not environmentalists, not insurers, not State and local governments, not even the EPA and other Federal agencies.

Superfund reform is No. 1 priority of my committee in 1996.

Senator SMITH introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act, last September 29. This reform package represents a remarkable improvement over the status quo, and it is deserving of widespread support. I am a cosponsor.

Since introduction, Senator SMITH and I have met with the minority members of the subcommittee and administration for countless hours to explain the bill, make technical changes, and clarify its intent where needed. We have solicited the views of interested outsiders. As a result of these discussions, we have incorporated numerous changes, large and small, into the bill.

These negotiations, which are still continuing, have been productive, and I hope and expect that they will lead to a bill that garners widespread bipartisan support in the Senate, a bill that satisfies the President's often-stated desire to fix this program, a bill that he can and should sign.

At this point in our process, as our negotiations move into some of the more difficult issues, Senator SMITH and I agreed that it is important to give members of this body, as well as those outside parties interested in Superfund reform, an opportunity to look at, and comment upon, the results of our negotiations to date. The document, a staff draft that will be printed in today's CONGRESSIONAL RECORD, represents a snapshot of the current status of our negotiations. In a few moments, Senator SMITH will offer more detailed comments on this new draft of the Superfund bill.

All sides in our negotiations have justifiably reserved final judgment until negotiations are complete and important constituencies have had the chance to analyze and comment on the final product.

As we move forward, we want to provide opportunities to receive formal comments on the bill. In the next few days we will schedule hearings on the bill to occur as soon as possible after the Easter recess. We hope that we can reach substantive agreement on a bipartisan bill by that time, or else use the hearings to further explore the remaining areas of difference. We plan to move on to a markup and prepare the bill for floor action as soon as we can this spring.

I want to express my appreciation the ranking member of the committee, Senator BAUCUS, and the Superfund Subcommittee, Senator LAUTENBERG, for their contributions to the process. I also want to thank the administration for their efforts in these negotiations.

Most of all I would like to thank Senator SMITH for the many hours he and his staff have devoted to keeping Superfund reform on-track and moving forward. This is no easy task. Superfund is a complex and controversial program, and progress is always difficult in the best of circumstances, not to mention in a Presidential election year. We have a very good chance to enact Superfund reform this year, and if we do, a great deal of the credit should go to Senator SMITH.

SUPERFUND LEGISLATION

Mr. SMITH. Mr. President, I want to thank my friend and colleague from Rhode Island, Senator CHAFEE, for working with me to enact a comprehensive Superfund reform measure. As Senator CHAFEE oulined, on September 29, 1995, I introduced S. 1285, the Accelerated Cleanup and Environmental Restoration Act. This legislation, which was cosponsored by Senator CHAFFEE and nine other members, was an effort to provide comprehensive reform of this troubled program.

I would like to thank Senator CHAFEE, the chairman of the Environment and Public Works Committee for his strong support in this effort. Over the last year, he and I have worked cooperatively to reform this program, and it is because of his assistance that I believe that this legislation can be passed this year.

As Senator CHAFEE has mentioned, he and I are here today to continue the process toward making sure that reasonable Superfund reform legislation will reach the floor this Spring. To achieve this goal, our respective staffs have spent more than 150 hours with Democrats on the Senate Environment Committee as well as representatives of the Environmental Protection Agency, the Justice Department, and the White House working toward achieving a bipartisan consensus toward reauthorizing the Superfund Program.

In a few moments, I will ask to be entered into the RECORD a copy of a staff discussion draft outlining changes that Senator CHAFEE and I are willing to

make to achieve bipartisan consensus on this issue. As Senator CHAFEE stated, this is a snapshot of where we currently are in negotiations.

Let me be clear: this draft includes changes that I found to be constructive and reasonable—without compromising the underlying principles necessary for real Superfund reform. I remain committed to passing a strong bill that reduces litigation and accelerates clean up. As Senator CHAFEE indicated, the committee intends to hold a hearing the week we return from the Easter recess. At that point in time, interested parties will have the opportunity to testify on a final product that will be used for markup. Additional agreements and disagreements will be worked out in the normal committee process through amendment.

Before I describe some of the details of this proposal, I would like to say a few words what this draft is and what it is not. During the last few months our staffs have met with hundreds of individuals who are interested in the future of this program, and who have provided us with specific comments about S. 1285. We have carefully weighted these comments, and this staff discussion draft, in part, is intended to respond to some of those concerns.

This draft is also intended to address some of the concerns that have been raised by Governors, the Clinton administration, Senate Democrats, as well as other interested parties. While this language represents a good faith effort address some of these concerns, these changes have not been agreed to by any other parties, and we are continuing to negotiate and address concerns that have been raised. Indeed, there are areas of this bill, including federal facilities issues, amendments to the Resource Conservation and Recovery Act and natural resource damages, that we have not yet had the opportunity to fully address in these negotiations.

Nonetheless, as Senator CHAFEE has pointed out, we wanted to provide a window into our ongoing negotiations, and allow interested parties to have the opportunity to comment on these proposed changes. And again, it is important for me to stress that a final product will be forthcoming. Where we are in agreement, we will agree. Where we are in disagreement, we will agree to disagree, and move on with the process.

One area I do want to spend some time on this evening is the issue of liability reform. As many of my colleagues may know, when we released our initial liability reform proposal in September, there were some members on our side of the aisle who felt that we had limited our horizons too much when we proposed a 50 percent tax credit for pre-1980 disposal activities. Although I was convinced, and continue to believe that our proposal had a great deal of merit, we have nonetheless decided to modify this section to address these concerns.

The liability proposal in the staff discussion draft, I believe, will provide significant liability reform, and will vastly diminish the scope and nature of ongoing litigation. In particular, our proposal would have the effect of eliminating liability for parties at multiparty disposal sites—those sites where there was an off-site generator or transporter—for disposal activities that occurred prior to December 11, 1980. These sites involve some of the most contentious and expensive litigation in the Superfund Program and have only helped to slow down the pace of cleanups.

This litigation has not helped to address this important environmental problem, but instead, has hindered the ability to protect human health and the environment in the shortest time possible. By providing orphan share contribution for these costs, I believe that we will not only significantly reduce the contentious nature of this litigation, but our reforms will allow these sites to be cleaned up faster.

Our liability proposal provides that deminimis parties, such as small mom and pop businesses, will be eliminated from the liability net if they were responsible for disposing of less than 1 percent of the volume of materials at a site prior to December 11, 1980, or if they disposed less than 200 pounds or 110 gallons of materials at an NPL site. This change will significantly reduce the number of parties at these sites who are needlessly dragged into the quagmire of litigation. Our legislation will not only eliminate their liability, but it will also provide for an up-front determination that they are not subject to this damaging and costly litigation process.

In addition, this staff discussion draft also provides a 10 percent cap on the total amount of liability for those municipalities whose potential liability resulted only from generating or transporting municipal solid waste or sewage sludge. This change, combined with the orphan share contribution for pre-1980 disposal at multiparty sites, will provide significant relief for cities and towns caught in the Superfund liability net.

I would be remiss if I did not discuss changes that we have proposed to make in the remedy selection portion of S. 1285. In the legislation we introduced in September, we proposed eliminating the requirements under current law that mandate the use of applicable, relevant, and appropriate State and Federal environmental cleanup laws. Both Senator CHAFEE and I received a significant number of comments from States about this provision. After a good deal of reflection, we decided to provide that applicable State and Federal cleanup laws can be applied to these hazardous waste cleanups.

There are a number of other issues that have been raised about the remedy selection portion of this legislation, including provisions related to groundwater cleanup, that we have not modified at this time. However, I do want to note that these issues are under discussion, and this draft does not represent our final proposal on this section.

Mr. President, Senator CHAFEE and I are here on the floor today to declare that Superfund reform is alive and well. As Senator CHAFEE has mentioned, he and I are here today to continue the process towards making sure that significant Superfund reform legislation will reach the floor this Spring. While our colleagues have not heard much from us recently, this does not mean we have not been working hard—we have. This is not to say that we still don't have a ways to go—we do.

I believe that the discussions we have been involved in over the last few weeks have been fruitful and have been conducted in good faith. Our colleagues, the President, and all parties involved in this program have frequently stated that they want comprehensive Superfund reform. Frankly, given its inadequacies, we simply can not afford to push Superfund reform off for another year. If our colleagues, including those on both sides of the aisle—as well as those in the White House—can keep the rhetoric down, we believe that we can pass a comprehensive Superfund reauthorization bill this year that will ensure faster, safer and cheaper cleanups.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that I be able to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAIWAN RESOLUTION

Mrs. FEINSTEIN. Mr. President, I want to thank the Senator from Wyoming, Senator THOMAS, for his leadership on the issue of the resolution which was just passed by a vote of 97 to 0 in this body. I thank him for his cooperative approach to finding a text that all parties could agree on. I also express my thanks and admiration to the Senator from Louisiana, Senator JOHNSTON, and the Senator from Georgia, Senator NUNN, for their understanding of this issue and their efforts to craft a responsible resolution.

I would also like to thank Senators MURKOWSKI, HELMS, SIMON, and PELL, and the distinguished majority leader, and their staffs, for working with all of us in a cooperative spirit on this resolution.

Mr. President, in the last 2 weeks we have watched as China has tested four missiles in close proximity to Taiwan, and the People's Liberation Army has conducted live-ammunition military exercises in the Taiwan Strait.

These tests and exercises are, obviously, aimed at showing in a militant fashion China's depth of feeling about the Taiwan issue and, many believe, to influence the Taiwanese election which will take place in a 2 short days.

It is unfortunate, I believe, that China has chosen to express its displeasure through the use of military threats. It is wrong, and the United States is right to deplore it. The United States has for over 24 years adhered to a One China policy that is based, in part, on the understanding that China will not seek to resolve its differences with Taiwan through other than peaceful means.

Our One China policy, of course, is also based on an understanding that Taiwan will not make any efforts to resolve its differences with China unilaterally or through any effort or move toward independence.

Clearly, a number of Taiwan's actions over the past several months—including President Lee Teng-hui's visit to the United States, Taiwanese military exercises concurrent with that visit, and an ongoing campaign for a seat at the United Nations—have called into question whether Taiwan is sincere in its statements that it opposes independence.

This resolution, then, sends two messages. It says to the Chinese that their use of military threats against Taiwan is unacceptable and represents a potential threat to United States interests in the western Pacific. President Clinton has deployed the USS Independence and the USS Nimitz to the region to monitor events. China must understand that the use of force against Taiwan would have grave consequences.

In addition, the resolution says to Taiwan that it must avoid provocative actions that cast doubt on its commitment not to pursue independence and, instead, to work for eventual peaceful reunification. Taiwan's security is important to the United States, but the United States will not sanction actions by Taiwan that raise tensions unnecessarily.

The One China policy is the essential element of the United States-China-Taiwan relationship. This policy has been the acknowledged framework that has served all three parties well for some two decades: The United States and China have been able to conduct normal relations befitting two great powers; China has entered into a period of dynamic economic growth; the United States and Taiwan have developed extensive economic and cultural ties; Taiwan has become the single largest investor in China, with over $20 billion in investments on the mainland; and, Taiwan has prospered and moved toward a democracy of which its people can be rightfully proud.

With all of these benefits flowing from the One China policy, and the fact that in a poll a week ago in Taiwan only 8 percent of the people favored independence and the overwhelming majority preferred the status quo, no one should take any precipitous action which would threaten to undermine the One China policy. In the aftermath of the Taiwan election, all three parties must move to restore balance to this relationship by reaffirming the One China policy.

China's concern, as relayed to me from its highest leadership, has been that Taiwan will not say that it endorses a One China policy and speaks with two tongues.

Mr. President, I would like to introduce into the RECORD a directive from Premier Lien Chan, the number two official of the Republic of China. His directive was made in writing on March 5. It was made public by Patrick Tyler, the Beijing reporter for the New York Times. I called the Taiwan office and received a copy of it. It is on two pages.

The part that I would like to quote is as follows:

> I reiterate that the Republic of China government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence.

When I called the Chinese Ambassador and made clear that this had been presented in writing, he made the point that it is presented in English but that it has appeared nowhere in Taiwan in Chinese.

I ask unanimous consent to have the directive printed in the RECORD, if I may, at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A DIRECTIVE FROM PREMIER LIEN CHAN, THE EXECUTIVE YUAN, REPUBLIC OF CHINA, MARCH 5, 1996

It is the responsibility of the government of the Republic of China to preserve peace and stability in and around the Taiwan Straits in order to ensure public welfare and the security of the nation. Since July 1995, the Chinese communists have conducted several military exercises. Thanks to the unity of our people and proper measures taken by our government, the Taiwan, Penghu, Kinmen, and Yatsu area has remained stable.

Early this morning, the mainland authorities announced plans to launch missiles in waters to the northwest and southwest of Taiwan between March 8 and March 15, 1996. This action clearly is aimed at influencing the ROC's ninth presidential and vice presidential election, destroying the peace in the Taiwan Straits, and endangering regional peace and stability. On behalf of the ROC government, I wish to express the strongest protest, and call upon the mainland authorities to cancel this provocation. We will hold Peking responsible for any unfortunate consequences which arise from this action.

Facing this situation, the Executive Yuan has directed the concerned agencies to make the following preparation:

(1) The ROC armed forces have been directed by the government to maintain a state of alert, and are prepared to meet all possible actions of the Peking regime. They will continue to monitor military activity on the mainland closely provide instant reports, and take all necessary measures immediately, as the need arises.

(2) We have already adopted necessary measures to ensure the safety of our fishermen and normal air and sea transportation in the vicinity.

(3) We will continue to maintain law and order, stabilize the financial sector, and maintain normal economic activities.

(4) The ROC's ninth presidential and vice presidential election, a historic event to be held on March 23rd, shall be carried out as planned.

I reiterate that the ROC government is adamant in its pursuit of national reunification and strong opposition to Taiwan independence. This election is being carried out in accordance with the Constitution of the Republic of China, and is in line with the will of the ROC people, and with world trends.

The outcome of this election will not affect our position on cross-Straits relations; nor will it alter our government's steadfast pursuit of national reunification.

It has also been, and still is, the longstanding policy of the ROC government to strengthen cross-Straits exchange and negotiation while promoting positive interaction. The difference in political systems and ways of life across the Taiwan Straits is the main obstacle to reunification. However, this is not an issue that can be resolved by military means. An atmosphere that is conducive to reunification can be created only by relying on patience, promoting understanding through step-by-step exchange, dissolving hostility, and pursuing a way of life that is most beneficial to the Chinese on both sides of the Straits. Popular will has indicated time and again that it is the common aspiration of the people on both sides to see the end of cross-Straits enmity and promote mutual benefits and prosperity on the basis of peace.

The government of the Republic of China has already decided that, in the future, it will foster consensus on a concrete and feasible proposal that will make a historic contribution to the development of cross-Straits peace and to the security and prosperity of the Asia-Pacific region. The mainland authorities should not unilaterally distort our position and repeatedly take actions that damage the bonds between the people on either side of the Taiwan Straits. This only hampers cross-Straits exchanges and progress toward reunification.

I hope that the entire body of ROC citizens will remain calm and rational during this period, and continue to trust and support their government. The government will take appropriate and effective measures, and handle the situation with caution and in a manner that ensures full protection to the welfare of the people.

Mrs. FEINSTEIN. Mr. President, I think it is very important that this directive, which clearly states that it is the policy of the Taiwanese government to pursue national reunification and strongly oppose independence, be known by the world.

Now there will be a window of opportunity following Saturday's election for resumption of the Cross-Straits Initiative that was derailed last summer after Lee Teng-hui's visit. This dialogue, conducted by China's Association for Relations Across the Taiwan Straits and Taiwan's Straits Exchange Foundation, offers a unique opportunity to begin to meet and discuss the major issues concerning reunification.

China has for some time offered Taiwan direct air service. As you know, today the plane leaves Taiwan, it appears to land at Macao, it changes its flight number, and it goes on to China. This is not necessary. China is prepared to once again offer, as its Vice Foreign Minister told 10 U.S. Senators who were present at a meeting last week, direct sea service and direct postal service.

I ardently urge both parties to sit down at the table and begin to discuss issues around which there is a common

interest. One has to be a One China policy. The second has to be peaceful reunification. The third has to be steps taken to achieve both of the foregoing.

I think the peace, security, and stability of Asia, and perhaps the world, are at stake in these discussions.

I earnestly and sincerely implore the parties, both the People's Republic of China and the Republic of China, to sit down at the table, to end these military exercises, and to resolve a peaceful reunification for the future.

I thank the Chair for your indulgence.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

THE NOMINATION OF COMDR. ROBERT STUMPF

Mr. COATS. Mr. President, I would like to address the issue concerning the procedures used by the Senate Armed Services Committee in evaluating nominations and, in particular, the nomination of Cmdr. Robert E. Stumpf.

The Senate Armed Services Committee has received considerable public criticism since the Secretary of the Navy removed Commander Stumpf from the promotion list.

The committee, and some of its members, have been the subject of numerous articles in the media relating to both substantive and procedural issues concerning this matter. Much of the material that has appeared in the media reports has been inaccurate and incomplete. Some of the material has been written by Commander Stumpf's lawyer. Others quote either Commander Stumpf, his attorney, or both.

To this point, members of the Armed Services Committee have not responded publicly on the substance of the information provided to the committee by the Navy, nor on the deliberations conducted within the executive session. This is in accordance with established committee rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf.

Last Thursday, Senator THURMOND, as the chairman of the Armed Services Committee, on behalf of the committee, placed a statement in the RECORD which began by reciting the chronology of events concerning the nomination of Commander Stumpf. I do not think there is any doubt or debate about the sequence of events. But I want to review those events for the RECORD.

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of captain (O–6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marine Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. After careful review, the list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of this promotion list, but prior to the appointment by the President of Commander Stumpf to the grade of captain, the committee was advised by the Department of Defense that the March 11, 1994, letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook.

As a result, on June 30, 1994, the Armed Services Committee requested that the Navy withhold action on the promotion of Commander Stumpf until the committee had an opportunity to review the information that had not been made available to the Senate during its confirmation proceedings. It was entirely appropriate that the committee request the withholding of Commander Stumpf's promotion once it had been notified of the Navy's failure to report the potential implication of Commander Stumpf in Tailhook-related activities.

It is also worth noting that the Armed Services Committee has no capacity to investigate nominations on its own. The committee must rely solely on the information provided by the Department of Defense, which, in this case, was incomplete.

On April 4, 1995, the Navy provided the committee with the report of investigation and related information concerning Commander Stumpf. And I would note this is not all the information related to Commander Stumpf for his case. The committee is still receiving documents relating to that particular case. And subsequently, the Navy provided additional information in response to requests from the committee. And those requests are ongoing.

On October 25, 1995, the committee met in closed session, consistent with its longstanding practice, to consider a number of nominations and to further consider the matter involving Commander Stumpf. After due consideration, the committee directed the chairman and ranking member to advise the Secretary of the Navy that, and I quote:

> Had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain.

The committee also directed that the letter advise the Secretary that, and again I quote from the letter:

> The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the executive branch.

A draft letter was prepared, reviewed by the Senate legal counsel, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met next on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee again reviewed the proceedings concerning Commander Stumpf.

I do not think many people outside the committee fully understand the committee's procedures in handling controversial nominations. Just to make it clear, when the committee is notified by the Department of Defense that there is potentially adverse information concerning a nominee, that nomination moves to a separate, more deliberate track than those nominations about which there is no adverse information. The committee staff is required to research the information provided by the Department of Defense and to brief the members in an executive or closed session. Attendance at these executive sessions is limited to Members of the Senate and committee counsel. These restrictions are designed to minimize the number of people who may learn of information which may be very personal, sometimes inflammatory, and may involve allegations which have been found to not be substantiated.

Following a procedure developed late in the 103d Congress, the chairman and ranking member of the Personnel Subcommittee are charged with reviewing those cases prior to an executive session. In the case of Commander Stumpf, the committee followed those procedures precisely.

The committee met in executive session on October 25, 1995, to discuss a series of nominations, as I indicated. Seven Tailhook-related nominations were considered that day. For the record, those members present voted to favorably recommend two of the seven and to return five of the nominations to the executive branch at the end of the first session. The one remaining Tailhook-related individual discussed during that meeting was Commander Stumpf.

On December 22, 1995, as I earlier indicated, Secretary Dalton removed Commander Stumpf from the promotion list. Following that action by the Secretary of the Navy, a number of public articles, some written by Commander Stumpf's defense team, questioned the committee's integrity, its processes and its judgment. These allegations have been characterized by misinformation, distortions of the record, and misstatement of the facts.

Numerous articles and sources have questioned the committee's procedures related to Tailhook nominations, alleging that the prospect of confirmation of service members nominated for promotion but involved in Tailhook are ''slim.''

The records of the committee show that the committee has received 23 nominations of service members potentially implicated in Tailhook. Only eight of those have been rejected by the committee. To put this in perspective, the committee has confirmed 43,270 Navy and Marine Corps officers since 1992.

A published article says that ''one member of the committee now maintains that there were reasons other than Tailgate for rejecting Commander Stumpf.'' There have been other allegations that the committee had information other than that provided by the Navy. An article in the March 1996 edition of the Armed Forces Journal says that Commander Stumpf and Mr. Gittins, Commander Stumpf's attorney, believe there were anonymous phone calls to the committee. These allegations imply that the committee based its conclusions concerning Commander Stumpf on information which was unknown to Commander Stumpf and the Navy.

While it is true that on occasion the committee does receive information from outside sources, since the committee does not have the capacity to independently investigate, committee procedures are to refer such information to the Department of Defense. In Commander Stumpf's case, there was no outside information provided to the committee. The committee did not consider any material other than that provided by the Navy when it determined that, as the November 13, 1995 letter to Secretary Dalton states, ''Had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain.''

Mr. President, unfortunately, misrepresentations and misstatement of the facts related to the committee deliberations on this matter have put the Armed Services Committee at a severe disadvantage. Our policy has been to protect the confidentiality of the nominee, and we are limited in our ability to respond.

Certainly in this case, the nominee, Commander Stumpf, does not share our concern. In fact, a Wall Street Journal article dated March 12, 1996, stated that Commander Stumpf and his attorneys have indicated that the committee should feel free to tell the entire world whatever it is that Senators think they know about him. It is noteworthy, Mr. President, that Commander Stumpf, in a letter to the chairman of the Armed Services Committee dated March 13, 1996, requested that he be permitted to testify before the committee but in a closed hearing, not open to the public or the media.

Mr. President, I believe it is important that our Senate colleagues be advised that the committee, in reviewing nominations for promotion, carefully examines each individual case and, among other criteria, believes the standard set forth in title X of the United States Code pertaining to the responsibilities of a commander entitled ''Requirement for exemplary conduct'' are applicable, and I quote from title X:

> All commanding officers and others in authority in the naval service are required to show in themselves a good example of virtue, honor, patriotism, and subordination; to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Navy, all persons who are guilty of them; and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.

This standard, Mr. President, is repeated verbatim in article 1131 of the U.S. Navy Regulations issued in 1990. There are similar provisions in title X which pertain to the other services, as well as other provisions relating to members of the armed services.

The committee does not take lightly these statutory and regulatory standards. Nor do they take lightly their constitutional responsibilities to provide their advice and consent on military nominations.

A number of articles that have been written have referred to Senator NUNN's involvement in the committee's deliberations and decisions. While Senator NUNN has exercised his due diligence in this case, as he does with every other matter before the Senate Armed Services Committee, I would like to state for the record that as chairman of the subcommittee on personnel of the Senate Armed Services Committee, I take responsibility for the procedures used by the subcommittee staff to review military nominations and I fully stand by those procedures used by the staff in carefully reviewing the nominations presented to the committee by the executive branch, including the procedures used to evaluate the nomination of Commander Stumpf.

I have reviewed that material in depth. I have personally and carefully evaluated the file on Commander Stumpf. I have discussed the matter at length with the staff and I have concluded that, based exclusively—exclusively on the facts presented to the committee by the Department of Defense with with due regard for the statutory and regulatory standards governing the conduct of military commanders and officers, as well as long-established military precedents, that I could not recommend approval of Commander Stumpf's nomination to the committee.

Each member of the committee is, of course, free to accept or reject any recommendation, and I certainly respect those who have come to a different conclusion in this matter. Each member is free to separately evaluate all of the material available to the committee on this nomination or any nomination. Each member is, of course, free to debate the case for or against either Commander Stumpf's nomination or any other nomination. In the final analysis, of course, each member is free to vote yea or nay on any particular case.

I am disappointed that so many in the media followed the well-intentioned but misinformed lead of those who do not know the facts of the case and the committee's deliberations. The Armed Services Committee is an important part of the institution of the Senate. Everyone in this body is hurt when the Senate Armed Services Committee is vilified and members cannot respond because of loyalty to rules and procedures put in place to protect the confidentiality of the matters before it and the nominees before its consideration.

Mr. President, I look forward to a time when respect for the privacy of an individual and respect for such a great institution as the U.S. Navy is not overridden by the desire of a journalist or an attorney or any others to take advantage of a situation to forward their own agenda.

The Secretary of the Navy has removed Commander Stumpf from the promotion list. The committee no longer has any nomination before it pertaining to Commander Stumpf. The committee has no legal authority to take any further action concerning the promotion of Commander Stumpf at this time.

As in every case in which a military nominee has been removed from a promotion list, the only process by which Commander Stumpf can be renominated for promotion is to be selected by another promotion board and be nominated by the President again, or, alternately, directly nominated by the President under his authority, granted by article 2 of the Constitution.

As I have stated before, the decision of the committee after due deliberation was that, had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee as required at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of captain. That was the committee's determination then. That is the committee's determination now. Nothing that has transpired since has altered the committee's decision.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I am pleased to join with the leaders of the Subcommittee on Personnel of the Armed Services Committee, Senator COATS and Senator BYRD, in addressing the review of the military nominations in the aftermath of Tailhook, including the nomination of Commander Robert Stumpf, U.S. Navy. Senator COATS has

addressed this matter with extreme accuracy in an absolutely factual presentation, for which I applaud him, in making that presentation.

The review of military nominations, particularly those involving adverse information, is a responsibility taken very seriously by the members of the Armed Services Committee, as the Chair well knows, being a member of that committee. This is a responsibility that the Constitution assigns to the Senate and the Senate has assigned to the Committee on Armed Services, as its, in effect, agent, to make recommendations to the full Senate. Within the committee, the responsibility of making recommendation on military nominations rests with the leadership of the Subcommittee on Personnel.

Senator COATS and Senator BYRD, as chairman and ranking member of the Subcommittee on Personnel, have fulfilled this responsibility with skill, dignity, and absolute fairness. They have provided the committee with serious, sober, and balanced recommendations on military nominations.

When the committee considered the promotion of Commander Stumpf on October 25, 1995, I listened, as other members did, with care to the presentation made by Senator COATS on behalf of himself and Senator BYRD. I found his assessment to be persuasive and I voted in favor of the recommendation of Senator COATS and Senator BYRD, that Commander Stumpf not be promoted.

The subject of Commander Stumpf's promotion has been the subject of some attention in the Department of the Navy, among those who follow Naval aviation, and in the news media. I am pleased to join Senator COATS, Senator BYRD, and others, in placing this matter in the proper perspective.

On March 13, 1996, the Armed Services Committee issued a statement concerning the committee's consideration of the promotion of Commander Stumpf, U.S. Navy.

I ask unanimous consent that statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

On March 11, 1994, the President submitted various nominations for promotion in the Navy to the grade of Captain (0–6), including a list containing the nomination of Commander Stumpf. On the same date, the Assistant Secretary of Defense, in the letter required by the committee on all Navy and Marines Corps nominees, advised the committee that none of the officers had been identified as potentially implicated on matters related to Tailhook. The list was reported favorably to the Senate on May 19, 1994, and all nominations on the list were confirmed by the Senate on May 24, 1994.

Subsequent to the Senate's confirmation of the list, but prior to the appointment by the President of Commander Stumpf to the grade of Captain, the committee was advised by the Department of Defense that the March 11, 1994 letter had been in error because the Navy had failed to inform the Office of the Secretary of Defense that Commander Stumpf had been identified as potentially implicated in Tailhook. On June 30, 1994, the committee requested that the Navy withhold action on the promotion until the committee had an opportunity to review the information that had not been made available to the Senate during the confirmation proceedings.

On April 4, 1995, the Navy provided the Committee with the report of the investigation and related information concerning Commander Stumpf, and subsequently provided additional information in response to requests from the committee. On October 25, 1995, the committee met in closed session—consistent with longstanding practice—to consider a number of nominations and to consider the matter involving Commander Stumpf. The committee directed the Chairman and Ranking Member to advise the Secretary of the Navy that ''had the information regarding Commander Stumpf's activities surrounding Tailhook '91 been available to the committee, as required, at the time of the nomination, the committee would not have recommended that the Senate confirm his nomination to the grade of Captain.'' The committee also directed that the letter advise the Secretary that: ''The committee recognizes that, in light of the Senate having earlier given its advice and consent to Commander Stumpf's nomination, the decision to promote him rests solely with the Executive Branch.'' A draft letter was prepared, made available for review by all members of the committee, and was transmitted to the Secretary on November 13, 1995. On December 22, 1995, the Secretary of the Navy removed Commander Stumpf's name from the promotion list.

The committee met on March 12, 1996, to review the committee's procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook. At that meeting, the committee reviewed the proceedings concerning Commander Stumpf.

The committee, in considering the promotion of Commander Stumpf, acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf. The Chief of Naval Operations has testified that he believes such confidentiality should be maintained. The committee made its November 13, 1995 recommendation based upon information that was made available by the Navy.

At the present time, no nomination concerning Commander Stumpf is pending before the committee, and the Secretary of the Navy has removed his name from the promotion list. The committee has been advised by the Navy's General Counsel that this administrative action taken by the Secretary of the Navy is final and that the Secretary cannot act unilaterally to promote Commander Stumpf.

The committee notes that much of the material that has appeared in the media about the substantive and procedural issues concerning this matter, is inaccurate and incomplete.

As with any nominee whose name has been removed from a promotion list, Commander Stumpf remains eligible for further nomination by the President. If he is nominated again for promotion to Captain, the committee will give the nomination the same careful consideration it would give any nominee.

Mr. NUNN. Mr. President, I believe that statement has already been alluded to by my friend from Indiana. Commander Stumpf had a distinguished military record, including decorated combat service. That record was considered strongly by the committee in the review of his promotion.

The Navy also provided the committee with information, subsequent to his confirmation by the Senate, which raised issues about Commander Stumpf's qualifications for promotion to a higher grade.

As with almost any nomination involving such information, factual information, reasonable people can disagree on whether the information considered by the committee disqualified Commander Stumpf for promotion. I respect my colleagues, and others, who come to a different conclusion than I.

The significance of the committee's statement that has just been printed in the RECORD is that both those who support Commander Stumpf's promotion and those who do not support his promotion have agreed that the Armed Services Committee, quoting the committee, ''* * * acted in good faith and in accordance with established rules and procedures, including procedures designed to protect the privacy and reputation of nominees, with appropriate regard for the rights of Commander Stumpf.'' That was a unanimous statement of the Armed Services Committee.

In addition, all the members of the committee agreed, ''Much of the material that appeared in the media about the substance and procedural issues surrounding this matter is inaccurate and incomplete.'' That, too, was a unanimous opinion of the Armed Services Committee, including both those who favored the Stumpf nomination and those who did not.

The inaccurate stories, unfortunately, continue. The March 15 Washington Times asserts, for example, that there was, ''* * *. an effort to rescind the committee's November 1995 letter,'' recommending that Commander Stumpf not be promoted. That statement in the Washington Times is misleading. I was there for the whole meeting. No such motion was made or voted on. No such motion was ever made or voted on in the committee.

PROCEDURES OF THE SENATE ARMED SERVICES COMMITTEE FOR THE CONSIDERATION OF NOMINATIONS

Mr. President, before addressing issues that have been raised about the Committee's consideration of CDR Stumpf, I would like to summarize the Committee's procedures for handling Navy and Marine Corps nominations in the aftermath of Tailhook.

The Department of Defense provides the committee with a letter on all flag and general officer nominees in the Army, Navy, Air Force, and Marine Corps advising the Committee of any potentially adverse information since the individual's last confirmation.

In 1992, when the committee learned of the serious flaws in the Navy's Tailhook investigations, we established a similar requirement for Navy and Marine Corps nominees of all grades—a procedure that was supported by all members of the committee. The

then-chairman and ranking minority member of the Manpower Subcommittee, Senator GLENN and Senator MCCAIN, were instrumental in establishing that process. Had we not done so, it is doubtful we could have moved any Navy/Marine Corps nominations through the Senate in view of the serious concern in the Senate about the inability of the Navy to investigate itself and identify those who were involved in misconduct or leadership deficiencies.

In August 1993, the Department of Defense proposed that the Tailhook procedure be modified in view of the completion of the additional investigations, and the Committee concurred. Under the modified procedure, DOD notifies the Committee as to whether any nominee was identified as potentially implicated by the Department of Defense Inspector General or by the Department of the Navy. With respect to any individual so identified, DOD advises us of the status of any administrative or disciplinary action. In April 1995, Senator Thurmond, as Chairman, specifically rejected a request from the Department of the Navy to change these procedures, noting that decision would have to be made by the Committee.

It is the longstanding policy of the committee—under both Republican and Democratic chairmen—that when we consider adverse information about a nominee—whether related to Tailhook or any other matter—we do so in closed session. Senate Rule 26.5(b)(3) authorizes a closed hearing when the matters to be discussed ''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.''

The committee's practice of conducting nomination proceedings involving adverse information in closed session is based upon concern for the interests of the military officers whose nominations are pending before the committee. In the overwhelming majority of cases, the adverse information provided to the committee involves minor infractions which have been addressed internally by DOD and which the committee determines to be not disqualifying.

In view of the fact that adverse information about an officer considered by the committee is determined to be not disqualifying in most cases, few if any officers would want this information to be considered in a public session. In the relatively few cases where the Committee does not take favorable action, neither the Service nor the officer normally seeks to publicize the adverse information. When the committee publicly discusses the basis for rejecting a nomination, it normally is in the context of a report on systemic problems.

CONSIDERATION OF THE PROMOTION OF CDR STUMPF

The committee's traditional procedures for reviewing nominations in closed session, as well as the procedures for considering Navy and Marine Corps nominations in the aftermath of Tailhook, were in place when the committee considered the promotion of Commander Stumpf. As I noted earlier, the members of the committee who supported his promotion as well as those who opposed the promotion have agreed the committee followed the appropriate procedures in addressing this matter, and the letter so indicates. That opinion, apparently, is not shared by Commander Stumpf's attorney, Mr. Charles Gittins.

Although the committee took no steps to publicize its October 25, 1995 decision to recommend that Commander Stumpf not be promoted, nor did the committee release any of the information that led the committee to recommend against his promotion, Commander Stumpf's attorney has made repeated public comments about the committee's consideration of Commander Stumpf's promotion.

In the December 19, 1995, Washington Times, Commander Stumpf's attorney, Mr. Gittins, was quoted as accusing the committee of operating on the basis of ''rumor and innuendo.''

A CBS Evening News interview on January 8, 1996, quoted Commander Stumpf's attorney as stating his client was removed from the promotion list as a result of ''blackmail.''

In the January 31, 1996, Washington Times, Commander Stumpf's attorney was quoted as stating that the decision was a result of ''political pressure and threats to Navy programs.''

In a February 2 op-ed piece in the Washington Times entitled ''Get the Senate Out of the Navy,'' Commander Stumpf's attorney asserted that his client was not promoted as a result of ''political pressure'' and that the Armed Services Committee was acting ''for political advantage.''

He concluded: ''Senator McCarthy may be gone, but McCarthyism lives on in the Senate.''

These statements have spawned a host of editorials, columns and letters which have painted a picture of this matter which, as noted in the statement issued by the committee on March 13—with unanimous committee approval—''is inaccurate and incomplete.''

For the last 3 months, Commander Stumpf's counsel and advocates have argued his case in the public arena, citing only those portions of the material favorable to his cause. Material that would have given a complete picture of the basis for the committee's recommendation has not been released, was not released by Commander Stumpf, was not released by his attorney, and has not been released by the committee, because the committee has been restrained by a self-imposed gag order. Why have we not responded? Because we play by the rules, and we do not release materials from our nomination files without a vote by the committee.

It is interesting to note that those of us who have been under attack—and I appreciate very much the statement of the Senator from Indiana—those who have been under attack have not leaked anything in self-defense or in any other way. Nothing has been leaked on the committee's side of the issue. So it is an interesting kind of committee restraint here.

Indeed, the committee has shown remarkable restraint. As Members of the Senate know, I believe we should conduct most—not all—most nomination proceedings involving adverse information in a closed session. I discussed this matter at length in a speech I delivered on this floor on October 16, 1991, in the aftermath of the proceedings on the nomination of Justice Clarence Thomas, which was in the Judiciary Committee, not our committee.

I also believe, however, that when a nominee chooses to place his or her version of the facts in the public arena and challenges the motives and the good faith of the committee—indeed, statements like McCarthyism, and so forth—the committee must find an appropriate way to respond.

Although the committee provided a general response on March 13, the committee decided at that time to not release specific information about Commander Stumpf. There is no nomination now pending before the committee. The committee deferred to the views of the Chief of Naval Operations, Admiral Boorda, who testified in a public hearing on March 12 when I asked him a question, that they did not favor public dissemination of nomination information in this case. That is the view of the Chief of Naval Operations.

While I do not concur in that view because of the unique circumstances of this matter being handled, in effect, in a public relations matter in the public arena, since it results in a one-sided public presentation of information, I understand and respect those who believe we should not release any information when this matter is no longer pending before the committee. I deferred to that view in committee, because it was, obviously, the view of the majority.

The committee has agreed, however, that it is appropriate for Senators to identify the areas in which the statements in the media are inaccurate and incomplete.

CONSIDERATION OF COMMANDER STUMPF'S NOMINATION IN CLOSED SESSION

Commander Stumpf's attorney, in the December 19, 1995, Washington Times, is quoted as criticizing action of the Armed Services Committee because the committee has ''operated behind closed doors'' when considering his client's case.

As I noted earlier, the committee considers adverse information in closed session. We do that all the time. That

is our normal operating procedure, and that is done in order to protect the reputation of nominees, a process that is strongly supported by the U.S. military. As far as I know, all branches of the military support that procedure, as well as the civilian leadership of the Department of Defense.

Prior to the committee's October 25, 1995, decision to recommend Commander Stumpf not be promoted, the committee received no letter from his attorney requesting that we proceed on this nomination in open session. We received no such letter, no such information, no such request, according to all the information I have received, checking with both majority staff and minority staff.

Commander Stumpf's attorney apparently made a tactical decision not to request an appearance or an open session. Having made that decision, how can he now fault the committee for reviewing the promotion in closed session in accordance with longstanding committee procedure, which we do on all nominations that have adverse information of a personal nature.

It is not clear Commander Stumpf's attorney wants this matter to be considered in public. The March 12 Wall Street Journal reported, ''Commander Stumpf and his attorney say that the committee should feel free to tell the whole world whatever it is the Senators think they know about him.''

That was a story for public consumption. That was a PR story. Yet, on March 13, 1996, as the committee was completing our review of Tailhook matters, the committee received a letter from Commander Stumpf faxed from his attorney's law firm, I am told, in which he asked to meet with the committee ''in closed session.''

Mr. President, I ask unanimous consent that the letter from Commander Stumpf, as well as Chairman THURMOND's response, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. NUNN. Mr. President, I note that the letter I just referred to from Commander Stumpf faxed to us on March 13, 1996, was dated February 13, even though it was faxed to us on March 13. I have to assume that was a typographical error, unless there is another explanation. I am informed by the majority staff that the committee did not receive such a request until March 13 and certainly did not receive that prior to our review of Commander Stumpf's promotion in 1995.

Mr. President, just in case anyone does not understand what it means to hold a closed session, let me make it clear. It is a proceeding in which the public is excluded. The press is excluded. Virtually all staff are excluded. The hearing record is not published. Under the Senate rules, Senators are specifically prohibited from disclosing information received in a closed session. When we hold a closed session, the committee is not free to tell the whole world what transpired before the committee.

In light of Admiral Boorda's request that the information regarding Commander Stumpf not be released to the public, and in view of Commander Stumpf's request to proceed in closed session, the committee decided during its deliberations last week to not release materials from the nomination files. While I personally believe the materials should have been released in light of the decision by Commander Stumpf's attorney to selectively release information to the public, I respected the views of others—and still do—who felt the material should not be released at that time.

Having decided on March 13 not to release the material in deference to the Navy and Commander Stumpf's privacy interests, the committee now finds itself subjected to yet another misleading story as a result of a statement in the press attributed to Commander Stumpf's attorney.

A March 19, 1996, AP wire story states that he ''has no objection'' if the committee releases its material on Commander Stumpf. According to the story, Commander Stumpf's attorney said, ''I've told them they can release anything they want.''

Mr. President, I have received no such communication from Commander Stumpf's attorney. I have been informed again by majority staff that Senator THURMOND, the chairman of the committee, has received no such communication. I assume Senator COATS and Senator BYRD have received no such communication, and they are indicating that is accurate.

I have no idea with whom the attorney, Mr. Gittins, is communicating, but it is not the Senate Armed Services Committee. Mr. President, if these press accounts accurately quote Commander Stumpf's lawyer—and I always allow that the press reports could be inaccurate—it would appear that the rules of the Senate and the committee designed to protect the privacy of nominees are being manipulated to imply a willingness to support and release information when, in fact, no such willingness has been communicated to the committee nor, as far as I know, to the Navy. I do not know what has been communicated to the Navy, but I certainly have not had any indication that Commander Stumpf's attorney has said to the Navy, ''Please release the information,'' or, ''You have our permission to release all the information.''

First, counsel is quoted as criticizing the committee for having closed sessions; then the press reports that the officer whose privacy is being protected by the committee wants everything made public. Then the Chief of Naval Operations, who supports the promotion and said so in the committee, says the material should not be made public. Subsequently, the officer requests a closed session. After the committee issues a statement reaffirming its commitment to the officer's privacy interests, his counsel is quoted as saying he told the committee again, ''They can release anything they want,'' even though no such communication had been received by the committee.

If Commander Stumpf's attorney wants all the information related to his client released to the press, he should clearly communicate his views to the committee and the Navy. I suggest a letter would be the normal way to communicate. The Navy has full authority to release all documents related to Commander Stumpf, including the investigation into matters relating to Tailhook, the recommendations of the chain of command, and the final action taken on that investigation by the Navy. All of that can be released, and then the Senate can decide whether the committee was correct or not. The news media can then make their judgment accordingly.

PROCEDURAL CONSIDERATIONS

In the December 19, 1995, Washington Times, Commander Stumpf's attorney is quoted as stating the committee denied his client the opportunity ''to face his accusers, cross-examine them and test the so-called evidence that the committee had collected.''

The March 1996 Armed Forces Journal International reported that ''Stumpf and Gittins asked to speak to the Senators on the committee, offered to testify, and attempted to discover what new evidence the committee had uncovered. All requests were refused.''

Mr. President, I am informed again by majority staff that the committee received no letter from Commander Stumpf's counsel, prior to the committee action on October 25, 1995, requesting his client be allowed to testify before the committee, nor did counsel for Commander Stumpf submit a request to discover additional information.

The materials provided by the Navy make it clear that CDR Stumpf was well aware that the matter of his promotion was pending before the Committee. On June 30, 1995, he received the statutorily required notice from the Navy that his promotion was being delayed, and he was specifically notified that his involvement in Tailhook was under review by the Armed Services Committee.

The majority staff has advised me that the committee received one letter from CDR Stumpf's counsel, dated August 2, 1995, prior to completion of our review on October 25, 1995. That letter provided counsel's view of CDR Stumpf's military record and the proceedings involving his client in the aftermath of Tailhook. The only specific request of Chairman THURMOND set forth in the letter was to ''end the delay in the SASC review.'' CDR Stumpf's attorney noted that he was available for discussions, but did not make any specific request regarding testimony by his client or discovery of evidence:

Should you or your staff have any questions, please do not hesitate to call. Further, I would be pleased to review with you or a member of your staff the facts as they were established at the Court of Inquiry.

From the Committee's perspective, this did not constitute a request that his client be permitted to testify at a Committee hearing, nor did it constitute a request for further information about the materials under review by the Committee.

CDR Stumpf's counsel apparently chose to proceed without submitting a specific request for a hearing, without submitting a specific request that his client be permitted to testify, and without submitting a specific request for further details about information available to the Committee. If discussions with individual members or staff raised any questions about the Committee's willingness to entertain such requests, he had the opportunity to provide an unambiguous request in writing. He did not do so. Whether his tactical decisions at the time were in the best interests of his client is not a matter for the Committee to judge.

Each one of those matters, if clearly communicated to the Committee, would have been given appropriate consideration. It is well known that nomination proceedings are not criminal trials. They are not formal evidentiary proceedings. They are designed to assess the fitness of a nominee for higher office. If counsel for a nominee believes that the informality of a nomination proceeding is inappropriate in his client's case, then it is his responsibility to bring his concerns to the attention of the Committee. If he does not do so, it is puzzling for him to now claim that his client was denied rights that he did not request when the matter was pending before the Committee.

RELIANCE ON INFORMATION PROVIDED BY THE NAVY

Commander Stumpf's attorney is quoted in the December 19, 1995, Washington Times as stating that the committee's decision to recommend that he not be promoted was based on ''rumor and innuendo and anonymous phone calls.''

As the Senator from Indiana said very clearly, that is flat wrong. The committee's recommendation was based on the records of the fact-finding board that reviewed Commander Stumpf's activities relating to Tailhook—the Navy fact-finding board—as well as other documents officially transmitted to the committee by the Navy.

I am informed by the Navy that Commander Stumpf had full opportunity at the fact-finding board to testify, to present evidence, and to cross-examine witnesses.

Mr. President, that is the record that we have been primarily focusing on. The Navy has advised the committee that it has provided all of these materials to Commander Stumpf, so he knows what these materials are. The committee did not rely on rumors. The committee did not rely on innuendo. The committee certainly did not rely on anonymous phone calls.

An ''Op-ed'' piece by CDR Stump's attorney in the February 2, 1996 Washington Times states that the Senate relies on ''largely false and discredited allegations of misconduct collected by the Pentagon inspector general . . . to make their decisions on Navy promotion nominations.'' That is an inaccurate and incomplete description of the Committee's procedures for reviewing Navy and Marine Corps nominations in the aftermath of Tailhook. After the Navy turned the Tailhook matter over to the DoD Inspector General, the IG conducted an investigation. The results of the investigation were returned by the IG to the Navy for further proceedings, including administrative or disciplinary proceedings where appropriate. DoD/IG materials do not provide the primary source of information used by the Committee. In virtually all cases, including the case of CDR Stumpf, the Committee has relied primarily on material from the proceedings conducted by the Navy after the DoD/IG investigation, as well as related documents provided by the Navy.

It is noteworthy, however, that in at least one well known, contested nomination, many Senators placed significant reliance on information developed by the DoD Inspector General, rather than in a Navy proceeding. That was the nomination of Admiral Kelso to retire in grade, in which the military judge in a Tailhook court-martial, Captain William T. Vest, Jr., opined that Admiral Kelso observed misconduct at Tailhook, whereas the DoD Inspector General, who reviewed the judge's opinion in light of the IG's investigations, concluded that Admiral Kelso did not observe the misconduct. As one who fought hard on the Senate floor for ADM Kelso's confirmation, I do not believe that Navy and Marine Corps nominees would want the Committee to preclude consideration of such material from the DoD/IG.

Commander Stumpf's attorney, in a February 2, 1996, op-ed article, attempted to analogize his client's case to that of Adm. Joseph Prueher. According to Commander Stumpf's attorney in this February 2, 1996, op-ed piece in the Washington Times, ''Just last Friday, the Senate failed to vote to confirm Adm. Joseph Prueher as Commander, U.S. Pacific Command. The reason? A few Senators, bowing to feminist pressure, decided to revisit, for the third time, Admiral Prueher's handling of a sexual harassment case while superintendent of the U.S. Naval Academy.''

Mr. President, I am sure that the Navy, as well as Admiral Prueher, were just as surprised as I was to learn on February 2 from Commander Stumpf's attorney that Admiral Prueher's confirmation had not gone through. The Senate received Admiral Prueher's nomination on Wednesday, January 10; the Armed Services Committee reported him out of committee on Friday, January 26; and the Senate unanimously confirmed him on Tuesday, January 30, 2 days before the op-ed piece appeared in the Washington Times. The date of the admiral's confirmation, January 30, was the first day the Senate was in session after the nomination was reported out of committee. That is prompt action by any standard.

Moreover, the date of Admiral Prueher's confirmation by the Senate, January 30, was 2 days before Commander Stumpf's attorney wrote in the Washington Times that the Senate was ''bowing to feminist pressure.''

In the same article, Commander Stumpf's attorney stated: ''The Senate now fancies itself as a super selection board, reviewing de novo executive branch promotion decisions for political advantage.'' That opinion has been echoed by others, such as the statement in the March 1996 Armed Forces Journal International that ''Cmdr. Stumpf is being sacrificed on the altar of political correctness''.

As I noted earlier in my statement, Senator COATS and Senator BYRD, as leaders of the Personnel Subcommittee, have the unenviable task of taking the lead in reviewing nominations involving adverse information. I have been chairman of the Manpower Subcommittee. That is the first subcommittee I headed after I became a member of the committee. I know how hard that job is. It is one of the most important jobs, one of the most difficult jobs. I think we owe both Senator COATS and Senator BYRD a great deal of gratitude for the work they do. They have given the committee a serious, sober recommendation in each case based on the merits.

I do not believe that anyone can seriously argue that they or the committee have gained any political advantage by taking on this responsibility. If there is any political advantage attached to it, then someone is going to have to explain it to me. After being in the Senate for 24 years, I cannot think of anything that has less political advantage to it than this tough, hard, but absolutely essential job.

This is not something that the Senate grabbed. This is something that the Constitution of the United States gives to the Senate, a responsibility. We are doing our constitutional duty. If anyone does not think the Senate ought to be involved—''get the Senate out of the Navy''—then they ought to change the Constitution of the United States. This is our duty. It is our duty. As long as I am on the committee, I, for one, will continue to exercise that duty.

Mr. President, the committee has a keen appreciation for the values that differentiate military service from civilian society, the requirements of good order and discipline in the armed forces, and the standards of responsibility and accountability applicable to military commanders—including

their responsibility and accountability for the morale and welfare of their troops.

The committee also has a clear understanding that a promotion is not a reward for past service; it is a judgment on the fitness of an officer for higher levels of command and responsibility.

Mr. President, it has been the traditional practice of the Committee on Armed Services to look primarily to the statutes, regulation, and time-honored customs of military service in assessing adverse information on a nominee.

One of those standards is the affirmative obligation of commanding officers, under section 5947 of title 10, United States Code, to demonstrate ''a good example of virtue, * * * to be vigilant in inspecting the conduct of all persons who are placed under their command; to guard against and suppress all dissolute and immoral practices; * * * and to take all necessary and proper measures, under the laws, regulations, and customs of the naval service, to promote and safeguard the morale, the physical well-being, and general welfare of the officers * * * under their command or charge.''

Article 0802.1 of the Navy regulations makes it clear that commanding officers operate under a higher standard of responsibility, and that they are not relieved of that responsibility simply because they are not present during misconduct or a mishap:

The responsibility of the commanding officer for his or her command is absolute, except when, and to the extent to which, he or she has been relieved therefrom by competent authority or as provided in these regulations. The authority of the commanding officer is commensurate with his or her responsibility. While the commanding officer may, at his or her discretion, and when not contrary to regulations, delegate authority to subordinates for the execution of details, such delegation of authority shall in no way relieve the commanding officer of continued responsibility for the safety, well-being and efficiency of the entire command.

Article 0802.4 of the Navy Regulations places a special responsibility on commanding officers with respect to their conduct and the conduct of their subordinates:

The commanding officer and his or her subordinates shall exercise leadership through personal example, moral responsibility and judicious attention to the welfare of persons under their control or supervision. Such leadership shall be exercised in order to achieve a positive, dominant influence on the performance of persons in the Department of the Navy.

Mr. President, these are not post-Tailhook standards. These are not ''politically correct'' rules of the nineties foisted on the Navy by ''feminist pressure.'' Those standards were in effect at the time of Tailhook and reflect bedrock principles of good order and discipline.

The committee also looks to the standards in section 654(a) of title 10, United States Code, which states:

(8) Military life is fundamentally different from civilian life in that—

(A) the extraordinarily responsibilities of the armed forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

(B) the military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

(9) The standards of conduct for members of the armed forces regulate a member's life for 24 hours each day commencing upon entry on active duty and not ending until that person is discharged or otherwise separated from the armed forces.

(10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the armed forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

Those findings reflect some of the most fundamental, enduring values of military service.

Mr. President, the Armed Services Committee has reviewed Navy and Marine Corps nominations in the aftermath of Tailhook, including CDR Stump's promotion, in the context of these well-known military standards. In light of these standards, it would have been irresponsible for the Committee to ignore adverse information related to a nominee's conduct or leadership at Tailhook 91, set forth in information provided to the Committee by the Department of Defense—particularly in view of the military significance of that event.

Tailhook 1991 was designed and promoted to showcase the aviation components of the Department of the Navy. The Navy actively encouraged members to attend to enhance their professional military development.

The Navy provided significant financial, logistical, and personnel support—including featured presentations by the Secretary of the Navy, the Chief of Naval Operations, the Assistant Chief of Staff (Air Warfare), and numerous other Navy and Marine Corps officers and civilian officials. Many military personnel traveled under government orders, which paid for their transportation, food, and lodging. Over 1,700 were transported at government expense,

Tailhook 1991 was a showcase event where all officers, particularly those in command, were under an obligation to ensure that their conduct, and that of their subordinates would represent the very best in the U.S. Navy and U.S. Marine Corps. The failure of some to demonstrate appropriate standards of conduct and leadership is an appropriate consideration in assessing an officer's fitness for promotion.

Mr. President, I also reject any suggestion that the committee acted out of political motivation or as a result of outside pressures.

Mr. President, I personally talked to every Secretary of the Navy since Tailhook came up and every Chief of Naval Operations since Tailhook came up. I have cautioned them against overreacting. I have cautioned them against denial of due process for individuals accused of inappropriate behavior. I have cautioned them against unlawful command influence. I have done that personally. I have felt it was my responsibility to counsel the Navy not to overreact and to give to their own members the kind of due process that they deserve.

During my tenure as chairman I assured every civilian and military leader of the Department of Defense and the Department of the Navy involved in nominations that the committee would carefully consider each nomination on the merits, and that they should not hesitate to recommend promotion in any case where the Navy deemed it appropriate.

The committee has ensured that when the Navy recommends promotion in a case involving a Tailhook certification, we are provided with the Navy's official information, not rumor, innuendo, or anonymous information.

When the committee has received information from the Navy bearing on an individual's conduct or leadership at Tailhook, we have considered it carefully and judiciously on a case-by-case basis.

Let us look at the facts. Since Tailhook, the committee has approved 36,839 Navy nominations, 6,431 Marine nominations, a total of 43,270 nominations in the Navy and Marine Corps since Tailhook. During that period, how many have we not recommended because of Tailhook matters? A total of 8; 8, a total of 8. You would not think that from some of the hysteria going on in some of the news coverage, particularly editorials that I have seen.

Let me repeat, the committee has approved 43,270 Navy and Marine Corps nominations and turned down only 8 since Tailhook came up. During the same period, 15 officers who were the subject of administrative action by the Navy as a result of Tailhook have been confirmed by the Senate. These figures clearly demonstrate that the committee has reviewed each of these nominations involving a Tailhook certification on the merits.

While reasonable people could come to different conclusions on those who were recommended, as well as those who were disapproved, the fact is, we have not indiscriminately rejected anyone who had been investigated in connection with Tailhook. I have personally taken the floor of the Senate to try to get nominations through and have succeeded virtually in every case, with the help of the committee and the good judgment of the Senate, that were bitterly opposed here on the floor relating the Tailhook.

I think people ought to have a little knowledge of history. I do not expect people to understand everything that has been done, but there ought to be some slight knowledge and acknowledgement of the history of how we handled this whole matter of Tailhook.

Someone ought to recall also the Secretary of the Navy decided that the Navy botched this investigation so badly that he himself, back in 1992, in a previous administration, removed the Navy from the investigative responsibilities because it had been so badly botched.

It is also important to contrast the Senate's action with the results of action taken within the executive branch. As a result of the actions taken by the Navy and Marine Corps, 39 officers have had their careers adversely affected. Twelve officers were rejected by promotion boards, another 12 who were selected by a board subsequently were removed from a promotion list within the executive branch, and another 15 officers resigned or retired before being considered for promotion after receiving adverse administrative action by the Navy. In other words, the number of officers whose careers have been adversely affected by the Navy outnumbers the officers returned by the Senate by a ratio of more than 4 to 1.

Mr. President, this Committee has a strong record of support for military nominations, even in the face of considerable criticism. We have been willing to take the political heat. We did it in the case of Admiral Kelso. We did it in the case of Admiral Mauz. We did it in the case of Admiral Prueher. We have done it in the case of 15 nominees who were confirmed even though administrative action had been taken against them as a result of Tailhook. There was no political advantage in our action, but we did it because it was the right thing to do.

OVERSIGHT, LEADERSHIP, AND RESPONSIBILITY

Mr. President, the Armed Services Committee has a vital oversight role over the Armed Forces, including matters involving nomination and promotions. The Navy failed to provide the Armed Services Committee with the information required to assess Commander Stumpf's fitness for promotion prior to the Senate's vote on his nomination. It was incumbent on this committee to conduct a review of that promotion when information was belatedly turned over to the committee.

I am informed by majority staff that, prior to the Committee's October 25, 1995, decision to recommend that Commander Stumpf not be promoted, his attorney did not raise a legal objection to the propriety of the committee's review. Although the obvious outcome of any such review would be a communication to the Secretary of the Navy regarding the merits of Commander Stumpf's promotion, counsel did not raise a legal objection to any communication from the committee to the Secretary. Counsel for Commander Stumpf was well aware of the committee's review of his client's promotion, as reflected in his August 2, 1995, letter to Senator THURMOND discussing the review and the action taken by the Secretary of the Navy to delay Commander Stumpf's promotion. The letter vigorously supported the merits of his client's promotion and requested that the committee complete its review. The letter, however, did not state any legal objection to the committee's review, the action of Secretary Dalton in delaying the promotion, or to any communication from the committee to the Secretary on the merits of the promotion.

As I noted earlier, the committee's letter of November 13, 1995, specifically advised the Secretary of the Navy that:

> The committee recognizes that, in light of the Senate having given its advice and consent to Commander Stumpf's nomination, the decision to promote him or not to promote him rests solely within the executive branch.

Let me repeat that, Mr. President. We made it very clear that ''the decision to promote him or not to promote him rests solely within the executive branch.'' Mr. President, those were not idle words. We fully recognized that the Secretary of the Navy—acting under a delegation of authority from the President—has unfettered discretion under section 629 of title 10, United States Code, to remove or not remove the name of an officer from a selection board list.

On December 22, 1995, Secretary Dalton directed that Commander Stumpf's name be removed from the promotion list.

Mr. President, I would like to make my own position clear.

These are tough decisions. I do not quarrel with anyone who comes to a different conclusion. They involve subjective judgment. Different people draw the line between right and wrong in different places. Based upon the information available at the time, we made our decision. I made my judgment about right and wrong, and I made my judgment about the question of leadership. That judgment was based on the recommendation, the very thoughtful recommendation, of Senator COATS and Senator BYRD.

Others may have a different definition of right and wrong. Others may have a different definition of leadership. They have every right to their perspective. All of us have some obligation to strive for consistency in drawing the line, consistency between officers who may have been involved in similar circumstances. To draw one line for officers in the Navy and another line for officers in the Marine Corps relating to the same event, to me, is totally unacceptable.

The promotion process must ensure that all officers meet the high standards of conduct and leadership that demonstrate potential for leadership at a higher grade. This is appropriate not just for the Navy, but for the Army, Air Force, and for the Marine Corps. Does the Navy now want to set a standard for leadership lower than the Marines? Does the Navy want to set a standard of leadership lower than the Army? Does the Navy want to set a standard of leadership lower than the United States Air Force? That is a question that the Navy leadership has to answer.

Mr. President, if the Navy's withholding of information prior to the Senate's confirmation of Commander Stumpf was the result of administrative error, then the Navy's administrative process needs review and overhaul. These administrative errors deprived Secretary Perry, the Secretary of Defense, of the information he needed to make his recommendations to the U.S. Senate and to the President. These administrative errors deprived the Armed Services Committee of the information that we needed to make a recommendation to the Senate. These administrative errors deprived the Senate of the information it needed prior to deciding whether Commander Stumpf should have been confirmed.

In closing, Mr. President, I make the following points: First, my review of the material provided to the committee by the Navy, including the record of the conduct, review, and disposition of the proceedings of the factfinding board confirms my assessment that Senator COATS' recommendation to the committee was sound, and that the committee's October 25, 1995, recommendation that Commander Stumpf not be promoted was appropriate.

Second, it was appropriate to the committee to communicate its recommendation to the Secretary of the Navy, particularly in light of the Navy's failure to provide the committee with the information it had pledged to provide prior to the committee's recommendation to the Senate that Commander Stumpf be confirmed.

Third, it was appropriate for the committee to remind Secretary Dalton that he had unfettered direct discretion to promote or not promote Commander Stumpf, which we did in the letter. If Secretary Dalton believed in December that Commander Stumpf's promotion was warranted, he could have promoted him at that time. The letter made that absolutely clear.

Fourth, the executive branch has an obligation to conduct a thorough review of adverse information with respect to all nominations, including but not limited to Tailhook. In terms of the issues of conduct and leadership bearing on the individual's fitness for promotion, the question in Commander Stumpf's case, for example, was not whether he was guilty of a crime, but whether he met the standards of leadership that would qualify him for a promotion to a higher grade.

Fifth, the executive branch must strive for consistency in its approach to military nominations, and consistency is essential for fairness. Although each proposed nomination must be judged on its own merits and its own facts, it is critical that careful attention be paid to issues of consistent treatment, particularly when adverse information is related to a single event such as Tailhook. The Navy leadership

has effectively forced 39 officers to retire or resign or has removed their names from promotion lists for Tailhook-related matters. The committee has a very difficult time justifying favorable action on other nominees whose conduct or leadership deficiencies appear to be worse than those who were not nominated or who were forced to retire or resign by the United States Navy.

Sixth, the Navy should determine whether Commander Stumpf's attorney is serious about the public release of information concerning his client. If so, the Navy should not be selective in the release of information. The Navy should make available a complete record of proceedings concerning Commander Stumpf in the aftermath of Tailhook, including the full record of proceedings, review, recommendations, and action on the fact-finding board. If they do, there will be no mystery anymore and everybody can make their own considered judgment.

Seventh, after learning that the Navy had failed to provide the committee with information about Commander Stumpf, prior to the committee's action on his nomination, the committee requested the Navy to provide ''a complete description of the conduct, review and disposition of the allegations concerning Commander Stumpf''. The Navy provided information to the committee in response to this request. Subsequent to the committee's October 25, 1995, meeting on Commander Stumpf's nomination, the Navy has provided the committee with additional information, including information on the review and disposition of the allegations concerning Commander Stumpf, which we asked for to begin with. The Navy needs to explain why, after failing to provide the commitee with timely information prior to the confirmation of Commander Stumpf by the Senate, the Navy subsequently did not provide the committee with complete information on the review and disposition of the allegations.

Finally, Mr. President, and what I number as eighth, section 629 of title 10, United States Code, provides that ''An officer whose name is removed from a list continues to be eligible for consideration of promotion''. As noted in the statement issued by the committee on March 13 with respect to Commander Stumpf, quoting from the letter, ''If he is nominated again for promotion to captain, the committee will give the nomination the same careful consideration it would give to any nominee''.

I certainly concur in that. For my part, I would carefully consider any information that might be presented by Commander Stumpf or on his behalf. I would consider the full record of information provided by the executive branch, and I would certainly take into consideration the views of my colleagues on the Armed Services Committee on both sides of this issue, before reaching a final conclusion on the merits of such a nomination, should it be submitted to the Senate.

Mr. President, I close by saying I do not believe that the committee held Commander Stumpf responsible for the Navy's administrative errors. If Commander Stumpf is nominated in the future, I would separate these matters, and I would view the Navy's administrative errors as separate and apart from Commander Stumpf's nomination.

EXHIBIT 1

ROBERT E. STUMPF,
2616 BOUSH QUARTER,
Virginia Beach, VA, February 13, 1996.

Hon. STROM THURMOND,
Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, DC.

DEAR SENATOR THURMOND: As it appears that the Committee continues to have lingering concerns about my promotion and my attendance at the Tailhook 1991 Symposium, it may be beneficial to the Committee to hear from me personally. Accordingly, I respectfully request to meet with the Committee in closed session at the earliest opportunity to address Committee questions or concerns.

Very truly yours,

ROBERT E. STUMPF,
Commander, USN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 14, 1996.

Commander ROBERT E. STUMPF,
2616 Boush Quarter, Virginia Beach, VA.

DEAR COMMANDER STUMPF: This is in response to your letter dated February 13, 1996. It was first received by Committee via telefax on March 13, 1996.

I understand your request to appear before the Committee in closed session. However, at present there is no nomination before the Committee concerning you. Should a nomination concerning you be presented to the Committee in the future, your request will be given appropriate consideration.

Sincerely,

STROM THURMOND,
Chairman.

Mr. BYRD. Mr. President, I listened with great interest to the remarks by both Mr. COATS, the distinguished Senator from Indiana, and by Mr. NUNN, the distinguished Senator from Georgia.

First of all, with reference to the work that has been done on this particular subcommittee, I want to pay tribute to the Senator from Indiana, Mr. COATS. As far as I am concerned, between the two of us, he has done by far the major part of the work. He has shouldered the workload and he has done it professionally and with great skill and exceedingly well. I admire his courage for taking the position that he is taking on this particular issue here this evening.

Mr. President, with reference to the Senator from Georgia, I came to the Senate 38 years ago, at which time there was a very distinguished Georgian by the name of Richard Brevard Russell, who was chairman of the Senate Committee on Armed Services. I became a member of that committee 2 years after I had become a Member of the Senate, and I served with Senator Russell on that committee.

In these 38 years, Mr. President, I have seen some great chairmen of that committee, chairmen from both parties. But in my considered judgment—and I realize that I have my own flaws and I am capable of erring in my judgment—the two greatest chairmen of the Armed Services Committee in my 38 years here have been those two distinguished Senators from the State of Georgia. Senator Richard Russell was someone whom I adopted as my mentor. He never knew that, but in my own heart I admired him so greatly that I tried to follow in his footsteps and study the rules and precedents of the Senate. It was my resolution which, when adopted by the Rules Committee of the Senate and by the Senate, brought about the naming of what was then the Old Senate Office Building, the Richard Brevard Russell Building. That is how much I admired Senator Russell.

I admire this distinguished Senator from Georgia, Senator NUNN, who will be retiring from the Senate at the end of this year, no less, insofar as his skill is concerned and handling of the work of the committee. I have marveled at the organization of the committee and the organization, work, and dedication of the Senator from Georgia. I have often said to others that Senator NUNN is probably the finest chairman of the committee that we have had in the Senate.

Now, Napoleon once had a general staff officer in his army by the name of Michel Ney. Well, Marshal Ney was cut off from the rest of the army of Napoleon, and he had to fight his way through thousands of Cossacks, which he did. He came to the River Niemen and he crossed it. In so doing, he lost all of his guns, but he finally was reunited with the other units of Napoleon's army. When Napoleon heard that Ney had escaped and had returned, he was overjoyed. He said to some of the other officers, ''I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms.'' That was the old palace in Paris, which later burned down. ''I have 400 million francs in the cellars of the Tuileries, and I would gladly give them all for the ransom of my good companion in arms.'' That is how much Napoleon prized this officer, General Ney.

Well, I feel that way about Senator NUNN, and I am proud to be associated with him and with the distinguished Senator from Indiana in their remarks here today. I will be very brief.

I wish to associate myself with the remarks made by the distinguished Senator from Georgia, the ranking member of the Committee on Armed Services, on the matter of the promotion of Commander Robert Stumpf, U.S. Navy.

It is very clear to me that the committee has acted with great responsibility in the handling of the so-called Tailhook 1991 events, and attempted to

protect the rights of the individuals involved while working closely with the Navy and the Department of Defense to get to the bottom of the events that did occur. It is vitally important that the Navy be consistent and forthright in its consideration of the individual cases that still are pending, and take every step to insure that the lessons learned from the scandal can be absorbed and remedies can be implemented.

In the light of these considerations, it is disappointing to see the kind of recent attacks that have been leveled at the Armed Services Committee by the media, and by Commander Stumpf's attorney.

I believe that Commander Stumpf's nomination was clearly prejudiced by the incredible administrative ineptness that accompanied his nomination. According to the well-established procedures that had been put into place by the committee, in cooperation with the Navy, adverse information that was associated with Tailhook should have been forwarded to the committee when this nomination for promotion to captain was first provided to the committee. It is extremely unfortunate that only after the fact, that is, after the nomination was approved by the Senate, did the committee learn of the results of a board of inquiry into Commander Stumpf's participation at Tailhook.

The issue that is at the heart of this matter, Mr. President, is the question of consistency of standards by which we hold commanding officers in the Navy accountable for their actions. Senator NUNN has itemized in detail the standards that exist in the law and in Navy regulations, and they are engraved on the long honorable traditions of the Navy. Commander Stumpf, like all commanding officers, bears a heavy responsibility not only for his own actions, but also for the actions of the officers and men under his command. That is what this unfortunate affair is really all about.

It was William Wordsworth who said, ''No matter how lofty you are in your department, the responsibility for what the lowliest assistant is doing is yours.''

Frederick the Great of Prussia said, that, ''The quality of the troops depends directly on that of the officers: a good colonel; a good battalion.''

That is why the committee acted properly in holding up those standards as a mirror by which to judge the qualifications of commanding officers for further promotion, given what happened in the hospitality suites of the Las Vegas Tailhook convention hotel. It is not a pretty picture, and the record in the case of Commander Stumpf is complete enough, in my judgment, to call his nomination into serious question. Given the visibility of Commander Stumpf, and his professional achievements as an airman in combat in Desert Storm, and as a role model as the flight leader of the Blue Angels Navy Demonstration Team, what we do here in terms of his promotion is all the more important. It is the job of the committee to reconcile this matter and make a considered judgment based on standards, not on personalities.

Additionally, while Senators may well differ in their judgment as to the seriousness of the charges brought against Commander Stumpf regarding his performance as a commanding officer during the Tailhook convention, the failure of the Navy to provide the committee with all pertinent information readily available to the Navy, makes the situation far worse for his nomination. We have the appearance of a coverup of vital information bearing on his nomination. How could such an administrative error have, in good faith, occurred? Clearly the information was pertinent to his nomination, in that the committee did inform the Secretary of the Navy that it would not have agreed to Commander Stumpf's promotion, had it been provided the information at the time when the Stumpf nomination was pending before the committee.

I think it is important to look further into this vital omission—and I have not spoken with the chairman of the Personnel Subcommittee about this—but it would be my hope that consideration might be given to having the DOD inspector general investigate the matter. If there is a flaw in the way in which, after all this time and furor over Tailhook, the paper trail is provided to the Committee, then it should be corrected. If there was an intention on the part of one or another element of the Navy bureaucracy that thought it was doing Commander Stumpf a favor by not providing the committee with this information, then it should be known that a great disservice was done to Commander Stumpf and to the Navy by the omission.

Mr. President, as the Senator from Georgia has pointed out, Commander Stumpf has engaged an attorney who seems to think that his client has something to gain by attacking the procedures and integrity of the Armed Services Committee. The usage of the terms ''McCarthyism,'' ''blackmail,'' and operating on the basis of ''rumor'' in describing the committee's actions in the matter are ludicrous, and further prejudice his client's case. Commander Stumpf, in my opinion, would be far better off with no attorney than with the advice he is currently getting.

The committee has decided to keep the record of the nomination confidential, but if further action is warranted, such as a resubmission by the Navy of the nomination, then I think the record should be open for all to see. Lay it all out. It should be opened entirely.

Additionally, Commander Stumpf has asked for a hearing by the committee, and I think that request should be granted if his nomination is resubmitted by the Navy. But the hearing and the record should be out in the open. Let the sunshine in.

Commander Stumpf's lawyer has openly attacked the committee, there is a campaign underway to impugn the procedures of the committee. The committee has little choice but to open the record. All the facts should be on the table. Senators can judge for themselves whether the Navy's own standard of conduct for commanding officers was breached substantially enough for the nomination to be rejected.

Mr. President, fame is a vapor; popularity, an accident; riches take wings; those who cheer today may curse tomorrow; only one thing endures—character. And it is the character of the Navy here that is at stake.

I would not want to send my grandsons into an organization that I thought would destroy character. I would expect the organization to be one that would build character. And it is the character of the Navy that we are concerned about.

Mr. President, I thank again Senator NUNN, and I thank Senator COATS for the fine work that they have done. And I regret that they have been made to suffer as a result of their efforts to do the right thing by all concerned.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank the Chair.

Mr. President, first I would like to be associated with the remarks in this regard by the chairman of the Personnel Subcommittee, my friend and colleague from Indiana, and with the statement that was made by my longtime friend and seatmate, Senator NUNN from Georgia, and, last but not least, the excellent summation just given to the U.S. Senate by a Member of this body who we all cherish and recognize for his sound leadership and common sense over the years.

Mr. President, I do not take any pleasure at all in making the remarks that I am about to make. It would have been much easier to just skip it and not say anything. But I am very much moved by the unfair attacks on the Armed Services Committee on which the four Members now in the Senate have served for a long, long time. For myself, this will be my 18th year. And I come to the floor to give my views as briefly as I can. I have no written statement, but I am speaking from my heart on this matter that I think is being glossed over.

Mr. President, I have not been happy with the majority on the committee, both Democrats and Republicans, for what I feel has been a folding like an accordian into the spotlight of pressure by the press that has been brought on this particular issue.

I take no pleasure in this, Mr. President, because as a veteran of World War II—and 2 years of that overseas—I was taken over there by the U.S. Navy, and they brought me back. I have a

very soft spot in my heart for the Navy of the United States of America. There is no better navy anywhere—nor do I suggest there ever has been—than the men and women that make up the U.S. Navy today. And I am proud of all of them. But I wish to raise some questions and cite some examples tonight on what I feel are some holes, if you will, in some places—not a lot—but in some places in the top leadership of this Navy that have been spotted and brought out into the light with several events of the last few years.

Talking about the Navy, I am not going to go into my record with votes and the leadership positions that I have taken for the Navy in a whole series of areas. I guess the only serious difference I ever had with regard to some of the initiatives of the U.S. Navy was over the reincarnation of the battleships, which I said was nonsense at the time. It was a multimillion-dollar fiasco. We brought four battleships back into commission when we obviously did not need them. But, under the leadership of the Navy, the Congress of the United States was convinced otherwise. We are still paying for that costly mistake. But do we not all make mistakes? I think I was right on that, but I believe that event was the only time in my 18 years of service in the Armed Services Committee that I had serious disagreement with the U.S. Navy.

I emphasize again that I do not condemn the Navy as a whole. But I am here to support the outstanding efforts by Senator COATS, Senator NUNN, Senator BYRD, and others who have taken on the dragon in this case—the dragon being certain key parts of leadership of the U.S. Navy. That is not easy to do, but it is something that has to be done.

I cite, for example, that—while I think Tailhook, we can all agree, was not one of the finer moments of the great history of the U.S. Navy—it may be that it has been overshadowed, and I join with Senator NUNN in his comments. I have heard him say it. Let us not overreact to things of this nature. But we have to act. That is part of our responsibility in the Armed Services Committee.

I stood on this floor to give an example of how in Tailhook and everybody within 100 miles of Las Vegas during that weekend, that riotous weekend, I might say, of ''fun loving fun,'' I guess, by primarily some of the officers of this man's Navy—and sometimes boys will be boys—leadership people should not be boys, and that is my concern and that is my major problem without condemning any of them or all of them.

I have not been one of those who sanctimoniously says it was such a terrible thing that we have to do something about it. I stood at that desk in the Chamber and provided the leadership for the Armed Services Committee with a lot of serious debate with regard to not retiring a very famous, very capable, top leadership man in the U.S. Navy, an admiral who happened to be at Tailhook but was not involved in any of these things. And I stood there and took the advice of SAM NUNN and others of saying let us keep this in perspective. So we retired that outstanding admiral and did not take away his top-grade retirement as some in this body wished to do. So I simply give that as an example that this Senator is not consumed by Tailhook, but I am concerned about Tailhook.

I emphasize once again that we have a great Navy, but some in the leadership of that great organization have let that organization down in recent years. Let me cite one or two examples. I do not know whether they have been talked about by my friends and colleagues before or not. There certainly has been, though, a most unfortunate series, unfortunate series, Mr. President, of serious and distressing shortcomings in part of the U.S. Navy in the last few years.

Without going into any detail, I would simply cite the problems of cheating and scandal and sex at the Naval Academy in Annapolis that we finally seem to be getting turned around, but there was too much of it. I would simply say that one of the most distressing things that I ever saw practiced by certain select leadership, not everybody, was the coverup of the blowup of the *Iowa* battleship, one of those four that I referenced earlier that I thought should never have been brought back in any event.

Just so you will remember, my colleagues in the Senate, that was the case where after a high-level naval investigation of the blowup on the battleship *Iowa* that caused 130 some deaths. The Navy leadership, part of it, came forth with a program that it was the responsibility of two homosexuals. Well, it turned out later when some of us wanted proof, that the two homosexuals were not involved at all; it was a typical case of the old-boy network working very effectively in part of the coverup. They were not successful, but they almost were.

I would simply like to mention in that regard also the glossy coverup, or not so glossy coverup, that the U.S. Navy, some of its leaders, did after Tailhook was exposed in the press. We would not have had the difficulty that we are in today with Commander Stumpf nor would he have his difficulties at least to this extent were it not for the fact that key leadership in the U.S. Navy again fouled up by not following a very simple procedure that was well-known to all of the leadership of the U.S. Navy when Commander Stumpf's nomination came up, and I am sure that Senator COATS and Senator NUNN went into that in great detail.

Then there was another serious situation with regard to the spy scandal of a marine in Moscow in our Embassy. That was a tough blow.

I simply say, Mr. President, that all of these attacks that have been made on the integrity of the Armed Services Committee in the press are nonsense. And for rules and reasons, those of us who are knowledgeable of the full extent of this situation for the protection of the innocent and not to inflame the story are not privileged to talk about it in detail. One editorial that I read said that was McCarthyism, keeping the secret to ourselves like Joe McCarthy did. Well, those of us who have had the top secrets of the United States of America with us and live with us all the time we have been in the Senate know our responsibility and know how to live up to the commitments that we make while editorial writers are not so constrained.

I thought one of the most disgusting articles that I read on this was by the Detroit News. I do not know anything about the Detroit News except that they printed an editorial on Friday, March 15, 1996: ''Commander Stumpf Gets Blacklisted.'' They then go on to launch an all-out attack on Senator Carl LEVIN, who most of us on both sides of the aisle recognize as one of the most decent, most fair, sound men in the Senate. But the Detroit News was very critical. Let me quote from that:

> Senator Levin and his aides refused to discuss Commander Stumpf's case or the workings of the Armed Services Committee, or anything else for that matter. Citing his allegiance to striking unions, he refuses to talk to the News but his committee colleagues lack so handy an excuse.

CARL LEVIN is one of my best friends in the Senate. I came here with him. And for the Detroit News to attack that fine U.S. Senator in the manner they did is unconscionable. And many other members of the press including our own Navy Times, of course. The Navy Times in an editorial of March 11, 1996, says ''Commander Stumpf is a Marked Man:''

> The Senate can strike a blow for naval aviation safety right now by dropping the Tailhook ''acid test'' now used to block some aviator promotions.

And at the bottom of the editorial, the last paragraph:

> But Tailhook was nearly 5 years ago. It's time for the sore to heal. It's time to abandon that list and help the men and women of naval aviation get back to the basics of safe flying.

Five years is not very long. I also cite, for the record, an excellent statement in this regard made by a nonmember of the Armed Services Committee, Senator GRASSLEY of Iowa, printed in the CONGRESSIONAL RECORD of March 13, 1996, on S. 1999.

Senator GRASSLEY goes on to say that he feels that the flagging of officers who were promoted, who were investigated, should be and should continue to be brought to the attention of the Armed Services Committee. And I agree.

That does not mean, as Senator COATS and Senator NUNN and Senator BYRD have pointed out, that we blacklist these people at all. That is not the way we work. I simply say that the

major reason that Commander Stumpf has had some trouble was, once again, the top leadership of the U.S. Navy failed to do the routine thing when they submitted Stumpf to the Armed Services Committee for us to discharge our responsibilities that we have sworn to uphold. They just forgot.

It was a legitimate error. I do not believe it was intentional, but it was another error, another shortcoming of some of the leadership of the U.S. Navy.

I simply say that the Armed Services Committee, nor any of its members, are at fault. Yet, our integrity is being questioned because of what we collectively did and thought was our duty.

Let me close, if I might, by giving my own personal view, without detailing any of the information at my disposal that, for good reasons, I am sworn to protect. I know most or all of the details, some of them sordid, about Tailhook. I happen to feel that Commander Stumpf may be being overly criticized for some things. It is true, in the opinion of this Senator, that he was not in that room at a time when an act was taking place that I think would have probably guaranteed that he not be recommended for promotion. He got out in time. But he did not do anything about anything that he saw going on.

But I simply say and emphasize once again that I am not one of those who feel that Commander Stumpf should be blacklisted, should be eliminated for consideration—and I emphasize consideration—by the Armed Services Committee in carrying out its responsibilities. My view is that circumstances following the unfortunate foul-up by the top echelon in the U.S. Navy in not giving us the information is the main reason for the problem.

But what happened after that? And this is something that I feel very strongly about. After that happened, we began to see articles appearing, although none of the authors came to see me. The old boy network took over for a top gun.

Let me emphasize that again. The old boy network took over for a top gun and dedicated themselves to seeing, as quickly as possible, that the promotion was granted.

I think—and I am very much upset with Commander Stumpf—that he did not take the first logical step that he could, should, and had the right to take, by appealing to a board that looks after these things, called the correction board. No, he bypassed that, because the other top guns and their supporters went to work by lobbying.

So it seems to me that if and when I have a responsibility to discharge, as one member, my duties as one member of the Armed Services Committee, I would not, having known what I know, interfere with Stumpf's promotion on the basis of Tailhook. Some other Members may not see it that way. But I am very much concerned about an individual that we look to, and certainly is one of the finest performing officers that we have today in the U.S. Navy, there is no question about that, but there are other things that we look for when we go through the promotion scheme. In all likelihood, Commander Stumpf, if and when he is promoted—as I think he will be, eventually, to captain; he is very likely to become an admiral someday. There are lots of things beside your ability to fly and your courage in battle that play into the promotion role.

As much as anything else, I simply say that as far as this Senator is concerned, the hiring of a lawyer without going through the proper procedures is a step in the wrong direction and emphasizes what I am most concerned about in this particular matter, and that is that the Navy, unto themselves, with the machoism that they show time and time again, decided they were going to get the Armed Services Committee, regardless of our faithfulness, regardless of what we have done, regardless of what we will do as members of that committee in the future.

And the crowning blow, although I recognize that he has a right to do it, was a Washington Post news story of March 19 that I will submit for the RECORD. The headline is ''Tailhook Figure Files Suit Over Navy Promotion.'' Going to the courts, hiring a lawyer to get what he wants and is probably entitled to, it seems to me was not the wise way to proceed.

I ask unanimous consent the 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. EXON. Some will disagree with me, probably, about Commander Stumpf. But the main reason for my appearing on the floor tonight was to try to set the record straight as to the legitimate role that the Armed Services Committee has played in this matter. We played the role right by the book.

I happen to feel, when Commander Stumpf comes before us again, he may be approved. He might get my support. But I will be asking some questions about why the lawsuit, why the full-court press by some of his friends, trying to discredit, by their actions, the legitimate steps and actions and decisions made by the Armed Services Committee?

Mr. President, I think we have not heard the last of this matter. I think it is just another bungled handling of a situation by certain top leadership in the U.S. Navy, and I will simply say to Commander Stumpf that had the information been furnished to us when it was not about what happened, or that he was even at that Tailgate party 5 years ago, I would have voted to send Stumpf on through after I took a look and had a thorough briefing on what the allegations against him were. I do not think they were that serious.

But the U.S. Navy is the one that caused Commander Stumpf his problem. His friends are in the Armed Services Committee.

Mr. President, I yield the floor.

EXHIBIT 1

TAILHOOK FIGURE FILES SUIT OVER NAVY PROMOTION

A former commander of the Blue Angels squadron, who was cleared of wrongdoing in the Tailhook scandal, has accused Navy Secretary John H. Dalton of improperly blocking his promotion to captain.

In a suit filed Friday in federal court in Alexandria, Cmdr. Robert E. Stumpf said Dalton bowed to political pressure from Capitol Hill. Stumpf, stationed at Oceana Naval Air Station in Virginia Beach, asked that he be given his promotion as of July 1995.

Stumpf's was one of the most high-profile cases resulting from the 1991 Tailhook convention of Navy aviators, in which dozens of women and female officers complained of sexual harassment. A three-officer panel found that Stumpf left a Las Vegas hotel suite before a stripper performed oral sex on an officer.

The suit said Congress approved Stumpf's promotion after Dalton inadvertently failed to notify Capitol Hill of Stumpf's Tailhook connection. Dalton, pressured by the Senate Armed Services Committee, withdrew Stumpf from a promotion list in December.

The suit said federal law allows a promotion approved by Congress to be canceled only if an officer ''is mentally, physically, morally or professionally unqualified.''

MORNING BUSINESS

Mr. COATS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE PARTICIPANTS IN THE SOUTH DAKOTA HIGH SCHOOL BOYS' BASKETBALL TOURNAMENT

Mr. DASCHLE. Mr. President, today I want to commend the hard work, competitive spirit, and teamwork recently exhibited by thousands of young people across South Dakota during the State High School Boys' Basketball Tournament.

Each year during late February and early March, towns from across the State come together in support of their high school basketball teams in district, regional, and State tournaments. This exciting period culminated last week with three teams from across South Dakota winning State championships in their respective divisions.

There is a tremendous amount of pride that each community in South Dakota feels for its high school sports teams. Having grown up in one of those communities, I know that each time a high school team is successful, its community glows with the same accomplishment. Communities like these are still proud of their young people's abilities, their hard work, and their determination to work together and achieve a common goal, both on and off the court.

Today, I would like to congratulate all of the teams who participated in this year's tournaments. In particular, I would like to commend the high schools of Warner, Douglas, and Mitchell for having earned their respective State boys' basketball championship titles in 1996. Clearly, these schools exemplify the commitment to excellence and teamwork that all South Dakota high schools share with their communities.

HOW MUCH FOREIGN OIL BEING CONSUMED BY UNITED STATES? HERE'S TODAY'S WEEKLY BOX SCORE

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 15, the U.S. imported 7,145,000 barrels of oil each day, 752,000 barrels more than the 6,393,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there are no signs that this upward trend will abate.

The increasingly dangerous U.S. dependency on foreign oil must be addressed by those who care about restoring domestic production of oil—by U.S. producers using American workers.

The American people should consider the economic calamity that will occur if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 7,145,000 barrels a day. We must not delay in seeking to solve this troubling problem.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, 4 years ago when I commenced these daily reports to the Senate it was my purpose to make a matter of daily record the exact Federal debt as of the close of business the previous day.

In that first report—February 27, 1992—the Federal debt the previous day stood at $3,825,891,293,066.80, as of the close of business. The point is, the Federal debt has since shot further into the stratosphere.

As of yesterday at the close of business, a total of $1,233,906,465,897.14 has been added to the Federal debt since February 26, 1992, meaning that as of the close of business yesterday, Wednesday, March 20, 1996, the exact Federal debt stood at $5,059,797,758,963.94. (On a per capita basis, every man, woman, and child in America owes $19,131.71 as his or her share of the Federal debt.)

FRANKLIN N. MEISSNER DAY ON THE SOUTH SHORE

Mr. KENNEDY. Mr. President, I am honored to take this opportunity to pay tribute to one of Massachusetts' finest citizens, Franklin N. Meissner, and his contributions to the business community on the south shore of Massachusetts.

Next Tuesday, March 26, the South Shore Chamber of Commerce will be honoring Frank Meissner, who is the chamber's past chairman. The south shore chamber is currently the second largest chamber of commerce in Massachusetts, and it is also one of the largest suburban business organizations in the country. With its substantial resources and its committed membership, the chamber has been an instrumental factor in promoting economic growth and community development that benefits all families in southern Massachusetts.

Frank Meissner has been deeply involved in all of these initiatives and he deserves great credit for their success. He is currently the president of Electro Switch Corp., which employs almost 300 people. He also serves as director of both the Bank of Braintree and the South Shore Hospital, and is also the past president and still an active member of the Weymouth Rotary Club.

I congratulate Frank Meissner for his many achievements and for his leadership in so many effective ways for the people of the South Shore. March 26 is truly Franklin N. Meissner Day on the south shore, and all of us are proud of him.

GREEK INDEPENDENCE DAY

Mr. KENNEDY. Mr. President, I am honored to be a sponsor of the resolution designating March 25, 1996 as Greek Independence Day.

On this, the 175th anniversary of Greek independence from the Ottoman Empire, we honor the courageous struggle by the Greeks to regain their freedom. After being ruled by the Ottoman Turks for four centuries, the people of Greece were able to restore democracy for the Nation where democracy was first born in the ancient world.

The people of Greece have made extraordinary contributions to all nations of the world, and no country has benefited more from these contributions than the United States. It has been said that except for the blind forces of nature, nothing moves in this world which is not Greek in origin. Our Founding Fathers modeled our own system of democratic government on the basic principles of democracy of ancient Greece, and over 3-million Greek-Americans today continue to make valuable contributions to all aspects of American life. This resolution, in commemorating Greek Independence Day, also commemorates the close and enduring ties between our two nations. Long may they flourish.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1266. An act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.

H.R. 1787. An act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.

The enrolled bills were signed subsequently by the President pro tempore [Mr. THURMOND].

At 2:59 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence Senate:

H.J. Res. 165. Joint resolution making further appropriations for the fiscal year 1996, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–503. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Agriculture, Nutrition, and Forestry.

''JOINT RESOLUTION

''Whereas, the federal budget allocates less heating assistance for low-income homeowners than provided in previous years; and

''Whereas, food stamp assistance under certain circumstances is linked to heating assistance; and

''Whereas, the significant reduction in heating assistance to 54,000 households in Maine, 12,000 of which involve subsidized housing and 7,000 of this 12,000 involve elderly households, will have a severe impact on Maine people, especially those receiving food stamps; and

''Whereas, cuts to the Low-Income Home Energy Assistance Program are concurrent with cutbacks in the prescription drug program, increases in Medicare premiums and the loss of food stamps. These cuts will be especially hard felt by Maine seniors and the disabled community who rely on these programs in their day-to-day existence; now, therefore, be it

''*Resolved*, That we, your Memorialists, respectfully recommend and urge the Congress of the United States to change current federal policy to allow persons who meet the eligibility requirements for food stamps but who do not receive heating assistance under the Low-Income Home Energy Assistance Program to receive food stamps in the same amount as they would have received had

they received heating assistance; and be it further

''*Resolved,* That we, your Memorialists, respectfully recommend and urge the Congress of the United States to restore heating assistance and weatherization funds that have been recently cut in order that states such as Maine, which ranks 33rd in the nation with respect to median household income, do not have to make the choice whether people starve or freeze; and be it further

''*Resolved,* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States and to each Member of the Maine Congressional Delegation.''

POM–504. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Agriculture, Nutrition, and Forestry.

''HOUSE JOINT MEMORIAL 4017

''Whereas, nonnative noxious weeds pose a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that noxious weeds are detrimental or destructive of crops, fruit, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

''Whereas, in recognition of the substantial threat to economic welfare, the state of Washington has mandated the control and eradication of nonnative noxious weeds on all privately held and state-held lands, which has up to this time been effectively managed by the state of Washington; and

''Whereas, nonnative noxious weeds continue to proliferate and burgeon on lands that are the property of the United States of America, or under the control of the United States; and

''Whereas, the failure of the federal government of the United States to control or eradicate nonnative noxious weeds poses a substantial and significant threat to the economic welfare of the citizens of the state of Washington in that these weeds are detrimental or destructive of crops, fruits, trees, shrubs, valuable plants, forage, other cultivation, and agricultural plants or produce; and

''Whereas, this nonfeasance and malfeasance of the federal government, committed by and through the principal instrumentality of the United States Forest Service, is in direct violation of federal law and regulation; namely, the Carlson-Foley Act and Federal Noxious Weed Act; and

''Whereas, the previously mentioned unrestrained propagation and exponential reproduction of nonnative noxious weeds is an exigent economic and agricultural peril; and

''Now, therefore, your Memorialists respectfully pray that Congress recognize the enormous threat to the economic and agricultural welfare of the state of Washington, caused by the failure of the federal government to control or eradicate the agricultural and economic menacing nonnative noxious weeds, within the borders of the state of Washington and upon property of the United States of America or property under control of the United States, and as much, immediately direct all federal instrumentalities and agencies managing or controlling this property to comply with all relevant laws and regulations regarding control or eradication of nonnative noxious weeds in the state of Washington; and be it

''*Resolved,* That copies of this Memorial be immediately transmitted to the Honorable Bill Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.''

POM–505. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Banking, Housing, and Urban Affairs.

''RESOLUTION

''Whereas, commencing on January 7, 1996, the Commonwealth suffered from the loss of lives and severe property and economic damages as a result of the Blizzard of 1996, which was followed by unreasonable thaws, torrential rains and resulting flooding; and

''Whereas, the President of the United States has declared this entire Commonwealth a major disaster area because of extensive flooding, making individuals and businesses eligible for disaster assistance for flood damages, but not for similar blizzard-related damages; and

''Whereas, the President of the United States has also declared that 17 of 58 counties in this Commonwealth affected by flooding are eligible for Federal public disaster assistance on account of the flooding; and

''Whereas, the cost of responding to the Blizzard of 1996 left many municipalities without sufficient resources to react to and recover from severe flooding which resulted when melting snow and ice combined with heavy rain across this Commonwealth; and

''Whereas, the Federal Government has yet to acknowledge that the Blizzard of 1996 and the resulting flooding were related events that combined to cause a single major disaster; and

''Whereas, failure to treat the blizzard and flooding as one major disaster will result in undue hardship; and

''Whereas, failure to include the 41 additional counties among those declared eligible for Federal public disaster assistance will result in the lack of sufficient funds to return many communities in this Commonwealth to an acceptable level of public health and safety; and

''Whereas, the threat of additional snow and rain continues to present serious risk to the health, safety and welfare of the citizens of this Commonwealth; and

''Whereas, the Commonwealth and its citizens, businesses and municipalities are in need of immediate and comprehensive financial assistance to recover from the combined effects of snow, ice and flooding that resulted from the Blizzard of 1996; therefore, be it

''*Resolved,* That the Senate join with the Governor in respectfully petitioning the President of the United States to direct the Federal Emergency Management Agency to:

''(1) acknowledge that the Blizzard of 1996 and resulting flooding were related events that combined to cause a single major disaster;

''(2) declare 41 additional counties eligible to receive Federal public disaster assistance as a result of that disaster; and

''(3) expedite the process of providing and prioritizing disaster assistance; and be it further

''*Resolved,* That a copy of this resolution be delivered to the President of the United States and the Director of the Federal Emergency Management Agency for immediate action; and be it further

''*Resolved,* That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.''

POM–506. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation.

''ASSEMBLY JOINT RESOLUTION NO. 41

''Whereas, it is necessary for the United States to seize the opportunities presented by commercial space activity and, for the benefit of all Americans, regain the position of leadership in this highly competitive, multi-billion dollar international market; and

''Whereas, investment in commercial space activity will lead to the creation of jobs, the expansion of economic opportunity, and the continuance of American world-leadership; and

''Whereas, it is important to assess where America stands in a rapidly expanding world marketplace and the direction in which America needs to proceed in order to compete in that marketplace; and

''Whereas, the United States was once the world leader in the provision of commercial space launch services and has, over the past few years, ceded this leadership to the European Space Agency, which now controls over 60 percent of this booming industry; and

''Whereas, in the newly emerging low-earth orbit satellite market, the area where California has the best opportunity to lead, the Chinese have taken the inside track, assisted in part by the favorable trade policies of the present federal administration; and

''Whereas, California is uniquely well-placed to serve as one of the leading commercial spaceport locations in the nation; and

''Whereas, enactment of a national spaceport program will put the United States in a stronger position to compete in the commercial space activity industry because it will enable this nation to fill in the missing piece of the commercial space activity circle, launch facilities; now, therefore, be it

''*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby declares its support for the enactment of a national spaceport program; and be it further

''*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.''

POM–507. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

''HOUSE JOINT MEMORIAL 4014

''Whereas, Washington's economy depends heavily on international trade, shipbuilding, seafaring, and tourism; and

''Whereas, the United States merchant marine continues to play a vital role in meeting the economic, military defense, and international aid objectives of our nation; and

''Whereas, the cruise ship industry has grown on average 9.3 percent annually since 1980 and is expected to double by the year 2000; and

''Whereas, the cruise ship trade, which now features Alaska, could grow even faster if it also featured Washington state; and

''Whereas, the cruise ship industry could potentially provide an additional one hundred million dollars to the Washington state economy if a United States coastwise cruise ship trade were established, with United States vessels transporting passengers between Washington state and other states, such as Alaska; and

''Whereas, representatives from United States ports, labor organizations, government agencies, and the maritime industry have met to develop an agreement on the successful advancement of a United States coastwise cruise ship trade; and

''Whereas, the United States Congress has been considering legislation that provides financial incentives and operating provisions

to effectively establish a United States coastwise cruise ship trade;

''Now, therefore, your memorialists respectfully pray that the United States Congress and President William J. Clinton establish a United States cruise ship industry, thereby developing a United States cruise ship registry, United States jobs, and a United States coastwise cruise ship trade, be it

''*Resolved,* That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.''

POM–508. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Commerce, Science, and Transportation.

''SENATE RESOLUTION 1996–8695

''Whereas, tourism is of vital economic and cultural importance to the states and provinces of the Pacific Northwest comprised of Washington, Alaska, Alberta, British Columbia, Idaho, Montana, and Oregon; and

''Whereas, the State and Provincial governments of the Pacific Northwest are members of the Pacific Northwest Economic Region, a nonprofit public-private partnership established to promote regional economic cooperation; and

''Whereas, the States and Provinces of the Pacific Northwest Region expend in excess of $50 million per year to promote the tourism industry and attract millions of tourists from throughout North America and the World; and

''Whereas, the tourism industry constitutes billions of dollars in economic activity for the States and Provinces of the Pacific Northwest Region; and

''Whereas, the States and Provinces of the Pacific Northwest Economic Region have undertaken numerous collaborative and innovative tourism initiatives that have been successful in promoting tourism in the region and have laid the ground work for ongoing cooperative tourism development efforts; and

''Whereas, current proposals before Congress to establish a National Tourism Board and a National Tourism Organization to develop a national travel and tourism strategy to promote tourism in the United States is of considerable importance to the States of the Pacific Northwest; and

''Whereas, participation on the National Tourism Board and the National Tourism Organization is of vital interest and importance to the States of the Pacific Northwest; now, therefore, be it

''*Resolved,* that the Senate of the state of Washington respectfully request that a public and a private sector representative of the Pacific Northwest Economic Region be appointed to the National Tourism Board and the National Tourism Organization respectively; and be it further

''*Resolved,* That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.''

POM–509. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works.

''ASSEMBLY JOINT RESOLUTION NO. 39

''Whereas, the Clinton Administration has proposed to end the United States Army Corps of Engineers' involvement in flood control projects in this state; and

''Whereas, the flooding that arose from the March storms resulted in catastrophic damages to lives and property, including statewide agricultural losses of $363,700,000, following $97,000,000 in losses in January; and

''Whereas, the recent storms illustrate the need to maintain the proactive and cooperative efforts of the federal government and the state to anticipate flood control needs; and

''Whereas, the citizens of the state are calling upon the federal government to continue the 80-year presence of the United States Army Corps of Engineers in this state, and allow the corps to continue working successfully with state and local officials in preparing and implementing flood control projects and policies; and

''Whereas, the federal proposal to withdraw the United States Army Corps of Engineers from active involvement in state flood control efforts, thus ending the working relationship between the federal government and the state regarding flood control, should be reviewed critically; now, therefore, be it

''*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California recognizes the importance of preserving the existing partnership between the United States Army Corps of Engineers and the state in pursuing flood control projects, and respectfully memorializes the President and Congress of the United States to review and reevaluate the federal proposal to end the involvement of the United States Army Corps of Engineers in flood control projects in the state; and be it further

''*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.''

POM-510. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Environment and Public Works.

''HOUSE JOINT MEMORIAL 4043

''Whereas, the proposed conference mark for Mitchell Act funds is three and one-half million dollars less than the previous fiscal year; and

''Whereas, this proposed cut to Mitchell Act funds is in addition to cuts to this fund source over the past several years; and

''Whereas, the Mitchell Act was created to mitigate for the loss of naturally spawning salmon due to the federal power system developed on the Columbia River; and

''Whereas, a reduction in Mitchell Act funds will significantly reduce the quantity of hatchery-produced salmon produced in the Columbia River; and

''Whereas, reduced Mitchell Act funding will make it significantly more difficult to enter into an equitable treaty with Canada under the United States/Canada Pacific Salmon Treaty and will result in increased levels of wild salmon being harvested by Canadian fishers; and

''Whereas, commercial fishing families already hard hit by the effects of adverse ocean conditions, endangered species act restrictions, and recent natural disasters will be dealt yet another blow if full Mitchell Act funding is not restored; and

''Whereas, local economies dependent on cash inflow from recreational fishing activity will also be severely impacted by the effects of reduced Mitchell Act funding; and

''Whereas, Federal funding for fish hatcheries on the Columbia River is of critical importance to the states of Washington, Oregon, and Idaho;

''Now, therefore, your Memorialists respectfully pray that full Mitchell Act funding of eighteen and one-half million dollars be restored, be it

''*Resolved,* That copies of this Memorial be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.''

POM—511. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

''ASSEMBLY JOINT RESOLUTION NO. 22

''Whereas, social security laws, with respect to the taxing of social security as income at the federal level, have not been changed since the additional law was passed in 1983; and

''Whereas, social security is still taxable if personal income is more than twenty-five thousand dollars ($25,000) if single, or thirty-two thousand dollars ($32,000) if married; and

''Whereas, during that period of time, inflation has increased more than 35 percent, with no change in the limits of taxable income; and

''Whereas, on top of the initial tier of social security taxes, a federal law that imposes an additional higher social security tax was recently enacted whereby, under specified conditions, in the case of a single person earning thirty-four thousand dollars ($34,000) and a married couple earning forty-four thousand dollars ($44,000), 85 percent of social security benefits are added to taxable income without an upward shift in the first tier threshold of taxable income; and

''Whereas, senior income increases at a very low percentage but the amount of social security that is taxed is increasing each year; and

''Whereas, the people who are affected by this inflation are the people who can least afford it; and

''Whereas, those income limits, which include both social security and any tax-free income, no longer represent a fair amount of earnings to warrant tax on social security; now, therefore, be it

''*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress and the President to enact appropriate legislation which would provide that the two tier taxation of social security benefits be eliminated by allowing a single person to earn thirty-four thousand dollars ($34,000) and a married couple to earn forty-four thousand dollars ($44,000) before any portion of their social security income is taxed, and that those income limits be indexed to inflation; and be it further

''*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairpersons of the House and Senate Committees on Aging, and to each Senator and Representative from California in the Congress of the United States.''

POM–512. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

''ASSEMBLY JOINT RESOLUTION NO. 19

''RESOLUTION CHAPTER 78

''Whereas, section 405 of Title 42 of the United States Code mandates that states collect the social security account numbers of parents when birth certificates are issued; and

''Whereas, due to their common use as individual identifiers by both the public and

private sectors, social security account numbers are essential tools for enforcing child support obligations because many of the child support enforcement actions mandated by federal law cannot be successfully undertaken without the use of social security account numbers; and

''Whereas, California has made tremendous progress in collecting delinquent child support orders through use of the state's tax collection agency, the Franchise Tax Board, and by refusing to issue or renew licenses if an individual is delinquent in paying his or her child support; and

''Whereas, these are model child support enforcement programs that have been adopted in several other states; and

''Whereas, these programs will not continue to be successful without utilization of the obligor's social security account number; and

''Whereas, a further exception to federal law is needed for documents used to enforce child support orders, specifically, marriage certificates and family law court documents; and

''Whereas, in many cases, these documents represent the only real opportunity to obtain the social security account numbers of the petitioner and respondent; and

''Whereas, social security account numbers are not provided on the marriage certificate at the beginning of the marriage, nor on the dissolution court documents at the end of the marriage, or on documents relating to the establishment of paternity, and consequently, the gathering of this information is entirely dependent on voluntary cooperation of the petitioner and the respondent; and

''Whereas, as of December 31, 1994, there were 2,304,362 Title IV–D cases, of which 1,126,422 were cases in which either a parent of the assets of a parent had not yet been located; and

''Whereas, it is essential that federal law be amended to allow the inclusion of social security account numbers on applications for licenses and certificates of marriage and on family law court records, and that federal law be further clarified to permit the continued maintenance of social security account numbers on court and other public agency records where the numbers were collected prior to October 1, 1990, and to permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law: Now, therefore, be it

''*Resolved, by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend federal law (42 U.S.C.A. Sec. 405) to allow social security account numbers to be included on applications for licenses and certificates of marriage and on records related to petitions for dissolution of marriage, and to clarify that social security account numbers on court and other public agency records may be maintained if they were collected prior to October 1, 1990, and permit states to make the social security account numbers available to child support agencies for the exclusive purpose of child support enforcement in accordance with federal and state law; and be it further

''*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and each Senator and Representative from California in the Congress of the United States.''

POM–513. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance.

''ASSEMBLY JOINT RESOLUTION 24

''Whereas, the ancient civilization of Assyria, located in Bet-Nahirain (Mesopotamia) in what is now modern day Iraq, was renown for its art and culture; and

''Whereas, in the eighth century B.C. King Assurnasirpal II of Assyria built the palace at Nimrud which contained highly descriptive bas-relief sculptures; and

''Whereas, an Assyrian relief from the palace at Nimrud was recently purchased at auction for $11.9 million by an anonymous buyer; and

''Whereas, Assyrians who are in diaspora throughout the world today are united in their vehement objection to the illicit sale and trafficking of Assyrian ancient antiquities and artifacts; and

''Whereas, the illicit sale and trafficking of ancient antiquities and artifacts is not limited to Assyrian artifacts but involves the cultural treasures of historical civilizations throughout the world, from the ancient temples of Angkor Wat in Cambodia, to Native American villages in the United States; and

''Whereas, the United Nations Educational, Scientific and Cultural Organization (UNESCO) is seeking to establish an international code of ethics for art dealers and cultural professionals to help combat the rise in illicit trafficking of cultural antiquities and artifacts throughout the world; and

''Whereas, the illicit sale and purchase of cultural and antiquities and artifacts by personal art collectors diminishes their educational and aesthetic value, denigrates the history, art, legacy, and culture of the ancient civilizations that created those antiquities and artifacts, displays a lack of sensitivity toward the descendants of those civilizations, and demonstrates disrespect for the cultural heritage of all of humankind; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take measures to halt the illicit sale and trafficking of cultural antiquities, including Assyrian artifacts, and to support the efforts of UNESCO to combat this serious problem; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.''

POM–514. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

''SENATE RESOLUTION NO. 222

''Whereas, an excellent highway network is vitally important to Michigan's economic well-being. All of the components of the state's economy are closely tied to the quality of the roadways used in transporting goods, services, and people throughout Michigan; and

''Whereas, Michigan's ability to maintain our transportation infrastructure is seriously impaired by the current policies of the federal government with regard to the federal gas tax each individual and business pays with every gallon of gasoline purchased. This unfair system costs the state hundreds of millions of dollars each year. The result is an increasing problem with the conditions of our roads and bridges; and

''Whereas, the largest element of the overall gas tax is the federal gas tax, which represents 18.4 cents of each dollar of gasoline sold. Of all of the states required to forward taxes to the federal government each year, Michigan ranks among the lowest in the ratio of gas tax revenues being returned to the citizens who paid the tax. In 1993, for example, $733.7 million was paid to the Federal Highway Trust Fund, and only $520.1 million was returned, a loss of $213.6 million, a loss that sets Michigan at a distinct disadvantage when making road improvements. Considering the inequitable manner in which this money is reallocated to the states of the union, it is clear that Michigan is bearing an oppressive burden through this taxation, a development of the tax structure that must be changed; and

''Whereas, adding to Michigan's tremendous burden, during the years 1990–1995, our state contributed $1.168 billion to federal deficit reduction, dollars that were initially collected to improve transportation routes in Michigan. This amount comprises approximately 20 percent of the total amount levied on Michigan citizens for the years 1990–1995. In addition, by 1999 Michigan's total contributions to deficit reduction are expected to total $2.099 billion, an amount that would certainly enable us to better maintain our roads and highways; and

''Whereas, clearly, Michigan is at a great disadvantage with states that receive far higher returns on their gas tax dollars marked for road improvements. In effect, we are subsidizing transportation maintenance and projects elsewhere when improvements are so desperately needed in our own state; and

''Whereas, with the new approaches to budgetary matters in Washington and a renewed willingness to examine the true costs of all spending policies, the time is right to remedy this unjust situation; now, therefore, be it

''*Resolved by the Senate,* That we urgently and respectfully request the Congress of the United States to return to Michigan all of the revenue from the federal gas tax collected in Michigan; and be it further

''*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue and offer a formal response to this body, the Michigan State Senate.''

POM–515. A resolution adopted by the Senate of the Legislature of the State of Michigan; to the Committee on Finance.

''SENATE RESOLUTION NO. 223

''Whereas, the quality of Michigan roadways has a great deal to do with the state's competitiveness in attracting and retaining jobs for our citizens. Every individual and every business in Michigan is affected when Michigan roads suffer from insufficient maintenance. Finding the means to meet this financial challenge is of the utmost importance to both state and local policymakers as we prepare for the twenty-first century; and

''Whereas, the difficult task of providing excellence in transportation in Michigan is made far worse by some of the current practices of the federal government with regard to the allocation of money raised by the federal gas tax; and

''Whereas, the current practices of the federal government with regards to the allocation of dollars raised by the federal tax make it difficult for Michigan to improve and expand its transportation system. Of the states required to send money to the federal government, in accordance with the federal funding formula, Michigan sends significantly more money to Washington than it receives back. In 1993, for example, Michigan paid a total of $733.7 million to the Federal

Highway Trust Fund, and only $520.1 million was returned; and

''Whereas, in addition, even more money designated for return to Michigan, and several other states, is being withheld by federal transportation authorities. This money is critical to our transportation infrastructure and a vital component of the state's economic well-being.

''Whereas, the current budget debate offers an opportunity to reexamine this critical aspect of public spending. This examination should include immediately correcting the gross inequities in allocating the funds generated by the federal gas tax; now, therefore, be it

''*Resolved by the Senate,* That we respectfully, but urgently, ask the Congress of the United States to release to the states, including Michigan, any federal road funding due under the gas tax formula but currently being held back by the federal government; and be it further

''*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Michigan congressional delegation with the request that each member review this issue, offering a formal response to this body, the Michigan State Senate.''

POM–516. A resolution adopted by the Senate of the Legislature of the State of Washington; to the Committee on Finance.

''SENATE RESOLUTION 1996–8696

''Whereas, the Pacific Northwest Region comprising of Washington, Alaska, British Columbia, Alberta, Montana, Idaho, and Oregon contains numerous border crossings between the United States and Canada; and

''Whereas, cultural, social, and economic exchanges between the citizens, organizations, and businesses of the region have historically been and continue to be an integral part of the regions economic and cultural development; and

''Whereas, the historically close and constant ties between the two countries of Canada and the United States have been forged and maintained by continuous cultural exchanges ranging from fraternities, social, sports, and business clubs to name but a few; and

''Whereas, the rapid changes in global affairs require countries to renew and enhance their ties with neighboring states and countries; and

''Whereas, millions of individuals cross the borders of the Pacific Northwest per annum including numerous tourists expending billions of dollars in the United States and Canada; and

''Whereas, a border crossing fee as proposed by current federal legislation would adversely impact both the economy, culture, and quality of life for many of the regions' citizens; now, therefore, be it

''*Resolved,* That the Senate of the state of Washington opposes any proposal that would levy a fee on any individuals crossing the borders of the United States; and be it further

''*Resolved,* That copies of this resolution be immediately transmitted to the Honorable William J. Clinton, President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress from the State of Washington, Oregon, Montana, and Idaho, and the Secretary of the United States Customs and Immigration Department.''

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. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

S. 1633. A bill to provide for school bus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEVIN (for himself, Mr. DOLE, Mr. DASCHLE, Mr. INOUYE, and Mr. D'AMATO):

S. 1634. A bill to amend the resolution establishing the Franklin Delano Roosevelt Memorial Commission to extend the service of certain members; to the Committee on Rules and Administration.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI).

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

By Mr. WYDEN:

S. 1636. A bill to designate the United States Courthouse under construction at 1030 Southwest 3rd Avenue, Portland, Oregon, as the ''Mark O. Hatfield United States Courthouse,'' and for other purposes; to the Committee on Environment and Public Works.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1632. A bill to prohibit persons convicted of a crime involving domestic violence from owning or possessing firearms, and for other purposes; to the Committee on the Judiciary.

FIREARMS LEGISLATION

● Mr. LAUTENBERG. Mr. President, today I am introducing legislation that would prohibit individuals who have been convicted of a crime involving domestic violence from owning or possessing firearms.

Under current Federal law, Mr. President, it is illegal for people convicted of felonies to possess firearms. Yet many people who engage in serious spousal or child abuse ultimately are not charged with or convicted of felonies. At the end of the day, maybe following a plea bargain, they are convicted of misdemeanors. And these people are still free under Federal law to possess firearms.

This legislation will close this loophole, and will help keep guns out of the hands of people who have proven themselves to be violent and a threat to those closest to them. The legislation would add to the list of persons disqualified from owning or possessing a firearm individuals who have been convicted of any crime involving domestic violence, regardless of the length, term, or manner of punishment. This includes violent crimes committed by a spouse, former spouse, paramour, parent, guardian or similar individual.

Mr. President, although there is a growing awareness about the problem of domestic violence, in many places, even today, these outrageous acts are not taken as seriously as other forms of brutal behavior. Yet each year an estimated 2 million women are victimized by domestic violence. That is 10 times the number of women who are diagnosed with breast cancer. Of those 2 million women, nearly 6,000 die at the hands of men who at least at one time claimed to love them. About 70 percent of the time, those hands are holding a gun.

Mr. President, much of the killing and maiming associated with domestic violence could not happen but for the presence of a firearm. The New England Journal of Medicine reports that in households with a history of battering, a gun in the home increases the likelihood that a woman will be murdered fivefold. Often, the only difference between a battered woman and a dead woman is the presence of a gun.

Acts of domestic violence, by their nature, are especially dangerous and require special attention. These crimes involve people who have a history together, and who perhaps share a home or a child. These are not violent acts between strangers, and they do not arise from a chance meeting. Even after a split, the individuals involved often by necessity have a continuing relationship of some sort. The husbands, boyfriends, and former husbands who commit these crimes often have a record of violent and threatening behavior. And yet, frequently, these men are being permitted to possess firearms—with no legal restrictions.

The statistics and data are clear. Domestic violence, no matter how it is labeled, leads to more domestic violence. And guns in the hand of convicted spouse abusers lead to death.

To me, Mr. President, it is a simple proposition. Those guilty of acts of domestic violence should not be trusted to acquire or possess a gun. Period.

Mr. President, this legislation would save the lives of many innocent Americans. But it also would send a message about our Nation's commitment to ending domestic violence, and about our determination to protect the millions of women and children who suffer from this abuse.

I hope my colleagues will support the bill, and ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1632

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

SECTION 1. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

''(33) The term 'crime involving domestic violence' means a felony or misdemeanor crime of violence, regardless of length, term, or manner of punishment, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim under the domestic or family violence laws of the jurisdiction in which such felony or misdemeanor was committed.''.

SEC. 2. UNLAWFUL ACTS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by striking ''or'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) is under indictment for, or has been convicted in any court of, any crime involving domestic violence.''; and

(2) in subsection (g)—

(A) by striking ''or'' at the end of paragraph (7);

(B) in paragraph (8), by striking the comma and inserting ''; or''; and

(C) by inserting after paragraph (8) the following new paragraph:

''(9) who is under indictment for, or has been convicted in any court, or any crime involving domestic violence,''.

SEC. 3. RULES AND REGULATIONS.

Section 926(a) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) regulations providing for the effective receipt and secure storage of firearms relinquished by or seized from persons described in subsection (d)(9) or (g)(9) of section 922.''.

SEC. 4. RESTORATION OF CIVIL RIGHTS AFTER CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by striking the period at the end and inserting the following: ''; or such restoration of civil rights occurs following conviction of a crime of domestic violence (as defined in section 921(a)(33)). A conviction of a crime of domestic violence shall not be considered to be a conviction for purposes of this chapter if the conviction is reversed or set aside based on a determination that the conviction is invalid, or if the person has been pardoned, unless the authority that grants the pardon expressly states that the person may not ship, transport, possess, or receive firearms.''.

SEC. 5. ADMINISTRATIVE RELIEF FROM CERTAIN FIREARM PROHIBITIONS.

(a) IN GENERAL.—Section 925(c) of title 18, United States Code, is amended—

(1) in the first undesignated sentence, by inserting ''(other than a person convicted of a crime of domestic violence as defined in section 921(a)(33))'' before ''who is prohibited''; and

(2) in the fourth undesignated sentence—

(A) by inserting ''person (other than a person convicted of a crime of domestic violence as defined in section 921(a)(33)) who is a'' before ''licensed importer''; and

(B) by striking ''his'' and inserting ''the person's''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to—

(1) application for administrative relief and actions for judicial review that are pending on the date of enactment of this Act; and

(2) applications for administrative relief filed, and actions for judicial review brought, after the date of enactment of this Act.●

By Mr. LAUTENBERG:

S. 1633. A bill to provide for schoolbus safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996

●Mr. LAUTENBERG. Mr. President, today I am introducing legislation, the Omnibus School Transportation Safety Act of 1996, that would improve the safety of schoolbus travel.

The legislation would require background checks of schoolbus drivers, establish minimum proficiency standards for such drivers, and promote advanced technologies that can help prevent schoolbus accidents. In addition, the bill calls for a variety of studies that could improve schoolbus safety and increase the information on bus safety available to school districts and parents.

Mr. President, America's schoolchildren have a right to safe transportation to and from school. And we have a responsibility to do everything we can to guarantee that safety.

To ensure our children's safety, we first must ensure that bus drivers are decent individuals who will not harm their passengers. Unfortunately, sexual deviants often are attracted to driving a schoolbus because the job gives them easy access to children who are the focus of their sexual desires.

Children who ride on schoolbuses, particularly those in elementary school, are extremely vulnerable to physical abuse. They are too young to comprehend what is being done to them and too small to physically defend themselves from an attack. As a nation, we have a responsibility to provide as much protection as possible to this vulnerable population. My bill therefore would require all States to perform a Federal background check on potential schoolbus drivers before they are allowed to be alone with our children.

Eighteen States—Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Michigan, Mississippi, New Jersey, New York, Ohio, Oregon, Pennsylvania, Utah, Virginia, Washington, and Louisiana—already conduct State and Federal background checks on their drivers. My amendment generally would not affect how these States administer their programs.

Fourteen States—Hawaii, Kentucky, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Rhode Island, Texas, West Virginia, Nebraska, Illinois, and Wisconsin—currently perform only state background checks. This is well-meaning, but insufficient. A convicted sexual deviant can easily move to one of these States, receive a clean background check, and begin driving his prey to and from school. My bill therefore would require those States to participate in the nationwide, Federal program.

There also are 18 States—Alabama, Arkansas, Georgia, Idaho, Indiana, Iowa, Kansas, Maine, Montana, Nevada, New Mexico, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Vermont, and Wyoming—that have no background checks for their schoolbus drivers. There is no rational reason why these States should not do more to protect their citizens.

Mr. President, during the 2 months after California instituted Federal criminal background checks in 1990, it screened out 150 convicted sex offenders, child molesters, and violent criminals who tried to get permits to drive schoolbuses. This is shocking and my bill would address this problem.

Beyond requiring background checks for prospective schoolbus drivers, Mr. President, my bill includes a variety of provisions designed to reduce schoolbus accidents.

During the past 10 years, 300 school-age pedestrians under 19 years of age have died in schoolbus-related crashes. Two-thirds were killed by their own schoolbus. Half of all school-age pedestrians killed by schoolbuses in the past 10 years were 5- and 6-year-olds. On average, 21 school-age pedestrians are killed by schoolbuses each year, and 9 are killed by other vehicles involved in schoolbus-related crashes.

Mr. President, as a nation, we need to do much more to prevent schoolbus accidents. This bill attacks the problem on a number of fronts.

First, it would establish proficiency standards for schoolbus drivers.

Mr. President, driving a schoolbus with 40 young, screaming children is a unique skill that deserves specialized training. Unfortunately, many drivers are distracted when their young passengers are noisy or otherwise disruptive, and the results can be tragic. Inattention is one of the two factors most often reported by police for schoolbus drivers striking school-age pedestrians.

Bus drivers already are required to possess a commercial driver's license with a general endorsement for those driving vehicles with more than 15 passengers. However, there are no Federal standards specifically directed to schoolbus drivers. My bill would require the Secretary of Transportation to prescribe such standards.

Mr. President, some States already prescribe a level of proficiency for schoolbus drivers, but many do not. My bill generally would not interfere with existing State programs, but it would ensure that all schoolbus drivers meet a minimum standard of proficiency.

Another way that my bill would reduce schoolbus accidents is by assisting States to develop safer places for children to enter and leave their bus. For example, States could make bus stops more safe by increasing their visibility. Similarly, States could establish special safe areas in which children could disembark from busses, away from traffic.

The legislation also would require the Secretary of Transportation to promote the use and reduce the cost of hazard warning systems or sensors that alert schoolbus drivers of pedestrians or vehicles in, or approaching, the path of the schoolbus. These types of warning systems can be critical in saving the lives of young people. Unfortunatately, many school districts have failed to invest in such systems. One reason is that their cost can be high. We need to explore ways to reduce those costs.

Another provision in the bill would require the Secretary to improve training materials on schoolbus safety and to improve the distribution and availability of such materials to schools for use by the student safety patrols. The most effective way to protect schoolchildren is to teach them to protect themselves. The Department of Transportation can do more in this area.

My legislation also would promote research into the possibility of installing safety belts in schoolbuses.

Mr. President, in addition to the loss of life attributed to schoolbus accidents that I mentioned earlier, approximately 10,000 schoolbus passengers are injured every year. Most injuries occur during side and rollover collisions. In this type of collision, the compartmentalized seat does not protect children, who can fall up to 8 feet to strike the roof, windows, other seats, and other children.

To reduce these types of injuries, the State of New Jersey requires the installation and use of safety belts in all schoolbuses. New Jersey's State law in this area was adopted after a study by the New Jersey Office of Highway Traffic Safety into the safety of lap seatbelts in large school vehicles. That study concluded that installation of seatbelts in all schoolbuses would improve vehicles' overall safety performance. The study recommended that schoolbuses be required to be equipped with seatbelts, which led to later enactment of the New Jersey law.

Mr. President, I support this law and believe it should be adopted on a Nation-wide basis. It is nearly impossible for a bus without belts to rollover without causing injuries or death. However, I recognize that some in Washington believe more information is needed before establishing such a Federal requirement.

One cause of this skepticism is that the Federal Government does not study crashes in which there are no injuries. The National Transportation Safety Board only investigates bus crashes where there are severe injuries or fatalities. Therefore, the data they collect do not accurately reflect the benefits of safety belts in schoolbuses.

A bus with safety belts costs an average of $1,000 more than a bus without belts. With an estimated schoolbus life of 15 years, seatbelt installation would cost approximately $66 per bus per year.

Children are already required to wear seatbelts in cars. Installation of seatbelts on the standard size schoolbuses would reinforce the importance of wearing seatbelts, reduce injuries to our children, cost relatively little to install and maintain, and overall, makes schoolbus transportation safer for our children.

My bill would require the National Highway Traffic Safety Administration [NHTSA] to study the safety impact of safety belts on schoolbuses. It specifically requires that NHTSA evaluate the real life consequences of New Jersey's safety belt law. I am hopeful that the resulting study will help end the longstanding debate on this issue, so we can move forward to protect the lives of our Nation's children.

Mr. President, this legislation also requires the Secretary of Transportation to begin a rulemaking process to determine the feasibility and practicability of: First, decreasing the flammability of materials used in the construction of the interiors of schoolbuses; second, informing purchasers of schoolbuses on the secondary market that those buses may not meet current NHTSA standards; and third, establishing construction and design standards for wheelchairs used in the transportation of students in schoolbuses.

The bill also requires the Secretary to conduct a variety of studies designed to provide an accurate data base of schoolbus safety information. In addition, the bill, in response to requests from some States, calls for Federal guidelines on the securing in a schoolbus of children under the age of five, and on measures to facilitate their evacuation in an emergency.

Mr. President, the Omnibus School Transportation Safety Act of 1996 is comprehensive legislation that would dramatically reduce deaths and injuries of children associated with schoolbus accidents.

I hope my colleagues will support the bill, and ask unanimous consent that the text of the legislation, along with a section-by-section analysis of the bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1633

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

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the ''Omnibus School Transportation Safety Act of 1996''.

(b) FINDINGS.—The Congress finds the following:

(1) In the United States, school buses travel more than 4,000,000,000 miles each year to transport approximately 25,000,000 children to and from school and various school-related activities.

(2) School buses are specifically designed to carry children safely to and from school, and generally are operated by educational agencies that receive Federal assistance for educational activities.

(3) On the average, each year in the United States—

(A) 17 occupants are killed while riding school buses, of which—

(i) 10 pupils are killed while riding type I school buses with a gross weight rating of greater than 10,000 pounds, and those school buses are predominantly used in the United States;

(ii) 2 pupils are killed while riding other vehicles used as school buses; and

(iii) 5 drivers are killed while driving school buses;

(B) 38 children are killed in loading zones surrounding school buses;

(C) 480 children are seriously injured while riding school buses; and

(D) 160 children are seriously injured while boarding or leaving school buses.

(4) Although most crashes involving school buses are minor, some examples of serious crashes that have had tragic consequences, include—

(A) the school bus crash that occurred in Alton, Texas;

(B) the school bus crash that occurred in October of 1995, in Fox River Grove, Illinois; and

(C) the recent school bus crash outside of Green Bay, Wisconsin, that killed the driver.

(5) Each year approximately 35,000 school buses are manufactured in the United States. The components for those buses are produced in various locations throughout the United States. The few companies that manufacture those buses ship the buses throughout the United States and to foreign countries.

(6) Numerous Federal laws, including subtitle VI of title 49, United States Code, regulate school buses as commercial motor vehicles. Subtitle VI of title 49, United States Code, provides for—

(A) motor vehicle safety standards under chapter 311 of that subtitle; and

(B) the regulation of commercial motor vehicle operators under chapter 313 of that subtitle.

SEC. 2. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) BUS.—The term ''bus'' means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' means a local educational agency (as that term is defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)) that receives Federal funds.

(3) NATIONAL CRIMINAL HISTORY BACKGROUND CHECK SYSTEM.—The term ''national

criminal history background check system'' has the meaning given that term in section 5(6) of the National Child Protection Act of 1993 (42 U.S.C. 5119c(6)).

(4) NEWLY EMPLOYED.—With respect to the employment of a school bus driver by an employer, the term ''newly employed'' applies to the initial employment of an individual who has not been similarly employed by that employer.

(5) POSTSECONDARY INSTITUTION.—The term ''postsecondary institution'' means an institution of higher education, as that term is defined in section 481(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(1)).

(6) PRIVATE SCHOOL.—The term ''private school'' includes any private postsecondary institution.

(7) SCHOOL BUS.—The term ''school bus''—

(A) means a bus that is used for purposes that include carrying pupils to and from a public or private school or school-related events on a regular basis; and

(B) does not include a transit bus or a school-chartered bus.

(8) SCHOOL-CHARTERED BUS.—The term ''school-chartered bus'' means a bus that is operated under a short-term contract with State, local, or private school authorities, which have acquired exclusive use of the bus at a fixed charge in order to provide transportation for a group of pupils to a special school-related event.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(10) STATE.—The term ''State'' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 3. PROFICIENCY STANDARDS FOR SCHOOL BUS DRIVERS.

(a) PROFICIENCY STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations establishing proficiency standards for school bus drivers (including drivers of school-chartered buses) who are required under applicable State law to possess a commercial driver's license to operate a school bus.

(b) EXEMPTION FOR CERTAIN STATES.—The regulations issued under subsection (a) shall provide that a State may use State proficiency standards, in lieu of the standards established by such regulations, if—

(1) the State proficiency standards are established before the date on which the proficiency standards under such regulations are established; and

(2) the Secretary determines that such State proficiency standards are as rigorous as the proficiency standards under such regulations.

(c) DEMONSTRATION OF PROFICIENCY.—Upon the establishment of the proficiency standards under subsection (a), each school bus driver referred to in such subsection shall demonstrate (at such intervals as the Secretary shall prescribe) to the employer of the driver, the local educational agency, the State licensing agency, or other person or agency responsible for regulating school bus drivers, the proficiency of that driver in operating a school bus in accordance, as the case may be, with the proficiency standards—

(1) established by the regulations issued under subsection (a); or

(2) established by the State concerned and determined by the Secretary to be as rigorous as the proficiency standards established by the regulations issued under subsection (a).

SEC. 4. CRIMINAL BACKGROUND CHECKS OF SCHOOL BUS DRIVERS.

(a) PROHIBITION ON EMPLOYMENT PENDING CHECK.—Notwithstanding any other provision of law, no local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school, may newly employ an individual as a driver of a school bus of, or on behalf of, the agency or private school before the completion of a background check of that individual through the national criminal history background check system to determine whether the individual has been convicted of a crime which would warrant barring the person from duties as a driver of a school bus.

(b) BACKGROUND CHECK PROCEDURES.—

(1) IN GENERAL.—Each State shall establish procedures for conducting a background check under this section.

(2) REQUIREMENTS FOR PROCEDURES.—The procedures established under this subsection shall include the designation of an agency of the State to—

(A) carry out the background checks; and

(B) meet the guidelines set forth in section 3(b) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)).

(c) LIMITATION ON LIABILITY.—A local educational agency, private school, or a contractor providing school transportation services to a local educational agency or private school shall not be liable in an action for damages on the basis of a criminal conviction of a person employed by that agency or contractor as a school bus driver if—

(1) a background check of the person was conducted under this section; and

(2) the conviction was not disclosed to the local agency, private school, or contractor providing such transportation services pursuant to the background check.

(d) FEES.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may impose and collect a fee for providing assistance in the conduct of a background check under this section. The amount of such fee may not exceed the actual cost to the Federal Bureau of Investigation for providing such assistance.

(2) MONITORING.—The Attorney General of the United States shall monitor the collection of fees under this subsection for purposes of ensuring that—

(A) the fees are collected on a uniform basis; and

(B) the amounts collected reflect only the actual cost to the Federal Bureau of Investigation of providing assistance in the conduct of background checks under this section.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply to an individual newly employed by a local educational agency, private school, or contractor providing school transportation services to a local educational agency or private school beginning on the later of—

(A) the date that is 60 days after the date of enactment of this Act; or

(B) the date on which the State agency in which the local educational agency, private school, or contractor providing such transportation services is located establishes the procedures required under subsection (c).

(2) BACKGROUND CHECKS CONDUCTED BY THE FBI.—

(A) IN GENERAL.—To the maximum extent practicable, during the period specified in subparagraph (B), a local educational agency, private school, or contractor providing school transportation services shall request that the Federal Bureau of Investigation conduct a background check with fingerprints of each individual newly employed by the local educational agency, private school, or contractor as a school bus driver of the local educational agency, private school, or contractor.

(B) PERIOD OF APPLICABILITY.—Subparagraph (A) shall apply to a local educational agency, private school, or contractor providing school transportation services during the period beginning on the date of enactment of this Act and ending on the date of applicability of this section, as determined under paragraph (1).

(f) FUNDING.—

(1) VIOLENCE PREVENTION PROGRAMS.—Section 4116(b)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7116(b)(5)) is amended by striking ''and neighborhood patrols'' and inserting ''neighborhood patrols, and criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996''.

(2) INNOVATIVE EDUCATION ASSISTANCE.—Section 6301(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7351(b)) is amended—

(A) by striking ''and'' at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting ''; and''; and

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

''(9) the carrying out of criminal background checks of potential drivers of school buses under section 4 of the Omnibus School Transportation Safety Act of 1996.''.

SEC. 5. DEVELOPMENT OF INTELLIGENT VEHICLE-HIGHWAY SYSTEMS FOR SCHOOL BUS SAFETY.

Section 6055(d) of the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; and''; and

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

''(4) ensure that 1 or more operational tests advance the use and reduce the cost of intelligent vehicle-highway system technologies (including hazard warning systems or sensors) that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.''.

SEC. 6. STUDY OF OCCUPANT RESTRAINTS IN SCHOOL BUSES.

(a) STUDY.—The National Transportation Safety Board organized under chapter 11 of title 49, United States Code, shall conduct a study on the safety consequences of the requirement of the State of New Jersey for lap belts in school buses.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Chairman of the National Transportation Safety Board shall submit to the Congress a report containing the findings of the study conducted under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Transportation Safety Board to carry out this section $100,000, which shall remain available until expended.

SEC. 7. TRAFFIC ENGINEERING ACTIVITIES TO IMPROVE SCHOOL BUS SAFETY.

Notwithstanding any other provision of law, the Secretary shall ensure that each State receiving aid to conduct highway safety programs under section 402(c) of title 23, United States Code, may utilize a portion of such aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses.

SEC. 8. DETERMINATION OF PRACTICABILITY AND FEASIBILITY OF CERTAIN SAFETY AND ACCESS REQUIREMENTS FOR SCHOOL BUSES.

(a) COMMENCEMENT OF RULEMAKING PROCESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall commence or continue to carry out a rulemaking process to determine the feasibility and practicability of—

(1) a requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

(2) a requirement that individuals, local educational agencies, or companies that sell in the secondary market school buses that may be used in interstate commerce inform purchasers of those buses that those buses may not meet applicable National Highway Transportation Safety Administration standards or Federal Highway Administration standards; and

(3) the establishment of construction and design standards for wheelchairs used in the transportation of pupils in school buses.

(b) FINAL RULE.—Not later than 30 months after the date of enactment of this Act, the Secretary shall issue a final regulation providing for any requirement or standard referred to in paragraph (1), (2), or (3) of subsection (a) that the Secretary determines to be feasible and practicable.

(c) REPORT TO CONGRESS.—If the Secretary makes a determination that a requirement or standard referred to in paragraph (1), (2), or (3) is not feasible or practicable, not later than the date specified in subsection (b), the Secretary shall prepare and submit to the Congress a report that provides the reasons for that determination.

SEC. 9. GUIDELINES FOR SAFE TRANSPORTATION OF CHILDREN BY SCHOOL BUS.

The Administrator of the National Highway Traffic Safety Administration shall develop and disseminate guidelines for ensuring the safe transportation in school buses of children under the age of 5. Those guidelines shall include recommendations for the evacuation of such children from such buses in the event of an emergency.

SEC. 10. DISSEMINATION OF INFORMATION ON SCHOOL BUS SAFETY.

(a) DISSEMINATION OF INFORMATION.—In carrying out research on highway safety under section 403 of title 23, United States Code, in consultation with the appropriate officials or representatives of the American Automobile Association, State educational agencies, and highway safety organizations, the Secretary shall provide for the improvement of—

(1) training materials on school bus safety; and

(2) the distribution and availability of such materials to public and private schools for use by the student safety patrols of those schools and to appropriate law enforcement agencies.

(b) FUNDING.—Notwithstanding any other provision of law, of the funds made available to the Secretary for research on highway safety and traffic conditions under section 403 of title 23, United States Code, for each of fiscal years 1996 through 2001, $100,000 shall be available for each of those fiscal years for the purposes of carrying out this section.

SEC. 11. STUDY AND REPORT ON SCHOOL BUS SAFETY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall carry out a study to determine—

(A) the extent to which public transit vehicles (as defined by the Secretary) are engaged in school bus operations;

(B) the point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law; and

(C) the differences between school bus operations carried out directly by schools or local educational agencies and school bus operations carried out by schools or local educational agencies by contract or tripper service (as defined by the Secretary).

(2) AREAS.—The study conducted under this subsection shall address the differences between the services and operations referred to in paragraph (1)(C) in terms of—

(A) crash injury data;

(B) driver and carrier requirements;

(C) passenger transportation requirements;

(D) routes and operational requirements that affect safety;

(E) vehicle attributes that affect safety;

(F) bus construction and design standards;

(G) Federal and State operating assistance (per passenger, per mile, per hour);

(H) total operating costs;

(I) Federal and State capital assistance (per passenger, per mile, per hour);

(J) total capital costs; and

(K) any other factor that the Secretary considers appropriate.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the committees described in paragraph (2) a report on the results of the study carried out under subsection (a).

(2) COMMITTEES.—The committees referred to in paragraph (1) are—

(A) the Committee on Environment and Public Works of the Senate;

(B) the Committee on Commerce, Science, and Transportation of the Senate;

(C) the Committee on Appropriations of the Senate;

(D) the Committee on Transportation and Infrastructure of the House of Representatives;

(E) the Committee on Commerce of the House of Representatives; and

(F) the Committee on Appropriations of the House of Representatives.

SEC. 12. IMPROVED INTERSTATE SCHOOL BUS SAFETY.

(a) APPLICABILITY OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS TO INTERSTATE SCHOOL BUS OPERATIONS.—Section 31136 of title 49, United States Code, is amended—

(1) by striking the second sentence of subsection (e); and

(2) by adding at the end the following new subsection:

''(g) APPLICABILITY TO SCHOOL TRANSPORTATION OPERATIONS OF LOCAL EDUCATIONAL AGENCIES.—Not later than 18 months after the date of enactment of this subsection, the Secretary shall issue regulations making the relevant commercial motor carrier safety regulations issued under subsection (a) applicable to all interstate school transportation operations by local educational agencies (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801)).''.

(b) EDUCATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and implement an education program informing all local educational agencies that those agencies are required to comply with the Federal commercial motor vehicle safety regulations issued under section 31136 of title 49, United States Code, when providing interstate transportation on a school bus vehicle to and from school-sanctioned and school-related activities.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

OMNIBUS SCHOOL TRANSPORTATION SAFETY ACT OF 1996—SECTION BY SECTION

Sec. 1: Short Title; Findings.

Sec. 2: Definitions.

Sec. 3: Directs the Secretary to prescribe proficiency standards for school bus drivers.

At present, school bus drivers are required to have a Commercial Drivers License (CDL). However, CDL training for bus drivers is geared primarily towards commercial motor carrier drivers. ''Inattention'' and ''failure to yield'' were the factors most often reported by police for school bus drivers striking a school-age pedestrian. A school bus driver faces unique driving and pupil control situations that current CDL training does not address. This section will require school bus drivers to be trained to handle these unique situations before they are allowed on the road.

Sec. 4: Requires states to conduct federal background checks with fingerprints of prospective school bus drivers.

School bus drivers are alone and off of school property with students for extended periods of time. At present, 18 States conduct Federal background checks, 14 States only do state background checks, and 18 States do no background checks on potential drivers. State background checks are not sufficient. Someone can easily move from one State to another and leave their criminal history behind. This provision is designed to ensure that parents know who is alone with their children. Just 2 months after requiring fingerprint criminal background checks, California screened out 150 convicted sex offenders, child molesters and violent criminals who tried to get permits to drive school buses. Funding to assist states that are not already committing resources to this type of activity is provided through the Department of Education's crime free school program.

Sec. 5: Directs the Secretary to do one or more operation tests to advance the use and reduce the cost of hazard warning systems that alert school bus drivers of pedestrians or vehicles in, or approaching, the path of the school bus.

Two out of every three children killed in school bus related accidents are killed outside the school bus. Many are struck by their own school bus. The causes vary from driver inattentiveness, blind spots, or children's clothing being caught on a part of the bus causing the bus to drag the child to death. These accidents occur in the bus' ''danger zone.'' While there are electronic devices on the market that are designed to detect and warn drivers when an object is in the danger zone, most are expensive and have reliability problems. The goal of this section is to increase the reliability and reduce the cost of existing technology.

Sec. 6: Directs to the National Transportation Safety Board to study the safety consequences of required use of safety belts in New Jersey school buses.

Approximately 10,000 school bus passengers are injured every year. Most injuries and fatalities in the bus occur during side and rollover collisions. In these types of collisions the ''compartmentalized'' seat does not protect children who fall about eight feet and strike the roof, windows, seats and other children. Safety belts have been standard equipment in passenger automobiles for quite some time, and they have proven to be effective life-saving and injury-preventing devices. However, not all school buses are required to be equipped with seat belts.

The debate on whether or not safety belts should be required on school buses is heated. However, the lack of sufficient data, makes an accurate estimate on the effectiveness of school bus seat belts very difficult. Therefore, my bill directs the National Transportation Safety Board to study the safety consequences of the use of safety belts in New Jersey school buses. New Jersey is the only State which has mandatory school bus safety belt use and it will provide an excellent opportunity for researchers to build the base of knowledge on this subject that we need to determine if safety belts in school buses should be the norm.

Sec. 7: Provides aid for the purpose of conducting traffic engineering activities in order to improve the safe operation of school buses in the ''danger zone.''

An overwhelming number of students are killed during the loading and unloading of the school bus. Proper engineering of loading and unloading zones will improve the safety and reduce the number of accidents and fatalities which take place in the ''danger zone.'' This provision will allow States to utilize section 402(C) funds to assist in the development of safety guidelines for the construction and selection of school bus loading and un-loading zones.

Sec. 8: Requires the Secretary to begin a rulemaking process to determine the feasibility and practicality of:

A requirement for a decrease in the flammability of the materials used in the construction of the interiors of school buses;

A requirement that sellers of school buses in the secondary market inform purchasers that such buses may not meet current National Highway Transportation Safety Administration or Federal Highway Administration standards and;

Establishing construction and design standards for wheelchairs used in the transportation of students in school buses.

Reduction of the flammability of material in school buses continues to be on the National Transportation Safety Board's most wanted list. NTSB made this recommendation after the 1988 Carrollton, KY bus accident. In that incident, a pre-1977 school bus was struck by a pick-up truck. The bus' gas tank was ruptured and a fire ensued, engulfing the entire bus. The bus driver and 26 bus passengers were fatally injured. Had stricter flammability requirements been in effect during construction of this bus the NTSB believes more of the passengers could have escaped the bus without serious injury.

Used school buses are a popular form of transportation for church groups and civic organizations. Unfortunately, many of these groups believe that school buses are built to the highest safety standards available. This is not the case. Therefore, the bill would require that potential purchasers of used buses are made aware of this fact so they can modify their uses of the bus based upon the level of safety the bus offers in certain situations.

While there are Federal standards relating to how wheelchairs must be secured into school buses, there are no standards for the wheelchairs themselves. This provision is designed to ensure that students who use a wheelchair are afforded maximum protection in case of a school bus accident.

Sec. 9: Requires NHTSA to develop and disseminate guidelines on securing children under the age of five in school buses and on evacuating those same children from school buses.

For one reason or another school districts are beginning to transport more and more children below the age of five in traditional school buses. Most, if not all, school buses and school bus seats are designed to accommodate and protect children age five and older. In addition, state laws and common sense dictate that children under the age of four use a car seat when riding in a motor vehicle. Many communities are struggling with the appropriate way to safely transport children below the age of five in school buses. This provision would require NHTSA to develop guidelines on securing young children in school buses. The provision also addresses the problems evacuation of children in car seats could pose in an emergency.

Sec. 10: Requires the Secretary to improve and distribute school bus safety information.

Every year approximately 20 children are killed outside their school bus. They are either struck by their own bus or by another vehicle. One of the most effective ways to prevent these types of accidents is to properly educate children and their parents to these dangers. While a variety of safety information is available, it is not widely distributed. This provision would require the Secretary to review existing safety material, make improvements if necessary and then ensure that the material is adequately distributed to children and parents.

Sec. 11: Require the Secretary to carry out a study to determine the following:

The extent to which public transit vehicles are engaged in school bus operations;

The point at which a public transit vehicle is sufficiently engaged in such operations as to be considered a school bus for purposes of regulation under Federal law and;

The differences between school bus operations carried out directly by schools or school districts and school bus operations carried out by schools or school districts by contract.

Federal law prohibits school districts from contracting out to the local municipal bus service to carry out the school district's pupil transportation activities. However, there are some specific exceptions to this rule. With present budget pressures school districts are increasingly looking to take advantage of these exceptions also known as ''tripper service.'' This provision is designed to determine how many communities may be using tripper service as a means of school transportation, at what point a municipal bus engaged in tripper service should be considered a school bus, and the differences between contracted school bus operations and non-contracted school bus operations.

Sec. 12: Extends the applicability of Federal Motor Carriers Safety Regulations to the school transportation operations of Local Education Agencies.

When operating across State lines, school buses almost without exception must use the same highways—many of them high-speed arteries—as other vehicles. The speeds attained are considerably greater and there is an elevated risk of associated driver fatigue. This fact underscores the need for comprehensive and consistent application of the FMCSR's to any school bus operating across state lines when engaged in school-related and sanctioned activities.

Since their inception in 1935, the FMCSR's have been incrementally modified. For example, in 1989 the FHWA issued modifications which for the first time subjected all interstate contractor-operated school transportation operations to the FMCSR's. In 1994, the FHWA extended application of the FMCSR's to most interstate private bus operations such as scout groups and churches. My bill would extend the applicability of FMCSR's to buses used by local education agencies which are used in interstate commerce.

Sec. 13: Authorization of Appropriations.●

By Mr. DOLE (for himself, Mr. THURMOND, Mr. STEVENS, Mr. HELMS, Mr. COCHRAN, Mr. WARNER, Mr. LOTT, Mr. KYL, Mr. SMITH, Mr. INHOFE, Mr. NICKLES, Mr. KEMPTHORNE, Mr. ABRAHAM, Mr. MCCAIN, Mrs. HUTCHISON, Mr. COATS, Mr. COHEN, Mr. SANTORUM, Mr. MACK, and Mr. DOMENICI):

S. 1635. A bill to establish a United States policy for the deployment of a national missile defense system, and for other purposes; to the Committee on Armed Services.

THE DEFEND AMERICA ACT OF 1996

Mr. DOLE. Mr. President, today I rise to introduce legislation which will have a profound impact on America's future. I am pleased to be joined by the chairman of the Armed Services and Foreign Relations Committees, the chairman of the Defense Appropriations Subcommittee, the Republican leadership, and other Republicans strongly interested in missile defense, in introducing the Defend America Act of 1996. An identical bill is being introduced in the House by the Speaker and the chairmen of the Appropriations Committee and the National Security Committee, among others. This bill addresses the most fundamental responsibility the U.S. Government has to its citizens: to protect them from harm. At present, the United States has no defense—I repeat—no defense against ballistic missiles.

The Defend America Act of 1996 answers the question of whether Americans should be protected from the threat of ballistic missile attack with a resounding ''Yes.'' There should be no doubt that we have the technical capability to defend our great Nation from the growing threat of ballistic missiles. What we need is the will and the leadership. We have seen no leadership from the White House on this issue. Indeed, we have witnessed a complete denial from the highest levels of the administration that there is even a threat to the United States. President Clinton vetoed the fiscal year 1996 Defense authorization bill because it required developing a national missile defense system for deployment by the end of 2003. President Clinton refuses to defend America preferring to rely on the false protection of the cold-war-era antiballistic missile [ABM] treaty.

The cold war is over and the threat from ballistic missiles is real and growing. Among others, North Korea, Iran, Libya, Iraq, and Syria are seeking to obtain weapons of mass destruction and ballistic missile delivery systems. China and Russia have been engaged in transferring related components and technologies.

Just last week, the former Director of the Central Intelligence Agency, James Woolsey testified before the House National Security Committee on his views of the threat posed by ballistic missiles—as well as the current national intelligence estimate on this threat. I would like to quote from his testimony:

> We are in the midst of an era of revolutionary improvements in missile guidance. These improvements will soon make ballistic missiles much more effective for blackmail purposes . . . even without the need for warheads containing weapons of mass destruction. . . .
>
> With such guidance improvements, it is quite reasonable to believe that within a few years Saddam or the Chinese rulers will be able to threaten something far more troubling . . .

Woolsey went on to say:

> But, in current circumstances, nuclear blackmail threats against the United States may be effectively posed by North Korean intermediate ranged missiles targeted on Alaska or Hawaii, or by Chinese ICBM's targeted on Los Angeles.

With respect to the national intelligence estimate, Woolsey criticized the narrow focus of the estimate which concentrated on indigenous intercontinental ballistic missile development—as opposed to the transfer of such components and technology. As Woolsey pointed out, since the end of the cold war, Russia, China, and North Korea have been actively exporting missile technology and components. Furthermore, Woolsey noted that the national intelligence estimate only looked at the threat to the 48 continental States. Well, the last time I checked, Alaska and Hawaii were part of the United States. The bottom line is that the threat is real and we cannot wait for it to arrive on our doorstep before we act. As former Assistant Secretary of Defense Richard Perle stated before the National Security Committee, and I quote:

> If we achieve a defensive capability a little before it is absolutely necessary, no harm will have been done. But if we are too late, the result could be catastrophic. In cases like this, it is always wise to err on the side of too much, too soon, rather than too little, too late.

Mr. President, this legislation establishes a clear policy to deploy a national missile defense [NMD] system by the end of 2003, that is capable of providing a highly effective defense of U.S. territory against limited, unauthorized, or accidental ballistic missile attacks. The bill also specifies the components of a national missile defense system that are to be developed for deployment, including: An interceptor system, fixed ground-based radars, space-based sensors, and battle management, command, control, and communications.

To implement this policy, this legislation directs the Secretary of Defense to: Promptly initiate planning to meet this deployment goal; conduct by the end of 1998, an integrated systems test using NMD components; to use streamlined acquisition procedures to reduce cost and increase efficiency; and to develop a follow-on NMD program.

The Secretary of Defense is also required to submit a detailed report to the Congress no later than March 15, 1997, which outlines his plans for implementing this policy, the estimate costs associated with the development and deployment of the NMD system, a cost and operational effectiveness analysis of follow-on options, and a determination of the point at which NMD development would conflict with the ABM Treay.

With respect to the ABM Treaty, the legislation urges the President to bring the Russians on board, by pursuing high-level discussions with Russia to amend the ABM Treaty to allow for the deployment of the NMD system specified in this act. If the Russians do agree, the legislation requires any agreement to be submitted to the Senate for advice and consent. However, if a satisfactory agreement is not reached within a year of the date of enactment of this legislation, the President and Congress will consider U.S. withdrawal from the ABM Treaty.

Mr. President, deploying a national missile defense system—which will protect all 50 States—should be our top defense priority. The Defend America Act lays out a realistic and responsible course by which we can do so.

A national missile defense system will not only defend, it will deter—by reducing the incentive of rogue regimes to acquire ballistic missiles and weapons of mass destruction.

I hope that the White House is listening. Republicans are united and clear in their message that America must be defended. We are ready to exercise leadership to fulfill our responsibility to all Americans to protect them from ballistic missile attack.

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. 1635

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 ''Defend America Act of 1996''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Although the United States possesses the technological means to develop and deploy defensive systems that would be highly effective in countering limited ballistic missile threats to its territory, the United States has not deployed such systems and currently has no policy to do so.

(2) The threat that is posed to the national security of the United States by the proliferation of ballistic missiles is significant and growing, both quantitatively and qualitatively.

(3) The trend in ballistic missile proliferation is toward longer range and increasingly sophisticated missiles.

(4) Several countries that are hostile to the United States (including North Korea, Iran, Libya, and Iraq) have demonstrated an interest in acquiring ballistic missiles capable of reaching the United States.

(5) The Intelligence Community of the United States has confirmed that North Korea is developing an intercontinental ballistic missile that will be capable of reaching Alaska or beyond once deployed.

(6) There are ways for determined countries to acquire missiles capable of threatening the United States with little warning by means other than indigenous development.

(7) Because of the dire consequences to the United States of not being prepared to defend itself against a rogue missile attack and the long-lead time associated with preparing an effective defense, it is prudent to commence a national missile defense deployment effort before new ballistic missile threats to the United States are unambiguously confirmed.

(8) The timely deployment by the United States of an effective national missile defense system will reduce the incentives for countries to develop or otherwise acquire intercontinental ballistic missiles, thereby inhibiting as well as countering the proliferation of missiles and weapons of mass destruction.

(9) Deployment by the United States of a national missile defense system will reduce concerns about the threat of an accidental or unauthorized ballistic missile attack on the United States.

(10) The offense-only approach to strategic deterrence presently followed by the United States and Russia is fundamentally adversarial and is not a suitable basis for stability in a world in which the United States and the states of the former Soviet Union are seeking to normalize relations and eliminate Cold War attitudes and arrangements.

(11) Pursuing a transition to a form of strategic deterrence based increasingly on defensive capabilities and strategies is in the interest of all countries seeking to preserve and enhance strategic stability.

(12) The deployment of a national missile defense system capable of defending the United States against limited ballistic missile attacks would (A) strengthen deterrence at the levels of forces agreed to by the United States and Russia under the START I Treaty, and (B) further strengthen deterrence if reductions below START I levels are implemented in the future.

(13) Article XIII of the ABM Treaty envisions ''possible changes in the strategic situation which have a bearing on the provisions of this treaty''.

(14) Articles XIII and XIV of the treaty establish means for the parties to amend the treaty, and the parties have in the past used those means to amend the treaty.

(15) Article XV of the treaty establishes the means for a party to withdraw from the treaty, upon six months notice ''if it decides that extraordinary events related to the subject matter of this treaty have jeopardized its supreme interests''.

(16) Previous discussions between the United States and Russia, based on Russian President Yeltsin's proposal for a Global Protection System, envisioned an agreement to amend the ABM Treaty to allow (among other measures) deployment of as many as four ground-based interceptor sites in addition to the one site permitted under the ABM Treaty and unrestricted exploitation of sensors based within the atmosphere and in space.

SEC. 3. NATIONAL MISSILE DEFENSE POLICY.

(a) It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of providing a highly-effective defense of the territory of the United States against limited, unauthorized, or accidental ballistic missile attacks; and

(2) will be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats as they emerge.

(b) It is the policy of the United States to seek a cooperative transition to a regime that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 4. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 3(a), the Secretary of Defense shall develop for deployment an affordable and operationally effective National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) by the end of 2003.

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include the following elements:

(1) An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited, accidental, or unauthorized ballistic missile attacks and includes one or a combination of the following:

(A) Ground-based interceptors.

(B) Sea-based interceptors.

(C) Space-based kinetic energy interceptors.

(D) Space-based directed energy systems.

(2) Fixed ground-based radars.

(3) Space-based sensors, including the Space and Missile Tracking System.

(4) Battle management, command, control, and communications (BM/C³).

SEC. 5. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 4(a);

(2) plan to conduct by the end of 1998 an integrated systems test which uses elements (including BM/C³ elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 4(b);

(3) prescribe and use streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 4(a); and

(4) develop an affordable national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 4(a), and

(B) augments that system, as the threat changes, to provide for a layered defense.

SEC. 6. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than March 15, 1997, the Secretary of Defense shall submit to Congress a report on the Secretary's plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary's plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 4(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary's estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1997 through 2003 in order to achieve the initial operational capability date specified in section 4(a).

(3) A cost and operational effectiveness analysis of follow-on options to improve the effectiveness of such system.

(4) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for the Secretary's determination, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 4(a).

SEC. 7. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 2 and the policy established in section 3, Congress urges the President to pursue high-level discussions with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 4.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 8. ABM TREATY DEFINED.

For purposes of this Act, the term ''ABM Treaty'' means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

Mr. THURMOND. Mr. President, I am extremely proud to be a principal cosponsor of the Defend America Act of 1996, which was introduced by Senator DOLE today. This legislation will fill a glaring void in U.S. national security policy by requiring the deployment of a national missile defense system by 2003 that is capable of defending the United States against a limited, accidental, or unauthorized ballistic missile attack.

Ironically, most Americans already believe that we have such a system in place. This assumption is understandable since under the Constitution the President's first responsibility is to provide for the defense of the American homeland. Unfortunately, the current President has decided that this obligation is one that can be indefinitely delayed. I join Senator DOLE and others today in proclaiming that the time has come to end America's complete vulnerability to ballistic missile blackmail and attack.

The President and senior members of the administration have argued that there is no threat to justify deployment of a national missile defense system. This is simply not true. The political and military situation in the former Soviet Union has deteriorated, leading to greater uncertainty over the control and security of Russian strategic nuclear forces. China is firing missiles near Taiwan as if it were a skeet range, and has even made veiled threats against the United States. North Korea is developing an intercontinental ballistic missile that will be capable of reaching the United States once deployed. Other hostile and unpredictable countries, such as Libya, Iran, and Iraq, have made clear their desire to acquire missiles capable of reaching the United States. The technology and knowledge to produce missiles and weapons of mass destruction is available on the open market.

China's recent provocations against Taiwan highlight the need for the United States to deploy a national missile defense system as soon as possible. Although veiled threats against the United States may be only saber rattling, American military and political leaders should not ignore them. If the United States possessed even a limited national missile defense system, U.S. decision-makers would have a much greater degree of flexibility in considering our military and diplomatic options. A vulnerable America is not only subject to missile attack, but also to blackmail and intimidation.

Last year, President Clinton vetoed the Defense authorization bill mainly because it called for deployment of a national missile defense system. The administration argued that there was no need for such a system, that the threat is 10 or 15 years away. China has clearly illustrated how their judgment is flawed. The threat is here today.

If the situation should deteriorate between China and Taiwan, President Clinton will almost certainly regret the fact that the United States has no means of dealing with Chinese missile threats other than by our own nuclear threats. This is hardly a credible response. A national missile defense system, on the other hand, would eliminate the risk and uncertainty that would surely occur if China and the United States engaged in a series of nuclear threats and counterthreats. This would be an invitation for disaster. If we had an operational national missile defense system, we could confidently deal with Chinese missile threats and pursue our policies and objectives without intimidation.

The other important factor to bear in mind when considering the need for a national missile defense system, is that such a system can actually discourage countries from acquiring long-range missiles in the first place. In this sense, we should view national missile defense as a powerful nonproliferation tool, not just something to be considered some time in the future as a response to newly emerging threats.

The policy advocated in the Defend America Act of 1996 is virtually identical to that contained in the fiscal year 1996 Defense Authorization Act, which was passed by Congress and vetoed by the President. Like the legislation vetoed by the President, the Defend America Act of 1996 would require that the entire United States be protected against a limited, accidental, or unauthorized attack by the year 2003. It differs from the vetoed legislation in that it provides the Secretary of Defense greater flexibility in determining the precise architecture for the system.

The Defend America Act of 1996 urges the President to begin negotiations to amend the AMB Treaty to allow for deployment of an effective system. But it also recommends that, if these negotiations fail to produce acceptable amendments within 1 year, Congress and the President should consider withdrawing the United States from the ABM Treaty. Nothing in this legislation, however, requires or advocates abrogation or violation of the ABM Treaty.

Mr. President, 3 months ago, the President of the United States vetoed

the Defense authorization bill because he opposed the deployment of a system to defend the American people against ballistic missile attack. Today, I am honored to join Senator DOLE in sending a clear message—we will not stand idly by while the United States remains undefended against a real and growing threat. The legislation we are introducing today will fulfill a constitutional, strategic, and moral obligation that has been neglected for 4 years.

Mr. MCCAIN. Mr. President, I am proud to cosponsor this legislation to establish a policy for deploying a national defense system for the United States. This bill, the National Missile Defense Act of 1996, returns the United States on a clear path toward deploying a system to defend the American people against limited, accidental, or unauthorized ballistic missile attacks.

In 1991, the Congress enacted the first Missile Defense Act, in a bipartisan effort to give direction to the Strategic Defense Initiative program, now known as the Ballistic Missile Defense program. The need for theater missile defense systems had been tragically demonstrated during the Persian Gulf war, and it was clear that the potential threats to our continent would continue to exist, even with the collapse of the Soviet Union.

Subsequently, that policy was watered down and its deployment objectives were delayed time and again. I congratulate Senator DOLE for taking the lead today in restoring much-needed direction to our national missile defense efforts.

Our Nation has invested over $38 billion on missile defense programs over the past 15 years, with very little effective defensive capability to show for it. We are at a turning point in the development of capabilities to effectively defend our citizens and our troops deployed overseas from the devastating effects of ballistic missile attacks.

We should focus our missile defense programs on the risk of accidental or unauthorized missile launch, missile proliferation in the Third World, and particularly the risk of theater missile attacks on our forces and allies.

Deployment of effective, mobile theater missile defense systems for our troops in the field should be our first priority. To do so requires an evaluation of the many ongoing research programs to determine which demonstrates the most promise for deployable capability against battlefield missile attacks.

I am greatly disappointed that the administration chose to ignore Congressional direction and cut the theater missile defense funding approved by the Congress last year. The core programs identified in the fiscal year 1996 Defense authorization bill, including both lower and upper tier systems, must be fully funded to ensure the most effective protection for our troops in the field. I fully expect Congress to restore the funding and restate the programmatic direction to make these systems available to our forces.

At the same time, we must develop a deployment plan for an initial national missile defense system to provide an effective defense of U.S. territory against limited ballistic missile attacks. This bill establishes a goal of 2003 to deploy such a system and directs the Secretary of Defense to develop a plan to implement that goal. It is now up to the Congress to provide the funding to develop and procure the most cost-effective system.

Both efforts, toward theater and national missile defense systems, must balance the critical need for defenses with the reality of fiscal constraints. Every effort should be made to engage our allies both financially and technically in developing these systems.

Mr. President, the threat of proliferation is too great to ignore. We must not replace the nuclear confrontation of the cold war with vulnerability to dictators, extremists, and nations who threaten us with nuclear blackmail, or our forces and allies with missile attack. Without effective, deployed missile defense systems, we remain at risk.

I intend to work with Senator DOLE to achieve early passage of this legislation in the Senate, and I urge President Clinton to approve it to ensure the safety of the American people.

Mr. WARNER. Mr. President, I am proud to join the Republican leadership of both the Senate and the House, and all Republican members of the Senate Armed Services Committee, as an original cosponsor of the Defend America Act of 1996. I call on all Members of Congress to join us in our effort to protect the citizens of the United States from ballistic missile attack.

Earlier this year, President Clinton's veto of the Defense authorization bill forced us to reluctantly drop the important national missile defense provisions that we had included in that bill. At that time, we promised that we would be back with separate legislation to provide for the defense of the United States. With the introduction of today's legislation, we have fulfilled that promise and will continue the fight until this legislation is enacted into law—over President Clinton's veto, if necessary.

Many Americans find it hard to believe that we currently have no system in place which could defend our Nation against even a single intercontinental ballistic missile strike. This, despite the fact that Russia and China currently have the capability to reach our shores with their intercontinental ballistic missiles; and North Korea is well on its way to deploying a long-range missile capable of striking Alaska. In addition, over 30 nations now have short-range ballistic missiles—30 nations, many hostile to the United States. As China's saber rattling against Taiwan continues, we hear reports of veiled threats from China of a missile attack against California—something they are very capable of doing. And today's papers report that Iraq continues to possess Scud missiles.

The need for defenses against these capabilities is clear. The cold war may be over, but the desire of more and more nations to acquire ballistic missiles is growing.

But the Clinton administration believes there is no threat, and they have presented the Congress with a defense budget request which ''slow rolls'' our ballistic missile defense efforts. The American people deserve better.

That is why I have long been in the forefront of the Republican effort to provide both our troops deployed overseas and Americans here at home with adequate defenses to counter the very real threat of ballistic missile attack. I drafted the Missile Defense Act of 1991 which—in the aftermath of the Iraqi Scud missile attacks—set the United States on the path to acquiring and deploying theater and national missile defense systems. I also joined with my Republican colleagues on the Armed Services Committee in drafting the Missile Defense Act of 1995, an update of the earlier Missile Defense Act. Unfortunately, as I mentioned earlier, President Clinton's veto stopped that Republican effort to defend Americans.

The Defend America Act calls for the deployment of a national missile defense (NMD) system to protect the United States against limited, unauthorized or accidental ballistic missile attacks. It is important to emphasize that we are talking about a limited system—one that would provide a highly effective capability against a limited ballistic missile attack. This is precisely the type of defensive system we need to deal with the threats we are facing in the post-cold-war world.

A key difference between the Defend America Act and the missile defense legislation adopted last year, is that the current bill does not require the deployment of a specific NMD system. Rather, it establishes the requirement to deploy a system by a date certain, but leaves it to the Secretary of Defense to propose a plan by March 15, 1997, to implement this requirement. This is a prudent approach which focuses the debate on the real issue—do you want to defend the American people against ballistic missile attacks?

Mr. President, we all remember the Iraqi Scud missile attacks on our forces in Saudi Arabia, and our friends in Israel. I was in Tel Aviv during the last Scud attack—February 18, 1991.

I do not want to see U.S. citizens subjected to the terror I witnessed in Israel. I pray that we never see a time when Americans are forced to carry gas masks around because some madman is threatening our shores. We owe it to our citizens to take action now—before it is too late—to provide them with effective defenses against these types of attacks.

Mr. SMITH. Mr. President, I rise in strong support of the legislation introduced today by Senator DOLE regarding

national missile defense. I am proud to be an original cosponsor, and I want to commend Senator DOLE for his steadfast commitment to defending America.

Mr. President, our Nation is walking a very dangerous tightrope. For reasons that are unknown and certainly inconceivable to most Americans, President Clinton refuses to defend our country against ballistic missiles, even though the technology to do so is available today.

The truth is our Nation is absolutely, completely vulnerable to ballistic missiles. We have no defense whatsoever against a missile targeted on our territory, our industry, our national treasures, or our people. The Patriot missiles that everyone remembers from Desert Storm 5 years ago are not capable of stopping a long-range missile. In fact, they can only defend very small areas against short-range missiles. The Patriot is a point-defense system that we send along with our troops when they go into harm's way.

But here at home we have no defenses against long-range missiles based in China, in Russia, or in North Korea. We have no defenses against the missiles that Iran, Iraq, Syria, and Libya are so vigorously seeking to acquire. That is the truth. That is a fact. And that is unacceptable.

When told of this situation, the vast majority of Americans become enraged. They cannot understand why their elected Representatives would leave them defenseless against the likes of Saddam Hussein, Mu'ammar Qadhafi, or Kim Jong-Il. They cannot understand why the tax dollars that they contribute for national defense are not being used to protect them. Frankly, they have every right to be upset. There is simply no excuse.

The Congress agrees with the American people and took action last year to defend all Americans against ballistic missiles, whatever their source. In the Defense authorization bill for fiscal year 1996, Congress established a program to develop and deploy a national missile defense system for the United States. This program was not some elaborate star wars concept, but rather, a very modest yet capable ground-based system that would provide a limited defense of America against accidental, unauthorized, or hostile missile attacks.

But President Clinton vetoed the Defense bill specifically because of the requirement to defend America. In fact, in his statement of administration policy, the President called national missile defense quote ''unwarranted and unnecessary.''

Mr. President, that is a very insightful quote, and it gets right to the heart of the differences between President Clinton, Presidential candidate BOB DOLE, and the Republican Congress. To President Clinton, providing for the common defense is ''unwarranted and unnecessary.'' To the Congress and Senator DOLE, it is the most fundamental of our constitutional responsibilities.

Simply put, this is a defining issue. It is an issue that defines our Nation's character and commitment to its people. It is an issue that defines the two parties. It is an issue that defines the very basic difference between two men who are seeking the Presidency. It is an issue that history will undoubtedly look back and pass judgment upon and, for better or worse, it is an issue that will define our generation.

Mr. President, if we fail to take action to defend America now, while we still have the chance, we will certainly regret it. At some point in the very near future, we will have waited too long. The theoretical threat of a hostile ballistic missile launch will have become a reality. And we will have no defense against it.

What will it take for President Clinton to recognize this threat? Must a ballistic missile equipped with a chemical, biological, or nuclear warhead rain down upon citizens before he will act? Must tens of thousands of Americans perish before he corrects this terrible vulnerability.

To those of us who are cosponsoring this legislation, the answer is, ''No.'' The time to act is now, not tomorrow. Our Nation is in jeopardy. Ballistic missiles and weapons of mass destruction are spreading throughout the world and we cannot stop them. In fact, some 30 nations currently possess, or are actively acquiring, weapons of mass destruction and the missiles to deliver them.

Just yesterday, the United Nations admitted that Iraq is covertly storing up to 16 ballistic missiles armed with chemical or biological warheads. Iraq is the most inspected and thoroughly monitored country in the world. If we cannot find these missiles in the deserts of Iraq, how can we expect to track them in the mountains and valleys of China, North Korea, Iran, or Syria?

The answer is, We can't, and even if we could, we have no system to counter them. The only solution is to develop missile defenses. This bill does just that, and would require that our Nation deploy a national missile defense system capable of protecting all Americans by the year 2003.

Mr. President, this is not about politics. It is not about partisanship. It is about national security and keeping faith with those who elected us and those who depend upon us to safeguard their lives and property. If we ignore this obligation, we will have failed in our most fundamental constitutional responsibility. To me that is unacceptable. It runs against every principle that I stand for, and as long as I have a breath in my body, I will fight to prevent that from happening.

Mr. President, I want to again thank the distinguished majority leader for bringing this issue before the Senate. He does our Nation a profound service by highlighting the missile defense issue, and I am proud to cosponsor this important legislation.

I yield the floor.

By Mr. HARKIN:

S. 1637. A bill to amend the Internal Revenue Code of 1986 to revise the tax rules on expatriation, and for other purposes; to the Committee on Finance.

THE EXPATRIATION TAX REFORM ACT OF 1996

● Mr. HARKIN. Mr. President, the time has come to close one of the most outrageous tax loopholes on our books today. In fact, it is so outrageous, it's hard to believe.

But today a small number of very wealthy individuals—often billionaires—can renounce their U.S. citizenship in order to avoid paying their fair share of taxes. And under current law, those same individuals can still live in the U.S. for up to half a year—tax-free.

That's right. Amazingly, the current tax code has a loophole big enough for the super rich to fly their private jets right through. I call it the Benedict Arnold loophole. You can turn your back on the country that made you rich—to get even richer.

In many cases, those same people come right back to the United States. They spend up to 6 months here and claim to be citizens of another country just so they can skip out on their tax bill.

In one case, for example, a very wealthy American acquired citizenship in Belize, a small country along the Caribbean coast. Soon thereafter, Belize tried to set up a counsel's office in Florida where their new citizen had his factories. That way their new ''counsel'' could live in the U.S. for a large part of the year without paying his U.S. taxes. Ultimately, this was not allowed, but these types of games should be stopped once and for all.

Hard working, tax paying, middle-class Americans have every right to be outraged by these tax loopholes. They are costing Americans about $1.5 billion. And the money these wealthy tax cheats fail to pay is adding to our debt and to the bill that our kids will one day be forced to pay. That's unconscionable.

The bill I am introducing today says enough is enough: It's time to close the Benedict Arnold loophole. My legislation provides that if these so called ''expatriates'' spend 30 days in the United States they must pay their full taxes as a resident alien. Essentially, they would be treated like a resident alien, similar to how a U.S. citizen is treated.

In addition, my bill provides that—upon renouncing their citizenship—these individuals would pay taxes on all of their gains, including those not yet sold. Under current law they can effectively escape paying their fair share of taxes by delaying the sale of their assets through available loopholes. The Senate passed a provision in last year's Budget Reconciliation bill, but it was gutted in conference.

Where there is a problem with a bilateral tax treaty, the Secretary of the Treasury may waive the provision for that individual.

I hope that the bill I am introducing today become law this year. I urge the Senate to support and pass this common sense measure that will save taxpayer $1.5 billion.●

By Mr. PRESSLER (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KERREY, Mr. BENNETT, and Mrs. FEINSTEIN):

S. 1638. A bill to promote peace and security in South Asia; to the Committee on Foreign Relations.

THE SOUTH ASIA PEACE AND SECURITY PROMOTION ACT OF 1996

Mr. PRESSLER. Mr. President, today along with my colleagues, Senators GLENN, D'AMATO, JOHN KERRY, BENNETT, and FEINSTEIN, I am introducing legislation in an effort to restore credibility to our Nation's already damaged nuclear nonproliferation policy. Nonproliferation is one of our most important national security concerns, if not the most important. Even the President admitted last year that no issue is more important to the security of all people than nuclear nonproliferation.

At present, our efforts in this area are tied to another vital goal: the promotion of peace and security in South Asia. I have visited South Asia. I have said before it is a region of striking contrasts—a region of such enormous potential clouded by tension and instability.

As all of us well know, last year President Clinton requested, and Congress agreed to, a one time exception and partial repeal of one our most important nonproliferation laws: the so-called Pressler amendment. The Pressler amendment, approved by Congress in 1985, prohibits United States military and nonmilitary assistance to Pakistan, including arms sales, so long as Pakistan possesses a nuclear explosive device. The Senate had an extensive debate on this subject last fall. As a result of last year's exception—known as the Brown amendment—approximately 370 million dollars' worth of American military goods is scheduled for delivery to Pakistan.

The Brown amendment was very controversial. The central point of the controversy was the fact that the Brown amendment was both waiving and repealing nuclear nonproliferation law without obtaining one concrete nonproliferation concession from Pakistan. We have never provided that kind of exception to any other country before. That was one of the central reasons why I opposed the Brown amendment. I feared it would send the worst possible message: Nuclear proliferation pays.

The Clinton administration lobbied the Congress quite heavily on the Brown amendment. The administration even tried to convince Members of Congress that Pakistan did make a nonproliferation concession. The Clinton administration claimed its support for the Brown amendment was based in part on an understanding it believed it had with the Government of Pakistan. On August 3, 1995, Acting Secretary of State Peter Tarnoff stated the context of this understanding in a letter to the distinguished ranking member and former chairman of the Armed Services Committee, Senator NUNN:

> Pakistan knows that the decision to resolve the equipment problem is based on the assumption that there will be no significant change on nuclear and missile non-proliferation issues of concern to the United States.

Frankly, at the time, I felt the justification was too weak at best and unbelievable at worst. I say that from the standpoint of experience. You see, the Pressler amendment was passed with a similar assurance from Pakistan. Let me remind my colleagues that the Pressler amendment was designed to ensure that Pakistan—at that time our Nation's third largest foreign aid recipient—continued to receive United States assistance. We had an understanding that Pakistan would not develop a bomb program, and in return, we would pass the Pressler amendment so that our existing laws would not result in a United States aid cutoff. As we all know, they did build a bomb program, and continued to receive U.S. taxpayer dollars. So I had some serious misgivings and a sense of foreboding when the Clinton administration stated it was basing its support of the Brown amendment on an assurance from Pakistan.

But that was then, this is now. Now we have a clear, unequivocal statement by the Director of Central Intelligence that Pakistan did not accept the administration's position in August. This is what Director John Deutch told the Senate Select Committee on Intelligence on February 22:

> Mr. Chairman, the intelligence community continues to get accurate and timely information on Chinese activities that involve inappropriate weapons technology assistance to other countries: nuclear technology to Pakistan, M–11 missiles to Pakistan, cruise missiles to Iran.

For the record, I would like to point out that the Director said ''M–11 missiles,'' not ''M–11 missile technology.''

So, the administration's assumption that the Government of Pakistan would freeze development of its bomb program was erroneous. Our intelligence community has found ''accurate and timely information'' that Pakistan has, indeed, made significant changes on nuclear and missile proliferation issues of concern to the United States. The nuclear technology to which Director Deutch alluded would allow Pakistan a 100-percent increase in its capacity to make enriched uranium, the explosive material of nuclear weapons. The M–11s are modern, mobile, nuclear capable ballistic missiles and clearly intended to be the principal delivery system of the Pakistani nuclear weapons system.

With the underlying assumption of the administration's position now destroyed, there is no longer any justification for the administration's support of the Brown amendment. The administration has the authority to put the Brown amendment on hold. Federal law specifically states that if the President determines that a country has delivered or received ''nuclear enrichment equipment, materials or technology,'' no funds may be made available under the Foreign Assistance Act of 1961, which would include military equipment purchased with Foreign Military Sales [FMS]. All the President needs to do is enforce our nonproliferation laws and most, if not all of the military equipment provided by the Brown amendment remains undelivered. That is what I urged the President to do last month.

Sadly, even though Pakistan broke its assurance to the Clinton administration, it has been reported yesterday that the President intends to go through with the transfer. This is stunning news. The Brown amendment alone was a tough blow to our nonproliferation policy. Now the Clinton administration is preparing to cripple our already shaken credibility as an enforcer of nuclear nonproliferation. If that is the President's decision, and I certainly hope he reconsiders, then the law requires that he make an appropriate certification to the Congress. This gives Congress two options: First, it could disapprove of the President's certification. Under the law it would have 30 days to do that. Or, should a certification not be forthcoming, it could enact the legislation I am introducing today. This bill, which I introduce with bipartisan support, simply repeals the Brown amendment.

Mr. President, I believe passage of this legislation is necessary if our Nation's nuclear nonproliferation policy is to have any credibility. Indeed, beyond the simple policy justifications for this legislation, I urge my colleagues to keep in mind the circumstance that brings me to the floor today. As I stated a moment ago, Pakistan's receipt of nuclear technology from China is a sanctionable offense, as is its receipt of M–11 missile technology. What makes these offenses disturbing is that they were occurring while Pakistan was lobbying the administration and Congress to waive and partially repeal nuclear nonproliferation law. Equally disturbing are reports that members of the Clinton administration knew of the ring magnet transfer at that time, but did not divulge this information to members of Congress. The irony would be humorous if the issue wasn't so serious.

I believe that if all my colleagues were aware of this blatant violation of our non-proliferation laws last fall, the Brown amendment would have failed. Indeed, a supporter of the Brown amendment, Congressman DOUG BEREUTER, admitted that if the Brown amendment was reconsidered, its passage would be unlikely. I am confident

enough that this Congress understands the seriousness of this matter and would agree that we need to repeal the Brown amendment or at least suspend its implementation until the underlying policy of the administration is restored—that being the return of the ring magnets and the M–11s from Pakistan to China.

Mr. President, finally a word about South Asia. Also on February 22, CIA Director Deutch named South Asia as his No. 1 worry in the annual world wide threat assessment. He noted, ''the potential for conflict is high.'' Just a few weeks ago, the Washington Post reported that Pakistan is preparing for a possible nuclear weapons test. Even a limited nuclear exchange between Pakistan and India would result in deaths and destruction on an unprecedented scale in world history. Under the circumstances, I feel it would be the height of irresponsibility to allow for military aid to one side in such an unstable environment. The aftermath of the Brown amendment is proof that our relationship with India is impacted by United States nonproliferation policy. Because of India's unsafeguarded nuclear program, there is no United States-Indian agreement for nuclear cooperation. United States military cooperation with India is virtually nonexistent. The United States will not export certain forms of missile equipment and technology to India and any other goods that are related to weapons of mass destruction. It is true that United States sanctions have not been invoked against India, but that is because India has not violated its commitments under United States law.

I stand ready to seek a commonsense approach to improve our relations with all the countries in South Asia. We need a commonsense approach to deal with the problems in that troubled region. Illicit narcotics trafficking, terrorism, economic stagnation, and weapons proliferation are just some of the issues that plague South Asia. We must seek ways to help these countries address all these problems. I am ready to start that process. We can start by repealing the Brown amendment and begin working on an approach that serves the mutual interests of the people of the United States and the people of South Asia.

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. 1638

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

SECTION 1. PROMOTION OF PEACE AND SECURITY IN SOUTH ASIA.

(a) FINDINGS.—Congress makes the following findings:

(1) The American people fervently desire that all the peoples of South Asia enjoy peace and share an increased sense of security.

(2) The peace and security of South Asia are threatened by an arms race, particularly the spread of weapons of mass destruction and their modern delivery systems.

(3) Congress has granted both a one-time exception to and partial repeal of United States nuclear nonproliferation laws in order to permit the Government of Pakistan to receive certain United States military equipment and training and limited economic aid.

(4) The exception and partial repeal was based on direct assurances to the United States Government that ''there will be no significant change on nuclear and missile nonproliferation issues of concern to the United States''.

(5) The Director of Central Intelligence has informed Congress that Pakistan has taken recent delivery of ''nuclear technology'' and ''M–11 missiles'' from the People's Republic of China.

(6) The justification for the exception to and partial repeal of United States nonproliferation laws is no longer valid.

(b) REPEAL.—Section 620E of the Foreign Assistance Act of 1961 (22 U.S.C. 2375) is amended to read as if the amendments made to such section by section 559 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107) had not been made.

Mr. KERRY. Mr. President, last September the Senate approved an amendment offered by Senator BROWN that allowed the administration to deliver hundreds of millions of dollars worth of military equipment to Pakistan. In doing so, we decided to ignore Pakistan's continuing efforts to acquire nuclear weapons and the ballistic missiles to carry them, and we turned our backs on United States non-proliferation law and international arms control agreements. Today, I am pleased to cosponsor a bill being introduced by Senator PRESSLER that will repeal this misguided provision and will help put U.S. nonproliferation policy back on track.

During Senate consideration of the Brown amendment, the proponents, including the administration, argued that transferring the military equipment would remove what had become an irritant in our relations with Pakistan and would result in enhanced cooperation on nonproliferation issues. Unfortunately, the opposite has happened.

Even as we debated the Brown amendment we had clear and convincing evidence that Pakistan had received M–11 ballistic missiles from China—a sanctionable offense under the Missile Technology Control Regime. We now know that Pakistan also has continued to pursue its Nuclear Weapons Program. In an unclassified hearing earlier this year, Director of Central Intelligence John Deutch testified to the Intelligence Committee that he was especially concerned about Pakistani efforts to acquire nuclear technology. Although he did not provide details, the press has reported that last summer China sent Pakistan specialized magnets for use in centrifuges to produce enriched uranium. Such a transfer would violate the 1994 Nuclear Non-Proliferation Act. Finally, Director Deutch told the Intelligence Committee that Pakistan was likely to test a nuclear weapon if India did, hardly the restraint we were promised.

Since the late 1970's the Pakistani Government has repeatedly assured the United States that it does not possess nuclear weapons despite our certainty that it does. As recently as November of 1994, Prime Minister Bhutto said in an interview with David Frost ''We have neither detonated one, nor have we got nuclear weapons.'' Now they are practicing the same deception with regard to acquiring missiles from China. In July of 1995, a press release from the Pakistan Embassy asserted that ''Pakistan has not acquired the M–11 or any other missile from China that violates the Missile Technology Control Regime.'' The evidence to the contrary is, in my opinion, overwhelming.

Pakistan has been a friend and ally of the United States since its independence. But how many times can you let a friend mislead you and how many times can you let a friend put you in danger before you are forced to change the nature of the relationship. This is not a question of whether we want good relations with Pakistan. Of course we do. We want good relations with all countries, but the proliferation of weapons of mass destruction and the delivery systems to carry them is far more important to our national security than relations with any one country. Indeed, this is one of the most important national security issues facing us today.

I congratulate my colleague from South Dakota for his leadership on this issue and I am pleased to cosponsor his legislation. I hope that we can address this issue before the transfer of this equipment is completed.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. WARNER, and Mr. GRAMM):

S. 1639. A bill to require the Secretary of Defense and the Secretary of Health and Human Services to carry out a demonstration project to provide the Department of Defense with reimbursement from the Medicare Program for health care services provided to Medicare-eligible beneficiaries under TRICARE; to the Committee on Finance.

MEDICARE SUBVENTION LEGISLATION

Mr. DOLE. Mr. President, today I am pleased to introduce legislation which will demonstrate the cost effectiveness of Medicare reimbursement to the Department of Defense [DOD] for treatment of military beneficiaries age 65 and older. This bill will enable these individuals to enroll in Tricare Prime and be treated in military hospitals.

CURRENT SYSTEM IS FLAWED

As I am sure my colleagues know, Tricare is DOD's new managed health care program. While Tricare has merit, it also has flaws: It bars all Medicare-eligible retirees and family members from enrolling in Tricare Prime. In fact, all career military members and their families eventually will be affected, because even those who enroll now will be dropped from Tricare at age 65, when they become eligible for

Medicare. In my view, this breaks long standing health care commitments to retirees, may increase costs, and affect military readiness.

IDENTIFYING THE PROBLEM

Current law inadvertently encourages DOD and Medicare to work against each other. As the defense budget tightens, DOD has a strong incentive to push older retirees and families out of the military medical system and back into Medicare, although Medicare probably costs both the Government and retirees more money than care under the military system. Theoretically, Medicare-eligible retirees may still use military hospitals on a space-available basis. However, space-available care is rapidly becoming nonexistent as military facilities downsize and Tricare expands across the country.

MEDICARE SUBVENTION IS THE SOLUTION

It seems to me, the solution to this problem is to change the law to allow Medicare subvention, allowing Medicare to reimburse DOD for care provided to older beneficiaries enrolling in Tricare Prime or otherwise using military hospitals.

DEMONSTRATION TEST OF MEDICARE SUBVENTION

We need to demonstrate to the interested parties, Department of Health and Human Services, and Department of Defense, that subvention is indeed a feasible and cost-effective program. Therefore I am introducing the legislation which gives those agencies the authority to conduct such a test. I believe this test will justify implementing subvention and allow those eligible military retirees over 65 to participate in Tricare Prime and receive care in military hospitals.

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. 1639

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

SECTION 1. DEMONSTRATION PROJECT FOR MEDICARE REIMBURSEMENT OF DEPARTMENT OF DEFENSE FOR HEALTH CARE PROVIDED TO MEDICARE-ELIGIBLE BENEFICIARIES UNDER TRICARE.

(a) IN GENERAL.—Notwithstanding any other provision of law and subject to subsection (b), the Secretary of Defense and the Secretary of Health and Human Services shall enter into an agreement in order to carry out a demonstration project under which the Secretary of Health and Human Services reimburses the Secretary of Defense, on a capitated basis, from the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for certain health care services provided by the Secretary of Defense to medicare-eligible military beneficiaries through the TRICARE program.

(b) PROJECT REQUIREMENTS.—(1)(A) The Secretary of Defense shall budget for and expend on health care services in each region in which the demonstration project is carried out an amount equal to the amount that the Secretary would otherwise budget for and expend on such services in the absence of the project.

(B) The Secretary may not be reimbursed under the project for health care services provided to medicare-eligible military beneficiaries in a region until the amount expended by the Secretary to provide health care services in that region exceeds the amount budgeted for health care services in that region under subparagraph (A).

(2) The agreement between the Secretary of Defense and the Secretary of Health and Human Services shall provide that the cost to the medicare program of providing services under the project does not exceed the cost that the medicare program would otherwise incur in providing such services in the absence of the project.

(3) The authority of the Secretary of Defense to carry out the project shall expire 3 years after the date of the commencement of the project.

(c) REPORTS.—Not later than 14 months after the commencement of the demonstration project under subsection (a), and annually thereafter until the year following the year in which the project is terminated, the Secretary of Defense and the Secretary of Health and Human Services shall jointly submit to Congress a report on the demonstration project. The report shall include the following:

(1) The number of medicare-eligible military beneficiaries provided health care services under the project during the previous year.

(2) An assessment of the benefits to such beneficiaries of receiving health care services under the project.

(3) A description of the cost-shifting, if any, among medical care programs of the Department of Defense that results from the project.

(4) A description of the cost-shifting, if any, from the Department to the medicare program that results from the project.

(5) An analysis of the effect of the project on the following:

(A) Access to the military medical treatment system, including access to military medical treatment facilities.

(B) The availability of space and facilities and the capabilities of medical staff to provide fee-for-service medical care.

(C) Established priorities for treatment of beneficiaries under chapter 55 of title 10, United States Code.

(D) The cost to the Department of providing prescription drugs to the beneficiaries described in subparagraph (C).

(E) The quality of health care provided by the Department.

(F) Health care providers and medicare-eligible military beneficiaries in the communities in which the project is carried out.

(6) An assessment of the effects of continuing the project on the overall budget of the Department for health care and on the budget of each military medical treatment facility.

(7) An assessment of the effects of continuing the project on expenditures from the medicare trust funds under title XVIII of the Social Security Act.

(8) An analysis of the lessons learned by the Department as a result of the project.

(9) Any other information that the Secretary of Defense and the Secretary of Health and Human Services jointly consider appropriate.

(d) REVIEW BY COMPTROLLER GENERAL.—Not later than December 31 each year in which the demonstration project is carried out under this section, the Comptroller General shall determine and submit to Congress a report on the extent, if any, to which the costs of the Secretary of Defense under the TRICARE program and the costs of the Secretary of Health and Human Services under the medicare program have increased as a result of the project.

(e) DEFINITIONS.—For purposes of this section:

(1) The term ''medicare-eligible military beneficiary'' means a beneficiary under chapter 55 of title 10, United States Code, who is entitled to benefits under part A of title XVIII of the Social Security Act.

(2) The term ''TRICARE program'' means the managed health care program that is established by the Secretary of Defense under the authority of chapter 55 of title 10, United States Code, principally section 1097 of that title, and includes the competitive selection of contractors to financially underwrite the delivery of health care services under the Civilian Health and Medical Program of the Uniformed Services.

ADDITIONAL COSPONSORS

S. 704

At the request of Mr. SIMON, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 704, a bill to establish the Gambling Impact Study Commission.

S. 1139

At the request of Mr. LOTT, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1139, a bill to amend the Merchant Marine Act, 1936, and for other purposes.

S. 1150

At the request of Mr. SANTORUM, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1150, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the Marshall Plan and George Catlett Marshall.

S. 1183

At the request of Mr. HATFIELD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1183, a bill to amend the Act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standards for coverage under the act, and for other purposes.

S. 1188

At the request of Mr. SANTORUM, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 1188, a bill to provide marketing quotas and a price support program for the 1996 through 1999 crops of quota and additional peanuts, to terminate marketing quotas for the 2000 and subsequent crops of peanuts, and to provide a price support program for the 2000 through 2002 crops of peanuts, and for other purposes.

S. 1317

At the request of Mr. D'AMATO, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1317, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1995, and for other purposes.

S. 1355

At the request of Mr. DORGAN, the name of the Senator from Oregon [Mr.

WYDEN] was added as a cosponsor of S. 1355, a bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States.

S. 1470

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1470, a bill to amend title II of the Social Security Act to provide for increases in the amounts of allowable earnings under the Social Security earnings limit for individuals who have attained retirement age, and for other purposes.

S. 1521

At the request of Mr. DOLE, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 1521, a bill to establish the Nicodemus National Historic Site in Kansas, and for other purposes.

S. 1597

At the request of Mr. DORGAN, the names of the Senator from Illinois [Mr. SIMON], the Senator from Nebraska [Mr. EXON], the Senator from West Virginia [Mr. BYRD], the Senator from Arkansas [Mr. PRYOR], the Senator from Colorado [Mr. CAMPBELL], the Senator from Iowa [Mr. HARKIN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 1597, a bill to amend the Internal Revenue Code of 1986 to discourage American businesses from moving jobs overseas and to encourage the creation of new jobs in the United States, and for other purposes.

S. 1610

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. HELMS, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

SENATE RESOLUTION 202

At the request of Mr. ABRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Texas [Mr. GRAMM], the Senator from Oregon [Mr. HATFIELD], the Senator from Texas [Mrs. HUTCHISON], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Massachusetts [Mr. KERRY], the Senator from Vermont [Mr. LEAHY], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Michigan [Mr. LEVIN], the Senator from Mississippi [Mr. LOTT], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Alaska [Mr. STEVENS], and the Senator from Tennessee [Mr. THOMPSON] were added as cosponsors of Senate Resolution 202, a resolution concerning the ban on the use of United States passports for travel to Lebanon.

AMENDMENTS SUBMITTED

THE PUBLIC RANGELANDS MANAGEMENT ACT OF 1996 NATIONAL GRASSLANDS MANAGEMENT ACT OF 1996

BINGAMAN (AND OTHERS) AMENDMENT NO. 3559

Mr. BINGAMAN (for himself, Mr. DORGAN, Mr. REID, Mr. BRYAN, and Mr. DASCHLE) proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In lieu of the matter proposed insert the following new language:

SECTION 101. SHORT TITLE.

This title may be cited as the ''Public Rangelands Management Act of 1996''.

SEC. 102. DEFINITIONS.

As used in this title, the term—

(1) ''public land'' has the same meaning as given in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e));

(2) ''Secretary'' means the Secretary of the Interior, or where appropriate, the Secretary acting through the Bureau of Land Management; and

(3) ''Secretary of Agriculture'' means, where appropriate, the Secretary acting through the Forest Service.

SEC. 103. APPLICABILITY.

(a) BUREAU OF LAND MANAGEMENT LANDS.—This title shall apply to the grazing of livestock on public lands administered by the Secretary. Except as otherwise provided in this title, grazing on public lands administered by the Secretary shall be managed in accordance with applicable laws and regulations.

(b) FOREST SERVICE LANDS.—(1) Except as provided in section 113 (concerning the applicability of NEPA provisions), section 115 (establishing a new grazing fee formula), and section 116 (concerning expenditures of grazing fee receipts) livestock grazing on National Forest System lands in the sixteen contiguous Western States shall be managed in accordance with applicable laws and regulations.

(2) None of the provisions of this title shall apply to livestock grazing on National Forest System lands outside of the sixteen contiguous Western States. Livestock grazing on those lands shall be administered by the Secretary of Agriculture in accordance with applicable laws and regulations.

(c) NATIONAL GRASSLANDS.—Livestock grazing on the National Grasslands shall be administered in accordance with title II of this Act, except that sections 113 and 115 of title I shall also apply to the National Grasslands.

(d) COORDINATED MANAGEMENT.—(1) The Secretary and the Secretary of Agriculture shall seek to provide, to the maximum extent practicable, for consistent and coordinated grazing activities and management practices on lands in the sixteen contiguous Western States administered by the Forest Service (excluding the National Grasslands) and the Bureau of Land Management, consistent with the laws governing the public lands and the National Forest System.

(2) To the extent current regulations are inconsistent with the provisions of this title, the Secretary and the Secretary of Agriculture, as necessary, shall promulgate new regulations in accordance with this title.

SEC. 104. RANGELAND HEALTH STANDARDS AND GUIDELINES.

(a) IN GENERAL.—The Secretary, in consultation with the Resource Advisory Councils established in section 108, the Grazing Advisory Boards established in section 109, and appropriate State and local governmental and educational entities, and after providing an opportunity for public participation, shall establish State-wide or regional standards and guidelines to ensure the health and continued improvement of public land range conditions: *Provided, however,* That nothing in this title shall be construed as requiring the establishment of a minimum national standard for public land range conditions.

(b) CRITERIA.—Such standards and guidelines shall seek to ensure that—

(1) watersheds are in, or are making significant progress toward properly functioning condition;

(2) upland soils exhibit stability and infiltration and permeability rates that are appropriate to soil type, climate, and landform;

(3) ecological processes, including the hydrological cycle, nutrient cycle, and energy flow are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities;

(4) water quality complies with State water quality standards; and

(5) healthy, productive, and diverse native plant and animal populations are being supported.

(c) INCORPORATION.—Standards and guidelines developed for a specific region pursuant to this section shall, upon completion, be incorporated by operation of law into applicable land use plans. Standards and guidelines shall also be incorporated into allotment management plans and the terms and conditions of grazing permits and leases.

SEC. 105. PUBLIC PARTICIPATION.

(a) IN GENERAL.—In developing and revising land use plans, allotment management plans, activity plans, and rangeland standards and guidelines, the Secretary shall provide appropriate opportunities for public participation.

(b) AFFECTED INTEREST.—An individual or organization that has expressed in writing to the Secretary concern for the management of livestock grazing on specific allotments and who has been determined by the Secretary to be an affected interest, shall be consulted on significant grazing actions and decisions taken by the Secretary. Such consultation shall include, but need not be limited to, providing notice of the proposed action or decision and the reasons therefore, and a reasonable time in which to submit comments on the proposed action or decision.

(c) ABILITY TO PROTEST.—An applicant, permittee, lessee, or affected interest shall be entitled to protest proposed decisions of the Secretary.

SEC. 106. TERMS AND CONDITIONS.

(a) IN GENERAL.—The Secretary shall include such reasonable terms and conditions in a grazing permit or lease as the Secretary determines to be appropriate to achieve

management and resource condition objectives.

(b) MODIFICATION.—Following careful and considered consultation, cooperation, and coordination with lessees, permittees, and other affected interests, the Secretary may modify terms and conditions of a grazing permit or lease if monitoring data or objective evidence shows that present grazing use is not meeting management and resource condition objectives.

(c) MONITORING.—(1) Monitoring shall be conducted at a sufficient level to enable the Secretary to determine the effectiveness of management toward meeting management and resource condition objectives and to issue decisions or enter into agreements requiring management changes. The Secretary shall seek to ensure that monitoring is conducted in a timely and consistent manner.

(2) Monitoring shall be conducted according to regional or State-wide scientifically-based criteria and protocals. The criteria and protocals shall be developed by the Secretary in consultation with applicable Resource Advisory Councils, Grazing Advisory Boards, and appropriate State entities.

SEC. 107. RANGE IMPROVEMENTS.

(a) PERMANENT IMPROVEMENTS.—(1) The Secretary may authorize the installation of permanent range improvements by permittees, lessees, or other parties pursuant to cooperative agreements. Title to permanent range improvements constructed or installed after the date of enactment of this title shall be in the name of the United States.

(2) If the Secretary cancels a grazing permit or lease in whole or in part in order to devote the lands covered by the permit to another public purpose, including disposal, the permittee or lessee shall receive from the United States reasonable compensation for the adjusted value of the permittee's or lessee's interest in authorized permanent improvements placed or constructed on the lands covered by the canceled permit or lease. The adjusted value shall be determined by the Secretary, not to exceed fair market value of the terminated portion of the permittee's or lessee's interest therein.

(b) TEMPORARY IMPROVEMENTS.—The Secretary may authorize the installation of temporary range improvements by permittees, lessees, or other parties pursuant to range improvements permits. Title to temporary range improvements shall be in the name of the permittee or lessee, where no part of the cost for the improvement is borne by the United States

(c) VALID EXISTING RIGHTS.—Nothing in this section shall affect valid existing rights to range improvements existing prior to the date of enactment of this title.

(d) NO INTEREST IN LANDS.—A range improvement permit or cooperative agreement does not convey to a permittee or lessee any right, title, or interest in any lands or resources held by the United States.

SEC. 108. RESOURCE ADVISORY COUNCILS.

(A) ESTABLISHMENT.—The Secretary, in consultation with the Governors of the affected States, shall establish and operate Resource Advisory Councils on a regional, State, or planning area level to provide advice on management issues for all lands administered by the Bureau of Land Management within such State or regional area, except where the Secretary determines that there is insufficient interest in participation on a council to ensure that membership can be fairly balanced in terms of the points of view represented and the functions to be performed.

(b) DUTIES.—Each Resource Advisory Council shall advise the Secretary regarding the preparation, amendment, and implementation of land use and activity plans for public lands and resources within its area.

(c) MEMBERSHIP.—(1) The Secretary, in consultation with the Governor of the affected State or States, shall appoint the members of each Resource Advisory Council. A council shall consist of not less than 9 members and not more than 15 members.

(2) In appointing members to a Resource Advisory Council, the Secretary shall provide for balanced and broad representation from among various groups, including but not limited to, permittees and lessees, other commercial interests, recreational users, representatives of recognized environmental or conservation organizations, educational, professional, or academic interests, representative of State and local government or governmental agencies, Indian tribes, and other members of the affected public.

(3) The Secretary shall appoint at least one elected official of general purpose government serving the people of the area to each Resource Advisory Council.

(4) No person may serve concurrently on more than one Resource Advisory Council.

(5) Members of a Resource Advisory Council must reside in one of the States within the geographic jurisdiction of the council.

(d) SUBGROUPS.—A Resource Advisory Council may establish such subgroups as the council deems necessary, including but not limited to working groups, technical review teams, and rangeland resource groups

(e) TERMS.—Resource Advisory Council members shall be appointed for 2-year terms. Members may be appointed to additional terms at the discretion of the Secretary.

(f) PER DIEM EXPENSES.—Resource Advisory Council members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Resource Advisory Councils established under this section.

(h) OTHER FLPMA ADVISORY COUNCILS.—Nothing in this section shall be construed as modifying the authority of the Secretary to establish other advisory councils under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739).

SEC. 109. GRAZING ADVISORY BOARDS.

(a) ESTABLISHMENT.—For each district office of the Bureau of Land Management in the sixteen contiguous Western States having jurisdiction over more than 500,000 acres of public lands subject to commercial livestock grazing, the Secretary, upon the petition of a simple majority of livestock lessees and permittees under the jurisdiction of such office, shall establish and maintain at least one Grazing Advisory Board of not more than 15 members.

(b) FUNCTION.—The function of the Grazing Advisory Boards established pursuant to this section shall be to provide advice to the Secretary concerning management issues directly related to the grazing of livestock on public lands within the area administered by the district office.

(c) MEMBERS.—(1) The number of members on each Grazing Advisory Board shall be determined by the Secretary. Members shall serve for a term of 2 years. One-half of the members of each board shall consist of livestock representatives who shall be lessees or permittees in the area administered by the district office and who shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary. The remaining members shall be appointed by the Secretary from among residents of the area, to represent other interests.

(2) No person may serve concurrently on more than one Grazing Advisory Board.

(d) PER DIEM EXPENSES.—Grazing Advisory Board members shall serve without compensation as such, but shall be reimbursed for travel and per diem expenses while on official business, as authorized by 5 U.S.C. 5703.

(e) FEDERAL ADVISORY COMMITTEE ACT.—Except to the extent that it is inconsistent with this section, the Federal Advisory Committee Act shall apply to the Grazing Advisory Boards established under this section.

SEC. 110. ALLOTMENT MANAGEMENT PLANS.

Where practicable, feasible, and appropriate, the Secretary shall develop allotment management plans (or other activity plans serving as the functional equivalent thereof). Such plans shall be prepared in consultation, cooperation and coordination with permittees or lessees, Resource Advisory Councils, Grazing Advisory Boards, and affected interests.

SEC. 111. CONSERVATION AND TEMPORARY NON-USE

(a) IN GENERAL.—(1) The Secretary may approve a request by a permittee or lessee for temporary non-use or conservation use if such use is determined by the Secretary to be not inconsistent with the applicable land use plans, allotment management plans, or other applicable plans.

(2) In developing criteria and standards for conservation use and temporary non-use, the Secretary shall consult with applicable Resource Advisory Councils and Grazing Advisory Boards.

(b) CONSERVATION USE.—(1) Conservation use may be approved for periods of up to ten years when, in the determination of the Secretary, the proposed conservation use will promote rangeland resource protection or enhancement of resource values or uses, including more rapid progress toward achieving resource condition objectives.

(2) Conservation use shall be a voluntary action on the part of a permittee or lessee. No such use shall be approved by the Secretary unless requested by a permittee or lessee.

(c) TEMPORARY NON-USE.—Temporary non-use for reasons including but not limited to financial conditions or annual fluctuations of livestock, may be approved by the Secretary on an annual basis for no more than 3 consecutive years.

(d) The Secretary shall not approve applications for non-renewable grazing permits and leases for areas for which conservation use has been authorized. Forage made available as a result of temporary non-use may be made available to qualified applicants.

(e) DEFINITION.—As used in this section, the term—

(1) ''conservation use'' means an activity, excluding livestock grazing, on all or a portion of a grazing allotment for the purposes of—

(A) protecting the land and its resources from destruction or unnecessary injury.

(B) improving rangeland conditions; or

(C) enhancing resource values, uses, or functions;

(2) ''temporary non-use'' means the authorized withholding, on an annual basis, of all or a portion of permitted livestock use, in response to a request of a permittee or lessee.

SEC. 112. WATER RIGHTS.

(a) IN GENERAL.—New water rights shall be acquired, perfected, maintained, or administered in connection with livestock grazing on public lands in accordance with State law.

(b) NO FEDERAL RESERVED WATER RIGHT.—Nothing in this title shall be construed as creating an express or implied reservation of water rights in the United States.

(c) VALID EXISTING RIGHTS.—Nothing in this title shall be construed as affecting valid existing water rights.

SEC. 113. NEPA COMPLIANCE.

(a) RENEWALS OR TRANSFERS.—Unless the Secretary or the Secretary of Agriculture, as appropriate, determines that the renewal or transfer of a grazing permit or lease will involve significant changes in management practices or use, or that significant environmental damage is occurring or is imminent, the renewal or transfer of such permit or lease shall not require the completion of any analysis under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) RANGELAND MANAGEMENT ACTIVITIES.—(1) The Secretary and the Secretary of Agriculture shall expedite the consideration of applications for non-significant grazing activities on Federal lands administered by the respective Secretary, including the development of a list of activities (or mandatory eligibility criteria) that would constitute a ''categorical exclusion'' from consideration under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) where the Secretary concerned determines that such activities would not have a significant effect on the environment.

(2) Nothing in this subsection shall preclude the Secretary or the Secretary of Agriculture, as appropriate, from requiring additional analysis where the Secretary concerned determines that the proposed activity may have a significant effect on the environment.

SEC. 114. GRAZING FEE SURCHARGE.

No grazing fee surcharge shall be imposed for grazing use by a spouse, child, or grandchild of the permittee or lessee on the lands covered by the permit or lease.

SEC. 115. GRAZING FEE.

(a) IN GENERAL.—(1) The fee for each animal unit month in a grazing fee year to be determined by the Secretary and the Secretary of Agriculture shall be equal to the three-year average of the total gross value production for beef cattle for the three years preceeding the grazing fee year, multiplied by the ten-year average of the United States Treasury Securities six-month bill ''new issue'' rate, divided by twelve: *Provided*, That the grazing fee shall not be less than $1.50 per animal unit month.

(2) The gross value of production for beef cattle shall be determined by the Economic Research Service of the Department of Agriculture in accordance with subsection (e)(1).

(b) DEFINITION OF ANIMAL UNIT MONTH.—For billing purposes only, the term ''animal unit month'' means one month's use and occupancy of range by—

(1) one cow, bull, steer, heifer, horse, burro, or mule; or seven sheep or goats; each of which is six months of age or older on the date on which the animal begins grazing on Federal land;

(2) any such animal regardless of age if the animal is weaned on the date on which the animal begins grazing on Federal lands; and

(3) any such animal that will become twelve months of age during the period of use authorized under a grazing permit or lease.

(c) LIVESTOCK NOT COUNTED.—There shall not be counted as an animal unit month the use of Federal land for grazing by an animal that is less than six months of age on the date which the animal begins grazing on Federal land and that is the natural progeny of an animal on which a grazing fee is paid if the animal is removed from the Federal land before becoming twelve months of age.

(d) OTHER FEES AND CHARGES.—(1) A service charge shall be assessed for each crossing permit, transfer of grazing preference, and replacement or supplemental billing notice except in a case in which the action is initiated by the authorized officer.

(2) The fees and charges under section 304(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734(a)) shall reflect processing costs and shall be adjusted periodically as costs change.

(3) Notice of a change in a service charge shall be published in the Federal Register.

(e) CRITERIA FOR ERS.—(1) The Economic Research Service of the Department of Agriculture shall continue to compile and report the gross value of production of beef cattle, on a dollars-per-bred-cow basis for the United States, as currently published in ''Economic Indicators of the Farm Sector: Cost of Production—Major Field Crops and Livestock and Dairy'' (Cow-calf production cash costs and returns).

(2) For the purposes of a determining a grazing fee for a given grazing fee year, the gross value of production (as defined in subsection (a)) for the previous calendar year shall be made available to the Secretary and the Secretary of Agriculture, and published in the Federal Register, on or before February 15 of each year.

SEC. 116. USE OF STATE SHARE OF GRAZING FEE RECEIPTS.

Section 10 of the Act of June 28, 1934 (commonly known as the ''Taylor Grazing Act'') (43 U.S.C. 315i) is amended—

(1) in subsection (a), by striking ''the benefit of'' and inserting in lieu thereof ''investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in''; and

(2) in subsection (b), by striking ''the benefit of'' and inserting in lieu thereof ''investment in all forms of on-the-ground improvements that benefit rangeland resources, and for support of local public schools in''.

SEC. 117. CONSIDERATION OF ACTIONS BY AFFILIATES

In issuing or renewing grazing permits or leases, the Secretary may only consider acts undertaken by—

(1) the permittee or lessee;

(2) persons under the direct control of the permittee or lessee; or

(3) persons acting in collusion with the permittee or lessee.

TITLE II—MANAGEMENT OF NATIONAL GRASSLANDS

SEC. 201. SHORT TITLE.

This title may be cited as the ''National Grasslands Management Act of 1996''.

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the inclusion of the National Grasslands within the National Forest System has prevented the Secretary of Agriculture from effectively administering and promoting grassland agriculture on National Grasslands as originally intended under the Bankhead-Jones Farm Tenant Act;

(2) the National Grasslands can be more effectively managed by the Secretary of Agriculture if administered as a separate entity outside of the National Forest System; and

(3) a grazing program on National Grasslands can be responsibly carried out while protecting and preserving recreational, environmental, and other multiple uses of the National Grasslands.

(b) PURPOSE.—The purpose of this title is to provide for improved management and more efficient administration of grazing activities on National Grasslands while preserving and protecting multiple uses of such lands, including but not limited to preserving hunting, fishing, and recreational activities, and protecting wildlife and wildlife habitat in accordance with applicable laws.

SEC. 203. DEFINITIONS.

As used in this title, the term—

(1) ''National Grasslands'' means those areas managed as National Grasslands by the Secretary of Agriculture under title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012) on the day before the date of enactment of this title; and

(2) ''Secretary'' means the Secretary of Agriculture.

SEC. 204. REMOVAL OF NATIONAL GRASSLANDS FROM NATIONAL FOREST SYSTEM.

Section 11(a) of the Forest and Rangeland Renewable Resource Planning Act of 1974 (16 U.S.C. 1609(a)) is amended by striking the phrase ''the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act (50 Stat. 525; 7 U.S.C. 1010–1012)''.

SEC. 205. MANAGEMENT OF NATIONAL GRASSLANDS.

(a) IN GENERAL.—The Secretary, acting through the Chief of the Forest Service, shall manage the National Grasslands as a separate entity in accordance with this title and the provisions and multiple use purposes of title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010–1012).

(b) CONSULTATION.—The Secretary shall provide timely opportunities for consultation and cooperation with interested State and local governmental entities and others in the development and implementation of land use policies and plans, and land conservation programs for the National Grasslands.

(c) GRAZING ACTIVITIES.—In furtherance of the purpose of this title, the Secretary shall administer grazing permits and implement grazing management decisions in consultation, cooperation, and coordination with local grazing associations and other grazing permit holders.

(d) REGULATIONS.—The Secretary shall promulgate regulations to manage and protect the National Grasslands, taking into account the unique characteristics of the National Grasslands and grasslands agriculture conducted under the Bankhead-Jones Farm Tenant Act. Such regulations shall facilitate the efficient administration of grazing and provide protection for environmental values, including but not limited to wildlife and wildlife habitat, and Federal lands equivalent to that on units of the National Forest System.

(e) CONFORMING AMENDMENT TO BANKHEAD-JONES ACT.—Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended to read as follows:

''To accomplish the purposes of title III of this Act, the Secretary is authorized and directed to develop a separate program of land conservation and utilization for the National Grasslands, in order thereby to correct maladjustments in land use, and thus assist in promoting grassland agriculture and secure occupancy and economic stability of farms and ranches, controlling soil erosion, reforestation, preserving and protecting natural resources, protecting fish and wildlife and their habitat, developing and protecting recreational opportunities and facilities, mitigating floods, preventing impairment of dams and reservoirs, developing energy resources, conserving surface and subsurface moisture, protecting the watersheds of navigable streams, and protecting the public lands, health, safety, and welfare, but not to build industrial parks or commercial enterprises.''.

(f) HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities on National Grasslands in accordance with applicable Federal and State laws, nor shall appropriate recreational activities be limited or precluded.

(g) VALID EXISTING RIGHTS.—Nothing in this title shall affect valid existing rights, reservations, agreements, or authorizations. Section 1323(a) of Public Law 96–487 shall continue to apply to non-Federal lands and interests therein within the boundaries of the National Grasslands.

(h) FEES AND CHARGES.—Fees and charges for livestock grazing on the National Grasslands shall be determined in accordance with section 115 of this Act, except that the Secretary may adjust the grazing fee to compensate for approved conservation practice expenditures.

PRESSLER AMENDMENT NO. 3560

Mr. PRESSLER proposed an amendment to amendment No. 3555 proposed by Mr. DOMENICI to the bill (S. 1459) to provide for uniform management of livestock grazing on Federal land, and for other purposes; as follows:

In section 202(a)(3), after ''preserving'' insert ''sporting,''.

In section 202(b), strike ''hunting, fishing, and recreational activities'' and insert ''sportsmen's hunting and fishing and other recreational activities''.

In section 205(f), strike ''HUNTING, FISHING, AND RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding hunting or fishing activities'' and insert ''SPORTSMEN'S HUNTING AND FISHING AND OTHER RECREATIONAL ACTIVITIES.—Nothing in this title shall be construed as limiting or precluding sportsmen's hunting or fishing activities''.

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MURKOWSKI AMENDMENT NO. 3561

(Ordered to lie on the table.)

Mr. MURKOWSKI submitted an amendment intended to be proposed by him to the bill (H.R. 1296) to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—THE PRESIDIO OF SAN FRANCISCO

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Presidio, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continuously operated military post in the Nation dating from 1776, and was designated a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use recognizes its significant role in the history of the United States;

(4) the Presidio, in its entirety, is a part of the Golden Gate National Recreation Area, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's significant natural, historic, scenic, cultural, and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protects the Presidio from development and uses which would destroy the scenic beauty and historic and natural character of the area and cultural and recreational resources;

(6) removal and/or replacement of some structures within the Presidio must be considered as a management option in the administration of the Presidio; and

(7) the Presidio will be managed through an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources.

SECTION 102. AUTHORITY AND RESPONSIBILITY OF THE SECRETARY OF THE INTERIOR.

(a) INTERIM AUTHORITY.—the Secretary of the Interior (hereinafter in this Act referred to as the ''Secretary'') is authorized to manage leases in existence on the date of this Act for properties under the administrative jurisdiction of the Secretary and located at the Presidio. Upon the expiration of any such lease, the Secretary may extend such lease for a period terminating not later than 6 months after the first meeting of the Presidio Trust. The Secretary may not enter into any new leases for property at the Presidio to be transferred to the Presidio Trust under this Title, however, the Secretary is authorized to enter into agreements for use and occupancy of the Presidio properties which are assignable to the Trust and are terminable within 30 days notice by the Trust. Prior to the transfer of administrative jurisdiction over any property to the Presidio Trust, and notwithstanding section 1341 of title 31 of the United States Code, the proceeds from any such lease shall be retained by the Secretary and such proceeds shall be available, without further appropriation, for the preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties. The Secretary may adjust the rental charge on any such lease for any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to properties and infrastructure within the Presidio.

(b) PUBLIC INFORMATION AND INTERPRETATION.—The Secretary shall be responsible, in cooperation with the Presidio Trust, for providing public interpretive services, visitor orientation and educational programs on all lands within the Presidio.

(c) OTHER.—Those lands and facilities within the Presidio that are not transferred to the administrative jurisdiction of the Presidio Trust shall continue to be managed by the Secretary. The Secretary and the Presidio Trust shall cooperate to ensure adequate public access to all portions of the Presidio. Any infrastructure and building improvement projects that were funded prior to the enactment of this Act shall be completed by the National Park Service.

(d) PARK SERVICE EMPLOYEES.—(1) Any career employee of the National Park Service, employed at the Presidio at the time of the transfer of lands and facilities to the Presidio Trust, shall not be separated from the Service by reason of such transfer, unless such employee is employed by the Trust, other than on detail. The Trust shall have sole discretion over whether to hire any such employee or request a detail of such employee.

(2) Any career employee of the National Park Service employed at the Presidio on the date of enactment of this Title shall be given priority placement for any available position within the National Park System notwithstanding any priority reemployment lists, directives, rules, regulations or other orders from the Department of the Interior, the Office of Management and Budget, or other federal agencies.

SECTION 103. ESTABLISHMENT OF THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established a wholly owned government corporation to be known as the Presidio Trust (hereinafter in this Title referred to as the ''Trust'').

(b) TRANSFER.—(1) Within 60 days after receipt of a request from the Trust for the transfer of any parcel within the area depicted as Area B on the map entitled ''Presidio Trust Number 1,'' dated December 7, 1995, the Secretary shall transfer such parcel to the administrative jurisdiction of the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Secretary shall transfer to the Trust administrative jurisdiction over all remaining parcels within Area B. Such map shall be on file and available for public inspection in the offices of the Trust and in the offices of the National Park Service, Department of the Interior. The Trust and the Secretary may jointly make technical and clerical revisions in the boundary depicted on such map. The Secretary shall retain jurisdiction over those portions of the building identified as number 102 as the Secretary deems essential for use as a visitor center. The Building shall be named the ''William Penn Mott Visitor Center''. Any parcel of land, the jurisdiction over which is transferred pursuant to this subsection, shall remain within the boundary of the Golden Gate National Recreation Area. With the consent of the Secretary, the Trust may at any time transfer to the administrative jurisdiction of the Secretary any other properties within the Presidio which are surplus to the needs of the Trust and which serve essential purposes of the Golden Gate National Recreation Area. The Trust is encouraged to transfer to the administrative jurisdiction of the Secretary open space areas which have high public use potential and are contiguous to other lands administrated by the Secretary.

(2) Within 60 days after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively which records, equipment, and other personal property are deemed to be necessary for the immediate administration of the properties to be transferred, and the Secretary shall immediately transfer such personal property to the Trust. Within one year after the first meeting of the Board of Directors of the Trust, the Trust and the Secretary shall determine cooperatively what, if any, additional records, equipment, and other personal property used by the Secretary in the administration of the properties to be transferred should be transferred to the Trust.

(3) The Secretary shall transfer, with the transfer of administrative jurisdiction over any property, the unobligated balance of all funds appropriated to the Secretary, all leases, concessions, licenses, permits, and other agreements affecting such property.

(4) At the request of the Trust, the Secretary shall provide funds to the Trust for preparation of such plan, hiring of initial staff and other activities deemed by the Trust as essential to the establishment of the Trust prior to the transfer of properties to the Trust.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The powers and management of the Trust shall be vested in a Board of Directors (hereinafter referred to as the ''Board'') consisting of the following 7 members:

(A) the Secretary of the Interior or the Secretary's designee; and

(B) six individuals, who are not employees of the federal Government, appointed by the President, who shall possess extensive knowledge and experience in one or more of the fields of city planning, finance, real estate development, and resource conservation. At least one of these individuals shall be a veteran of the Armed Services. At least 3 of these individuals shall reside in the San Francisco Bay Area. The President shall make the appointments referred to in this subparagraph within 90 days after the enactment of this Act and shall ensure that the fields of city planning, finance, real estate development, and resource conservation are

adequately represented. Upon establishment of the Trust, the Chairman of the Board of Directors of the Trust shall meet with the Chairman of the Energy and Natural Resources Committee of the United States Senate and the Chairman of the Resources Committee of the United States House of Representatives.

(2) TERMS.—Members of the Board appointed under paragraph (1)(B) shall each serve for a term of 4 years, except that of the members first appointed, 3 shall serve for a term of 2 years. Any vacancy in the Board shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. No appointed member may serve more than 8 years in consecutive terms.

(3) QUORUM.—Four members of the Board shall constitute a quorum for the conduct of business by the Board.

(4) ORGANIZATION AND COMPENSATION.—The Board shall organize itself in such a manner as it deems most appropriate to effectively carry out the authorized activities of the Trust. Board members shall serve without pay, but may be reimbursed for the actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Trust.

(5) LIABILITY OF DIRECTORS.—Members of the Board of Directors shall not be considered federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and the Ethics in Government Act, and the provisions of chapter 11 of title 18, United States Code.

(6) MEETINGS.—The Board shall meet at least three times per year in San Francisco and at least two of those meetings shall be open to the public. Upon a majority vote, the Board may close any other meetings to the public. The Board shall establish procedures for providing public information and opportunities for public comment regarding policy, planning, and design issues through the Golden Gate National Recreation Area Advisory Commission.

(7) STAFF.—The Trust is authorized to appoint and fix the compensation and duties of an executive director and such other officers and employees as it deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay them without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code, relating to classification and General Schedule pay rates.

(8) NECESSARY POWERS.—The Trust shall have all necessary and proper powers for the exercise of the authorities vested in it.

(9) TAXES.—The Trust and all properties administered by the Trust shall be exempt from all taxes and special assessments of every kind by the State of California, and its political subdivisions, including the City and County of San Francisco.

(10) GOVERNMENT CORPORATION.—(A) The Trust shall be treated as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act). Financial statements of the Trust shall be audited annually in accordance with section 9105 of title 31 of the United States Code.

(B) At the end of each calendar year, the Trust shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the House of Representatives a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes in general terms the Trust's goals for the current fiscal year.

SECTION 104. DUTIES AND AUTHORITIES OF THE TRUST.

(a) OVERALL REQUIREMENTS OF THE TRUST.—The Trust shall manage the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio under its administrative jurisdiction using the authorities provided in this section, which shall be exercised in accordance with the purposes set forth in section 1 of the Act entitled ''An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes,'' approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), and in accordance with the general objectives of the General Management Plan (hereinafter referred to as the ''management plan'') approved for the Presidio.

(b) The Trust may participate in the development of programs and activities at the properties transferred to the Trust. The Trust shall have the authority to negotiate and enter into such agreements, leases, contracts and other arrangements with any person, firm, association, organization, corporation or governmental entity, including, without limitation, entities of federal, State and local governments as are necessary and appropriate to finance and carry out its authorized activities. Any such agreement may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b). The Trust shall establish procedures for lease agreements and other agreements for use and occupancy of Presidio facilities, including a requirement that in entering into such agreements the Trust shall obtain reasonable competition. The Trust may not dispose of or convey fee title to any real property transferred to it under this Title. Federal laws and regulations governing procurement by Federal agencies shall not apply to the Trust. The Trust, in consultation with the Administrator of Federal Procurement Policy, shall establish and promulgate procedures applicable to the Trust's procurement of goods and services including, but not limited to, the award of contracts on the basis of contractor qualifications, price, commercially reasonable buying practices, and reasonable competition. Such procedures shall conform to laws and regulations related to federal government contracts governing working conditions and wage scales, including the provisions of 40 U.S.C. Sec. 276a–276a6 (Davis-Bacon Act).

(c) The Trust shall develop a comprehensive program for management of those lands and facilities within the Presidio which are transferred to the administrative jurisdiction of the Trust. Such program shall be designed to reduce expenditures by the National Park Service and increase revenues to the federal government to the maximum extent possible. In carrying out this program, the Trust shall be treated as a successor in interest to the National Park Service with respect to compliance with the National Environmental Policy Act and other environmental compliance statutes. Such program shall consist of—

(1) demolition of structures which in the opinion of the Trust, cannot be cost-effectively rehabilitated, and which are identified in the management plan for demolition,

(2) evaluation for possible demolition or replacement those buildings identified as categories 2 through 5 in the Presidio of San Francisco Historic Landmark District Historic American Buildings Survey Report, dated 1985,

(3) new construction limited to replacement of existing structures of similar size in existing areas of development, and

(4) examination of a full range of reasonable options for carrying out routine administrative and facility management programs.

The Trust shall consult with the Secretary in the preparation of this program.

(d) To augment or encourage the use of non-federal funds to finance capital improvements on Presidio properties transferred to its jurisdiction, the Trust, in addition to its other authorities, shall have the following authorities subject to the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.):

(1) The authority to guarantee any lender against loss of principal or interest on any loan, provided that (A) the terms of the guarantee are approved by the Secretary of the Treasury, (B) adequate subsidy budget authority is provided in advance in appropriations acts, and (C) such guarantees are structured so as to minimize potential cost to the federal Government. No loan guarantee under this Title shall cover more than 75 percent of the unpaid balance of the loan. The Trust may collect a fee sufficient to cover its costs in connection with each loan guaranteed under this Act. The authority to enter into any such loan guarantee agreement shall expire at the end of 15 years after the date of enactment of this Title.

(2) The authority, subject to appropriations, to make loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(3) The authority to issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy and that a repayment schedule is established and only to the extent authorized in advance in appropriations acts. The Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such notes or obligations acquired by the Secretary of the Treasury under this subsection. Obligations issued under this subparagraph shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(4) The aggregate amount of obligations issued under this subsection which are outstanding at any one time may not exceed $50,000,000.

(e) The Trust may solicit and accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private or public entities for the purpose of carrying out its duties. The Trust shall maintain a liaison with the Golden Gate National Park Association.

(f) Notwithstanding section 1341 of title 31 of the United States Code, all proceeds received by the Trust shall be retained by the Trust, and such proceeds shall be available, without further appropriation, for the administration, preservation, restoration, operation and maintenance, improvement, repair and related expenses incurred with respect to Presidio properties under its administrative jurisdiction. Upon the Request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in

public debt securities with maturities suitable to the needs of the Trust.

(g) The Trust may sue and be sued in its own name to the same extent as the federal government. Litigation arising out of the activities of the Trust shall be conducted by the Attorney General; except that the Trust may retain private attorneys to provide advice and counsel. The District Court for the Northern District of California shall have exclusive jurisdiction over any suit filed against the Trust.

(h) The Trust shall enter into a Memorandum of Agreement with the Secretary, acting through the Chief of the United States Park Police, for the conduct of law enforcement activities and services within the those portions of the Presidio transferred to the administrative jurisdiction of the Trust.

(i) The Trust may adopt, amend, repeal and enforce bylaws, rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised. The Trust is authorized, in consultation with the Secretary, to adopt and to enforce those rules and regulations that are applicable to the Golden Gate National Recreation Area and that may be necessary and appropriate to carry out its duties and responsibilities under this Title. The Trust shall give notice of the adoption of such rules and regulations by publication in the Federal Register.

(j) For the purpose of compliance with applicable laws and regulations concerning properties transferred to the Trust by the Secretary, the Trust shall negotiate directly with regulatory authorities.

(k) INSURANCE.—The Trust shall require that all leaseholders and contractors procure proper insurance against any loss in connection with properties under lease or contract, or the authorized activities granted in such lease or contract, as is reasonable and customary.

(l) BUILDING CODE COMPLIANCE.—The Trust shall bring all properties under its administrative jurisdiction into compliance with federal building codes and regulations appropriate to use and occupancy within 10 years after the enactment of this Title to the extent practicable.

(m) LEASING.—In managing and leasing the properties transferred to it, the Trust consider the extent to which prospective tenants contribute to the implementation of the General Management Plan for the Presidio and to the reduction of cost to the Federal Government. The Trust shall give priority to the following categories of tenants: tenants that enhance the financial viability of the Presidio and tenant that facilitate the cost-effective preservation of historic buildings through their reuse of such buildings.

(n) REVERSION.—If, at the expiration of 15 years, the Trust has not accomplished the goals and objectives of the plan required in section (105)(b) of this Title, then all property under the administrative jurisdiction of the Trust pursuant to section (103)(b) of this Title shall be transferred to the Administrator of the General Services Administration to be disposed of in accordance with the procedures outlined in the Defense Authorization Act of 1990 (104 Stat. 1809), and any real property so transferred shall be deleted from the boundary of the Golden Gate National Recreation Area. In the event of such transfer, the terms and conditions of all agreements and loans regarding such lands and facilities entered into by the Trust shall be binding on any successor in interest.

SECTION 105. LIMITATIONS ON FUNDING.

(a)(1) From amounts made available to the Secretary for the operation of areas within the Golden Gate National Recreation Area, not more than $25,000,000 shall be available to carry out this Title in each fiscal year after the enactment of this Title until the plan is submitted under subsection (b). Such sums shall remain available until expended.

(2) After the plan required in subsection (b) is submitted, and for each of the 14 fiscal years thereafter, there are authorized to be appropriated to the Trust not more than the amounts specified in such plan. Such sums shall remain available until expended. Of such sums, not more than $3 million annually shall be available through the Trust for law enforcement activities and services to be provided by the United States Park Police at the Presidio in accordance with section 104(h) of this Title.

(b) Within one year after the first meeting of the Board of Directors of the Trust, the Trust shall submit to Congress a plan which includes a schedule of annual decreasing federally appropriated funding that will achieve, at a minimum, self-sufficiency for the Trust within 15 complete fiscal years after such meeting of the Trust.

(c) The Administrator of the General Services Administration shall provide necessary assistance to the Trust in the formulation and submission of the annual budget request for the administration, operation, and maintenance of the Presidio.

SECTION 106. GENERAL ACCOUNTING OFFICE STUDY.

(a) Three years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct an interim study of the activities of the Trust and shall report the results of the study to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives. The study shall include, but shall not be limited to, details of how the Trust is meeting its obligations under this Title.

(b) In consultation with the Trust, the General Accounting Office shall develop an interim schedule and plan to reduce and replace the federal appropriations to the extent practicable for interpretive services conducted by the National Park Service, and law enforcement activities and services, fire and public safety programs conducted by the Trust.

(c) Seven years after the first meeting of the Board of Directors of the Trust, the General Accounting Office shall conduct a comprehensive study of the activities of the Trust, including the Trust's progress in meeting its obligations under this Title, taking into consideration the results of the study described in subsection (a) and the implementation of plan and schedule required in subsection (b). The General Accounting Office shall report the results of the study, including any adjustments to the plan and schedule, to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, and the Committee on Resources and Committee on Appropriations of the House of Representatives.

TITLE II—MINOR BOUNDARY ADJUSTMENTS AND MISCELLANEOUS PARK AMENDMENTS

SECTION 201. YUCCA HOUSE NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of Yucca House National Monument are revised to include the approximately 24.27 acres of land generally depicted on the map entitled ''Boundary—Yucca House National Monument, Colorado'', numbered 318/80,001–B, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be one file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

(c) ACQUISITION.—

(1) IN GENERAL.—Within the lands described in subsection (a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(2) The Secretary of the Interior may pay administrative costs arising out of any donation described in paragraph (1) with appropriated funds.

SECTION 202. ZION NATIONAL PARK BOUNDARY ADJUSTMENT.

(a) ACQUISITION AND BOUNDARY CHANGE.—The Secretary of the Interior is authorized to acquire by exchange approximately 5.48 acres located in the SW¼ of Section 28, Township 41 South, Range 10 West, Salt Lake Base and Meridian. In exchange therefor the Secretary is authorized to convey all right, title, and interest of the United States in and to approximately 5.51 acres in Lot 2 of Section 5, Township 41 South, Range 11 West, both parcels of land being in Washington County, Utah. Upon completion of such exchange, the Secretary is authorized to revise the boundary of Zion National Park to add the 5.48 acres in section 28 to the park and to exclude the 5.51 acres in section 5 from the park. Land added to the park shall be administered as part of the park in accordance with the laws and regulations applicable thereto.

(b) EXPIRATION.—The authority granted by this section shall expire two years after the date of the enactment of this Title.

SECTION 203. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY ADJUSTMENT.

The boundary of Pictured Rocks National Lakeshore is hereby modified as depicted on the a entitled ''Area Proposed for Addition to Pictured Rocks National Lakeshore,'' numbered 625–80, 043A, and dated July 1992.

SECTION 204. INDEPENDENCE NATIONAL HISTORICAL PARK BOUNDARY ADJUSTMENT.

The administrative boundary between Independence National Historical Park and the United States Customs House along the Moravian Street Walkway in Philadelphia, Pennsylvania, is hereby modified as generally depicted on the drawing entitled ''Exhibit 1, Independence National Park, Boundary Adjustment'', and dated May 1987, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior is authorized to accept and transfer jurisdiction over property in accord with such administrative boundary, as modified by this section.

SECTION 205. CRATERS OF THE MOON NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

(a) BOUNDARY REVISION.—The boundary of Craters of the National Monument, Idaho, is revised to add approximately 210 acres and to delete approximately 315 acres as generally depicted on the map entitled ''Craters of the Moon National Monument, Idaho, Proposed 1987 Boundary Adjustment'', numbered 131–80,008, and dated October 1987, which map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) ADMINISTRATION AND ACQUISITION.—Federal lands and interests therein deleted from the boundary of the national monument by this section shall be administered by the Secretary of the Interior through the Bureau of Land Management in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Federal lands and interests therein added to the national monument by this section shall be administered by the Secretary as part of the national monument, subject to the laws and

regulations applicable thereto. The Secretary is authorized to acquire private lands and interests therein within the boundary of the national monument by donation, purchase with donated or appropriated funds, or exchange, and when acquired they shall be administered by the Secretary as part of the national monument, subject to the laws and regulations applicable thereto.

SECTION 206. HAGERMAN FOSSIL BEDS NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

Section 302 of the Arizona-Idaho Conservation Act of 1988 (102 Stat. 4576) is amended by adding the following new subsection:

''(d) To further the purposes of the monument, the Secretary is also authorized to acquire from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange not to exceed 65 acres outside the boundary depicted on the map referred to in section 301 and develop and operate thereon research, information, interpretive, and administrative facilities. Lands acquired and facilities developed pursuant to this subsection shall be administered by the Secretary as part of the monument. The boundary of the monument shall be modified to include the lands added under this subsection as a noncontiguous parcel.''.

SECTION 207. WUPATKI NATIONAL MONUMENT BOUNDARY ADJUSTMENT.

The boundary of the Wupatki National Monument, Arizona, is hereby revised to include the lands and interests in lands within the area generally depicted as ''Proposed Addition 168.89 Acres'' on the map entitled ''Boundary—Wupatki and Sunset Crater National Monuments, Arizona'', numbered 322–80,021, and dated April 1989. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Subject to valid existing rights, Federal lands and interests therein within the area added to the monument by this section are hereby transferred without monetary consideration or reimbursement to the administrative jurisdiction of the National Park Service, to be administered as part of the monument in accordance with the laws and regulations applicable thereto.

SECTION 208. NEW RIVER GORGE NATIONAL RIVER.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out ''NERI–80,023, dated January 1987'' and inserting ''NERI–80,028, dated January 1993''.

SECTION 209. GAULEY RIVER NATIONAL RECREATION AREA.

(a) Section 201(b) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww(b)) is amended by striking out ''NRA–GR/20,000A and dated July 1987'' and inserting ''GARI–80,001 and dated January 1993''.

(b) Section 205(c) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–4(c) is amended by adding the following at the end thereof; ''If project construction is not commenced within the time required in such license, or if such license is surrendered at any time, such boundary modification shall cease to have any force and effect.''.

SECTION 210. BLUESTONE NATIONAL SCENIC RIVER.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65) is amended by striking out ''WSR–BLU/20,000, and dated January 1987'' and inserting ''BLUE–80,004, and dated January 1993''.

SECTION 211. ADVISORY COMMISSIONS.

(a) KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the ''Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995''.

(2) Notwithstanding section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), the Na Hoa Pili O Kaloko-Honokohau, the Advisory Commission for Kaloko-Honokohau National Historical Park, is hereby re-established in accordance with section 505(f), as amended by paragraph (3) of this section.

(3) Section 505(f)(7) of Public Law 95–625 (16 U.S.C. 396d(7)), is amended by striking ''this Act'' and inserting in lieu thereof, ''the Na Hoa Pili Kaloko-Honokohau Re-establishment Act of 1995''.

(b) WOMEN'S RIGHTS NATIONAL HISTORICAL PARK.—(1) This subsection under this Title may be cited as the ''Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995.''

(2) Not withstanding section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), the advisory commission for Women's Rights National Historical Park is hereby re-established in accordance with section 1601(h), as amended by paragraph (3) of this section.

(3) Section 1601(h)(5) of Public Law 96–607 (16 U.S.C. 410ll(h)(5)), is amended by striking ''this section'' and inserting in lieu thereof, ''the Women's Rights National Historical Park Advisory Commission Re-establishment Act of 1995''.

SECTION 212. AMENDMENT TO BOSTON NATIONAL HISTORIC PARK ACT.

Section 3(b) of the Boston National Historical Park Act of 1974 (16 U.S.C. 410z–1(b)) is amended by inserting ''(1)'' before the first sentence thereof and by adding the following at the end thereof:

''(2) The Secretary of the Interior is authorized to enter into a cooperative agreement with the Boston Public Library to provide for the distribution of informational and interpretive materials relating to the park and to the Freedom Trail.''.

SECTION 213. CUMBERLAND GAP NATIONAL HISTORICAL PARK.

(a) REMOVAL OF RESTRICTIONS.—The first section of the Act of June 11, 1940, entitled ''An Act to provide for the establishment of the Cumberland Gap National Historical Park in Tennessee, Kentucky, and Virginia: (54 Stat. 262, 16 U.S.C. 261 et seq.) is amended by striking out everything after the words ''Cumberland Gap National Historical Park'' and inserting a period.

(b) USE OF APPROPRIATED FUNDS.—Section 3 of such Act (16 U.S.C. 263) is amended by inserting ''or with funds that may be from time to time appropriated for the purpose,'' after ''funds''.

SECTION 214. WILLIAM O. DOUGLAS OUTDOOR CLASSROOM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into cooperative agreements, as specified as subsection (b), relating to Santa Monica Mountains National Recreation Area (hereafter in this Title referred to as ''recreation area'') in accordance with this section.

(b) COOPERATIVE AGREEMENTS.—The cooperative agreements referred to in subsection (a) are as follows:

(1) A cooperative agreement with appropriate organizations or groups in order to promote education concerning the natural and cultural resources of the recreation area and lands adjacent thereto. Any agreement entered into pursuant to this paragraph—

(A) may provide for Federal matching grants of not more than 50 percent of the total cost of providing a program of such education;

(B) shall provide for visits by students or other beneficiaries to federally owned lands within the recreation area;

(C) shall limit the responsibility of the Secretary to providing interpretation services concerning the natural and cultural resources of the recreation area; and

(D) shall provide that the non-Federal party shall be responsible for any cost of carrying out the agreement other than the cost of providing interpretation services under subparagraph (C).

(2) A cooperative agreement under which—

(A) the Secretary agrees to maintain the facilities at 2600 Franklin Canyon Drive in Beverly Hills, California, for a period of 8 fiscal years beginning with the first fiscal year for which funds are appropriated pursuant to this section, and to provide funding for programs of the William O. Douglas Outdoor Classroom or its successors in interest that utilize those facilities during such period; and in return; or

(B) the William O. Douglas Outdoor Classroom, for itself and any successors in interest with respect to such facilities, agrees that at the end of the term of such agreement all right, title, and interest in and to such facilities will be donated to the United States for addition and operation as part of the recreation area.

(c) EXPENDITURE OF FUNDS.—Federal funds may be expended on non-Federal property located within the recreation area pursuant to the cooperative agreement described in subsection (b)(2).

(d) LIMITATIONS.—(1) The Secretary may not enter into the cooperative agreement described in subsection (b)(2) unless and until the Secretary determines that acquisition of the facilities described in such subsection would further the purposes of the recreation area.

(2) This section shall not be construed as authorizing an agreement by the Secretary for reimbursement of expenses incurred by the William O. Douglas Outdoor Classroom or any successor in interest that are not directly related to the use of such facilities for environmental education and interpretation of the resources and values of the recreation area and associated lands and resources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the 8-year period beginning October 1, 1995, not to exceed $2,000,000 to carry out this section.

SECTION 215. MISCELLANEOUS PROVISIONS.

(a) NEW RIVER CONFORMING AMENDMENTS.—Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15, et seq.) is amended by adding the following new section at the end thereof:

"SEC. 1117. APPLICABLE PROVISIONS OF OTHER LAW.

(a) COOPERATIVE AGREEMENTS.—The provisions of section 202(e)(1) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e)(1)) shall apply to the New River Gorge National River in the same manner and to the same extent as such provisions apply to the Gauley River National Recreation Area.

(b) REMNANTS OF LANDS.—The provisions of the second sentence of section 203(a) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–2(a)) shall apply to tracts of land partially within the boundaries of the New River Gorge National River in the same manner and to the same extent as such provisions apply to the tracts of land only partially within the Gualey River National Recreation Area.''.

(b) BLUESTONE RIVER CONFORMING AMENDMENTS.—Section 3(a) (65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking ''leases'' in the fifth sentence and inserting in lieu thereof ''the lease'' and in the seventh sentence by striking ''such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West

Virginia, the Secretary may not terminate such leases and assume administrative authority over the areas concerned.'' and inserting in lieu thereof the following'' ''if the State of West Virginia so requests, the Secretary shall renew such lease agreement with the same terms and conditions as contained in such lease agreement on the date of enactment of this paragraph under which the State management shall be continued pursuant to such renewal. If requested to do so by the State or West Virginia, or as provided in such lease agreement, the Secretary may terminate or modify the lease and assume administrative authority over all or part of the areas concerned.''.

SECTION 216. GAULEY ACCESS.

Section 202(e) of the West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww–1(e) is amended by adding the following new paragraph at the end thereof:

''(4) ACCESS TO THE RIVER.—Within 90 days after the date of enactment of this subsection, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate setting forth a plan to provide river access for non-commercial recreational users within the Gauley River National Recreation Area. The plan shall provide that such access shall utilize existing public roads and rights-of-way to the maximum extent feasible and shall be limited to providing access for such non-commercial users.''.

SECTION 217. VISITOR CENTER

The Secretary of the Interior is authorized to construct a visitor center and such other related facilities as may be deemed necessary to facilitate visitor understanding and enjoyment of the New River Gorge National River and the Gauley River National Recreation Area in the vicinity of the confluence of the New and Gauley Rivers. Such center and related facilities are authorized to be constructed at a site outside of the boundary of the New River Gorge National River or Gauley River National Recreation Area unless a suitable site is available within the boundaries of either unit.

SECTION 218. EXTENSION.

For a 5-year period following the date of enactment of this Act, the provisions of the Wild and Scenic Rivers Act applicable to river segments designated for study for potential addition to the wild and scenic rivers system under subsection 5(b) of that Act shall apply to those segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by the West Virginia National Interest River Conservation Act of 1987 as part of the Bluestone National Scenic River or as part of the Gauley National Recreation Area, as the case may be.

SECTION 219. BLUESTONE RIVER PUBLIC ACCESS.

Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1271 and following) is amended by adding the following at the end thereof: ''In order to provide reasonable public access and vehicle parking for public use and enjoyment of the river designated by this paragraph, consistent with the preservation and enhancement of the natural and scenic values of such river, the Secretary may, with the consent of the owner thereof, negotiate a memorandum of understanding or cooperative agreement, or acquire lands or interests in such lands, or both, as may be necessary to allow public access to the Bluestone River and to provide, outside the boundary of the scenic river, parking and related facilities in the vicinity of the area known as Eads Mill.''.

SECTION 220. LIMITATION ON PARK BUILDINGS.

The 10th undesignated paragraph (relating to a limitation on the expenditure of funds for park buildings) under the heading ''MISCELLANEOUS OBJECTS, DEPARTMENT OF THE INTERIOR'', which appears under the heading ''UNDER THE DEPARTMENT OF THE INTERIOR'', as contained in the first section of the Act of August 24, 1912 (37 Stat. 460), as amended (16 U.S.C. 451), is hereby repealed.

SECTION 221. APPROPRIATIONS FOR TRANSPORTATION OF CHILDREN.

The first section of the Act of August 7, 1946 (16 U.S.C. 17j–2), is amended by adding at the end the following:

''(j) Provide transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service.''.

SECTION 222. FERAL BURROS AND HORSES.

Section 9 of the Act of December 15, 1971 (16 U.S.C. 1338a), is amended by adding at the end thereof the following: ''Nothing in this Title shall be deemed to limit the authority of the Secretary in the management of units of the National Park System, and the Secretary may, without regard either to the provisions of this Title, or the provisions of section 47(a) of title 18, United States Code, use motor vehicles, fixed-wing aircraft, or helicopters, or to contract for such use, in furtherance of the management of the National Park System, and section 47(a) of title 18, United States Code, shall be applicable to such use.''.

SECTION 223. AUTHORITIES OF THE SECRETARY OF THE INTERIOR RELATING TO MUSEUMS.

(a) FUNCTIONS.—The Act entitled ''An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes'' approved July 1, 1955 (16 U.S.C. 18f), is amended—

(1) in paragraph (b) of the first section, by striking out ''from such donations and bequests of money''; and

(2) by adding at the end thereof the following:

''SEC. 2. ADDITIONAL FUNCTIONS.

''(a) In addition to the functions specified in the first section of this Act, the Secretary of the Interior may perform the following functions in such manner as he shall consider to be in the public interest:

''(1) Transfer museum objects and museum collections that the Secretary determines are no longer needed for museum purposes to qualified Federal agencies that have programs to preserve and interpret cultural or natural heritage, and accept the transfer of museum objects and museum collections for the purposes of this Act from any other Federal agency, without reimbursement. The head of any other Federal agency may transfer, without reimbursement, museum objects and museum collections directly to the administrative jurisdiction of the Secretary of the Interior for the purpose of this Act.

''(2) Convey museum objects and museum collections that the Secretary determines are no longer needed for museum purposes, without monetary consideration but subject to such terms and conditions as the Secretary deems necessary, to private institutions exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and to non-Federal governmental entities if the Secretary determines that the recipient is dedicated to the preservation and interpretation of natural or cultural heritage and is qualified to manage the property, prior to any conveyance under this subsection.

''(3) Destroy or cause to be destroyed museum objects and museum collections that the Secretary determines to have no scientific, cultural, historic, educational, esthetic, or monetary value.

''(b) The Secretary shall ensure that museum collections are treated in a careful and deliberate manner that protects the public interest. Prior to taking any action under subsection (a), the Secretary shall establish a systematic review and approval process, including consultation with appropriate experts, that meets the highest standards of the museum profession for all actions taken under this section.''.

(b) APPLICATION AND DEFINITIONS.—The Act entitled ''An Act to increase the public benefits from the National Park System by facilitating the management of museum properties relating thereto, and for other purposes'' approved July 1, 1955 (16 U.S.C. 18f), as amended by subsection (a), is further amended by adding the following:

"SEC. 3. APPLICATION AND DEFINITIONS.

''(a) APPLICATION.—Authorities in this Act shall be available to the Secretary of the Interior with regard to museum objects and museum collections that were under the administrative jurisdiction of the Secretary for the purposes of the National Park System before the date of enactment of this section as well as those museum objects and museum collections that may be acquired on or after such date.

''(b) DEFINITION.—For the purposes of this Act, the terms 'museum objects' and 'museum collections' mean objects that are eligible to be or are made part of a museum, library, or archive collection through a formal procedure, such as accessioning. Such objects are usually movable and include but are not limited to prehistoric and historic artifacts, works of art, books, documents, photographs, and natural history specimens.''.

SECTION 224. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18j.) is amended by striking out ''1,000,000'' and inserting in lieu thereof ''$1,750,000''.

SECTION 225. COOPERATIVE AGREEMENTS FOR RESEARCH PURPOSES.

Section 3 of the Act entitled ''An Act to improve the administration of the National Park System by the Secretary of the Interior, and for other purposes'' approved August 18, 1970 (16 U.S.C. 1a–2), is amended—

(1) in paragraph (i), by striking the period at the end and thereof and inserting in lieu thereof ''; and''; and

(2) by adding at the end thereof the following:

''(j) enter into cooperative agreements with public or private educational institutions, States, and their political subdivisions, or private conservation organizations for the purpose of developing adequate, coordinated, cooperative research and training programs concerning the resources of the National Park System, and, pursuant to any such agreements, to accept from and make available to the cooperator such technical and support staff, financial assistance for mutually agreed upon research projects, supplies and equipment, facilities, and administrative services relating to cooperative research units as the Secretary deems appropriate; except that this paragraph shall not waive any requirements for research projects that are subject to the Federal procurement regulations.''.

SECTION 226. CARL GARNER FEDERAL LANDS CLEANUP DAY.

The Federal Lands Cleanup Act of 1985 (Public Law 99–402; U.S.C. 169i–169i–1) is amended by striking the terms ''Federal Lands Cleanup Day'' or ''Federal Lands National Cleanup Day'' each place they occur and inserting in lieu thereof, ''Carl Garner Federal Lands Cleanup Day.''

SECTION 227. FORT PULASKI NATIONAL MONUMENT, GA.

Section 4 of the Act of June 26, 1936 (ch. 844; 49 Stat. 1979), is amended by striking '':

Provided, That'' and all that follows and inserting a period.

SECTION 228. LAURA C. HUDSON VISITOR CENTER.

(a) DESIGNATION.—The visitor center at Jean Lafitte National Historical Park, located at 419 Rue Decatur in New Orleans, Louisiana, is hereby designated as the ''Laura C. Hudson Visitor Center.''

(b) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the visitor center referred to in subsection (a) shall be deemed to be a reference to the ''Laura C. Hudson Visitor Center''.

SECTION 229. UNITED STATES CIVIL WAR CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the sesquicentennial of the beginning of the Civil War will occur in the year 2011;

(2) the sesquicentennial will be the last significant opportunity for most Americans alive in the year 2011 to recall and commemorate the Civil War;

(3) the Civil War Center in Louisiana State University in Baton Rouge, Louisiana, has as its principal missions to create a comprehensive database that contains all Civil War materials and to facilitate the study of the Civil War from the perspectives of all ethnic cultures and all professions; academic disciplines, and occupation;

(4) the two principal missions of the Civil War Center are consistent with commemoration of the sesquicentennial;

(5) the missions of the Civil War Institute at Gettysburg College parallel those of the Civil War Center; and

(6) advance planning to facilitate the four-year commemoration of the sesquicentennial is required.

(b) DESIGNATION.—The Civil War Center, located on Raphael Semmes Drive at Louisiana State University in Baton Rouge, Louisiana, (hereinafter in this section referred to as the ''center'') shall be known and designated as the ''United States Civil War Center''.

(c) LEGAL REFERENCES.—Any reference in any law, regulation, paper, record, map, or any other document of the United States to the center referred to in subsection (b) shall be deemed to be a reference to the ''United States Civil War Center''.

(d) FLAGSHIP INSTITUTIONS.—The center and the Civil War Institute of Gettysburg College, located at 233 North Washington Street in Gettysburg, Pennsylvania, shall be the flagship institutions for planning the sesquicentennial commemoration of the Civil War.

TITLE III—ROBERT J. LAGOMARSINO VISITOR CENTER

SECTION 301. DESIGNATION.

The visitor center at the Channel Islands National Park, California, is designated as the ''Robert J. Lagomarsino Visitor Center''.

SEC. 302. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the visitor center referred to in section 301 is deemed to be a reference to the ''Robert J. Lagomarsino Visitor Center''.

TITLE VI—ROCKY MOUNTAIN NATIONAL PARK VISITOR CENTER

SECTION 401. VISITOR CENTER.

The Secretary of the Interior is authorized to collect and expend donated funds and expend appropriated funds for the operation and maintenance of a visitor center to be constructed for visitors to and administration of Rocky Mountain National Park with private funds on lands located outside the boundary of the park.

TITLE V—CORINTH, MISSISSIPPI, BATTLEFIELD ACT

SECTION 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the sites located in the vicinity of Corinth, Mississippi, that were Designated as a National Historic Landmark by the Secretary of the Interior in 1991 represent nationally significant events in the Siege and Battle of Corinth during the Civil War; and

(2) the landmark sites should be preserved and interpreted for the benefit, inspiration, and education of the people of the United States.

(b) PURPOSE.—The purpose of this Title is to provide for a center for the interpretation of the Siege and Battle of Corinth and other Civil War actions in the Region and to enhance public understanding of the significance of the Corinth Campaign in the Civil War relative to the Western theater of operations, in cooperation with State or local governmental entities and private organizations and individuals.

SECTION 502. ACQUISITION OF PROPERTY AT CORINTH, MISSISSIPPI.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Title as the ''Secretary'') shall acquire by donation, purchase with donated or appropriated funds, or exchange, such land and interests in land in the vicinity of the Corinth Battlefield, in the State of Mississippi, as the Secretary determines to be necessary for the construction of an interpretive center to commemorate and interpret the 1862 Civil War Siege and Battle of Corinth.

(b) PUBLICLY OWNED LAND.—Land and interests in land owned by the State of Mississippi or a political subdivision of the State of Mississippi may be acquired only by donation.

SECTION 503. INTERPRETIVE CENTER AND MARKING.

(a) INTERPRETIVE CENTER.—

(1) CONSTRUCTION OF CENTER.—The Secretary shall construct, operate, and maintain on the property acquired under section 502 a center for the interpretation of the Siege and Battle of Corinth and associated historical events for the benefit of the public.

(2) DESCRIPTION.—The center shall contain approximately 5,300 square feet, and include interpretive exhibits, an auditorium, a parking area, and other features appropriate to public appreciation and understanding of the site.

(b) MARKING.—The Secretary may mark sites associated with the Siege and Battle of Corinth National Historic Landmark, as designated on May 6, 1991, if the sites are determined by the Secretary to be protected by State or local governmental agencies.

(c) ADMINISTRATION.—The land and interests in land acquired, and the facilities constructed and maintained pursuant to this Title, shall be administered by the Secretary as a part of Shiloh National Military Park, subject to the appropriate laws (including regulations) applicable to the Park, the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

SECTION 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated such sums as are necessary to carry out this Title.

(b) CONSTRUCTION.—Of the amounts made available to carry out this Title, not more than $6,000,000 may be used to carry out section 503(a).

TITLE VI—WALNUT CANYON NATIONAL MONUMENT BOUNDARY MODIFICATION

SECTION 601. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that:

(1) Walnut Canyon National Monument was established for the preservation and interpretation of certain settlements and land use patterns associated with the prehistoric Sinaguan culture of northern Arizona.

(2) Major cultural resources associated with the purposes of Walnut Canyon National Monument are near the boundary and are currently managed under multiple-use objectives of the adjacent national forest. These concentrations of cultural resources, often referred to as ''forts'', would be more effectively managed as part of the National Park System.

(b) PURPOSE.—The purpose of this Title is to modify the boundaries of the Walnut Canyon National Monument (hereafter in this Title referred to as the ''national monument'') to improve management of the national monument and associated resources.

SECTION 602. BOUNDARY MODIFICATION.

Effective on the date of enactment of this Act, the boundaries of the national monument shall be modified as depicted on the map entitled ''Boundary Proposal—Walnut Canyon National Monument, Coconino County, Arizona'', numbered 360/80,010, and dated September 1994. Such map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior. The Secretary of the Interior, in consultation with the Secretary of Agriculture, is authorized to make technical and clerical corrections to such map.

SECTION 603. ACQUISITION AND TRANSFER OF PROPERTY.

The Secretary of the Interior is authorized to acquire lands and interest in lands within the national monument, by donation, purchase with donated or appropriated funds, or exchange. Federal property within the boundaries of the national monument (as modified by this Title) is hereby transferred to the administrative jurisdiction of the Secretary of the Interior for management as part of the national monument. Federal property excluded from the monument pursuant to the boundary modification under section 603 is hereby transferred to the administrative jurisdiction of the Secretary of Agriculture to be managed as a part of the Coconino National Forest.

SECTION 604. ADMINISTRATION.

The Secretary of the Interior, acting through the Director of the National Park Service, shall manage the national monument in accordance with this Title and the provisions of law generally applicable to units of the National Park Service, including ''An Act to establish a National Park Service, and for other purposes'' approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4).

SECTION 605. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE VII—DELAWARE WATER GAP

SECTION 701. PROHIBITION OF COMMERCIAL VEHICLES.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within Delaware Water Gap National Recreation Area by commercial vehicles, when such use is not connected with the operation of the recreation area, is prohibited, except as provided in subsection (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the

use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—

(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading ''ADMINISTRATIVE PROVISIONS'' in chapter VII of title I of Public Law 98–63 (97 Stat. 329) are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

TITLE VIII—TARGHEE NATIONAL FOREST LAND EXCHANGE

SECTION 801. AUTHORIZATION OF EXCHANGE.

(a) CONVEYANCE.—Notwithstanding the requirements in the Act entitled ''An Act to Consolidate National Forest Lands'', approved March 20, 1922 (16 U.S.C. 485), and section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) that Federal and non-Federal lands exchanged for each other must be located within the same State, the Secretary of Agriculture may convey the Federal lands described in section 802(a) in exchange for the non-Federal lands described in section 802(b) in accordance with the provisions of this Title.

(b) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Except as otherwise provided in this Title, the land exchange authorized by this section shall be made under the existing authorities of the Secretary.

(c) ACCEPTABILITY OF TITLE AND MANNER OF CONVEYANCE.—The Secretary shall not carry out the exchange described in subsection (a) unless the title to the non-Federal lands to be conveyed to the United States, and the form and procedures of conveyance, are acceptable to the Secretary.

SECTION 802. DESCRIPTION OF LANDS TO BE EXCHANGED.

(a) FEDERAL LANDS.—The Federal lands referred to in this Title are located in the Targhee National Forest in Idaho, are generally depicted on the map entitled ''Targhee Exchange, Idaho-Wyoming—Proposed, Federal Land'', dated September 1994, and are known as the North Fork Tract.

(b) NON-FEDERAL LANDS.—The non-Federal lands referred to in this Title are located in the Targhee National Forest in Wyoming, are generally depicted on the map entitled ''Non-Federal land, Targhee Exchange, Idaho-Wyoming—Proposed''. dated September 1994, and are known as the Squirrel Meadows Tract.

(c) MAPS.—The maps referred to in subsections (a) and (b) shall be on file and available for inspection in the office of the Targhee National Forest in Idaho and in the office of the Chief of the Forest Service.

SECTION 803. EQUALIZATION OF VALUES.

Prior to the exchange authorized by section 801, the values of the Federal and non-Federal lands to be so exchanged shall be established by appraisals of fair market value that shall be subject to approval by the Secretary. The values either shall be equal or shall be equalized using the following methods:

(1) ADJUSTMENT OF LANDS.—

(A) PORTION OF FEDERAL LANDS.—If the Federal lands are greater in value than the non-Federal lands, the Secretary shall reduce the acreage of the Federal lands until the values of the Federal lands closely approximate the values of the non-Federal lands.

(B) ADDITIONAL FEDERALLY-OWNED LANDS.—If the non-Federal lands are greater in value than the Federal lands, the Secretary may convey additional federally owned lands within the Targhee National Forest up to an amount necessary to equalize the values of the non-Federal lands and the lands to be transferred out of Federal ownership. However, such additional federally owned lands shall be limited to those meeting the criteria for land exchanges specified in the Targhee National Forest Land and Resource Management Plan.

(2) PAYMENT OF MONEY.—The values may be equalized by the payment of money as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (b)).

SECTION 804. DEFINITIONS.

For purpose of this Title:

(1) The term ''Federal lands'' means the Federal lands described in section 802(a).

(2) The term ''non-Federal lands'' means the non-Federal lands described in section 802(b).

(3) The term ''Secretary'' means the Secretary of Agriculture.

TITLE IX—DAYTON AVIATION

Section 201(b) of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419, approved October 16, 1992), is amended as follows:

(1) In paragraph (2), by striking ''from recommendations'' and inserting ''after consideration of recommendations''.

(2) In paragraph (4), by striking ''from recommendations'' and inserting ''after consideration of recommendations''.

(3) In paragraph (5), by striking ''from recommendations'' and inserting ''after consideration of recommendations''.

(4) In paragraph (6), by striking ''from recommendations'' and inserting ''after consideration of recommendations''.

(5) In paragraph (7), by striking ''from recommendations'' and inserting ''after consideration of recommendations''.

TITLE X—CACHE LA POUDRE

SECTION 1001. PURPOSE.

The purpose of this Title is to designate the Cache La Poudre River National Water Heritage Area within the Cache La Poudre River Basin and to provide for the interpretation, for the educational and inspirational benefit of present and future generations, of the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

SECTION 1002. DEFINITIONS.

As used in this Title:

(1) AREA.—The term ''Area'' means the Cache La Poudre River National Water Heritage Area established by section 1003(a).

(2) COMMISSION.—The term ''Commission'' means the Cache La Poudre River National Water Heritage Area Commission established by section 1004(a).

(3) GOVERNOR.—The term ''Governor'' means the Governor of the State of Colorado.

(4) PLAN.—The term ''Plan'' means the water heritage area interpretation plan prepared by the Commission pursuant to section 1008(a)

(5) POLITICAL SUBDIVISION OF THE STATE.—The term ''political subdivision of the State'' means a political subdivision of the State of Colorado, any part of which is located in or adjacent to the Area, including a county, city, town, water conservancy district, or special district.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SECTION 1003. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State of Colorado the Cache La Poudre River National Water Heritage Area.

(b) BOUNDARIES.—The boundaries of this Area shall include those lands within the 100-year flood plain of the Cache La Poudre River Basin, beginning at a point where the Cache La Poudre River flows out of the Roosevelt National Forest and continuing east along said floodplain to a point one quarter of one mile west of the confluence of the Cache La Poudre River and the South Platte Rivers in Weld County, Colorado, comprising less than 35,000 acres, and generally depicted as the 100-year flood boundary on the Federal Flood Insurance maps listed below:

(1) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0146B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(2) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0147B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(3) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0162B, April 2, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(4) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0163C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(5) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0178C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(6) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080102 0002B, February 15, 1984. Federal Emergency Management Agency, Federal Insurance Administration.

(7) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0179C, March 18, 1986. Federal Emergency Management Agency, Federal Insurance Administration.

(8) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0193D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(9) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0194D, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(10) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0208C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(11) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080101 0221C, November 17, 1993. Federal Emergency Management Agency, Federal Insurance Administration.

(12) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0605D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(13) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080264 0005A, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(14) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0608D, September 27, 1991. Federal Emergency Management Agency, Federal Insurance Administration.

(15) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0609C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(16) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0628C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(17) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080184 0002B, July 16, 1979. United States Department of Housing and Urban Development, Federal Insurance Administration.

(18) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0636C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

(19) FLOOD INSURANCE RATE MAP, LARIMER COUNTY, CO.—Community-Panel No. 080266 0637C, September 28, 1982. Federal Emergency Management Agency, Federal Insurance Administration.

As soon as practicable after the date of enactment of this Title, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries of the Area.

(c) PUBLIC ACCESS TO MAPS.—The maps shall be on file and available for public inspection in—

(1) the offices of the Department of the Interior in Washington, District of Columbia, and Denver, Colorado; and

(2) local offices of the city of Fort Collins, Larimer Country, the city of Greeley, and Weld County.

SECTION 1004. ESTABLISHMENT OF THE CACHE LA POUDRE RIVER NATIONAL WATER HERITAGE AREA COMMISSION

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established the Cache La Poudre River National Water Heritage Area Commission.

(2) FUNCTION.—The Commission, in consultation with appropriate Federal, State, and local authorities, shall develop and implement an integrated plan to interpret elements of the history of water development within the Area.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members appointed not later than 6 months after the date of enactment of this Title. Of these 15 members—

(A) 1 member shall be a representative of the Secretary of the Interior which member shall be an ex officio member;

(B) 1 member shall be a representative of the Forest Service, appointed by the Secretary of Agriculture, which member shall be an ex officio member;

(C) 3 members shall be recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the State;

(ii) 1 member shall represent Colorado State University in Fort Collins; and

(iii) 1 member shall represent the Northern Colorado Water Conservancy District;

(D) 6 members shall be representatives of local governments who are recommended by the Governor and appointed by the Secretary, of whom—

(i) 1 member shall represent the city of Fort Collins;

(ii) 2 members shall represent Larimer County, 1 of which shall represent agriculture of irrigated water interests;

(iii) 1 member shall represent the city of Greeley;

(iv) 2 members shall represent Weld County, 1 of which shall represent agricultural or irrigated water interests; and

(v) 1 member shall represent the city of Loveland; and

(E) 3 members shall be recommended by the Governor and appointed by the Secretary, and shall—

(i) represent the general public;

(ii) be citizens of the State; and

(iii) reside within the Area.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission from among members appointed under subparagraph (C), (D), or (E) of paragraph (1). The chairperson shall be elected for a 2-year term.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(c) TERMS OF SERVICE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Commission shall be appointed for a term of 3 years and may be reappointed.

(2) INITIAL MEMBERS.—The initial members of the Commission first appointed under subsection (b)(1) shall be appointed as follows:

(A) 3-YEAR TERMS.—The following initial members shall serve for a 3-year term:

(i) The representative of the Secretary of the Interior.

(ii) 1 representative of Weld County.

(iii) 1 representative of Larimer County.

(iv) 1 representative of the city of Loveland.

(v) 1 representative of the general public.

(B) 2-YEAR TERMS.—The following initial members shall serve for a 2-year term:

(i) The representative of the Forest Service.

(ii) The representative of the State.

(iii) The representative of Colorado State University.

(iv) The representative of the Northern Colorado Water Conservancy District.

(C) 1-YEAR TERMS.—The following initial members shall serve for a 1-year term:

(i) 1 representative of the city of Fort Collins.

(ii) 1 representative of Larimer County.

(iii) 1 representative of the city of Greeley.

(iv) 1 representative of Weld County.

(v) 1 representative of the general public.

(3) PARTIAL TERMS.—

(A) FILLING VACANCIES.—A member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of their term.

(B) EXTENDED SERVICE.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

SECTION 1005. STAFF OF THE COMMISSION.

(a) STAFF.—The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out the duties of the Commission.

(1) APPOINTMENT AND COMPENSATION.—Staff appointed by the Commission—

(A) shall be appointed without regard to the city service laws and regulations; and

(B) shall be compensated without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(c) STAFF OF OTHER AGENCIES.—

(1) FEDERAL.—Upon request of the Commission, the head of a Federal agency may detail, on a reimbursement basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out the Commission's duties. The detail shall be without interruption or loss of civil service status or privilege.

(2) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(3) STATE.—The Commission may—

(A) accept the service of personnel detailed from the State, State agencies, and political subdivisions of the State; and

(B) reimburse the State, State agency, or political subdivision of the State for such services.

SECTION 1006. POWERS OF THE COMMISSION.

(a) HEARINGS.—

(1) IN GENERAL.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers necessary to carry out this Title.

(2) SUBPOENAS.—The Commission may not issue subpoenas or exercise any subpoena authority.

(b) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(c) MATCHING FUNDS.—The Commission may use its funds to obtain money from any source under a program or law requiring the recipient of the money to make a contribution in order to receive the money.

(d) GIFTS.—

(1) IN GENERAL.—Except as provided in subsection (e)(3), the Commission may, for the purpose of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services received from any source.

(2) CHARITABLE CONTRIBUTIONS.—For the purpose of section 170(c) of the Internal Revenue Code of 1986, a gift to the Commission shall be deemed to be a gift to the United States.

(e) REAL PROPERTY.—

(1) IN GENERAL.—Except as provided in paragraph (2) and except with respect to a leasing of facilities under section 6(c)(2), the Commission may not acquire real property or an interest in real property.

(2) EXCEPTION.—Subject to paragraph (3), the Commission may acquire real property in the Area, and interests in real property in the Area—

(A) by gift or device;

(B) by purchase from a willing seller with money that was given or bequeathed to the Commission; or

(C) by exchange.

(3) CONVEYANCE TO PUBLIC AGENCIES.—Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate non-Federal public agency, as determined by the Commission. The conveyance shall be made—

(A) as soon as practicable after acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used in furtherance of the purpose for which the Area is established.

(f) COOPERATIVE AGREEMENTS.—For the purpose of carrying out the Plan, the Commission may enter into cooperative agreements with Federal agencies, State agencies, political subdivisions of the State, and persons. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action that may affect the implementation of the Plan.

(g) ADVISORY GROUPS.—The Commission may establish such advisory groups as it considers necessary to ensure open communication with, and assistance from Federal agencies, State agencies, political subdivisions of the State, and interested persons.

(h) MODIFICATION OF PLANS.—

(1) IN GENERAL.—The Commission may modify the Plan if the Commission determines that such modification is necessary to carry out this Title.

(2) NOTICE.—No modification shall take effect until—

(A) any Federal agency, State agency, or political subdivision of the State that may be affected by the modification receives adequate notice of, and an opportunity to comment on, the modification;

(B) if the modification is significant, as determined by the Commission, the Commission has—

(i) provided adequate notice of the modification by publication in the area of the Area; and

(ii) conducted a public hearing with respect to the modification; and

(C) the Governor has approved the modification.

SECTION 1007. DUTIES OF THE COMMISSION.

(a) PLAN.—The Commission shall prepare, obtain approval for, implement, and support the Plan in accordance with section 9.

(b) MEETINGS.—

(1) TIMING.—

(A) INITIAL MEETING.—The Commission shall hold its first meeting not later than 90 days after the date on which its last initial member is appointed.

(B) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the chairperson or 7 of its members, except that the commission shall meet at least quarterly .

(2) QUORUM.—Ten members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(3) BUDGET.—The affirmative vote of not less than 10 members of the Commission shall be required to approve the budget of the Commission.

(c) ANNUAL REPORTS.—Not later than May 15 of each year, following the year in which the members of the Commission have been appointed, the Commission shall publish and submit to the Secretary and to the Governor, an annual report concerning the Commission's activities.

SECTION 1008. PREPARATION, REVIEW, AND IMPLEMENTATION OF THE PLAN.

(a) PREPARATION OF PLAN.—

(1) IN GENERAL.—Not later than 2 years after the Commission conducts its first meeting, the Commission shall submit to the Governor a Water Heritage Area Interpretation Plan.

(2) DEVELOPMENT.—In developing the Plan, the Commission shall—

(A) consult on a regular basis with appropriate officials of any Federal or State agency, political subdivision of the State, and local government that has jurisdiction over or an ownership interest in land, water, or water rights within the Area; and

(B) conduct public hearings within the Area for the purpose of providing interested persons the opportunity to testify about matters to be addressed by the Plan.

(3) RELATIONSHIP TO EXISTING PLANS.—The Plan—

(A) shall recognize any existing Federal, State, and local plans;

(B) shall not interfere with the implementation, administration, or amendment of such plans; and

(C) to the extent feasible, shall seek to coordinate the plans and present a unified interpretation plan for the Area.

(b) REVIEW OF PLAN.—

(1) IN GENERAL.—The Commission shall submit the Plan to the Governor for his review.

(2) GOVERNOR.—The Governor may review the Plan and if he concurs in the Plan, may submit the Plan to the Secretary, together with any recommendations.

(3) SECRETARY.—The Secretary shall approve or disapprove the Plan within 90 days. In reviewing the Plan, the Secretary shall consider the adequacy of—

(A) public participation; and

(B) the Plan in interpreting, for the educational and inspirational benefit or present and future generations, the unique and significant contributions to our national heritage of cultural and historical lands, waterways, and structures within the Area.

(c) DISAPPOVAL OF PLAN.—

(1) NOTIFICATION BY SECRETARY.—If the Secretary disapproves the Plan, the Secretary shall, not later than 60 days after the date of disapproval, advise the Governor and the Commission of the reasons for disapproval, together with recommendations for revision.

(2) REVISION AND RESUBMISSION TO GOVERNOR.—Not later than 90 days after receipt of the notice of disapproval, the Commission shall revise and resubmit the Plan to the Governor for review.

(3) RESUBMISSION TO SECRETARY.—If the Governor concurs in the revised Plan, he may submit the revised Plan to the Secretary who shall approve or disapprove the revision within 60 days. If the Governor does not concur in the revised Plan, he may resubmit it to the Commission together with his recommendations for further consideration and modification.

(d) IMPEMENTATION OF PLAN.—After approval by the Secretary, the Commission shall implement and support the Plan as follows:

(1) CULTURAL RESOURCES.—

(A) IN GENERAL.—The Commission shall assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the conservation and interpretation of cultural resources within the Area.

(B) EXCEPTION.—In providing the assistance, the Commission shall in no way infringe upon the authorities and policies of a Federal agency, State agency, or political subdivision of the State concerning the administration and management of property, water, or water rights held by such agency, political subdivision, or private persons or entities, or affect the jurisdiction of the State of Colorado over any property, water, or water rights within the Area.

(2) PUBLIC AWARENESS.—The Commission shall assist in the enhancement of public awareness of, and appreciation for, the historical, recreational, architectural, and engineering structures in the Area, and the archaeological, geological, and cultural resources and sites in the Area—

(A) by encouraging private owners of identified structures, sites, and resources to adopt voluntary measures for the preservation of the identified structure, site, or resource; and

(B) by cooperating with Federal agencies, State agencies, and political subdivisions of the State in acquiring, on a willing seller basis, any identified structure, site, or resource which the Commission, with the concurrence of the Governor, determines should be acquired and held by an agency of the State.

(3) RESTORATION.—The Commission may assist Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations in the restoration of any identified structure or site in the Area with consent of the owner. The assistance may include providing technical assistance for historic preservation, revitalization, and enhancement efforts.

(4) INTERPRETATION.—The Commission shall assist in the interpretation of the historical, present, and future uses of the Area—

(A) by consulting with the Secretary with respect to the implementation of the Secretary's duties under section 1010;

(B) by assisting the State and political subdivisions of the State in establishing and maintaining visitor orientation centers and other interpretive exhibits within the Area;

(C) by encouraging voluntary cooperation and coordination, with respect to ongoing interpretive services in the Area, among Federal agencies, State agencies, political subdivisions of the State, nonprofit organizations, and private citizens, and

(D) by encouraging Federal agencies, State agencies, political subdivisions of the State, and nonprofit organizations to undertake new interpretive initiatives with respect to the Area.

(5) RECOGNITION.—The Commission shall assist in establishing recognition for the Area by actively promoting the cultural, historical, natural, and recreational resources of the Area on a community, regional, statewide, national, and international basis.

(6) LAND EXCHANGES.—The Commission shall assist in identifying and implementing land exchanges within the State of Colorado by Federal and State agencies that will expand open space and recreational opportunities within the flood plain of the Area.

SECTION 1009. TERMINATION OF TRAVEL EXPENSES PROVISION.

Effective on the date that is 5 years after the date on which the Secretary approves the Plan, section 5 is amended by striking subsection (e).

SECTION 1010. DUTIES OF THE SECRETARY.

(a) ACQUISITION OF LAND.—The Secretary may acquire land and interests in land within the Area that have been specifically identified by the Commission for acquisition by the Federal government and that have been approved for such acquisition by the Governor and the political subdivision of the State where the land is located by donation, purchase with donated or appropriated funds, or exchange. Acquisition authority may only be used if such lands cannot be acquired by donation or exchange. No land or interest in land may be acquired without the consent of the owner.

(b) TECHNICAL ASSISTANCE.—The Secretary shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan pursuant to section 1008.

(c) DETAIL.—Each fiscal year during the existence of the Commission, the Secretary shall detail to the Commission, on a nonreimbursable basis, 2 employees of the Department of the Interior to enable the Commission to carry out the Commission's duties under section 1007.

SECTION 1011. OTHER FEDERAL ENTITIES.

(a) DUTIES.—Subject to section 1001, a Federal entity conducting or supporting activities directly affecting the flow of the Cache La Poudre River through the Area, or the natural resources of the Area shall consult

with the Commission with respect to such activities;

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary or Administrator of a Federal agency may acquire land in the flood plain of the Area by exchange for other lands within such agency's jurisdiction within the State of Colorado, based on fair market value: *Provided*, That such lands have been identified by the Commission for acquisition by a Federal agency and the Governor and the political subdivision of the State or the owner where the lands are located concur in the exchange. Land so acquired shall be used to fulfill the purpose for which the Area is established.

(2) AUTHORIZATION TO CONVEY PROPERTY.—The first sentence of section 203(k)(3) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(3)) is amended by striking ''historic monument, for the benefit of the public'' and inserting ''historic monument or any such property within the State of Colorado for the Cache La Poudre River National Water Heritage Area, for the benefit of the public''.

SECTION 1012. EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS, RESTRICTIONS, AND SAVINGS PROVISIONS.

(a) EFFECT ON ENVIRONMENTAL AND OTHER STANDARDS.—

(1) VOLUNTARY COOPERATION.—In carrying out this Title, the Commission and Secretary shall emphasize voluntary cooperation.

(2) RULES, REGULATIONS, STANDARDS, AND PERMIT PROCESSES.—Nothing in this Title shall be considered to impose or form the basis for imposition of any environmental, occupational, safety, or other rule, regulation, standard, or permit process that is different from those that would be applicable had the Area not been established.

(3) ENVIRONMENTAL QUALITY STANDARDS.—Nothing in this Title shall be considered to impose the application or administration of any Federal or State environmental quality standard that is different from those that will be applicable had the Area not been established.

(4) WATER STANDARDS.—Nothing in this Title shall be considered to impose any Federal or State water use designation or water quality standard upon uses of, or discharges to, waters of the State or waters of the United States, within or adjacent to the Area, that is more restrictive than those that would be applicable had the Area not been established.

(5) PERMITTING OF FACILITIES.—Nothing in the establishment of the Area shall abridge, restrict, or alter any applicable rule, regulation, standard, or review procedure for permitting of facilities within or adjacent to the Area.

(6) WATER FACILITIES.—Nothing in the establishment of the Area shall affect the continuing use and operation, repair, rehabilitation, expansion, or new construction of water supply facilities, water and wastewater treatment facilities, stormwater facilities, public utilities, and common carriers.

(7) WATER AND WATER RIGHTS.—Nothing in the establishment of the Area shall be considered to authorize or imply the reservation or appropriation of water or water rights for any purpose.

(b) RESTRICTIONS ON COMMISSION AND SECRETARY.—Nothing in this Title shall be construed to vest in the Commission or the Secretary the authority to—

(1) require a Federal agency, State agency, political subdivision of the State, or private person (including an owner of private property) to participate in a project or program carried out by the Commission or the Secretary under the Title;

(2) intervene as a party in an administrative or judicial proceeding concerning the application or enforcement of a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including, but not limited to, authority relating to—

(A) land use regulation;

(B) environmental quality;

(C) licensing;

(D) permitting;

(E) easements;

(F) private land development; or

(G) other occupational or access issue;

(3) establish or modify a regulatory authority of a Federal agency, State agency, or political subdivision of the State, including authority relating to—

(A) land use regulation;

(B) environmental quality; or

(C) pipeline or utility crossings;

(4) modify a policy of a Federal agency, State agency, or political subdivision of the State;

(5) attest in any manner the authority and jurisdiction of the State with respect to the acquisition of lands or water, or interest in lands or water;

(6) vest authority to reserve or appropriate water or water rights in any entity for any purpose;

(7) deny, condition, or restrict the construction, repair, rehabilitation, or expansion of water facilities, including stormwater, water, and wastewater treatment facilities; or

(8) deny, condition, or restrict the exercise of water rights in accordance with the substantive and procedural requirements of the laws of the state.

(c) SAVINGS PROVISION.—Nothing in this Title shall diminish, enlarge, or modify a right of a Federal agency, State agency, or political subdivision of the State—

(1) to exercise civil and criminal jurisdiction within the Area; or

(2) to tax persons, corporations, franchises, or property, including minerals and other interests in or on lands or waters within the urban river corridor portions of the Area.

(d) ACCESS TO PRIVATE PROPERTY.—Nothing in this Title requires an owner of private property to allow access to the property by the public.

SECTION 1013. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated not to exceed $50,000 to the Commission to carry out this Act.

(b) MATCHING FUNDS.—Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds or in-kind contributions of services or materials from non-Federal sources.

TITLE XI—GILPIN COUNTY, COLORADO LAND EXCHANGE

SECTION 1101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds and declares that—

(1) certain scattered parcels of Federal land located within Gilpin County, Colorado, are currently administered by the Secretary of the Interior as part of the Royal Gorge Resource Area, Canon City District, United States Bureau of Land Management;

(2) these land parcels, which comprises approximately 133 separate tracts of land, and range in size from approximately 38 acres to much less than an acre have been identified as suitable for disposal by the Bureau of Land Management through its resource management planning process and are appropriate for disposal; and

(3) even though the Federal land parcels in Gilpin County, Colorado, are scattered and small in size, they nevertheless by virtue of their proximity to existing communities appear to have a fair market value which may be used by the Federal Government to exchange for lands which will better lend themselves to Federal management and have higher values for future public access, use and enjoyment, recreation, the protection and enhancement of fish and wildlife and fish and wildlife habitat, and the protection of riparian lands, wetlands, scenic beauty and other public values.

(b) PURPOSE.—It is the purpose of this Title to authorize, direct, facilitate and expedite the land exchange set forth herein in order to further the public interest by disposing of Federal lands with limited public utility and acquire in exchange therefor lands with important values for permanent public management and protection.

SECTION 1102. LAND EXCHANGE.

(a) IN GENERAL.—The exchange directed by this Title shall be consummated if within 90 days after enactment of this Act, Lake Gulch, Inc., a Colorado Corporation (as defined in section 1104 of this Title) offers to transfer to the United States pursuant to the provisions of this Title the offered lands or interests in land described herein.

(b) CONVEYANCE BY LAKE GULCH.—Subject to the provisions of section 1103 of this Title, Lake Gulch shall convey to the Secretary of the Interior all right, title, and interest in and to the following offered lands—

(1) certain lands comprising approximately 40 acres with improvements thereon located in Larimer County, Colorado, and lying within the boundaries of Rocky Mountain National Park as generally depicted on a map entitled ''Circle C Church Camp'', dated August 1994, which shall upon their acquisition by the United States and without further action by the Secretary of the Interior be incorporated into Rocky Mountain National Park and thereafter be administered in accordance with the laws, rules and regulations generally applicable to the National Park System and Rocky Mountain National Park;

(2) certain lands located within and adjacent to the United States Bureau of Land Management San Luis Resource Area in Conejos County, Colorado, which comprise approximately 3,993 acres and are generally depicted on a map entitled ''Quinlan Ranches Tract'', dated August 1994; and

(3) certain lands located within the United States Bureau of Land Management Royal Gorge Resource Area in Huerfano County, Colorado, which comprise approximately 4,700 acres and are generally depicted on a map entitled ''Bonham Ranch-Cucharas Canyon'', dated June 1995: *Provided, however*, That it is the intention of Congress that such lands may remain available for the grazing of livestock as determined appropriate by the Secretary in accordance with applicable laws, rules, and regulations: *Provided further*, That if the Secretary determines that certain of the lands acquired adjacent to Cucharas Canyon hereunder are not needed for public purposes they may be sold in accordance with the provisions of section 203 of the Federal Land Policy and Management Act of 1976 and other applicable law.

(c) SUBSTITUTION OF LANDS.—If one or more of the precise offered land parcels identified above is unable to be conveyed to the United States due to appraisal or other problems, Lake Gulch and the Secretary may mutually agree to substitute therefor alternative offered lands acceptable to the Secretary.

(d) COVEYANCE BY THE UNITED STATES.—(1) Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Lake Gulch all right, title, and interest of the United States, subject to valid existing rights, in and to the following selected lands—

(A) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 18, Lots 118–220, which comprise approximately 195 acres and are intended to include all federally owned lands in section 18, as generally depicted on a map entitled ''Lake Gulch Selected Lands'', dated July 1994;

(B) certain surveyed lands located in Gilpin County, Colorado, Township 3 South, Range 72 West, Sixth Principal Meridian, Section 17, Lots 37, 38, 39, 40, 52, 53, and 54, which comprise approximately 96 acres, as generally depicted on a map entitled ''Lake Gulch Selected Lands'', dated July 1994; and

(C) certain unsurveyed lands located in Gilpin County, Colorado, Township 3 South, Range, 73 West, Sixth Principal Meridian, Section 13, which comprise approximately 11 acres, and are generally depicted as parcels 302–304, 306 and 308–326 on a map entitled ''Lake Gulch Selected Lands'', dated July 1994: *Provided, however,* That a parcel or parcels of land in section 13 shall not be transferred to Lake Gulch if at the time of the proposed transfer the parcel or parcels are under formal application for transfer to a qualified unit of local government. Due to the small and unsurveyed nature of such parcels proposed for transfer to Lake Gulch in section 13, and the high cost of surveying such small parcels, the Secretary is authorized to transfer such section 13 lands to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate to carry out the basic intent of the map cited in this subparagraph.

(2) If the Secretary and Lake Gulch mutually agree, and the Secretary determines it is in the public interest, the Secretary may utilize the authority and direction of this Title to transfer to Lake Gulch lands in sections 17 and 13 that are in addition to those precise selected lands shown on the map cited herein, and which are not under formal application for transfer to a qualified unit of local government, upon transfer to the Secretary of additional offered lands acceptable to the Secretary or upon payment to the Secretary by Lake Gulch of cash equalization money amounting to the full appraised fair market value of any such additional lands. If any such additional lands are located in section 13 they may be transferred to Lake Gulch without survey based on such legal or other description as the Secretary determines appropriate as long as the Secretary determines that the boundaries of any adjacent lands not owned by Lake Gulch can be properly identified so as to avoid possible future boundary conflicts or disputes. If the Secretary determines surveys are necessary to convey any such additional lands to Lake Gulch, the costs of such surveys shall be paid by Lake Gulch but shall not be eligible for any adjustment in the value of such additional lands pursuant to section 206(f)(2) of the Federal Land Policy and Management Act of 1976 (as amended by the Federal Land Exchange Facilitation Act of 1988) (43 U.S.C. 1716(f)(2)).

(3) Prior to transferring out of public ownership pursuant to this Title or other authority of law any lands which are contiguous to North Clear Creek southeast of the City of Black Hawk, Colorado in the County of Gilpin, Colorado, the Secretary shall notify and consult with the County and City and afford such units of local government an opportunity to acquire or reserve pursuant to the Federal Land Policy and Management Act of 1976 or other applicable law, such easements or rights-of-way parallel to North Clear Creek as may be necessary to serve public utility line or recreation path needs: *Provided, however,* That any survey or other costs associated with the acquisition or reservation of such easements or rights-of-way shall be paid for by the unit or units of local government concerned.

SECTION 1103. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUE.—

(1) The values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary of the Interior utilizing comparable sales of surface and subsurface property and nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Standards for Federal Land Acquisition, the Uniform Standards of Professional Appraisal Practice, the provisions of section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)), and other applicable law.

(2) In the event any cash equalization or land sale moneys are received by the United States pursuant to this Act, any such moneys shall be retained by the Secretary of the Interior and may be utilized by the Secretary until fully expended to purchase from willing sellers land or water rights, or a combination thereof, to augment wildlife habitat and protect and restore wetlands in the Bureau of Land Management's Blanca Wetlands, Alamosa County, Colorado.

(3) Any water rights acquired by the United States pursuant to this section shall be obtained by the Secretary of the Interior in accordance with all applicable provisions of Colorado law, including the requirement to change the time, place, and type of use of said water rights through the appropriate State legal proceedings and to comply with any terms, conditions, or other provisions contained in an applicable decree of the Colorado Water Court. The use of any water rights acquired pursuant to this section shall be limited to water that can be used or exchanged for water that can be used on the Blanca Wetlands. Any requirement or proposal to utilize facilities of the San Luis Valley Project, Closed Basin Diversion, in order to effectuate the use of any such water rights shall be subject to prior approval of the Rio Grande Water Conservation District.

(b) RESTRICTIONS ON SELECTED LANDS.—(1) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be contingent upon Lake Gulch executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of the Interior, and which—

(A) grant the United States a covenant that none of the selected lands (which currently lie outside the legally approved gaming area) shall ever be used for purposes of gaming should the current legal gaming area ever be expanded by the State of Colorado; and

(B) permanently hold the United States harmless for liability and indemnify the United States against all costs arising from any activities, operations (including the strong, handling, and dumping of hazardous materials or substances) or other acts conducted by Lake Gulch or its employees, agents, successors or assigns on the selected lands after their transfer to Lake Gulch: *Provided, however,* That nothing in this Title shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of the selected lands prior to or on the date of their transfer to Lake Gulch.

(2) Conveyance of the selected lands to Lake Gulch pursuant to this Title shall be subject to the existing easement of Gilpin County Road 6.

(3) The above terms and restrictions of this subsection shall not be considered in determining, or result in any diminution in, the fair market value of the selected land for purposes of the appraisals of the selected land required pursuant to section 1102 of this Title.

(c) REVOCATION OF WITHDRAWAL.—The Public Water Reserve established by Executive order dated April 17, 1926 (Public Water Reserve 107), Serial Number Colorado 17321, is hereby revoked insofar as it affects the NW¼SW¼ of Section 17, Township 3 South, Range 72 West, Sixth Principal Meridian, which covers a portion of the selected lands identified in this Title.

SECTION 1104. MISCELLANEOUS PROVISIONS.

(a) DEFINITIONS.—As used in this Title:

(1) The term ''Secretary'' means the Secretary of the Interior.

(2) The term ''Lake Gulch'' means Lake Gulch, Inc., a Colorado corporation, or its successors, heirs or assigns.

(3) The term ''offered land'' means lands to be conveyed to the United States pursuant to this Title.

(4) The term ''selected land'' means lands to be transferred to Lake Gulch, Inc., or its successors, heirs or assigns pursuant to this Title.

(5) The term ''Blanca Wetlands'' means an area of land comprising approximately 9,290 acres, as generally depicted on a map entitled ''Blanca Wetlands'', dated August 1994, or such land as the Secretary may add thereto by purchase from willing sellers after the date of enactment of this Act utilizing funds provided by this Title or such other moneys as Congress may appropriate.

(b) TIME REQUIREMENT FOR COMPLETING TRANSFER.—It is the intent of Congress that unless the Secretary and Lake Gulch mutually agree otherwise the exchange of lands authorized and directed by this Title shall be completed not later than 6 months after the date of enactment of this Act. In the event the exchange cannot be consummated within such 6-month-time period, the Secretary, upon application by Lake Gulch, is directed to sell to Lake Gulch at appraised fair market value any or all of the parcels (comprising a total of approximately 11 acres) identified in section 1102(d)(1)(C) of this Title as long as the parcel or parcels applied for are not under formal application for transfer to a qualified unit of local government.

(c) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—In accordance with the provisions of section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)), all lands acquired by the United States pursuant to this Title shall upon acceptance of title by the United States and without further action by the Secretary concerned become part of and be managed as part of the administrative unit or area within which they are located.

TITLE XII—BUTTE COUNTY, CALIFORNIA LAND CONVEYANCE

SECTIN 1201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) certain landowners in Butte County, California who own property adjacent to the Plumas National Forest have been adversely affected by certain erroneous surveys;

(2) these landowners have occupied or improved their property in good faith and in reliance on erroneous surveys of their properties that they believed are accurate; and

(3) the 1992 Bureau of Land Management dependent resurvey of the Plumas National Forest will correctly establish accurate boundaries between such forest and private lands.

(b) PURPOSE.—It is the purpose of this Title to authorize and direct the Secretary of Agriculture to convey, without consideration, certain lands in Butte County, California, to persons claiming to have been deprived of title to such lands.

SECTION 1202. DEFINITIONS.

For the purpose of this Title—

(1) the term ''affected lands'' means those Federal lands located in the Plumas National Forest in Butte County, California, in sections 11, 12, 13, and 14, township 21 north, range 5 East, Mount Diablo Meridian, as described by the dependent resurvey by the Bureau of Land Management conducted in 1992, and subsequent Forest Service land line location surveys, including all adjoining parcels where the property line as identified by the 1992 BLM dependent resurvey and National Forest boundary lines before such dependent resurvey are not coincident;

(2) the term ''claimant'' means an owner of real property in Butte County, California, whose real property adjoins Plumas National Forest lands described in subsection (a), who claims to have been deprived by the United States of title to property as a result of previous erroneous surveys; and

(3) the term ''Secretary'' means the Secretary of Agriculture.

SECTION 1203. CONVEYANCE OF LANDS.

Notwithstanding any other provision of law, the Secretary is authorized and directed to convey, without consideration, all right, title, and interest of the United States in and to affected lands as described in section 1202(1), to any claimant or claimants, upon proper application from such claimant or claimants, as provided in section 1204.

SECTION 1204. TERMS AND CONDITIONS OF CONVEYANCE.

(a) NOTIFICATION.—Not later than 2 years after the date of enactment of this Act, claimants shall notify the Secretary, through the Forest Supervisor of the Plumas National Forest, in writing of their claim to affected lands. Such claim shall be accompanied by—

(1) a description of the affected lands claimed;

(2) information relating to the claim of ownership of such lands; and

(3) such other information as the Secretary may require.

(b) ISSUANCE OF DEED.—(1) Upon a determination by the Secretary that issuance of a deed for affected lands is consistent with the purpose and requirements of this Title, the Secretary shall issue a quit claim deed to such claimant for the parcel to be conveyed.

(2) Prior to the issuance of any such deed as provided in paragraph (1), the Secretary shall ensure that—

(A) the parcel or parcels to be conveyed have been surveyed in accordance with the Memorandum of Understanding between the Forest Service and the Bureau of Land Management, dated November 11, 1989;

(B) all new property lines established by such surveys have been monumented and marked; and

(C) all terms and conditions necessary to protect third party and Government Rights-of-Way or other interests are included in the deed.

(3) The Federal Government shall be responsible for all surveys and property line markings necessary to implement this subsection.

(c) NOTIFICATION TO BLM.—The Secretary shall submit to the Secretary of the Interior an authenticated copy of each deed issued pursuant to this Title no later than 30 days after the date such deed is issued.

SECTION 1205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as necessary to carry out the purposes of this Title.

TITLE XIII—CARL GARNER FEDERAL LANDS CLEANUP DAY

SECTION 1301.

The Federal Lands Cleanup Act of 1985 (36 U.S.C. 169i—169i–1) is amended by striking the terms ''Federal Lands Cleanup Day'' each place it appears and inserting ''Carl Garner Federal Lands Cleanup Day.''

TITLE XIV—ANAKTUVUK PASS LAND EXCHANGE

SECTION 1401. FINDINGS.

The Congress makes the following findings:

(1) The Alaska National Interest Lands Conservation Act (94 Stat. 2371), enacted on December 2, 1980, established Gates of the Arctic National Park and Preserve and Gates of the Arctic Wilderness. The village of Anaktuvuk Pass, located in the highlands of the central Brooks Range, is virtually surrounded by these national park and wilderness lands and is the only Native village located within the boundary of a National Park System unit in Alaska.

(2) Unlike most other Alaskan Native communities, the village of Anaktuvuk Pass is not located on a major river, lake, or coastline that can be used as a means of access. The residents of Anaktuvuk Pass have relied increasingly on snow machines in winter and all-terrain vehicles in summer as their primary means of access of pursue caribou and other subsistence resources.

(3) In a 1993 land exchange agreement, linear easements were reserved by the Inupiat Eskimo people for use of all-terrain vehicles across certain national park lands, mostly along stream and river banks. These linear easements proved unsatisfactory, because they provided inadequate access to subsistence resources while causing excessive environmental impact from concentrated use.

(4) The National Park Service and the Nunamiut Corporation initiated discussions in 1985 to address concerns over the use of all-terrain vehicles on park and wilderness land. These discussions resulted in an agreement, originally executed in 1992 and thereafter amended in 1993 and 1994, among the National Park Service, Nunamiut Corporation, the City of Anaktuvuk Pass, and Arctic Slope Regional Corporation. Full effectuation of this agreement, as amended, by its terms requires ratification by the Congress.

SECTION 1402. RATIFICATION OF AGREEMENT.

(a) RATIFICATION.—

(1) IN GENERAL.—The terms, conditions, procedures, covenants, reservations and other provisions set forth in the document entitled ''Donation, Exchange of Lands and Interests in Lands and Wilderness Redesignation Agreement Among Arctic Slope Regional Corporation, Nunamiut Corporation, City of Anaktuvuk Pass and the United States of America'' (hereinafter referred to in this Title as ''the Agreement''), executed by the parties on December 17, 1992, as amended, are hereby incorporated in this Title, are ratified and confirmed, and set forth the obligations and commitments of the United States, Arctic Slope Regional Corporation, Nunamiut Corporation and the City of Anaktuvuk Pass, as a matter of Federal law.

(2) LAND ACQUISITION.—Lands acquired by the United States pursuant to the Agreement shall be administered by the Secretary of the Interior (hereinafter referred to as the ''Secretary'') as part of Gates of the Arctic National Park and Preserve, subject to the laws and regulations applicable thereto.

(b) MAPS.—The maps set forth as Exhibits C1, C2, and D through I to the Agreement depict the lands subject to the conveyances, retention of surface access rights, access easements and all-terrain vehicle easements. These lands are depicted in greater detail on a map entitled ''Land Exchange Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,039, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the offices of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska. Written legal descriptions of these lands shall be prepared and made available in the above offices. In case of any discrepancies, Map No. 185/80,039 shall be controlling.

SECTION 1403. NATIONAL PARK SYSTEM WILDERNESS.

(a) GATES OF THE ARCTIC WILDERNESS.—

(1) REDESIGNATION.—Section 701(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2417) establishing the Gates of the Arctic Wilderness is hereby amended with the addition of approximately 56,825 acres as wilderness and the rescission of approximately 73,993 acres as wilderness, thus revising the Gates of the Arctic Wilderness to approximately 7,034,832 acres.

(2) MAP.—The lands redesignated by paragraph (1) are depicted on a map entitled ''Wilderness Actions, Proposed Anaktuvuk Pass Land Exchange and Wilderness Redesignation, Gates of the Arctic National Park and Preserve'', Map No. 185/80,040, dated April 1994, and on file at the Alaska Regional Office of the National Park Service and the office of Gates of the Arctic National Park and Preserve in Fairbanks, Alaska.

(b) NOATAK NATIONAL PRESERVE.—Section 201(8)(a) of the Alaska National Interest Land Conservation Act (94 Stat. 2380) is amended by—

(1) striking ''approximately six million four hundred and sixty thousand acres'' and inserting in lieu thereof ''approximately 6,477,168 acres''; and

(2) inserting ''and the map entitled ''Noatak National Preserve and Noatak Wilderness Addition'' dated September 1994'' after ''July 1980''.

(c) NOATAK WILDERNESS.—Section 701(7) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417) is amended by striking ''approximately five million eight hundred thousand acres'' and inserting in lieu thereof ''approximately 5,817,168 acres''.

SECTION 1404. CONFORMANCE WITH OTHER LAW.

(a) ALASKA NATIVE CLAIMS SETTLEMENT ACT.—All of the lands, or interests therein, conveyed to and received by Arctic Slope Regional Corporation or Nunamiut Corporation pursuant to the Agreement shall be deemed conveyed and received pursuant to exchanges under section 22(f) of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1621(f)). All of the lands or interests in lands conveyed pursuant to the Agreement shall be conveyed subject to valid existing rights.

(b) ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT.—Except to the extent specifically set forth in this Title or the Agreement, nothing in this Title or in the Agreement shall be construed to enlarge or diminish the rights, privileges, or obligations of any person, including specifically the preference for subsistence uses and access to subsistence resources provided under the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

TITLE XV—ALASKA PENINSULA SUBSURFACE CONSOLIDATION

SECTION 1501. DEFINITIONS.

As used in this Title.

(1) AGENCY.—The term agency—

(A) means—

(i) any instrumentality of the United States; and

(ii) any Government corporation (as defined in section 9101(1) of title 31, United States Code); and

(B) includes any element of an agency.

(2) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as is provided for ''Native Corporation'' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) FEDERAL LANDS OR INTEREST THEREIN.—The term ''Federal lands or interests therein'' means any lands or properties owned by the United States (i) which are administered by the Secretary, or (ii) which are subject to a lease to third parties, or (iii) which have been made available to the Secretary for exchange under this section through the concurrence of the director of the agency administering such lands or properties; provided, however, excluded from such lands shall be those lands which are within an existing conservation system unit as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4)), and those lands the mineral interest for which are currently under mineral lease.

(4) KONIAG.—The term ''Koniag'' means Koniag, Incorporated, which is a regional Corporation.

(5) REGIONAL CORPORATION.—The term ''Regional Corporation'' has the same meaning as is provided in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of the Interior.

(7) SELECTION RIGHTS.—The term ''selection rights'' means those rights granted to Koniag, pursuant to subsections (a) and (b) of section 12, and section 14(h)(8), of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 and 1613(h)(8)), to receive title to the oil and gas rights and other interests in the subsurface estate of the approximately 275,000 acres of public lands in the State of Alaska identified as ''Koniag Selections'' on the map entitled ''Koniag Interest Lands, Alaska Peninsula'', dated May 1989.

SECTION 1502. VALUATION OF KONIAG SELECTION RIGHTS.

(a) Pursuant to subsection (b) hereof, the Secretary shall value the Selection Rights which Koniag possesses within the boundaries of Aniakchak National Monument and Preserve, Alaska Peninsula National Wildlife Refuge, and Becharof National Wildlife Refuge.

(b) VALUE.—

(1) IN GENERAL.—The value of the selection rights shall be equal to the fair market value of—

(A) the oil and gas interests in the lands or interests in lands that are the subject of the selection rights; and

(B) in the case of the lands or interests in lands for which Koniag is to receive the entire subsurface estate, the subsurface estate of the lands or interests in lands that are the subject of the selection rights.

(2) APPRAISAL.—

(A) SELECTION OF APPRAISER.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Title the Secretary and Koniag shall meet to select a qualified appraiser to conduct an appraisal of the selection rights. Subject to clause (ii), the appraiser shall be selected by the mutual agreement of the Secretary and Koniag.

(ii) FAILURE TO AGREE.—If the Secretary and Koniag fail to agree on an appraiser by the date that is 60 days after the date of the initial meeting referred to in clause (i), the Secretary and Koniag shall, by the date that is not later than 90 days after the date of the initial meeting, each designate an appraiser who is qualified to perform the appraisal. The 2 appraisers so identified shall select a third qualified appraiser who shall perform the appraisal.

(B) STANDARDS AND METHODOLOGY.—The appraisal shall be conducted in conformity with the standards of the Appraisal Foundation (as defined in section 1121(9) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3350(9)).

(C) SUBMISSION OF APPRAISAL REPORT.—Not later than 180 days after the selection of an appraiser pursuant to subparagraph (A), the appraiser shall submit to the Secretary and to Koniag a written appraisal report specifying the value of the selection rights and the methodology used to arrive at the value.

(3) DETERMINATION OF VALUE.—

(A) DETERMINATION BY THE SECRETARY.—Not later than 60 days after the date of the receipt of the appraisal report under paragraph (2)(c), the Secretary shall determine the value of the selection rights and shall notify Koniag of the determination.

(B) ALTERNATIVE DETERMINATION OF VALUE.—

(i) IN GENERAL.—Subject to clause (ii), if Koniag does not agree with the value determined by the Secretary under subparagraph (A), the procedures specified in section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716 (d)) shall be used to establish the value.

(ii) AVERAGE VALUE LIMITATION.—The average value per acre of the selection rights shall not be less than the value utilizing the risk adjusted discount cash flow methodology, but in no event may exceed $300.

SECTION 1503. KONIAG ACCOUNT.

(a) IN GENERAL.—

(1) the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein which are in the State of Alaska for the Selection Rights.

(2) If the value of the federal property to be exchanged is less than the value of the Selection Rights established in section 1501, and if such federal property to be exchanged is not generating receipts to the federal government in excess of one million dollars per year, then the Secretary may exchange the federal property for that portion of the Selection Rights having a value equal to that of the federal property. The remaining selection rights shall remain available for additional exchanges.

(3) For the purposes of any exchange to be consummated under this Title II, if less than all the selection rights are being exchanged, then the value of the selection rights being exchanged shall be equal to the number of acres of selection rights being exchanged multiplied by a fraction, the numerator of which is the value of all the selection rights as determined pursuant to Section 202 hereof and the denominator of which is the total number of acres of selection rights.

(B) ADDITIONAL EXCHANGES.—If, after ten years from the date of the enactment of this Title, the Secretary was unable to conclude such exchanges as may be required to acquire all of the selection rights, he shall conclude exchanges for the remaining selection rights for such federal property as may be identified by Koniag, which property is available for transfer to the administrative jurisdiction of the Secretary under any provision of law and which property, at the time of the proposed transfer to Koniag is not generating receipts to the federal government in excess of one million dollars per year. The Secretary shall keep Koniag advised in a timely manner as to which properties may be available for such transfer. Upon receipt of such identification by Koniag, the Secretary shall request in a timely manner the transfer of such identified property to the administrative jurisdiction of the Department of the Interior. Such property shall not be subject to the geographic limitations of section 206(b) of the Federal Land Policy and Management Act and may be retained by the Secretary solely for purposes of transferring it to Koniag to complete the exchange. Should the value of the property so identified by Koniag be in excess of the value of the remaining selection rights, then Koniag shall have the option of (i) declining to proceed with the exchange and identifying other property or (ii) paying the difference in value between the property rights.

(c) REVENUES.—Any property received by Koniag in an exchange entered into pursuant to subsection (a) of (b) of this section shall be deemed to be an interest in the subsurface for purposes of section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) provided, however, should Koniag make a payment to equalize the value in any such exchange, then Koniag will be deemed to hold an undivided interest in the property equal in value to such payment which interest shall not be subject to the provisions of section 9(j).

SECTION 1504. CERTAIN CONVEYANCES.

(a) INTERESTS IN LANDS.—For the purposes of section 21 (c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620 (e)), the receipt of consideration, including, but not limited to, lands, cash or other property, by a Native Corporation for the relinquishment to the United States of land selection rights granted to any Native Corporation under such Act shall be deemed to be an interest in land.

(b) AUTHORITY TO APPOINT AND REMOVE TRUSTEE.—In establishing a Settlement Trust under section 39 of such Act (43 U.S.C. 1629c), Koniag may delegate, in whole or in part, the authority granted to Koniag under subsection (b)(2) of such section to any entity that Koniag may select without affecting the status of the trust as a Settlement Trust under such section.

TITLE XVI—STERLING FOREST

SECTION 1601. FINDINGS.

The Congress finds that—

(1) the Palisades Interstate Park Commission was established pursuant to a joint resolution of the 75th Congress approved in 1937 (Public Resolution No. 65; ch. 706; 50 Stat. 719), and chapter 170 of the Laws of 1937 of the State of New York and chapter 148 of the Laws of 1937 of the State of New Jersey;

(2) the Palisades Interstate Park Commission is responsible for the management of 23 parks and historic sites in New York and New Jersey, comprising over 82,000 acres;

(3) over 8,000,000 visitors annually seek outdoor recreational opportunities within the Palisades Park System;

(4) Sterling Forest is a biologically diverse open space on the New Jersey border comprising approximately 17,500 acres, and is a highly significant watershed area for the State of New Jersey, providing the source for clean drinking water for 25 percent of the State;

(5) Sterling Forest is an important outdoor recreational asset in the northeastern United States, within the most densely populated metropolitan region in the Nation;

(6) Sterling Forest supports a mixture of hardwood forests, wetlands, lakes, glaciated valleys, is strategically located on a wildlife migratory route, and provides important habitat for 27 rare or endangered species;

(7) the protection of Sterling Forest would greatly enhance the Appalachian National Scenic Trail, a portion of which passes through Sterling Forest, and would provide for enhanced recreational opportunities through the protection of lands which are an integral element of the trail and which would protect important trail viewsheds;

(8) stewardship and management costs for units of the Palisades Park System are paid for by the States of New York and New Jersey; thus, the protection of Sterling Forest through the Palisades Interstate Park Commission will involve a minimum of Federal funds;

(9) given the nationally significant watershed, outdoor recreational, and wildlife

qualities of Sterling Forest, the demand for open space in the northeastern United States, and the lack of open space in the densely populated tri-state region, there is a clear Federal interest in acquiring the Sterling Forest for permanent protection of the watershed, outdoor recreational resources, flora and fauna, and open space; and

(10) such an acquisition would represent a cost effective investment, as compared with the costs that would be incurred to protect drinking water for the region should the Sterling Forest be developed.

SECTION 1602. PURPOSES.

The purposes of this title are—

(1) to establish the Sterling Forest Reserve in the State of New York to protect the significant watershed, wildlife, and recreational resources within the New York-New Jersey highlands region;

(2) to authorize Federal funding, through the Department of the Interior, for a portion of the acquisition costs for the Sterling Forest Reserve;

(3) to direct the Palisades Interstate Park Commission to convey to the Secretary of the Interior certain interests in lands acquired within the Reserve; and

(4) to provide for the management of the Sterling Forest Reserve by the Palisades Interstate Park Commission.

SECTION 1603. DEFINITIONS.

In this title:

(1) COMMISSION.—The term ''Commission'' means the Palisades Interstate Park Commission established pursuant to Public Resolution No. 65 approved August 19, 1937 (ch. 707; 50 Stat. 719).

(2) RESERVE.—The term ''Reserve'' means the Sterling Forest Reserve.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SECTION 1604. ESTABLISHMENT OF THE STERLING FOREST RESERVE.

(a) ESTABLISHMENT.—Upon the certification by the Commission to the Secretary that the Commission has acquired sufficient lands or interests therein to constitute a manageable unit, there is established the Sterling Forest Reserve in the State of New York.

(b) MAP.—

(1) COMPOSITION.—The Reserve shall consist of lands and interests therein acquired by the Commission within the approximately 17,500 acres of lands as generally depicted on the map entitled ''Boundary Map, Sterling Forest Reserve'', numbered SRF–60,001 and dated July 1, 1994.

(2) AVAILABILITY FOR PUBLIC INSPECTION.—The map described in paragraph (1) shall be on file and available for public inspection in the offices of the Commission and the appropriate offices of the National Park Service.

(c) TRANSFER OF FUNDS.—Subject to subsection (d), the Secretary shall transfer to the Commission such funds as are appropriated for the acquisition of lands and interests therein within the Reserve.

(d) CONDITIONS OF FUNDING.—

(1) AGREEMENT BY THE COMMISSION.—Prior to the receipt of any Federal funds authorized by this Title, the Commission shall agree to the following:

(A) CONVEYANCE OF LANDS IN EVENT OF FAILURE TO MANAGE.—If the Commission fails to manage the lands acquired within the Reserve in a manner that is consistent with this Title, the Commission shall convey fee title to such lands to the United States, and the agreement stated in this subparagraph shall be recorded at the time of purchase of all lands acquired within the Reserve.

(B) CONSENT OF OWNERS.—No lands or interest in land may be acquired with any Federal funds authorized or transferred pursuant to this title except with the consent of the owner of the land or interest in land.

(C) INABILITY TO ACQUIRE LANDS.—If the Commission is unable to acquire all of the lands within the Reserve, to the extent Federal funds are utilized pursuant to this title, the Commission shall acquire all or a portion of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 1604(b) before proceeding with the acquisition of any other lands within the Reserve.

(D) CONVEYANCE OF EASEMENT.—Within 30 days after acquiring any of the lands identified as ''National Park Service Wilderness Easement Lands'' and ''National Park Service Conservation Easement Lands'' on the map described in section 1604(b), the Commission shall convey to the United States:

(i) conservation easements on the lands described as ''National Park Service Wilderness Easement Lands'' on the map described in section 1604(b), which easements shall provide that the lands shall be managed to protect their wilderness character; and

(ii) conservation easements on the lands described as ''National Park Service Conservation Easement Lands'' on the map described in section 1604(b), which easements shall restrict and limit development and use of the property to that development and use that is—

(I) compatible with the protection of the Appalachian National Scenic Trail; and

(II) consistent with the general management plan prepared pursuant to section 1605(b).

(2) MATCHING FUNDS.—Funds may be transferred to the Commission only to the extent that they are matched from funds contributed by non-Federal sources.

SECTION 1605. MANAGEMENT OF THE RESERVE.

(a) IN GENERAL.—The Commission shall manage the lands acquired within the Reserve in a manner that is consistent with the Commission's authorities and with the purposes of this title.

(b) GENERAL MANAGEMENT PLAN.—Within 3 years after the date of enactment of this title, the Commission shall prepare a general management plan for the Reserve and submit the plan to the Secretary for approval.

SECTION 1606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

(b) LAND ACQUISITION.—Of amounts appropriated pursuant to subsection (a), the Secretary may transfer to the Commission not more than $17,500,000 for the acquisition of lands and interests in land within the Reserve.

TITLE XVII—TAOS PUEBLO LAND TRANSFER

SECTION 1701. LAND TRANSFER.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 21, 1933 (48 Stat. 108) (as amended, including as amended by Public Law 91–550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled ''Land transferred to the Pueblo of Taos—proposed'' and dated September 1994, comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) RESOLUTION OF OUTSTANDING CLAIMS.—The Congress finds and declares that, as a result of the enactment of this Act, the Taos Pueblo has no unresolved equitable or legal claims against the United States on the lands to be held in trust and to become part of the Pueblo de Taos Reservation under this Title.

TITLE XVIII—SKI FEES

SECTION 1801. SKI AREA PERMIT RENTAL CHARGE.

(a) The Secretary of Agriculture shall charge a rental charge for all ski area permits issued pursuant to section 3 of the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), or the 9th through 20th paragraphs under the heading ''SURVEYING THE PUBLIC LANDS'' under the heading ''UNDER THE DEPARTMENT OF THE INTERIOR'' in the Act of June 4, 1897 (30 Stat. 34, chapter 2), on National Forest System lands. Permit rental charges for permits issued pursuant to the National Forest Ski Area Permit Act of 1986 shall be calculated as set forth in subsection (b). Permit rental charges for existing ski area permits issued pursuant to the Act of March 4, 1915, and the Act of June 4, 1897, shall be calculated in accordance with those existing permits: *Provided*, That a permittee may, at the permittee's option, use the calculation method set forth in subsection (b).

(b)(1) The ski area permit rental charge (SAPRC) shall be calculated by adding the permittee's gross revenues from lift ticket/year-round ski area use pass sales plus revenue from ski school operations (LT+SS) and multiplying such total by the slope transport feet percentage (STFP) on National Forest System land. The amount shall be increased by the gross year-round revenue from ancillary facilities (GRAF) physically located on national forest land, including all permittee or subpermittee lodging, food service, rental shops, parking other ancillary operations, to determine the adjusted gross revenue (AGR) subject to the permit rental charge. The final rental charge shall be calculated by multiplying the AGR by the following percentages for each revenue bracket and adding the total for each revenue bracket:

(A) 1.5 percent of all adjusted gross revenue below $3,000,000;

(B) 2.5 percent for adjusted gross revenue between $3,000,000 and $15,000,000;

(C) 2.75 percent for adjusted gross revenue between $15,000,000 and $50,000,000; and

(D) 4.0 percent for the amount of adjusted gross revenue that exceed $50,000,000.

Utilizing the abbreviations indicated in this subsection the ski area permit fee (SAPF) formula can be simply illustrated as:

SAPF=((LT+SS)STFP)+GRAF=AGR;
AGR%BRACKETS

(2) In cases where ski areas are only partially located on national forest lands, the slope transport feet percentage on national forest land referred to in subsection (b) shall be calculated as generally described in the Forest Service Manual in effect as of January 1, 1992. Revenues from Nordic ski operations shall be included or excluded from the rental charge calculation according to the percentage of trails physically located on national forest land.

(3) In order to ensure that the rental charge remains fair and equitable to both the United States and the ski area permittees, the adjusted gross revenue figures for each revenue bracket in paragraph (1) shall

be adjusted annually by the percent increase or decrease in the national Consumer Price Index for the preceding calendar year. No later than 5 years after the date of enactment of this Act and every 10 years thereafter the Secretary shall submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives a report analyzing whether the ski area permit rental charge legislated by this Act is returning a fair market value rental to the United States together with any recommendations the Secretary may have for modifications of the system.

(c) The rental charge set forth in subsection (b) shall be due on June 1 of each year and shall be paid or pre-paid by the permittee on a monthly, quarterly, annual or other schedule as determined appropriate by the Secretary in consultation with the permittee. Unless mutually agreed otherwise by the Secretary and the permittee, the payment or prepayment schedule shall conform to the permittee's schedule in effect prior to enactment of this Act. To reduce costs to the permittee and the Forest Service, the Secretary shall each year provide the permittee with a standardized form and worksheets (including annual rental charge calculation brackets and rates) to be used for rental charge calculation and submitted with the rental charge payment. Information provided on such forms shall be compiled by the Secretary annually and kept in the Office of the Chief, U.S. Forest Service.

(d) The ski area permit rental charge set forth in this section shall become effective on June 1, 1996 and cover receipts retroactive to June 1, 1995: Provided, however, That if a permittee has paid rental charges for the period June 1, 1995, to June 1, 1996, under the graduated rate rental charge system formula in effect prior to the date of enactment of this Act, such rental charges shall be credited toward the new rental charge due on June 1, 1996. In order to ensure increasing rental charge receipt levels to the United States during transition from the graduated rate rental charge system formula to the formula of this Act, the rental charge paid by any individual permittee shall be—

(1) for the 1995–1996 permit year, either the rental charge paid for the preceding 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(2) for the 1996–1997 permit year, either the rental charge paid for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher;

(3) for the 1997–1998 permit year, either the rental charge for the 1994–1995 base year or the rental charge calculated pursuant to this Act, whichever is higher.

If an individual permittee's adjusted gross revenue for the 1995–1996, 1996–1997, or 1997–1998 permit years falls more than 10 percent below the 1994–1995 base year, the rental charge paid shall be the rental charge calculated pursuant to this Act.

(e) Under no circumstances shall revenue, or subpermittee revenue (other than lift ticket, area use pass, or ski school sales) obtained from operations physically located on non-national forest land be included in the ski area permit rental charge calculation.

(f) To reduce administrative costs of ski area permittees and the Forest Service the terms ''revenue'' and ''sales'', as used in this section, shall mean actual income from sales and shall not include sales of operating equipment, refunds, rent paid to the permittee by sublessees, sponsor contributions to special events or any amounts attributable to employee gratuities or employee lift tickets, discounts, or other goods or services (except for bartered goods and complimentary lift tickets) for which the permittee does not receive money.

(g) In cases where an area of national forest land is under a ski area permit but the permittee does not have revenue or sales qualifying for rental charge payment pursuant to subsection (a), the permittee shall pay an annual minimum rental charge of $2 for each national forest acre under permit or a percentage of appraised land value, as determined appropriate by the Secretary.

(h) Where the new rental charge provided for in subsection (b)(1) results in an increase in permit rental charge greater than one half of one percent of the permittee's adjusted gross revenue as determined under subsection (b)(1), the new rental charge shall be phased in over a five year period in a manner providing for increases of approximately equal increments.

(i) To reduce federal costs in administering the provisions of this Act, the reissuance of a ski area permit to provide activities similar in nature and amount to the activities provided under the previous permit shall not constitute a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.).

SECTION 1802. WITHDRAWALS.

Subject to valid existing rights, all lands located within the boundaries of ski area permits issued prior to, on or after the date of enactment of this Act pursuant to authority of the Act of March 4, 1915 (38 Stat. 1101, chapter 144; 16 U.S.C. 497), and the Act of June 4, 1897, or the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b) are hereby and henceforth automatically withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Such withdrawal shall continue for the full term of the permit and any modification, reissuance, or renewal thereof. Unless the Secretary requests otherwise of the Secretary of the Interior, such withdrawal shall be canceled automatically upon expiration or other termination of the permit and the land automatically restored to all appropriation not otherwise restricted under the public land laws.

TITLE XIX—THE SELMA TO MONTGOMERY NATIONAL HISTORIC TRAIL

SECTION 1901.

That section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following new paragraph.

''(20) The Selma to Montgomery National Historic Trail, consisting of 54 miles of city streets and United States Highway 80 from Brown Chapel A.M.E. Church in Selma to the State Capitol Building in Montgomery, Alabama, traveled by voting rights advocates during March 1965 to dramatize the need for voting rights legislation, as generally described in the report of the Secretary of the Interior prepared pursuant to subsection (b) of this section entitled ''Selma to Montgomery'' and dated April 1993. Maps depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered in accordance with this Act, including section 7(h). The Secretary of the Interior, acting through the National Park Service, which shall be the lead Federal agency, shall cooperate with other Federal, State and local authorities to preserve historic sites along the route, including (but not limited to) the Edmund Pettus Bridge and the Brown Chapel A.M.E. Church.''.

TITLE XX—UTAH PUBLIC LANDS MANAGEMENT ACT

SECTION 2001. DESIGNATION OF WILDERNESS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the State of Utah are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) Certain lands in the Desolation Canyon Wilderness Study Area comprised of approximately 291,130 acres, as generally depicted on a map entitled ''Desolation Canyon Proposed Wilderness'' and dated December 3, 1995, and which shall be known as the Desolation Canyon Wilderness.

(2) Certain lands in the San Rafael Reef Wilderness Study Area comprised of approximately 57,982 acres, as generally depicted on a map entitled ''San Rafael Reef Proposed Wilderness'' and dated December 12, 1995, and which shall be known as the San Rafael Reef Wilderness.

(3) Certain lands in the Horseshoe Canyon Wilderness Study Area (North) comprised of approximately 26,118 acres, as generally depicted on a map entitled ''Horseshoe/Labyrinth Canyon Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Horseshoe/Labyrinth Canyon Wilderness.

(4) Certain lands in the Crack Canyon Wilderness Study Area comprised of approximately 20, 293 acres, as generally depicted on a map entitled ''Crack Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Crack Canyon Wilderness.

(5) Certain lands in the Muddy Creek Wilderness Study Area comprised of approximately 37,245 acres, as generally depicted on a map entitled ''Muddy Creek Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Muddy Creek Wilderness.

(6) Certain lands in the Sids Mountain Wilderness Study Area comprised of approximately 44,308 acres, as generally depicted on a map entitled ''Sids Mountain Proposed Wilderness'' and dated December 12, 1995, and which shall be known as the Sids Mountain Wilderness.

(7) Certain lands in the Mexican Mountain Wilderness Study Area comprised of approximately 33,558 acres, as generally depicted on a map entitled ''Mexican Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mexican Mountain Wilderness.

(8) Certain lands in the Phipps-Death Hollow Wilderness Study Area comprised of approximately 41,445 acres, as generally depicted on a map entitled ''Phipps-Death Hollow Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Phipps-Death Hollow Wilderness.

(9) Certain lands in the Steep Creek Wilderness Study Area comprised of approximately 21,277 acres, as generally depicted on a map entitled ''Steep Creek Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Steep Creek Wilderness.

(10) Certain lands in the North Escalante Canyons/The Gulch Wilderness Study Area comprised of approximately 101,896 acres, as generally depicted on a map entitled ''North Escalante Canyons/The Gulch Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the North Escalante Canyons/The Gulch Creek Wilderness.

(11) Certain lands in the Scorpion Wilderness Study Area comprised of approximately 16,693 acres, as generally depicted on a map entitled ''Scorpion Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Scorpion Wilderness.

(12) Certain lands in the Mt. Ellen-Blue Hills Wilderness Study Area comprised of approximately 65,355 acres, as generally depicted on a map entitled ''Mt. Ellen-Blue Hills Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mt. Ellen-Blue Hills Wilderness.

(13) Certain lands in the Bull Mountain Wilderness Study Area comprised of approximately 11,424 acres, as generally depicted on a map entitled ''Bull Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Bull Mountain Wilderness.

(14) Certain lands in the Fiddler Butte Wilderness Study Area comprised of approximately 22,180 acres, as generally depicted on a map entitled ''Fiddler Butte Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Fiddler Butte Mountain Wilderness.

(15) Certain lands in the Mt. Pennell Wilderness Study Area comprised of approximately 18,619 acres, as generally depicted on a map entitled ''Mt. Pennell Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mt. Pennell Wilderness.

(16) Certain lands in the Mt. Hillers Wilderness Study Area comprised of approximately 14,746 acres, as generally depicted on a map entitled ''Mt. Hillers Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mt. Hillers Wilderness.

(17) Certain lands in the Little Rockies Wilderness Study Area comprised of approximately 49,001 acres, as generally depicted on a map entitled ''Little Rockies Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Little Rockies Wilderness.

(18) Certain lands in the Mill Creek Canyon Wilderness Study Area comprised of approximately 7,846 acres, as generally depicted on a map entitled ''Mill Creek Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mill Creek Canyon Wilderness.

(19) Certain lands in the Negro Bill Canyon Wilderness Study Area comprised of approximately 8,321 acres, as generally depicted on a map entitled ''Negro Bill Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Negro Bill Canyon Wilderness.

(20) Certain lands in the Floy Canyon Wilderness Study Area comprised of approximately 28,794 acres, as generally depicted on a map entitled ''Floy Canyon Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Floy Canyon Wilderness.

(21) Certain lands in the Coal Canyon Wilderness Study Area and the Spruce Canyon Wilderness Study Area comprised of approximately 56,673 acres, as generally depicted on a map entitled ''Coal/Spruce Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Coal/Spruce Canyon Wilderness.

(22) Certain lands in the Flume Canyon Wilderness Study Area comprised of approximately 47,247 acres, as generally depicted on a map entitled ''Flume Canyon Proposed Wilderness'' and dated December 12, 1995, and which shall be known as the Flume Canyon Wilderness.

(23) Certain lands in the Westwater Canyon Wilderness Study Area comprised of approximately 26,657 acres, as generally depicted on a map entitled ''Westwater Canyon Proposed Wilderness'' and dated December 12, 1995, and which shall be known as the Westwater Canyon Wilderness.

(24) Certain lands in the Beaver Creek Wilderness Study Area comprised of approximately 24,620 acres, as generally depicted on a map entitled ''Beaver Creek Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Beaver Creek Wilderness.

(25) Certain lands in the Fish Springs Wilderness Study Area comprised of approximately 36,142 acres, as generally depicted on a map entitled ''Fish Springs Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Fish Springs Wilderness.

(26) Certain lands in the Swasey Mountain Wilderness Study Area comprised of approximately 34,803 acres, as generally depicted on a map entitled ''Swasey Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Swasey Mountain Wilderness.

(27) Certain lands in the Parunuweap Canyon Wilderness Study Area comprised of approximately 19,107 acres, as generally depicted on a map entitled ''Parunuweap Canyon Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Parunuweap Wilderness.

(28) Certain lands in the Canaan Mountain Wilderness Study Area comprised of approximately 32,395 acres, as generally depicted on a map entitled ''Canaan Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Canaan Mountain Wilderness.

(29) Certain lands in the Paria-Hackberry Wilderness Study Area comprised of approximately 94,805 acres, as generally depicted on a map entitled ''Paria-Hackberry Proposed Wilderness'' and dated December 3, 1995, and which shall be known as the Paria-Hackberry Wilderness.

(30) Certain lands in the Escalante Canyon Tract 5 Wilderness Study Area comprised of approximately 756 acres, as generally depicted on a map entitled ''Escalante Canyon Tract 5 Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Escalante Canyon Tract 5 Wilderness.

(31) Certain lands in the Fifty Mile Mountain Wilderness Study Area comprised of approximately 125,823 acres, as generally depicted on a map entitled ''Fifty Mile Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Fifty Mile Mountain Wilderness.

(32) Certain lands in the Howell Peak Wilderness comprised of approximately 14,518 acres, as generally depicted on a map entitled ''Howell Peak Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Howell Peak Wilderness.

(33) Certain lands in the Notch Peak Wilderness Study Area comprised of approximately 17,678 acres, as generally depicted on a map entitled ''Notch Peak Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Notch Peak Wilderness.

(34) Certain lands in the Wah Wah Mountains Wilderness Study Area comprised of approximately 41,311 acres, as generally depicted on a map entitled ''Wah Wah Mountains Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Wah Wah Wilderness.

(35) Certain lands in the Mancos Mesa Wilderness Study Area comprised of approximately 48,269 acres, as generally depicted on a map entitled ''Mancos Mesa Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Mancos Mesa Wilderness.

(36) Certain lands in the Grand Gulch Wilderness Study Area comprised of approximately 52,821 acres, as generally depicted on a map entitled ''Grand Gulch Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Grand Gulch Wilderness.

(37) Certain lands in the Dark Canyon Wilderness Study Area comprised of approximately 67,099 acres, as generally depicted on a map entitled ''Dark Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Dark Canyon Wilderness.

(38) Certain lands in the Butler Wash Wilderness Study Area comprised of approximately 24,888 acres, as generally depicted on a map entitled ''Butler Wash Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Butler Wash Wilderness.

(39) Certain lands in the Indian Creek Wilderness Study Area comprised of approximately 6,742 acres, as generally depicted on a map entitled ''Indian Creek Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Indian Creek Wilderness.

(40) Certain lands in the Behind the Rocks Wilderness Study Area comprised of approximately 14,169 acres, as generally depicted on a map entitled ''Behind the Rocks Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Behind the Rocks Wilderness.

(41) Certain lands in the Cedar Mountains Wilderness Study Area comprised of approximately 325,647 acres, as generally depicted on a map entitled ''Cedar Mountains Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Cedar Mountains Wilderness.

(42) Certain lands in the Deep Creek Mountains Wilderness Study Area comprised of approximately 70,735 acres, as generally depicted on a map entitled ''Deep Creek Mountains Proposed Wilderness'' and dated October 3, 1995, and which shall be known as the Deep Creek Mountains Wilderness.

(43) Certain lands in the Nutters Hole Wilderness Study Area comprised of approximately 3,688 acres, as generally depicted on a map entitled ''Nutters Hole Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Nutters Hole Wilderness.

(44) Certain lands in the Cougar Canyon Wilderness Study Area comprised of approximately 4,370 acres, including those lands located in the State of Nevada, as generally depicted on a map entitled ''Cougar Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Cougar Canyon Wilderness.

(45) Certain lands in the Red Mountain Wilderness Study Area comprised of approximately 9,216 acres, as generally depicted on a map entitled ''Red Mountain Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Red Mountain Wilderness.

(46) Certain lands in the Deep Creek Wilderness Study Area comprised of approximately 3,063 acres, as generally depicted on a map entitled ''Deep Creek Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Deep Creek Wilderness.

(47) Certain lands in the Dirty Devil Wilderness Study Area comprised of approximately 75,301 acres, as generally depicted on a map entitled ''Dirty Devil Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the Dirty Devil Wilderness.

(48) Certain lands in the Horseshoe Canyon South Wilderness Study Area comprised of approximately 11,393 acres, as generally depicted on a map entitled ''Horseshoe Canyon South Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the 49 Wilderness.

(49) Certain lands in the French Spring-Happy Canyon Wilderness Study Area comprised of approximately 13,766 acres, as generally depicted on a map entitled ''French Spring-Happy Canyon Proposed Wilderness'' and dated September 18, 1995, and which shall be known as the French Spring-Happy Canyon Wilderness.

(50) Certain lands in the Road Canyon Wilderness Study Area comprised of approximately 33,783 acres, as generally depicted on a map entitled ''Grand Gulch Proposed Wilderness'' and dated December 8, 1995, and

which shall be known as the Road Canyon Wilderness.

(51) Certain lands in the Fish & Owl Creek Wilderness Study Area comprised of approximately 16,562 acres, as generally depicted on a map entitled ''Grand Gulch Proposed Wilderness'' and dated December 8, 1995, and which shall be known as the Fish & Owl Creek Wilderness.

(52) Certain lands in the Turtle Canyon Wilderness Study Area comprised of approximately 27,480 acres, as generally depicted on a map entitled ''Desolation Canyon Proposed Wilderness'' and dated December 3, 1995, and which shall be known as the Turtle Canyon Wilderness.

(53) Certain lands in the The Watchman Wilderness Study Area comprised of approximately 664 acres, as generally depicted on a map entitled ''The Watchman Proposed Wilderness'' and dated December 8, 1995, and which shall be known as the The Watchman Wilderness.

(b) MAP AND DESCRIPTION.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior (hereafter in this Title referred to as the ''Secretary'') shall file a map and a legal description of each area designated as wilderness by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Each such map and description shall have the same force and effect as if included in this Title, except that corrections of clerical and typographical errors in each such map and legal description may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

SECTION 2002. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each area designated by this Title as wilderness shall be administered by the Secretary in accordance with this Title, the Wilderness Act (16 U.S.C. 1131 et seq.), and section 603 of the Federal Land Policy and Management Act of 1976. Any valid existing rights recognized by this Title shall be determined under applicable laws, including the land use planning process under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712). Any lands or interest in lands within the boundaries of an area designated as wilderness by this Title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which such lands or interests in lands are located.

(b) MANAGEMENT PLANS.—The Secretary shall, within five years after the date of the enactment of this Act, prepare plans to manage the areas designated by this Title as wilderness.

(c) LIVESTOCK.—(1) Grazing of livestock in areas designated as wilderness by this Title, where established prior to the date of the enactment of this Act, shall—

(A) continue and not be curtailed or phased out due to wilderness designation or management; and

(B) be administered in accordance with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in House Report 9601126.

(2) Wilderness shall not be used as a suitability criteria for managing any grazing allotment that is subject to paragraph (1).

(d) STATE FISH AND WILDLIFE.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1131(d)(7)), nothing in this Title shall be construed as affecting the jurisdiction or responsibilities of the State of Utah with respect to fish and wildlife management activities, including water development for fish and wildlife purposes, predator control, transplanting animals, stocking fish, hunting, fishing and trapping.

(e) PROHIBITION OF BUFFER ZONES.—The Congress does not intend that designation of an area as wilderness by this Title lead to the creation of protective perimeters or buffer zones around the area. The fact that nonwilderness activities or uses can be seen, heard, or smelled from areas within a wilderness shall not preclude such activities or uses up to the boundary of the wilderness area.

(f) OIL SHALE RESERVE NUMBER TWO.—The area know as ''Oil Shale Reserve Number Two'' within Desolation Canyon Wilderness (as designated by section 2001(a)(1)), located in Carbon County and Uintah County, Utah, shall not be reserved for oil shale purposes after the date of the enactment of this Title and shall be under the sole jurisdiction of and managed by the Bureau of Land Management.

(g) ROADS AND RIGHTS-OF-WAY AS BOUNDARIES.—Unless depicted otherwise on a map referred to by this Title, where roads form the boundaries of the areas designated as wilderness by this Title, the wilderness boundary shall be set back from the center line of the road as follows:

(1) 300 feet for high standard roads such as paved highways.

(2) 100 feet for roads equivalent to high standard logging roads.

(3) 30 feet for all unimproved roads not referred to in paragraphs (1) or (2).

(h) CHERRY-STEMMED ROADS.—(1) The Secretary may not close or limit access to any non-Federal road that is bounded on one or both sides by an area designated as wilderness by this Title, as generally depicted on a map referred to in section 2002, without first obtaining written consent from the State of Utah or the political subdivision thereof with general jurisdiction over roads in the area.

(2) Any road described in paragraph (1) may continue to be maintained and repaired by any such entity.

(i) ACCESS.—Reasonable access, including the use of motorized equipment where necessary or customarily or historically employed, shall be allowed on routes within the areas designated wilderness by this Title in existence as of the date of enactment of this Act for the exercise of valid-existing rights, including, but not limited to, access to existing water diversion, carriage, storage and ancillary facilities and livestock grazing improvements and structures. Existing routes as of such date may be maintained and repaired as necessary to maintain their customary or historic uses.

(j) LAND ACQUISITION BY EXCHANGE OR PURCHASE.—The Secretary may offer to acquire from nongovernmental entities lands and interests in lands located within or adjacent to areas designated as wilderness by this Title. Lands may be acquired under this subsection only by exchange, donation, or purchase from willing sellers.

(k) MOTORBOATS.—As provided in section 4(d)(1) of the Wilderness Act, within areas designated as wilderness by this Title, the use of motorboats, where such use was established as of the date of enactment of this Act, may be permitted to continue subject to such restrictions as the Secretary deems desirable.

(l) DISCLAIMER.—Nothing in this Title shall be construed as establishing a precedent with regard to any future wilderness designation, nor shall it constitute an interpretation of any other Act or any wilderness designation made pursuant thereto.

SECTION 2003. WATER RIGHTS.

(a) NO FEDERAL RESERVATION.—Nothing in this Act or any other Act of Congress shall constitute or be construed to constitute either an express or implied Federal reservation of water or water rights for any purpose arising from the designation of areas as wilderness by this Title.

(b) ACQUISITION AND EXERCISE OF WATER RIGHTS UNDER UTAH LAW.—The United States may acquire and exercise such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness by this Title pursuant to the substantive and procedural requirements of the State of Utah. Nothing in this Title shall be construed to authorize the use of eminent domain by the United States to acquire water rights for such lands. Within areas designated as wilderness by this Title, all rights to water granted under the laws of the State of Utah may be exercised in accordance with the substantive and procedural requirements of the State of Utah.

(c) EXERCISE OF WATER RIGHTS GENERALLY UNDER UTAH LAWS.—Nothing in this Title shall be construed to limit the exercise of water rights as provided under Utah State laws.

(d) CERTAIN FACILITIES NOT AFFECTED.—Nothing in this Title shall affect the capacity, operation, maintenance, repair, modification, or replacement of municipal, agricultural, livestock, or wildlife water facilities in existence as of the date of enactment of this Act within the boundaries of areas designated as wilderness by this Title.

(e) WATER RESOURCE PROJECTS.—Nothing in this Title or the Wilderness Act shall be construed to limit or to be a consideration in Federal approvals or denials for access to or use of the Federal lands outside areas designated wilderness by this Title for development and operation of water resource projects, including (but not limited to) reservoir projects. Nothing in this subsection shall create a right of access through a wilderness area designated pursuant to this title for the purposes of such projects.

SECTION 2004. CULTURAL, ARCHAEOLOGICAL, AND PALEONTOLOGICAL RESOURCES.

The Secretary is responsible for the protection (including through the use of mechanical means) and interpretation (including through the use of permanent improvements) of cultural, archaeological, and paleontological resources located within areas designated as wilderness by this Title.

SECTION 2005. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

In recognition of the past use of portions of the areas designated as wilderness by this Title by Native Americans for traditional cultural and religious purposes, the Secretary shall assure nonexclusive access from time to time to those sites by Native Americans for such purposes, including (but not limited to) wood gathering for personal use of collecting plants or herbs for religious or medicinal purposes. Such access shall be consistent with the purpose and intent of the Act of August 11, 1978 (42 U.S.C. 1996; commonly referred to as the ''American Indian Religious Freedom Act'').

SECTION 2006. MILITARY OVERFLIGHTS.

(a) OVERFLIGHTS NOT PRECLUDED.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude overflights of military aircraft over such areas, including military overflights that can be seen or heard within such units.

(b) SPECIAL USE AIRSPACE.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to the

new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title, shall restrict or preclude the designation of new units of special use airspace or the use or establishment of military flight training rules over such areas.

(c) COMMUNICATIONS OR TRACKING SYSTEMS.—Nothing in this Title, the Wilderness Act, or other land management laws generally applicable to new areas of the Wilderness Preservation System (or any additions to existing areas) designated by this Title shall be construed to require the removal of existing communication or electronic tracking systems from areas designated as wilderness by this Title, to prohibit the maintenance of existing communications or electronic tracking systems within such new wilderness areas, or to prevent the installation of portable electronic communication or tracking systems in support of military operations so long as installation, maintenance, and removal of such systems does not require construction of temporary or permanent roads.

SECTION 2007. AIR QUALITY.

(a) IN GENERAL.—The Congress does not intend that designation of wilderness areas in the State of Utah by this Title lead to reclassification of any airshed to a more stringent Prevented of Significant Deterioration (PSD) classification.

(b) ROLE OF STATE.—Air quality reclassification for the wilderness areas established by this Title shall be the prerogative of the State of Utah. All areas designated as wilderness by this Title are and shall continue to be managed as PSD Class II under the Clean Air Act unless they are reclassified by the State of Utah in accordance with the Clean Air Act.

(c) INDUSTRIAL FACILITIES.—Nothing in this Title shall be construed to restrict or preclude construction, operation, or expansion of industrial facilities outside of the areas designated as wilderness by this Title, including the Hunter Power Facilities, the Huntington Power Facilities, the Intermountain Power Facilities, the Bonanza Power Facilities, the Continental Lime Facilities, and the Brush Wellman Facilities. The permitting and operation of such projects and facilities shall be subject to applicable laws and regulations.

SECTION 2008. WILDERNESS RELEASE.

(a) FINDING.—The Congress finds and directs that all public lands in the State of Utah administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712 and 1782).

(b) RELEASE.—Except as provided in subsection (c), any public lands administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such lands shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712). Such lands shall not be managed for the purpose of protecting their suitability for wilderness designation.

(c) CONTINUING WILDERNESS STUDY AREAS STATUS.—The following wilderness study areas which are under study status by States adjacent to the State of Utah shall continue to be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)):

(1) Bull Canyon: UT00800419/CO00100001.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600227/CO00300265A.

(4) Cross Canyon; UT00600229/CO00300265.

SECTION 2009. EXCHANGE RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS.

(a) FINDINGS.—The Congress finds that—

(1) approximately 242,000 acres of school and institutional trust lands are located within or adjacent to areas designated as wilderness by this Title, including 15,000 acres of mineral estate;

(2) such lands were originally granted to the State of Utah for the purpose of generating support for the public schools through the development of natural resources and other methods; and

(3) it is in the interest of the State of Utah and the United States for such lands to be exchanged for interests in Federal lands located outside of wilderness areas to accomplish this purpose.

(b) EXCHANGE.—The Secretary is authorized to accept on behalf of the United States title to all school and institutional trust lands owned by the State of Utah described in Subsection (c)(1) that may be exchanged for lands or interests therein owned by the United States described in Subsection (c)(2) as provided in this section. The exchange of lands under this section shall be subject to valid existing rights, including (but not limited to) the right of the State of Utah to receive, and distribute pursuant to state law, 50 percent of the revenue, less a reasonable administrative fee, from the production of minerals that are leased or would have been subject to leasing pursuant to the Mineral Leasing Act (30 U.S.C. 191 et seq).

(c) STATE AND FEDERAL EXCHANGE LANDS DESCRIBED.—

(1) SCHOOL AND INSTITUTIONAL TRUST LANDS.—The school and institutional trust lands referred to in this section are those lands generally depicted as ''Surface and Mineral Offering'' on the map entitled ''Proposed Land Exchange Utah (H.R. 1745)'' and dated December 6, 1995, which—

(A) are located within or adjacent to areas designated by this Title as wilderness; and

(B) were granted by the United States in the Utah Enabling Act to the State of Utah in trust and other lands which under State law must be managed for the benefit of the public school system or the institutions of the State which are designated by the Utah Enabling Act.

(2) FEDERAL LANDS.—The Federal lands referred to in this section are the lands located in the State of Utah which are generally depicted as ''Federal Exchange Lands'' on the map referred to in paragraph (1).

(d)(1) LAND EXCHANGE FOR EQUAL VALUE.—The lands exchanged pursuant to this section shall be of approximate equal value as determined by nationally recognized appraisal standards.

(2) PARTIAL EXCHANGES.—If the State of Utah so desires, it may identify from time to time by notice to the Secretary portions of the lands described in subsection (c)(1) which it is prepared to exchange together with a list of the portion of the lands in subsection (c)(2) which it intends to acquire in return. In making its selections, the state shall work with the Secretary to minimize or eliminate the retention of federal inholdings or other unmanageable federal parcels as a consequence of the transfer of federal lands, or interests therein, to the state. Upon receipt of such notice, the Secretary shall immediately proceed to conduct the necessary valuations. The valuations shall be completed no later than six months following the state's notice. The Secretary shall then enter into good faith negotiations with the state concerning the value of the lands, or interests therein, involved in each proposed partial exchange. If the value of the lands or interests therein are not approximately equal, the Secretary and the State of Utah shall either agree to modify the lands to be exchanged within the partial exchange or shall provide for a cash equalization payment to equalize the value. Any cash equalization payment shall not exceed 25 percent of the value of the land to be conveyed. The State shall submit all notices of exchange within four years of the date of enactment of this Act.

(3)(i) DEADLINE AND DISPUTE RESOLUTION.—If, after one year from the date of enactment of this Act, the Secretary and the State of Utah have not agreed upon the final terms of some or all of the individual exchanges initiated by the state pursuant to subsection (d)(2), including the value of the lands involved, notwithstanding any other provisions of law, the United States District Court for the District of Utah, Central Division, shall have jurisdiction to hear, determine, and render judgment on the value of any and all lands, or interests therein, involved in the exchange.

(ii) No action provided for in this subsection may be filed with the court sooner than one year and later than five years after the date of enactment of this Act. Any decision of the District Court under this section may be appealed in accordance with the applicable laws and rules.

(4) TRANSFER OF TITLE.—The transfer of lands or cash equalizations shall take place within sixty days following agreement on an individual partial exchange by the Secretary and the Governor of the State of Utah, or acceptance by the governor of the terms of an appropriate order of judgment entered by the district court affecting that partial exchange. The Secretary and the State shall each convey, subject to valid existing rights, all right, title and interest to the lands or interests therein involved in each partial exchange.

(e) DUTIES OF THE PARTIES AND OTHER PROVISIONS RELATING TO THE EXCHANGE.—

(1) MAP AND LEGAL DESCRIPTION.—The State of Utah and the Secretary shall each provide to the other legal descriptions of the lands under their respective jurisdictions which are to be exchanged under this section. The map referred to in subsection 9c)(1) and the legal descriptions provided under this subsection shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah, Department of the Interior.

(2) HAZARDOUS MATERIALS.—The Secretary and the State of Utah shall inspect all pertinent records and shall conduct a physical inspection of the lands to be exchanged pursuant to this Title for the presence of any hazardous materials as presently defined by applicable law. The results of those inspections shall be made available to the parties. The responsibility for costs of remedial action related to such materials shall be borne by those entities responsible under existing law.

(3) PROVISIONS RELATING TO FEDERAL LANDS.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 206(a) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) The transfer of lands and related activities required of the Secretary under this section shall not be subject to the National Environmental Policy Act of 1969.

(C) The value of Federal lands transferred to the State under this section shall be adjusted to reflect the right of the State of Utah under Federal law to share the revenues from such Federal lands, and the conveyances under this section to the State of

Utah shall be subject to such revenue sharing obligations as a valid existing right.

(D) Subject to valid existing rights, the Federal lands described in subsection (c)(2) are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following). The Secretary shall have the authority to extend any existing leases on such Federal lands prior to consummation of the exchange.

(4) PROCEEDS FROM LEASE AND PRODUCTION OF MINERALS AND SALES AND HARVESTS OF TIMBER.—

(A) COLLECTION AND DISTRIBUTION.—The State of Utah, in connection with the management of the school and institutional trust lands described in subsections (c)(2) and (d), shall upon conveyance of such lands, collect and distribute all proceeds from the lease and production of minerals and the sale and harvest of timber on such lands as required by law until the State, as trustee, no longer owns the estate from which the proceeds are produced.

(B) DISPUTES.—A dispute concerning the collection and distribution of proceeds under subparagraph (A) shall be resolved in accordance with State law.

(f) ADMINISTRATION OF LANDS ACQUIRED BY THE UNITED STATES.—The lands and interests in lands acquired by the United States under this section shall be added to and administered as part of areas of the public lands, as indicated on the maps referred to in this section or in section 2002, as applicable.

SECTION 2010. LAND APPRAISAL.

Lands and interests in lands acquired pursuant to this title shall be appraised without regard to the presence of a species listed as threatened or endangered pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SECTION 2011. SAND HOLLOW LAND EXCHANGE.

(a) DEFINITIONS.—As used in this section:

(1) DISTRICT.—The term ''District'' means the Water Conservancy District of Washington, County, Utah.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(3) BULLOCH SITE.—The term ''Bulloch Site'' means the lands located in Kane County, Utah, adjacent to Zion National Park, comprised of approximately 1,380 acres, as generally depicted on a map entitled ''Washington County Water Conservancy District Exchange Proposal'' and dated July 24, 1995.

(4) SAND HOLLOW SITE.—The term ''Sand Hollow Site'' means the lands located in Washington County, Utah, comprised of approximately 3,000 acres, as generally depicted on a map entitled ''Washington County Water Conservancy District Exchange Proposal'' and dated July 24, 1995.

(5) QUAIL CREEK PIPELINE.—The term ''Quail Creek Pipeline'' means the lands located in Washington County, Utah, comprised of approximately 40 acres, as generally depicted on a map entitled ''Washington County Water Conservancy District Exchange Proposal'' and dated July 24, 1995.

(6) QUAIL CREEK RESERVOIR.—The term ''Quail Creek Reservoir'' means the lands located in Washington County, Utah, comprised of approximately 480.5 acres, as generally depicted on a map entitled ''Washington County Water Conservancy District Exchange Proposal'' and dated July 24, 1995.

(7) SMITH PROPERTY.—The term ''Smith Property'' means the lands located in Washington County, Utah, comprised of approximately 1,550 acres, as generally depicted on a map entitled ''Washington County Water Conservancy District Exchange Proposal'' and dated July 24, 1995.

(b) EXCHANGE.—

(1) IN GENERAL.—Subject to the provisions of this Title, if within 18 months after the date of the enactment of this Act, the Water Conservancy District of Washington County, Utah, offers to transfer to the United States all right, title, and interest of the District in and to the Bulloch Site, the Secretary of the Interior shall, in exchange, transfer to the District all right, title, and interest of the United States in and to the Sand Hollow Site, the Quail Creek Pipeline and Quail Creek Reservoir, subject to valid existing rights.

(2) WATER RIGHTS ASSOCIATED WITH THE BULLOCH SITE.—The water rights associated with the Bulloch Site shall not be included in the transfer under paragraph (1) but shall be subject to an agreement between the District and the Secretary that the water remain in the Virgin River as an instream flow from the Bulloch Site through Zion National Park to the diversion point of the District at the Quail Creek Reservoir.

(3) WITHDRAWAL OF MINERAL INTERESTS.—Subject to valid existing rights, the mineral interests underlying the Sand Hollow Site, the Quail Creek Reservoir, and the Quail Creek Pipeline are hereby withdrawn from disposition under the public land laws and from location, entry, and patent under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, from the operation of the Geothermal Steam Act of 1970, and from the operation of the Act of July 31, 1947, commonly known as the ''Materials Act of 1947'' (30 U.S.C. 601 et seq.).

(4) GRAZING.—The exchange of lands under paragraph (1) shall be subject to agreement by the District to continue to permit the grazing of domestic livestock on the Sand Hollow Site under the terms and conditions of existing Federal grazing leases or permits, except that the District, upon terminating any such lease or permit, shall fully compensate the holder of the terminated lease or permit.

(c) EQUALIZATION OF VALUES.—The value of the lands transferred out of Federal ownership under subsection (b) either shall be equal to the value of the lands received by the Secretary under subsection (c) or, if not, shall be equalized by—

(1) to the extent possible, transfer of all right, title, and interest of the District in and to lands in Washington County, Utah, and water rights of the District associated thereto, which are within the area providing habitat for the desert tortoise, as determined by the Director of the Bureau of Land Management;

(2) transfer of all right, title, and interest of the District in and to lands in the Smith Site and water rights of the District associated thereto; and

(3) the payment of money to the Secretary, to the extent that lands and rights transferred under paragraphs (1) and (2) are not sufficient to equalize the values of the lands exchanged under subsection (b).

(d) MANAGEMENT OF LANDS ACQUIRED BY UNITED STATES.—Lands acquired by the Secretary under this section shall be administered by the Secretary, acting through the Director of the Bureau of Land Management, in accordance with the provisions of law generally applicable to the public lands, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(e) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—The exchange of lands under this section is not subject to section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

TITLE XXI—FORT CARSON—PINON CANYON MILITARY LANDS WITHDRAWAL

SECTION 2101. WITHDRAWAL AND RESERVATION OF LANDS AT FORT CARSON MILITARY RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this Title, the lands at the Fort Carson Military Reservation that are described in subsection (c) are hereby withdrawn from all forms of appropriations under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering, training, and weapons firing; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise approximately 3,133.02 acres of public land and approximately 11,415.16 acres of federally-owned minerals in El Paso, Pueblo, and Fremont Counties, Colorado, as generally depicted on the map entitled ''Fort Carson Proposed Withdrawal—Fort Carson Base'', dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2102. WITHDRAWAL AND RESERVATION OF LANDS AT PINON CANYON MANEUVER SITE.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Pinon Canyon Maneuver Site that are described in subsection (c) are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, the mineral and geothermal leasing laws, and the mineral materials disposal laws.

(b) RESERVATION.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Army—

(1) for military maneuvering and training; and

(2) for other defense related purposes consistent with the uses specified in paragraph (1).

(c) LAND DESCRIPTION.—The lands referred to in subsection (a) comprise approximately 2,517.12 acres of public lands and approximately 130,139 acres of federally-owned minerals in Los Animas County, Colorado, as generally depicted on the map entitled ''Fort Carson Proposed Withdrawal—Fort Carson Maneuver Area—Pinon Canyon Site'', dated March 2, 1992, and filed in accordance with section 2003.

SECTION 2103. MAPS AND LEGAL DESCRIPTIONS.

(a) PREPARATION.—As soon as practicable after the date of enactment of this Title, the Secretary of the Interior shall publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act.

(b) LEGAL EFFECT.—Such maps and legal descriptions shall have the same force and effect as if they were included in this Title, except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) LOCATION OF MAPS.—Copies of such maps and legal descriptions shall be available for public inspection in the offices of the Colorado State Director and the Canon City District Manager of the Bureau of Land Management, and the Commander, Fort Carson, Colorado.

(d) COSTS.—The Secretary of the Army shall reimburse the Secretary of the Interior for the costs of implementing this section.

SECTION 2104. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT GUIDELINES.—(1) Except as provided in section 2005, during the period

of withdrawal the Secretary of the Army shall manage for military purposes the lands covered by this Title and may authorize use of such lands covered by the other military departments and agencies of the Department of Defense, and the National Guard, as appropriate.

(2) When military operations, public safety, or national security, as determined by the Secretary of the Army, require the closure of roads or trails on the lands withdrawn by this Title commonly in public use, the Secretary of the Army is authorized to take such action, except that such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(3) The Secretary of the Army shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in suppressing such fires. The memorandum of understanding required by this subsection (c) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for the transfer of funds from the Department of the Army to the Bureau of Land Management as compensation for such assistance.

(b) MANAGEMENT PLAN.—Not later than 5 years after the date of enactment of this Act, the Secretary of the Army, with the concurrence of the Secretary of the Interior, shall develop a plan for the management of acquired lands and lands withdrawn under sections 2001 and 2002 of this Title for the period of the withdrawal. Such plan shall—

(1) be consistent with applicable law;

(2) include such provisions as may be necessary for proper resource management and protection of the natural, cultural, and other resources and values of such lands; and

(3) identify those withdrawn and acquired lands, if any, which are to be open to mining, or mineral or geothermal leasing, including mineral materials disposal.

(c) IMPLEMENTATION OF MANAGEMENT PLAN.—(1) The Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan described in subsection (b).

(2) The duration of any such memorandum of understanding shall be the same as the period of withdrawal under section 2007.

(3) The memorandum of understanding may be amended by agreement of both Secretaries.

(d) USE OF CERTAIN RESOURCES.—Subject to valid existing rights, the Secretary of the Army is authorized to utilize sand, gravel, or similar mineral or mineral material resources from lands withdrawn by this Title, when the use of such resources is required for construction needs of the Fort Carson Military Reservation or Pinon Canyon Maneuver Site.

SECTION 2105. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in section 2004(d) of this title, the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Fort Carson Military Reservation and Pinon Canyon Maneuver Site in accordance with section 12 of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466), as applicable.

SECTION 2106. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing and trapping on the lands withdrawn and reserved by this Title shall be conducted in accordance with section 2671 of title 10, United States Code.

SECTION 2107. TERMINATION OF WITHDRAWAL AND RESERVATION AND EFFECT OF CONTAMINATION.

(a) TERMINATION DATE.—The withdrawal and reservation established by this Title shall terminate 15 years after the date of the enactment of this Act.

(b) DETERMINATION OF CONTINUING MILITARY NEED.—(1) At least three years prior to the termination under subsection (a) of the withdrawal and reservation established by this Title, the Secretary of the Army shall advise the Secretary of the Interior as to whether or not the Department of the Army will have a continuing military need for any of the lands after the termination date.

(2) If the Secretary of the Army concludes under paragraph (1) that there will be a continuing military need for any of the lands after the termination date established by subsection (a), the Secretary of the Army, in accordance with applicable law, shall evaluate the environmental effects of renewal of such withdrawal and reservation, shall hold at least one public hearing in Colorado concerning such evaluation, and shall thereafter file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals for military uses. The Secretary of the Interior shall notify the Congress concerning such filing.

(3) If the Secretary of the Army concludes under paragraph (1) that prior to the termination date established by subsection (a), there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal, the Secretary of the Army shall file a notice of intention to relinquish with the Secretary of the Interior.

(c) DETERMINATION OF CONTAMINATION.—Prior to the filing of a notice of intention to relinquish pursuant to subsection (b)(3), the Secretary of the Army shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic, or other hazardous materials. A copy of the determination made by the Secretary of the Army shall be supplied with the notice of intention to relinquish. Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(d) EFFECT OF CONTAMINATION.—(1) If any land which is the subject of a notice of intention to relinquish under subsection (b)(3) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Army, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the land, and that upon decontamination, the land could be opened to the operation of some or all of the public land laws, including the mining laws, the Secretary of the Army shall decontaminate the land to the extent that funds are appropriated for such purpose.

(2) If the Secretaries of the Army and the Interior conclude either that the contamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to the operation of the public land laws, or if Congress declined to appropriate funds for decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(3) If, because of their contaminated state, the Secretary of the Interior declines under paragraph (2) to accept jurisdiction of the lands proposed for relinquishment, or if at the expiration of the withdrawal made by the Title the Secretary of the Interior determines that some of the lands withdrawn by this Title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(A) the Secretary of the Army shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(B) after the expiration of the withdrawal, the Secretary of the Army shall undertake no activities on such lands except in connection with decontamination of such lands; and

(C) the Secretary of the Army shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of the subsection.

(4) If the lands are subsequently decontaminated, upon certification by the Secretary of the Army that the lands are safe for all nomilitary uses, the Secretary of the Interior shall reconsider accepting jurisdiction over the lands.

(5) Nothing in this Title shall affect, or be construed to affect, the Secretary's obligations, if any, to decontaminate such lands pursuant to applicable law, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (42 U.S.C. 9601 et seq.), and the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(e) PROGRAM OF DECONTAMINATION.—Throughout the duration of the withdrawal and reservation made by the Title, the Secretary of the Army, to the extent funds are made available, shall maintain a program of decontamination of the lands withdrawn by this Title at least at the level of effort carried out during fiscal year 1992.

(f) ACCEPTANCE OF LANDS PROPOSED FOR RELINQUISHMENT.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over those lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Title as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and

(3) state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws if appropriate.

SECTION 2108. DELEGATION.

The function of the Secretary of the Army under this Act may be delegated. The functions of the Secretary of the Interior under this Title may be delegated, except that the order referred to in section 2007(f) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SECTION 2109. HOLD HARMLESS PROVISION.

(a) IN GENERAL.—The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injuries or damages to persons or property suffered in the course of any mining, mineral activity, or geothermal leasing activity conducted on lands comprising the Fort Carson Military Reservation or Pinon Canyon Maneuver Site, including liabilities to non-Federal entities under sections 107 or 113 of the

Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9607 and 9613, or section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. 6973.

(b) INDEMNIFICATION.—Any party conducting any mining, mineral or geothermal leasing activity on such lands shall indemnify the United States and its departments or agencies thereof against any costs, fees, damages, or other liabilities, including costs of litigation, arising from or related to such mining activities, including costs of minerals disposal, whether arising under the Comprehensive Environmental Resource Compensation and Liability Act, the Resource Conservation and Recovery Act, or otherwise.

SECTION 2110. AMENDMENTS TO MILITARY LANDS WITHDRAWAL ACT OF 1986.

(a) USE OF CERTAIN RESOURCE.—Section 3(f) of the Military Lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3461) is amended by adding at the end a new paragraph (2) as follows:

''(2) Subject to valid existing rights, the Secretary of the military department concerned may utilize sand, gravel, or similar mineral or material resources from lands withdrawn for the purposes of this Act when the use of such resources is required for construction needs on the respective lands withdrawn by this Act.''.

(b) TECHNICAL CORRECTION.—Section 9(b) of the Military lands Withdrawal Act of 1986 (Public Law 99–606; 100 Stat. 3466) is amended by striking ''7(f)'' and inserting in lieu thereof, ''8(f)''.

SECTION 2111. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Title.

TITLE XXII—SNOWBASIN LAND EXCHANGE ACT

SECTION 2201. FINDINGS AND DETERMINATION.

(a) FINDINGS.—The Congress finds that—

(1) in June 1995, Salt Lake City, Utah, was selected to host the 2002 Winter Olympic Games and the Snowbasin Ski Resort, which is owned by the Sun Valley Company, was identified as the site of six Olympic events: the men's and women's downhills, men's and women's Super-Gs, and men's and women's combined downhills;

(2) in order to adequately accommodate these events, which are traditionally among the most popular and heavily attended at the Winter Olympic Games, major new skiing, visitor, and support facilities will have to be constructed at the Snowbasin Ski Resort on land currently administered by the United States Forest Service;

(3) while certain of these new facilities can be accommodated on National Forest land under traditional Forest Service permitting authorities, the base area facilities necessary to host visitors to the ski area and the Winter Olympics are of such a nature that they should logically be located on private land;

(4) land exchanges have been routinely utilized by the Forest Service to transfer base area lands to many other ski areas, and the Forest Service and the Sun Valley Company have concluded that a land exchange to transfer base area lands at the Snowbasin Ski Resort to the Sun Valley Company is both logical and advisable;

(5) an environmental impact statement and numerous resource studies have been completed by the Forest Service and the Sun Valley Company for the lands proposed to be transferred to the Sun Valley Company by this Title;

(6) the Sun Valley Company has assembled lands with outstanding environmental, recreational, and other values to convey to the Forest Service in return for the lands it will receive in the exchange, and the Forest Service has identified such lands as desirable for acquisition by the United States; and

(7) completion of a land exchange and approval of a development plan for Olympic related facilities at the Snowbasin Ski Resort is essential to ensure that all necessary facilities can be constructed, tested for safety and other purposes, and become fully operational in advance of the 2002 Winter Olympics and earlier pre-Olympic events.

(b) DETERMINATION.—The Congress has reviewed the previous analyses and studies of the lands to be exchanged and developed pursuant to this Title, and has made its own review of these lands and issues involved, and on the basis of those reviews hereby finds and determines that a legislated land exchange and development plan approval with respect to certain National Forest System Lands is necessary to meet Olympic goals and timetables.

SECTION 2202. PURPOSE AND INTENT.

The purpose of this Title is to authorize and direct the Secretary to exchange 1,320 acres of federally-owned land within the Cache National Forest in the State of Utah for lands of approximately equal value owned by the Sun Valley Company. It is the intent of Congress that this exchange be completed without delay within the period specified by section 2104.

SECTION 2203. DEFINITIONS.

As used in this Title—

(1) the term ''Sun Valley Company'' means the Sun Valley Company, a division of Sinclair Oil Corporation, a Wyoming Corporation, or its successors or assigns; and

(2) the term ''Secretary'' means the Secretary of Agriculture.

SECTION 2204. EXCHANGE.

(a) FEDERAL SELECTED LANDS.—(1) Not later than 45 days after the final determination of value of the Federal selected lands, the Secretary shall, subject to this Title, transfer all right, title, and interest of the United States in and to the lands referred to in paragraph (2) to the Sun Valley Company.

(2) The lands referred to in paragraph (1) are certain lands within the Cache National Forest in the State of Utah comprising 1,320 acres, more or less, as generally depicted on the map entitled ''Snowbasin Land Exchange—Proposed'' and dated October 1995.

(b) NON-FEDERAL OFFERED LANDS.—Upon transfer of the Federal selected lands under subsection (a), and in exchange for those lands, the Sun Valley Company shall simultaneously convey to the Secretary all right, title and interest of the Sun Valley Company in and to so much of the following offered lands which have been previously identified by the United States Forest Service as desirable by the United States, or which are identified pursuant to paragraph (5) prior to the transfer of lands under subsection (a), as are of approximate equal value to the Federal selected lands:

(1) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 640 acres and are generally depicted on a map entitled ''Lightning Ridge Offered Lands'', dated October 1995.

(2) Certain lands located within the Cache National Forest in Weber County, Utah, which comprise approximately 635 acres and are generally depicted on a map entitled ''Wheeler Creek Watershed Offered Lands-Section 2'' dated October 1995.

(3) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, and lying immediately adjacent to the outskirts of the City of Ogden, Utah, which comprise approximately 800 acres and are generally depicted on a map entitled ''Taylor Canyon Offered Lands'', dated October 1995.

(4) Certain lands located within the exterior boundaries of the Cache National Forest in Weber County, Utah, which comprise approximately 2,040 acres and are generally depicted on a map entitled ''North Fork Ogden River-Devil's Gate Valley'', dated October 1995.

(5) Such additional offered lands in the State of Utah as may be necessary to make the values of the lands exchanged pursuant to this Title approximately equal, and which are acceptable to the Secretary.

(c) SUBSTITUTION OF OFFERED LANDS.—If one or more of the precise offered land parcels identified in paragraphs (1) through (4) of subsection (b) is unable to be conveyed to the United States due to appraisal or other reasons, or if the Secretary and the Sun Valley Company mutually agree and the Secretary determines that an alternative offered land package would better serve long term public needs and objectives, the Sun Valley Company may simultaneously convey to the United States alternative offered lands in the State of Utah acceptable to the Secretary in lieu of any or all of the lands identified in paragraph (1) through (4) of subsection (b).

(d) VALUATION AND APPRAISALS.—(1) Values of the lands to be exchanged pursuant to this Title shall be equal as determined by the Secretary utilizing nationally recognized appraisal standards and in accordance with section 206 of the Federal Land Policy and Management Act of 1976. The appraisal reports shall be written to Federal standards as defined in the Uniform Appraisal Standards for Federal Land Acquisitions. If, due to size, location, or use of lands exchanged under this Title, the values are not exactly equal, they shall be equalized by the payment of cash equalization money to the Secretary or the Sun Valley Company as appropriate in accordance with section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)). In order to expedite the consummation of the exchange directed by this Title, the Sun Valley Company shall arrange and pay for appraisals of the offered and selected lands by a qualified appraiser with experience in appraising similar properties and who is mutually acceptable to the Sun Valley Company and the Secretary. The appraisal of the Federal selected lands shall be completed and submitted to the Secretary for technical review and approval no later than 120 days after the date of enactment of this Act, and the Secretary shall make a determination of value not later than 30 days after receipt of the appraisal. In the event the Secretary and the Sun Valley Company are unable to agree to the appraised value of a certain tract or tracts of land, the appraisal, appraisals, or appraisal issues in dispute and a final determination of value shall be resolved through a process of bargaining or submission to arbitration in accordance with section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(2) In order to expedite the appraisal of the Federal selected lands, such appraisal shall—

(A) value the land in its unimproved state, as a single entity for its highest and best use as if in private ownership and as of the date of enactment of this Act;

(B) consider the Federal lands as an independent property as though in the private marketplace and suitable for development to its highest and best use;

(C) consider in the appraisal any encumbrance on the title anticipated to be in the conveyance to Sun Valley Company and reflect its effect on the fair market value of the property; and

(D) not reflect any enhancement in value to the Federal selected lands based on the existence of private lands owned by the Sun Valley Company in the vicinity of the Snowbasin Ski Resort, and shall assume that private lands owned by the Sun Valley Company are not available for use in conjunction with the Federal selected lands.

SECTION 2205. GENERAL PROVISIONS RELATING TO THE EXCHANGE.

(a) IN GENERAL.—The exchange authorized by this Title shall be subject to the following terms and conditions:

(1) RESERVED RIGHTS-OF-WAY.—In any deed issued pursuant to section 5(a), the Secretary shall reserve in the United States a right of reasonable access across the conveyed property for public access and for administrative purposes of the United States necessary to manage adjacent federally-owned lands. The terms of such reservation shall be prescribed by the Secretary within 30 days after the date of the enactment of this Act.

(2) RIGHT OF RESCISSION.—This Title shall not be binding on either the United States or the Sun Valley Company if, within 30 days after the final determination of value of the Federal selected lands, the Sun Valley Company submits to the Secretary a duly authorized and executed resolution of the Company stating its intention not to enter into the exchange authorized by this Title.

(b) WITHDRAWAL.—Subject to valid existing rights, effective on the date of enactment of this Act, the Federal selected lands described in section 5(a)(2) and all National Forest System lands currently under special use permit to the Sun Valley Company at the Snowbasin Ski Resort are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws) and from disposition under all laws pertaining to mineral and geothermal leasing.

(c) DEED.—The conveyance of the offered lands to the United States under this Title shall be by general warranty or other deed acceptable to the Secretary and in conformity with applicable title standards of the Attorney General of the United States.

(d) STATUS OF LANDS.—Upon acceptance of title by the Secretary, the land conveyed to the United States pursuant to this Title shall become part of the Wasatch or Cache National Forests as appropriate, and the boundaries of such National Forests shall be adjusted to encompass such lands. Once conveyed, such lands shall be managed in accordance with the Act of March 1, 1911, as amended (commonly known as the ''Weeks Act''), and in accordance with the other laws, rules and regulations applicable to National Forest System lands. This subsection does not limit the Secretary's authority to adjust the boundaries pursuant to section 11 of the Act of March 1, 1911 (''Weeks Act''). For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Wasatch and Cache National Forests, as adjusted by this Title, shall be considered to be boundaries of the forests as of January 1, 1965.

SECTION 2206. PHASE I FACILITY CONSTRUCTION AND OPERATION.

(a) PHASE I FACILITY FINDING AND REVIEW.—(1) The Congress has reviewed the Snowbasin Ski Area Master Development Plan dated October 1995 (hereinafter in this section referred to as the ''Master Plan''). On the basis of such review, and review of previously completed environmental and other resource studies for the Snowbasin Ski Area, Congress hereby finds that the ''Phase I'' facilities referred to in the Master Plan to be located on National Forest System land after consummation of the land exchange directed by this Title are limited in size and scope, are reasonable and necessary to accommodate the 2002 Olympics, and in some cases are required to provide for the safety of skiing competitors and spectators.

(2) Within 60 days after the date of enactment of this Act, the Secretary and the Sun Valley Company shall review the Master Plan insofar as such plan pertains to Phase I facilities which are to be constructed and operated wholly or partially on National Forest System lands retained by the Secretary after consummation of the land exchange directed by this Title. The Secretary may modify such Phase I facilities upon mutual agreement with the Sun Valley Company or by imposing conditions pursuant to subsection (b) of this section.

(3) Within 90 days after the date of enactment of this Act, the Secretary shall submit the reviewed Master Plan on the Phase I facilities, including any modifications made thereto pursuant to paragraph (2), to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives for a 30-day review period. At the end of the 30-day period, unless otherwise directed by Act of Congress, the Secretary may issue all necessary authorizations for construction and operation of such facilities or modifications thereof in accordance with the procedures and provisions of subsection (b) of this section.

(b) PHASE I FACILITY APPROVAL, CONDITIONS, AND TIMETABLE.—Within 120 days of receipt of an application by the Sun Valley Company to authorize construction and operation of any particular Phase I facility, facilities, or group of facilities, the Secretary, in consultation with the Sun Valley Company, shall authorize construction and operation of such facility, facilities, or group of facilities, subject to the general policies of the Forest Service pertaining to the construction and operation of ski area facilities on National Forest System lands and subject to reasonable conditions to protect National Forest System resources. In providing authorization to construct and operate a facility, facilities, or group of facilities, the Secretary may not impose any condition that would significantly change the location, size, or scope of the applied for Phase I facility unless—

(1) the modification is mutually agreed to by the Secretary and the Sun Valley Company; or

(2) the modification is necessary to protect health and safety. Nothing in this section shall be construed to affect the Secretary's responsibility to monitor and assure compliance with the conditions set forth in the construction and operation authorization.

(c) CONGRESSIONAL DIRECTIONS.—Notwithstanding any other provision of law, Congress finds that consummation of the land exchange directed by this Title and all determinations, authorizations, and actions taken by the Secretary pursuant to this Title pertaining to Phase I facilities on National Forest System lands, or any modifications thereof, to be nondiscretionary actions authorized and directed by Congress and hence to comply with all procedural and other requirements of the laws of the United States. Such determinations, authorizations, and actions shall not be subject to administrative or judicial review.

SECTION 2207. NO PRECEDENT.

Nothing in section 2104(d)(2) of this Title relating to conditions or limitations on the appraisal of the Federal lands, or any provision of section 2106 relating to the approval by the Congress or the Forest Service of facilities on National Forest System lands, shall be construed as a precedent for subsequent legislation.

TITLE XXIII—COLONIAL NATIONAL HISTORICAL PARK.

SECTION 2301. COLONIAL NATIONAL HISTORICAL PARK.

(a) TRANSFER AND RIGHTS-OF-WAY.—The Secretary of the Interior (hereinafter in this Title referred to as the ''Secretary'') is authorized to transfer, without reimbursement, to York County, Virginia, that portion of the existing sewage disposal system, including related improvements and structures, owned by the United States and located within the Colonial National Historical Park, together with such rights-of-way as are determined by the Secretary to be necessary to maintain and operate such system.

(b) REPAIR AND REHABILITATION OF SYSTEM.—The Secretary is authorized to enter into a cooperative agreement with York County, Virginia, under which the Secretary will pay a portion, not to exceed $110,000, of the costs of repair and rehabilitation of the sewage disposal system referred to in subsection (a).

(c) FEES AND CHARGES.—In consideration for the rights-of-way granted under subsection (a), and in recognition of the National Park Service's contribution authorized under subsection (b), the cooperative agreement under subsection (b) shall provide for a reduction in, or the elimination of, the amounts charged to the National Park Service for its sewage disposal. The cooperative agreement shall also provide for minimizing the impact of the sewage disposal system on the park and its resources. Such system may not be enlarged or substantially altered without National Park Service concurrence.

SECTION 2302. INCLUSION OF LAND IN COLONIAL NATIONAL HISTORICAL PARK.

Notwithstanding the provisions of the Act of June 28, 1938 (52 Stat. 1208; 16 U.S.C. 81b et seq.), limiting the average width of the Colonial Parkway, the Secretary of the Interior is authorized to include within the boundaries of Colonial National Historical Park and acquire by donation, exchange, or purchase with donated or appropriated funds—

(1) the lands or interests in lands described as lots 30 to 48, inclusive;

(2) the portion of lot 49 that is 200 feet in width from the existing boundary of Colonial National Historical Park;

(3) a 3.2-acre archaeological site, as shown on the plats titled ''Page Landing At Jamestown being a subdivision of property of Neck O Land Limited Partnership'' dated June 21, 1989, sheets 2 and 3 of 3 sheets and bearing National Park Service Drawing Number 333.80031; and

(4) all or a portion of the adjoining lot number 11 of the Neck O Land Hundred Subdivision, with or without improvements.

SECTION 2303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Title.

TITLE XXIV—WOMEN'S RIGHTS NATIONAL HISTORICAL PARK

SECTION 2401. INCLUSION OF OTHER PROPERTIES.

Section 1601(c) of Public Law 96–607 (16 U.S.C. 41011) is amended to read as follows: ''To carry out the purposes of this section there is hereby established the Women's Rights National Historical Park (hereinafter in this section referred to as the ''park''). The park shall consist of the following designated sites in Seneca Falls and Waterloo, New York:

''(1) Stanton House, 32 Washington Street, Seneca Falls;

''(2) dwelling, 30 Washington Street, Seneca Falls;

''(3) dwelling, 34 Washington Street, Seneca Falls;

''(4) lot, 26–28 Washington Street, Seneca Falls;

''(5) former Wesleyan Chapel, 126 Fall Street, Seneca Falls;

''(6) theater, 128 Fall Street, Seneca Falls;

''(7) McClintock House, 16 East Williams Street, Waterloo;

''(8) Hunt House, 401 East Williams Street, Waterloo;

''(9) not to exceed 1 acre, plus improvements, as determined by the Secretary, in Seneca Falls for development of a maintenance facility

''(10) dwelling, 1 Seneca Street, Seneca Falls;

''(11) dwelling, 10 Seneca Street, Seneca Falls;

''(12) parcels adjacent to Wesleyan Chapel Block, including Clinton Street, Fall Street, and Mynderse Street, Seneca Falls; and

''(13) dwelling, 12 East Williams Street, Waterloo.''.

SECTION 2402. MISCELLANEOUS AMENDMENTS.

Section 1601 of Public Law 96–607 (16 U.S.C. 410ll) is amended by redesignating subsection (i) as ''(i)(1)'' and inserting at the end thereof the following new paragraph:

''(2) In addition to those sums appropriated prior to the date of enactment of this paragraph for land acquisition and development, there is hereby authorized to be appropriated an additional $2,000,000.''.

TITLE XXV—FRANKLIN D. ROOSEVELT FAMILY LANDS

SECTION 2501. ACQUISITION OF LANDS.

(a) IN GENERAL.—(1) The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire, by purchase with donated or appropriated funds, donation, or otherwise, lands and interests therein in the following properties located at Hyde Park, New York identified as lands critical for protection as depicted on the map entitled ''Roosevelt Family Estate'' and dated September 1994—

(A) the ''Open Park Hodhome Tract'', consisting of approximately 40 acres, which shall be the highest priority for acquisition;

(B) the ''Top Cottage Tract'', consisting of approximately 30 acres; and

(C) the ''Poughkeepsie Shopping Center, Inc. Tract'', consisting of approximately 55 acres.

(b) ADMINISTRATION.—Lands and interests therein acquired by the Secretary pursuant to this Title shall be added to, and administered by the Secretary as part of the Franklin Delano Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated not to exceed $3,000,000 to carry out this Title.

TITLE XXVI—GREAT FALLS HISTORIC DISTRICT, NEW JERSEY

SECTION 2601. FINDINGS.

Congress finds that—

(1) the Great Falls Historic District in the State of New Jersey is an area of historical significance as an early site of planned industrial development, and has remained largely intact, including architecturally significant structures;

(2) the Great Falls Historic District is listed on the National Register of Historic Places and has been designated a National Historic Landmark;

(3) the Great Falls Historic District is situated within a one-half hour's drive from New York City and a 2 hour's drive from Philadelphia, Hartford, New Haven, and Wilmington;

(4) the District was developed by the Society of Useful Manufactures, an organization whose leaders included a number of historically renowned individuals, including Alexander Hamilton; and

(5) the Great Falls Historic District has been the subject of a number of studies that have shown that the District possesses a combination of historic significance and natural beauty worthy of and uniquely situated for preservation and redevelopment.

SECTION 2602. PURPOSES.

The purposes of this Title are—

(1) to preserve and interpret, for the educational and inspirational benefit of the public, the contribution to our national heritage of certain historic and cultural lands and edifices of the Great Falls Historic District, with emphasis on harnessing this unique urban environment for its educational and recreational value; and

(2) to enhance economic and cultural redevelopment within the District.

SECTION 2603. DEFINITIONS.

In this Act:

(1) DISTRICT.—The term ''District'' means the Great Falls Historic District established by section 5.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SECTION 2604. GREAT FALLS HISTORIC DISTRICT.

(a) ESTABLISHMENT.—There is established the Great Falls Historic District in the city of Paterson, in Passaic County, New Jersey.

(b) BOUNDARIES.—The boundaries of the District shall be the boundaries specified for the Great Falls Historic District listed on the National Register of Historic Places.

SECTION 2605. DEVELOPMENT PLAN.

(a) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may make grants and enter into cooperative agreements with the State of New Jersey, local governments, and private nonprofit entities under which the Secretary agrees to pay not more than 50 percent of the costs of—

(1) preparation of a plan for the development of historic, architectural, natural, cultural, and interpretive resources within the District; and

(2) implementation of projects approved by the Secretary under the development plan.

(b) CONTENTS OF PLAN.—The development plan shall include—

(1) an evaluation of—

(A) the physical condition of historic and architectural resources; and

(B) the environmental and flood hazard conditions within the District; and

(2) recommendations for—

(A) rehabilitating, reconstructing, and adaptively reusing the historic and architectural resources;

(B) preserving viewsheds, focal points, and streetscapes;

(C) establishing gateways to the District;

(D) establishing and maintaining parks and public spaces;

(E) developing public parking areas;

(F) improving pedestrian and vehicular circulation within the District;

(G) improving security within the District, with an emphasis on preserving historically significant structures from arson; and

(H) establishing a visitors' center.

SECTION 2606. RESTORATION, PRESERVATION, AND INTERPRETATION OF PROPERTIES.

(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners of properties within the District that the Secretary determines to be of historical or cultural significance, under which the Secretary may—

(1) pay not more than 50 percent of the cost of restoring and improving the properties;

(2) provide technical assistance with respect to the preservation and interpretation of the properties; and

(3) mark and provide interpretation of the properties.

(b) PROVISIONS.—A cooperative agreement under subsection (a) shall provide that—

(1) the Secretary shall have the right of access at reasonable times to public portions of the property for interpretive and other purposes;

(2) no change or alteration may be made in the property except with the agreement of the property owner, the Secretary, and any Federal agency that may have regulatory jurisdiction over the property; and

(3) if at any time the property is converted, used, or disposed of in a manner that is contrary to the purposes of this Act, as determined by the Secretary, the property owner shall be liable to the Secretary for the greater of—

(A) the amount of assistance provided by the Secretary for the property; or

(B) the portion of the increased value of the property that is attributable to that assistance, determined as of the date of the conversion, use, or disposal.

(c) APPLICATIONS.—

(1) IN GENERAL.—A property owner that desires to enter into a cooperative agreement under subsection (a) shall submit to the Secretary an application describing how the project proposed to be funded will further the purposes of the District.

(2) CONSIDERATION.—In making such funds available under this section, the Secretary shall give consideration to projects that provide a greater leverage of Federal funds.

SECTION 2607. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this Title—

(1) $250,000 for grants and cooperative agreements for the development plan under section 6; and

(2) $50,000 for the provision of technical assistance and $3,000,000 for the provision of other assistance under cooperative agreements under section 7.

TITLE XXVII—RIO PUERCO WATERSHED

SECTION 2701. FINDINGS.

Congress finds that—

(1) over time, extensive ecological changes have occurred in the Rio Puerco watershed, including—

(A) erosion of agricultural and range lands;

(B) impairment of waters due to heavy sedimentations;

(C) reduced productivity of renewable resources;

(D) loss of biological diversity;

(E) loss of functioning riparian areas; and

(F) loss of available surface water;

(2) damage to the watershed has seriously affected the economic and cultural well-being of its inhabitants, including—

(A) loss of communities that were based on the land and were self-sustaining; and

(B) adverse effects on the traditions, customs, and cultures of the affected communities;

(3) a healthy and sustainable ecosystem is essential to the long-term economic and cultural viability of the region;

(4) the impairment of the Rio Puerco watershed has caused damage to the ecological and economic well-being of the area below the junction of the Rio Puerco with the Rio Grande, including—

(A) disruption of ecological processes;

(B) water quality impairment;

(C) significant reduction in the water storage capacity and life expectancy of the Elephant Butte Dam and Reservoir system due to sedimentation;

(D) chronic problems of irrigation system channel maintenance; and

(E) increased risk of flooding caused by sediment accumulation;

(5) the Rio Puerco is a major tributary of the Rio Grande, and the coordinated implementation of ecosystem-based best management practices for the Rio Puerco system could benefit the larger Rio Grande system;

(6) the Rio Puerco watershed has been stressed from the loss of native vegetation, introduction of exotic species, and alteration of riparian habitat which had disrupted the original dynamics of the river and disrupted natural ecological processes;

(7) the Rio Puerco watershed is a mosaic of private, Federal, tribal trust, and State land ownership with diverse, sometimes differing management objectives;

(8) development, implementation, and monitoring of an effective watershed management program for the Rio Puerco watershed is best achieved through cooperation among affected Federal, state, local, and tribal entities;

(9) the Secretary of the Interior, acting through the Director of the bureau of Land Management, in consultation with Federal, State, local, and tribal entitles and in cooperation with the Rio Puerco Watershed Committee, is best suited to coordinate management efforts in the Rio Puerco Watershed; and

(10) accelerating the pace of improvement in the Rio Puerco Watershed on a coordinated, cooperative basis will benefit persons living in the watershed as well as downstream users on the Rio Grande.

SECTION 2702. MANAGEMENT PROGRAM.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the Bureau of Land Management shall—

(1) in consultation with the Rio Puerco Management Committee established by section 4—

(A) establish a clearinghouse for research and information on management within the area identified as the Rio Puerco Drainage Basin, as depicted on the map entitled ''the Rio Puerco Watershed'' dated June 1994, including—

(i) current and historical natural resource conditions; and

(ii) data concerning the extent and causes of watershed impairment; and

(B) establish an inventory of best management practices and related monitoring activities that have been or may be implemented within the area identified as the Rio Puerco Watershed Project, ad depicted on the map entitled ''the Rio Puerco Watershed'' dated June 1994; and

(2) provide support to the Rio Puerco Management Committee to identify objectives, monitor results of ongoing projects, and develop alternative watershed management plans for the Rio Puerco Drainage Basin, based on best management practices.

(b) RIO PUERCO MANAGEMENT REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall prepare a report for the improvement of watershed conditions in the Rio Puerco Drainage Basin described in subsection (a)(1).

(2) CONTENTS.—The report under paragraph (1) shall—

(A) identify reasonable and appropriate goals and objectives for landowners and managers in the Rio Puerco watershed;

(B) describe potential alternative actions to meet the goals and objectives, including proven best management practices and costs associated with implementing the actions;

(C) recommend voluntary implementation of appropriate best management practices on public and private lands;

(D) provide for cooperative development of management guidelines for maintaining and improving the ecological, cultural, and economic conditions on public and private lands;

(E) provide for the development of public participation and community outreach programs that would include proposals for—

(i) cooperative efforts with private landowners to encourage implementation of best management practices within the watershed; and

(ii) Involvement of private citizens in restoring the watershed;

(F) provide for the development of proposals for voluntary cooperative programs among the members of the Rio Puerco Management Committee to implement best management practices in a coordinated, consistent, and cost-effective manner;

(G) provide for the encouragement of, and support implementation of, best management practices on private lands; and

(H) provide for the development of proposals for a monitoring system that—

(i) builds on existing data available from private, Federal, and State sources;

(ii) provides for the coordinated collection, evaluation, and interpretation of additional data as needed or collected; and

(iii) will provide information to—

(I) assess existing resource and socioeconomic conditions;

(II) identify priority implementation actions; and

(III) assess the effectiveness of actions taken.

SECTION 2703. RIO PUERCO MANAGEMENT COMMITTEE.

(a) ESTABLISHMENT.—There is established the Rio Puerco Management Committee (referred to in this section as the ''Committee'').

(b) MEMBERSHIP.—The Committee shall be convened by a representative of the Bureau of Land Management and shall include representatives from—

(1) the Rio Puerco Watershed Committee;

(2) affected tribes and pueblos;

(3) the National Forest Service of the Department of Agriculture;

(4) the Bureau of Reclamation;

(5) the United States Geological Survey;

(6) the Bureau of Indian Affairs;

(7) the United States Fish and Wildlife Service;

(8) the Army Corps of Engineers;

(9) the Natural Resources Conservation Service of the Department of Agriculture;

(10) the State of New Mexico, including the New Mexico Environment Department of the State Engineer;

(11) affected local soil and water conservation districts;

(12) the Elephant Butte Irrigation District;

(13) private landowners; and

(14) other interested citizens.

(c) DUTIES.—The Rio Puerco Management Committee shall—

(1) advise the Secretary of the Interior, acting through the Director of the Bureau of Land Management, on the development and implementation of the Rio Puerco Management Program described in section 3; and

(2) serve as a forum for information about activities that may affect or further the development and implementation of the best management practices described in section 3.

(d) TERMINATION.—The Committee shall terminate on the date that is 10 years after the date of enactment of this Act.

SECTION 2704. REPORT.

Not later than the date that is 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary of the Interior, in consultation with the Rio Puerco Management Committee, shall transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives a report containing—

(1) a summary of activities of the management program under section 3; and

(2) proposals for joint implementation efforts, including funding recommendations.

SECTION 2705. LOWER RIO GRANDE HABITAT STUDY.

(a) IN GENERAL.—The Secretary of the Interior, in cooperation with appropriate State agencies, shall conduct a study of the Rio Grande that—

(1) shall cover the distance from Caballo Lake to Sunland Park, New Mexico; and

(2) may cover a greater distance.

(b) CONTENTS.—The study under subsection (a) shall include—

(1) a survey of the current habitat conditions of the river and its riparian environment;

(2) identification of the changes in vegetation and habitat over the past 400 years and the effect of the changes on the river and riparian area; and

(3) an assessment of the feasibility, benefits, and problems associated with activities to prevent further habitat loss and to restore habitat through reintroduction or establishment of appropriate native plant species.

(c) TRANSMITTAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary of the Interior shall transmit the study under subsection (a) to the Committee on Energy and Natural Resources of the Senate and to the Committee on Resources of the House of Representatives.

SECTION 2706. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out sections 1, 2, 3, 4, and 5 a total of $7,500,000 for the 10 fiscal years beginning after the date of enactment of this Act.

TITLE XXVIII—COLUMBIA BASIN

SECTION 2801. LAND EXCHANGE.

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to convey to the Boise Cascade Corporation (hereinafter referred to as the ''Corporation''), a corporation formed under the statutes of the State of Delaware, with its principal place of business at Boise, Idaho, title to approximately seven acres of land, more or less, located in sections 14 and 23, township 36 north, range 37 east, Willamette Meridian, Stevens County, Washington, further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19860, and to accept from the Corporation in exchange therefor, title to approximately one hundred and thirty-six acres of land located in section 19, township 37 north, range 38 east and section 33, township 38 north, range 37 east, Willamette Meridian, Stevens County, Washington, and further identified in the records of the Bureau of Reclamation, Department of the Interior, as Tract No. GC–19858 and Tract No. GC–19859, respectively.

SECTION 2802. APPRAISAL.

The properties so exchanged either shall be approximately equal in fair market value or if they are not approximately equal, shall be equalized by the payment of cash to the Corporation or to the Secretary as required or in the event the value of the Corporation's lands is greater, the acreage may be reduced so that the fair market value is approximately equal: *Provided,* That the Secretary shall order appraisals made of the fair market value of each tract of land included in the exchange without consideration for improvements thereon: *Provided further,* That any cash payment received by the Secretary shall be covered in the Reclamation Fund and credited to the Columbia Basin project.

SECTION 2803. ADMINISTRATIVE COSTS.

Costs of conducting the necessary land surveys, preparing the legal description of the lands to be conveyed, performing the appraisals, and administrative costs incurred in completing the exchange shall be borne by the Corporation.

SECTION 2804. LIABILITY FOR HAZARDOUS SUBSTANCES.

(a) The Secretary shall not acquire any lands under this Title if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601)).

(b) Notwithstanding any other provision of law, the United States shall have no responsibility or liability with respect to any hazardous wastes or other substances placed on any of the lands covered by this Title after their transfer to the ownership of any party, but nothing in this Act shall be construed as either diminishing or increasing any responsibility or liability of the United States based on the condition of such lands on the date of their transfer to the ownership of another party. The Corporation shall indemnify the United States for liabilities arising under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601), and the Resource Conservation Recovery Act (42 U.S.C. 6901 et seq.).

SECTION 2805. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this Title.

TITLE XXIX—GRAND LAKE CEMETERY

SECTION 2901. MAINTENANCE OF CEMETERY IN ROCKY MOUNTAIN NATIONAL PARK.

(a) AGREEMENT.—Notwithstanding any other law, not later than 6 months after the date of enactment of this Act, the Secretary of the Interior shall enter into an appropriate form of agreement with the town of Grand Lake, Colorado, authorizing the town to maintain permanently, under appropriate terms and conditions, a cemetery within the boundaries of the Rocky Mountain National Park.

(a) CEMETERY BOUNDARIES.—The cemetery shall be comprised of approximately 5 acres of land, as generally depicted on the map entitled ''Grand Lake Cemetery'' and dated February 1995.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—The Secretary of the Interior shall place the map described in subsection (b) on file, and make the map available for public inspection, in the headquarters office of the Rocky Mountain National Park.

(d) LIMITATION.—The cemetery shall not be extended beyond the boundaries of the cemetery shown on the map described in subsection (b).

TITLE XXX—OLD SPANISH TRAIL

SECTION 3001. DESIGNATION.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

''(36) The Old Spanish Trail, beginning in Santa Fe, New Mexico, proceeding through Colorado and Utah, and ending in Los Angeles, California, and the Northern Branch of the Old Spanish Trail, beginning near Espanola, New Mexico, proceeding through Colorado, and ending near Crescent Junction, Utah.''

TITLE XXXI—BLACKSTONE RIVER VALLEY NATIONAL HERITAGE CORRIDOR

SECTION 3101. BOUNDARY CHANCES.

Section 2 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by striking the first sentence and inserting the following new sentence: ''The boundaries shall include the lands and water generally depicted on the map entitled Blackstone River Valley National Heritage Corridor Boundary Map, numbered BRV–80–80,011, and dated May 2, 1993.''.

SECTION 3102. TERMS.

Section 3(c) of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by inserting immediately before the period at the end the following: '', but may continue to serve after the expiration of this term until a successor has been appointed''.

SECTION 3103. REVISION OF PLAN.

Section 6 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

''(d) REVISION OF PLAN.—(1) Not later than 1 year after the date of enactment of this subsection, the Commission, with the approval of the Secretary, shall revise the Cultural Heritage and Land Management Plan. The revision shall address the boundary change and shall include a natural resource inventory of areas or features that should be protected, restored, managed, or acquired because of their contribution to the understanding of national cultural landscape values.

''(2) No changes other than minor revisions may be made in the approved plan as amended without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the plan, except minor revisions, in accordance with subsection (b).''.

SECTION 3104. EXTENSION OF COMMISSION.

Section 7 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

''TERMINATION OF COMMISSION

''SEC. 7. (a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the date that is 10 years after the date of enactment of the Blackstone River Valley National Heritage Corridor Amendments Act of 1995.

''(b) EXTENSION.—The Commission may be extended for an additional term of 10 years if—

''(1) not later than 180 days before the termination of the Commission, the Commission determines that an extension is necessary to carry out this Title;

''(2) the Commission submits a proposed extension to the appropriate committees of the Senate and the House of Representatives; and

''(3) the Secretary, the Governor of Massachusetts, and the Governor of Rhode Island each approve the extension.

''(c) DETERMINATION OF APPROVAL.—The Secretary shall approve the extension if the Secretary finds that—

''(1) the Governor of Massachusetts and the Governor of Rhode Island provide adequate assurances of continued tangible contribution and effective policy support toward achieving the purposes of this Title; and

''(2) the Commission is effectively assisting Federal, State, and local authorities to retain, enhance, and interpret the distinctive character and nationally significant resources of the Corridor.''.

SECTION 3105. IMPLEMENTATION OF THE PLAN.

Subsection (c) of section 8 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended to read as follows:

''(c) IMPLEMENTATION.—(1) To assist in the implementation of the Cultural Heritage and Land Management Plan in a manner consistent with purposes of this Title, the Secretary is authorized to undertake a limited program of financial assistance for the purpose of providing funds for the preservation and restoration of structures on or eligible for inclusion on the National Register of Historic Places within the Corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public.

''(2) To be eligible for funds under this section, the Commission shall submit an application to the Secretary that includes—

''(A) a 10-year development plan including those resource protection needs and projects critical to maintaining or interpreting the distinctive character of the Corridor; and

''(B) specific descriptions of annual work programs that have been assembled, the participating parties, roles, cost estimates, cost-sharing, opr cooperative agreements necessary to carry out the development plan.

''(3) Funds made available pursuant to this subsection shall not exceed 50 percent of the total cost of the work programs.

''(4) In making the funds available, the Secretary shall give priority to projects that attract greater non-Federal funding sources.

''(5) Any payment made for the purposes of conservation or restoration of real property or structures shall be subject to an agreement either—

''(A) to convey a conservation or preservation easement to the Department of Environmental Management or to the Historic Preservation Commission, as appropriate, of the State in which the real property or structure is located; or

''(B) that conversion, use, or disposal of the resources so assisted for purposes contrary to the purposes of this Title, as determined by the Secretary, shall result in a right of the United States for reimbursement of all funds expended upon such resources or the proportion of the increased value of the resources attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

''(6) The authority to determine that a conversion, use, or disposal of resources has been carried out contrary to the purposes of this Title in violation of an agreement entered into under paragraph (5)(A) shall be solely at the discretion of the Secretary.''.

SECTION 3106. LOCAL AUTHORITY.

Section 5 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), is amended by adding at the end the following new subsection:

''(j) LOCAL AUTHORITY AND PRIVATE PROPERTY NOT AFFECTED.—Nothing in this Title shall be construed to affect or to authorize the Commission to interfere with—

''(1) the rights of any person with respect to private property; or

''(2) any local zoning ordinance or land use plan of the Commonwealth of Massachusetts or a political subdivision of such Commonwealth.''.

SECTION 3107. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Act entitled ''An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island'', approved November 10, 1986 (Public Law 99–647; 16 U.S.C. 461 note), as amended, is further amended—

(1) in subsection (a), by striking ''$350,000'' and inserting ''$650,000''; and

(2) by amending subsection (b) to read as follows:

''(b) DEVELOPMENT FUNDS.—For fiscal years 1996, 1997, and 1998, there is authorized to be appropriated to carry out section 8(c), $5,000,000 in the aggregate.''.

TITLE XXXII—CUPRUM, IDAHO RELIEF

SECTION 3201. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that:

(1) In 1899, the citizens of Cuprum, Idaho, commissioned E.S. Hesse to conduct a survey describing these lands occupied by their community. The purpose of this survey was to provide a basis for the application for a townsite patent.

(2) In 1909, the Cuprum Townsite patent (Number 52817) was granted, based on an aliqot parts description which was intended to circumscribe the Hesse survey.

(3) Since the day of the patent, the Hesse survey has been used continuously by the community of Cuprum and by Adams Country, Idaho, as the official townsite plat and basis for conveyance of title within the townsite.

(4) Recent boundary surveys conducted by the United States Department of Agriculture, Forest Service, and the United States Department of the Interior, Bureau of Land Management, discovered inconsistencies between the official aliquot parts description of the patented Cuprum Townsite and the Hesse survey. Many lots along the south and east boundaries of the townsite are now known to extend onto National Forest System lands outside the townsite.

(5) It is the determination of Congress that the original intent of the Cuprum Townsite application was to include all the lands described by the Hesse survey.

(b) PURPOSE.—It is the purpose of this Title to amend the 1909 Cuprum Townsite patent to include those additional lands described by the Hesse survey in addition to other lands necessary to provide an administratively acceptable boundary to the National Forest System.

SECTION 3202. AMENDMENT OF PATENT.

(a) The 909 Cuprum Townsite patent is hereby amended to include parcels 1 and 2, identified on the plat, marked as ''Township 20 North, Range 3 West, Boise Meridian, Idaho, Section 10: Proposed Patent Adjustment Cuprum Townsite, Idaho'' prepared by Payette N.F.—Land Survey Unit, drawn and approved by Tom Betzold, Forest Land Surveyor, on April 25, 1995. Such additional lands are hereby conveyed to the original patentee, Pitts Ellis, trustee, and Probate Judge of Washington County, Idaho, or any successors or assigns in interest in accordance with State law. The Secretary of Agriculture may correct clerical and typographical errors in such plat.

(b) The Federal Government shall survey the Federal property lines and mark and post the boundaries necessary to implement this section.

SECTION 3203. RELEASE.

Notwithstanding section 120 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. 9620), the United States shall not be liable and shall be held harmless from any and all claims resulting from substances or petroleum products or any other hazardous materials on the conveyed land.

TITLE XXXIII—ARKANSAS AND OKLAHOMA LAND EXCHANGE

SECTION 3301. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that:

(1) The Weyerhaeuser Company has offered to the United States Government an exchange of lands under which Weyerhaeuser would receive approximately 48,000 acres of Federal land in Arkansas and Oklahoma and all mineral interests and oil and gas interests pertaining to these exchanged lands in which the United States Government has an interest in return for conveying to the United States lands owned by Weyerhaeuser consisting of approximately 180,000 acres of forested wetlands and other forest land of public interest in Arkansas and Oklahoma and all mineral interests and all oil and gas interest pertaining to 48,000 acres of these 180,000 cares of exchanged lands in which Weyerhaeuser has an interest, consisting of:

(A) certain lands in Arkansas (Arkansas Ouachita lands) located near Poteau Mountain, Caney Creek Wilderness, Lake Ouachita, Little Missouri Wild and Scenic River, Flatside Wilderness and the Ouachita National Forest;

(B) certain lands in Oklahoma (Oklahoma lands) located near the McCurtain County Wilderness, the Broken Bow Reservoir, the Glover River, and the Ouachita National Forest; and

(C) certain lands in Arkansas (Arkansas Cossatot lands) located on the Little and Cossatot Rivers and identified as the ''Pond Creek Bottoms'' in the Lower Mississippi River Delta section of the North American Waterfowl Management Plan;

(2) acquisition of the Arkansas Cossatot lands by the United States will remove the lands in the heart of a critical wetland ecosystem from sustained timber production and other development;

(3) the acquisition of the Arkansas Ouachita lands and the Oklahoma lands by the United States for administration by the Forest Service will provide an opportunity for enhancement of ecosystem management of the National Forest System lands and resources;

(4) the Arkansas Ouachita lands and the Oklahoma lands have outstanding wildlife habitat and important recreational values and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, education, and timber management whenever these activities are consistent with applicable Federal laws and land and resource management plans; these lands, especially in the riparian zones, also harbor endangered, threatened and sensitive plants and animals and the conservation and restoration of these areas are important to the recreational and educational public uses and will represent a valuable ecological resource which should be conserved;

(5) the private use of the lands the United States will convey to Weyerhaeuser will not conflict with established management objectives on adjacent Federal lands;

(6) the lands the United States will convey to Weyerhaeuser as part of the exchange described in paragraph (1) do not contain comparable fish, wildlife, or wetland values;

(7) the values of all lands, mineral interests, and oil and gas interests to be exchanged between the United States and Weyerhaeuser are approximately equal in value; and

(8) the exchange of lands, mineral interests, and oil and gas interests between Weyerhaeuser and the United States is in the public interest.

(b) PURPOSE.—The purpose of this Title is to authorize and direct the Secretary of the Interior and the Secretary of Agriculture, subject to the terms of this Title, to complete, as expeditiously as possible, an exchange of lands, mineral interests, and oil and gas interests with Weyerhaeuser that will provide environmental, land management, recreational, and economic benefits to the States of Arkansas and Oklahoma and to the United States.

SECTION 3302. DEFINITIONS.

As used in this Title:

(a) LAND.—The terms ''land'' or ''lands'' mean the surface estate and any other interests therein except for mineral interests and oil and gas interests.

(b) MINERAL INTERESTS.—The term ''mineral interests'' means geothermal steam and heat and all metals, ores, and minerals of any nature whatsoever, except oil and gas interests, in or upon lands subject to this Title including, but not limited to, coal, lignite, peat, rock, sand, gravel, and quartz.

(c) OIL AND GAS INTERESTS.—The term ''oil and gas interests'' means all oil and gas of any nature, including carbon dioxide, helium, and gas taken from coal seams, (collectively ''oil and gas'').

(d) SECRETARIES.—The term ''Secretaries'' means the Secretary of the Interior and the Secretary of Agriculture.

(e) WEYERHAEUSER.—The term ''Weyerhaeuser'' means Weyerhaeuser Company, a company incorporated in the State of Washington.

SECTION 3303. EXCHANGE.

(a) EXCHANGE OF LANDS AND MINERAL INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (a)(2) and notwithstanding any other provision of law, within 90 days after the date of the enactment of this Title, the Secretary of Agriculture shall convey to Weyerhaeuser, subject to any valid existing rights, approximately 20,000 acres of Federal lands and mineral interests in the State of Arkansas and approximately 28,000 aces of Federal lands and mineral interests in the State of Oklahoma as depicted on maps entitled ''Arkansas-Oklahoma Land Exchange—Federal Arkansas and Oklahoma Lands,'' dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(2) OFFER AND ACCEPTANCE OF LANDS.—The Secretary of Agriculture shall make the conveyance to Weyerhaeuser if Weyerhaeuser conveys deeds of title to the United States, subject to limitations and the reservation described in subsection (b) and which are acceptable to and approved by the Secretary of Agriculture to the following:

(A) approximately 120,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Oklahoma, as depicted on a map entitled ''Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oklahoma Lands,'' dated February 1996 and available for public inspection in appropriate offices of the Secretaries;

(B) approximately 35,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled ''Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Ouachita Lands,'' dated February 1996 and available for public inspection in appropriate offices of the Secretaries; and

(C) approximately 25,000 acres of lands and mineral interests owned by Weyerhaeuser in the State of Arkansas, as depicted on a map entitled ''Arkansas-Oklahoma Land Exchange—Weyerhaeuser Arkansas Cossatot Lands,'' dated February 1996 and available for public inspection in appropriate offices of the Secretaries.

(b) EXCHANGE OF OIL AND GAS INTERESTS.—

(1) IN GENERAL.—Subject to paragraph (b)(2) and notwithstanding any other provision of law, at the same time as the exchange for land and mineral interests is carried out pursuant to this section, the Secretary of Agriculture shall exchange all Federal oil and gas interests, including existing leases and other agreements, in the lands described in paragraph (a)(1) for equivalent oil and gas interests, including existing leases and other agreements, owned by Weyerhaeuser in the lands described in paragraph (a)(2).

(2) RESERVATION.—In addition to the exchange of oil and gas interests pursuant to paragraph (b)(1), Weyerhaeuser shall reserve oil and gas interests in and under the lands depicted for reservation upon a map entitled ''Arkansas-Oklahoma Land Exchange—Weyerhaeuser Oil and Gas Interest Reservation Lands'', dated February 1996 and available for public inspection in appropriate offices of the Secretaries. Such reservation shall be subject to the provisions of this Title and a Memorandum of Understanding jointly agreed to by the Forest Service and Weyerhaeuser. Such Memorandum of Understanding shall be completed no later than 60 days after date of enactment of this Title and shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives. The Memorandum of Understanding shall not become effective until 30 days after it is received by the Committees.

(c) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—The acreage cited in this Title is approximate. In the case of a discrepancy between the description of lands, mineral interests, or oil and gas interests to be exchanged pursuant to subsection (a) and the lands, mineral interests, or oil and gas interest depicted on a map referred to in such subsection, the map shall control. Subject to the notification required by paragraph (3), the maps referenced in this Title shall be subject to such minor corrections as may be agreed upon by the Secretaries and Weyerhaeuser.

(2) FINAL MAPS.—Not later than 180 days after the conclusion of the exchange required by subsections (a) and (b), the Secretaries shall transmit maps accurately depicting the lands and mineral interests conveyed and transferred pursuant to this Title and the acreage and boundary descriptions of such lands and mineral interests to the Committees on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

(3) CANCELLATION.—If, before the exchange has been carried out pursuant to subsections (a) and (b), Weyerhaeuser provides written notification to the Secretaries that Weyerhaeuser no longer intends to complete the exchange, with respect to the lands, mineral interests, and oil and gas interests that would otherwise be subject to the exchange, the status of such lands, mineral interests, and oil and gas interests shall revert to the status of such lands, mineral interests, and oil and gas interests as of the day before the date of enactment of this Title and shall be managed in accordance with applicable law and management plans.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands and interests therein depicted for conveyance to Weyerhaeuser on the maps referenced in subsections (a) and (b) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of mineral leasing and geothermal steam leasing laws effective upon the date of the enactment of this Title. Such withdrawal shall terminate 45 days after completion of the exchange provided for in subsections (a) and (b) or on the date of notification by Weyerhaeuser of a decision not to complete the exchange.

SECTION 3304. DESIGNATION AND USE OF LANDS ACQUIRED BY THE UNITED STATES.

(a) NATIONAL FOREST SYSTEM.—

(1) ADDITION TO THE SYSTEM.—Upon approval and acceptance of title by the Secretary of Agriculture, the 155,000 acres of land conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B) of this Act shall be subject to the Act of March 1, 1911 (commonly known as the ''Weeks Law'') (36 Stat. 961, as amended), and shall be administered by the Secretary of Agriculture in accordance with the laws and regulations pertaining to the National Forest system.

(2) PLAN AMENDMENTS.—No later than 12 months after the completion of the exchange required by this Title, the Secretary of Agriculture shall begin the process to amend applicable land and resource management plans with public involvement pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 (16 U.S.C. 1604).

(b) OTHER.

(1) ADDITION TO THE NATIONAL WILDLIFE REFUGE SYSTEM.—Once acquired by the United States, the 25,000 acres of land identified in section 3303(a)(2)(C), the Arkansas Cossatot lands, shall be managed by the Secretary of the Interior as a component of the Cossatot National Wildlife Refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by this Title, the Secretary of the Interior shall prepare and implement a single refuge management plan for the Cossatot National Wildlife Refuge, as expanded by this Title. Such plans shall recognize the important public purposes served by the nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, compatible uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws. Any regulations promulgated by the Secretary of the Interior with respect to hunting, fishing, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary of the Interior shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in paragraph (2), during the period beginning on the date of the completion of the exchange of lands required by this Title and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary of the Interior shall administer all lands added to the Cossatot National Wildlife Refuge pursuant to this Title in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable laws.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting season on the lands described in subsection (1) shall comport with the applicable State law.

SECTION 3305. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—Upon acceptance of title by the Secretary of Agriculture of the lands conveyed to the United States pursuant to Section 3303(a)(2) (A) and (B), the boundaries of the Ouachita National Forest shall be adjusted to encompass those lands conveyed to the United States generally depicted on the appropriate maps referred to in section 3303(a). Nothing in this section shall limit the authority of the Secretary of Agriculture to adjust the boundary pursuant to section 11 of the Weeks Law of March 1, 1911. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Title, shall be considered to be the boundaries of the Forest as of January 1, 1965.

(b) MAPS AND BOUNDARY DESCRIPTIONS.—Not later than 180 days after the date of enactment of this Title, the Secretary of Agriculture shall prepare a boundary description of the lands depicted on the map(s) referred to in section 3303(a)(2) (A) and (B). Such map(s) and boundary description shall have the same force and effect as if included in this Title, except that the Secretary of Agriculture may correct clerical and typographical errors.

Mr. MURKOWSKI. Mr. President, it is my understanding that on Monday the Senate will proceed to the consideration of various bills reported by the Committee on Energy and Natural Resources. It is my intention at that time to offer an amendment in the nature of a substitute to H.R. 1296, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, and for other purposes.

TAIWAN CONCURRENT RESOLUTION

THOMAS (AND OTHERS) AMENDMENT NO. 3562

Mr. THOMAS (for himself, Mr. HELMS, Mr. DOLE, Mr. MURKOWSKI, Mr. PELL, Mr. SIMON, Mr. MACK, Mr. GRAMS, Mr. PRESSLER, Mr. BROWN, Mr. LUGAR, Mr. D'AMATO, Mr. WARNER, Mr. FORD, Mr. LIEBERMAN, Mr. ROTH, Mr. NICKLES, Mr. HATCH, Mr. GORTON, Mr. CRAIG, Mr. SANTORUM, Mr. DORGAN, Mr. ROBB, Mr. ROCKEFELLER, Mr. BRYAN, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. DASCHLE, and Mrs. FEINSTEIN) proposed an amendment to the concurrent resolution (H. Con. Res. 148) expressing the sense of the Congress that the United States is committed to the military stability of the Taiwan Straits and United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People's Republic of China; as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

''That it is the sense of the Congress—

''(1) to deplore the missile tests and military exercises that the People's Republic of China is conducting from March 8 through March 25, 1996, and view such tests and exercises as potentially serious threats to the peace, security, and stability of Taiwan and not in the spirit of the three United States-China Joint Communiqués;

''(2) to urge the Government of the People's Republic of China to cease its bellicose actions directed at Taiwan and enter instead into meaningful dialogue with the Government of Taiwan at the highest levels, such as through the Straits Exchange Foundation in Taiwan and the Association for Relations Across the Taiwan Strait in Beijing, with an eye towards decreasing tensions and resolving the issue of the future of Taiwan;

''(3) that the President should, consistent with section 3(c) of the Taiwan Relations Act of 1979 (22 U.S.C. 3302(c)), immediately consult with Congress on an appropriate United States response to the tests and exercises should the tests or exercises pose an actual threat to the peace, security, and stability of Taiwan;

''(4) that the President should, consistent with the Taiwan Relations Act of 1979 (22

U.S.C. 3301 et seq.), reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat; and

''(5) that the Government of Taiwan should remain committed to the peaceful resolution of its future relations with the People's Republic of China by mutual decision.''

Amend the preamble to read as follows:

''Whereas the People's Republic of China, in a clear attempt to intimidate the people and Government of Taiwan, has over the past 9 months conducted a series of military exercises, including missile tests, within alarmingly close proximity to Taiwan;

''Whereas from March 8 through March 15, 1996, the People's Republic of China conducted a series of missile tests within 25 to 35 miles of the 2 principal northern and southern ports of Taiwan, Kaohsiung and Keelung;

''Whereas on March 12, 1996, the People's Republic of China began an 8-day, live-ammunition, joint sea-and-air military exercise in a 2,390 square mile area in the southern Taiwan Strait;

''Whereas on March 18, 1996, the People's Republic of China began a 7-day, live-ammunition, joint sea-and-air military exercise between Taiwan's islands of Matsu and Wuchu;

''Whereas these tests and exercises are a clear escalation of the attempts by the People's Republic of China to intimidate Taiwan and influence the outcome of the upcoming democratic presidential election in Taiwan;

''Whereas through the administrations of Presidents Nixon, Ford, Carter, Reagan, and Bush, the United States has adhered to a ''One China'' policy and, during the administration of President Clinton, the United States continues to adhere to the ''One China'' policy based on the Shanghai Communiqué of February 27, 1972, the Joint Communiqué on the Establishment of Diplomatic Relations Between the United States of America and the People's Republic of China of January 1, 1979, and the United States-China Joint Communiqué of August 17, 1982;

''Whereas through the administrations of Presidents Carter, Reagan, and Bush, the United States has adhered to the provisions of the Taiwan Relations Act of 1979, (22 U.S.C. 3301 et seq.) as the basis for continuing commercial, cultural, and other relations between the people of the United States and the people of Taiwan and, during the administration of President Clinton, the United States continues to adhere to the provisions of the Taiwan Relations Act of 1979;

''Whereas relations between the United States and the People's Republic of China rest upon the expectation that the future of Taiwan will be settled solely by peaceful means;

''Whereas the strong interest of the United States in the peaceful settlement of the Taiwan question is one of the central premises of the three United States-China Joint Communiqués and was codified in the Taiwan Relations Act of 1979;

''Whereas the Taiwan Relations Act of 1979 states that peace and stability in the western Pacific ''are in the political, security, and economic interests of the United States, and are matters of international concern'';

''Whereas the Taiwan Relations Act of 1979 states that the United States considers ''any effort to determine the future of Taiwan by other than peaceful means, including by boycotts, or embargoes, a threat to the peace and security of the western Pacific area and of grave concern to the United States'';

''Whereas the Taiwan Relations Act of 1979 directs the President to ''inform Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom'';

''Whereas the Taiwan Relations Act of 1979 further directs that ''the President and the Congress shall determine, in accordance with constitutional process, appropriate action by the United States in response to any such danger'';

''Whereas the United States, the People's Republic of China, and the Government of Taiwan have each previously expressed their commitment to the resolution of the Taiwan question through peaceful means; and

''Whereas these missile tests and military exercises, and the accompanying statements made by the Government of the People's Republic of China, call into serious question the commitment of China to the peaceful resolution of the Taiwan question: Now, therefore, be it,''

Amend the title so as to read: ''Expressing the sense of Congress regarding missile tests and military exercises by the People's Republic of China.''

THE ACCELERATED CLEANUP AND ENVIRONMENTAL RESTORATION ACT OF 1996

SMITH (AND CHAFEE) AMENDMENT NO. 3563

(Ordered to lie on the table.)

Mr. SMITH (for himself and Mr. CHAFEE) submitted an amendment intended to be proposed by them to the bill (S. 1285) to reauthorize and amend the Comprehensive Environmental Recovery, Compensation, and Liability Act of 1980, and for other purpose; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Accelerated Cleanup and Environmental Restoration Act of 1996''.

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

Sec. 1. Short title; table of contents.

TITLE I—COMMUNITY PARTICIPATION

Sec. 101. Community response organizations; technical assistance grants; improvement of public participation in the Superfund decisionmaking process.

TITLE II—STATE ROLE

Sec. 201. Delegation to the States of authorities with respect to national priorities list facilities.

TITLE III—VOLUNTARY CLEANUP

Sec. 301. Assistance for qualifying State voluntary response programs.
Sec. 302. Brownfield characterization program.
Sec. 303. Treatment of security interest holders and fiduciaries as owners or operators.
Sec. 304. Federal Deposit Insurance Act amendment.
Sec. 305. Contiguous properties.
Sec. 306. Prospective purchasers and windfall liens.
Sec. 307. Safe harbor innocent landholders.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

Sec. 401. Definitions.
Sec. 402. Selection and implementation of remedial actions.
Sec. 403. Remedy selection methodology.
Sec. 404. Remedy selection procedures.
Sec. 405. Completion of physical construction and delisting.
Sec. 406. Transition rules for facilities currently involved in remedy selection.
Sec. 407. Judicial review.
Sec. 408. National Priorities List.

TITLE V—LIABILITY

Sec. 501. Liability exceptions and limitations.
Sec. 502. Contribution from the Fund for certain retroactive liability.
Sec. 503. Allocation of liability for certain facilities.
Sec. 504. Liability of response action contractors.
Sec. 505. Release of evidence.
Sec. 506. Contribution protection.
Sec. 507. Treatment of religious, charitable, scientific, and educational organizations as owners or operators.
Sec. 508. Common carriers.
Sec. 509. Limitation on liability for response costs.

TITLE VI—FEDERAL FACILITIES

Sec. 601. Transfer of authorities.
Sec. 602. Limitation on criminal liability of Federal officers, employees, and agents.
Sec. 603. Innovative technologies for remedial action at Federal facilities.
Sec. 604. Federal facility listing.
Sec. 605. Federal facility listing deferral.
Sec. 606. Transfers of uncontaminated property.

TITLE VII—NATURAL RESOURCE DAMAGES

Sec. 701. Restoration of natural resources.
Sec. 702. Assessment of damages.
Sec. 703. Consistency between response actions and resource restoration standards and alternatives.
Sec. 704. Miscellaneous amendments.

TITLE VIII—MISCELLANEOUS

Sec. 801. Result-oriented cleanups.
Sec. 802. National Priorities List.
Sec. 803. Obligations from the fund for response actions.
Sec. 804. Remediation waste.

TITLE IX—FUNDING

Subtitle A—General Provisions

Sec. 901. Authorization of appropriations from the Fund.
Sec. 902. Orphan share funding.
Sec. 903. Department of Health and Human Services.
Sec. 904. Limitations on research, development, and demonstration programs.
Sec. 905. Authorization of appropriations from general revenues.
Sec. 906. Additional limitations.
Sec. 907. Reimbursement of potentially responsible parties.

TITLE I—COMMUNITY PARTICIPATION

SEC. 101. COMMUNITY RESPONSE ORGANIZATIONS; TECHNICAL ASSISTANCE GRANTS; IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.

(a) AMENDMENT.—Section 117 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9617) is amended by striking subsection (e) and inserting the following:

''(e) COMMUNITY RESPONSE ORGANIZATIONS.—

''(1) ESTABLISHMENT.—The Administrator shall create a community response organization for a facility that is listed or proposed for listing on the National Priorities List—

''(A) if the Administrator determines that a representative public forum will be helpful

in promoting direct, regular, and meaningful consultation among persons interested in remedial action at the facility; or

''(B) at the request of—

''(i) 50 individuals residing in, or at least 20 percent of the population of, the area in which the facility is located;

''(ii) a representative group of the potentially responsible parties; or

''(iii) any local governmental entity with jurisdiction over the facility.

''(2) RESPONSIBILITIES.—A community response organization shall—

''(A) solicit the views of the local community on various issues affecting the development and implementation of remedial actions at the facility;

''(B) serve as a conduit of information to and from the community to appropriate Federal, State, and local agencies and potentially responsible parties;

''(C) serve as a representative of the local community during the remedial action planning and implementation process; and

''(D) provide reasonable notice of and opportunities to participate in the meetings and other activities of the community response organization.

''(3) ACCESS TO DOCUMENTS.—The Administrator shall provide a community response organization access to documents in possession of the Federal Government regarding response actions at the facility that do not relate to liability and are not protected from disclosure as confidential business information.

''(4) COMMUNITY RESPONSE ORGANIZATION INPUT.—

''(A) CONSULTATION.—The Administrator (or if the remedial action plan is being prepared or implemented by a party other than the Administrator, the other party) shall—

''(i) consult with the community response organization in developing and implementing the remedial action plan; and

''(ii) keep the community response organization informed of progress in the development and implementation of the remedial action plan.

''(B) TIMELY SUBMISSION OF COMMENTS.—The community response organization shall provide its comments, information, and recommendations in a timely manner to the Administrator (and other party).

''(C) CONSENSUS.—The community response organization shall attempt to achieve consensus among its members before providing comments and recommendations to the Administrator (and other party), but if consensus cannot be reached, the community response organization shall report or allow presentation of divergent views.

''(5) TECHNICAL ASSISTANCE GRANTS.—

''(A) PREFERRED RECIPIENT.—If a community response organization exists for a facility, the community response organization shall be the preferred recipient of a technical assistance grant under subsection (f).

''(B) PRIOR AWARD.—If a technical assistance grant concerning a facility has been awarded prior to establishment of a community response organization—

''(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

''(ii) 1 person representing the grant recipient shall serve on the community response organization.

''(6) MEMBERSHIP.—

''(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

''(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to persons who reside in the local community.

''(C) REPRESENTED GROUPS.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

''(i) Persons who reside or own residential property near the facility;

''(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility.

''(iii) Persons who are members of the local public health or medical community and are practicing in the community.

''(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

''(v) Local representatives of citizen, environmental, or public interest groups with members residing in the community.

''(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

''(vii) Members of the local business community.

''(D) PROPORTION.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

''(E) PAY.—Members of a community response organization shall serve without pay.

''(7) PARTICIPATION BY GOVERNMENT REPRESENTATIVES.—Representatives of the Administrator, the Administrator of the Agency for Toxic Substances and Disease Registry, other Federal agencies, and the State, as appropriate, shall participate in community response organization meetings to provide information and technical expertise, but shall not be members of the community response organization.

''(8) ADMINISTRATIVE SUPPORT.—The Administrator shall provide administrative services and meeting facilities for community response organizations.

''(9) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a community response organization.

''(f) TECHNICAL ASSISTANCE GRANTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) AFFECTED CITIZEN GROUP.—The term 'affected citizen group' means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, pollutant, or contaminant at any facility on the State Registry or the National Priorities List.

''(B) TECHNICAL ASSISTANCE GRANT.—The term 'technical assistance grant' means a grant made under paragraph (2).

''(2) AUTHORITY.—

''(A) IN GENERAL.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

''(B) AVAILABILITY OF APPLICATION PROCESS.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

''(3) SPECIAL RULES.—

''(A) NO MATCHING CONTRIBUTION.—No matching contribution shall be required for a technical assistance grant.

''(B) AVAILABILITY IN ADVANCE.—The Administrator shall make all or a portion (but not less than $5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

''(4) LIMIT PER FACILITY.—

''(A) 1 GRANT PER FACILITY.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

''(B) DURATION.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

''(5) AVAILABILITY FOR FACILITIES NOT YET LISTED.—Subject to paragraph (6), 1 or more technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

''(6) FUNDING LIMIT.—

''(A) PERCENTAGE OF TOTAL APPROPRIATIONS.—Not more than 2 percent of the funds made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

''(B) ALLOCATION BETWEEN LISTED AND UNLISTED FACILITIES.—Not more than the portion of funds equal to ⅛ of the total amount of funds used to make technical assistance grants for a fiscal year may be used for technical assistance grants with respect to facilities not listed on the National Priorities List.

''(7) FUNDING AMOUNT.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant recipient.

''(B) INCREASE.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of facility activity, projected total needs as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

''(8) USE OF TECHNICAL ASSISTANCE GRANTS.—

''(A) PERMITTED USE.—A technical assistance grant may be used to obtain technical assistance in interpreting information with regard to—

''(i) the nature of the hazardous substances located at a facility;

''(ii) the work plan;

''(iii) the facility evaluation;

''(iv) a proposed remedial action plan, a remedial action plan, and a final remedial design for a facility;

''(v) response actions carried out at the facility; and

''(vi) operation and maintenance activities at the facility.

''(B) PROHIBITED USE.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

''(9) GRANT GUIDELINES.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

''(B) HIRING OF EXPERTS.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

''(g) IMPROVEMENT OF PUBLIC PARTICIPATION IN THE SUPERFUND DECISIONMAKING PROCESS.—

''(1) IN GENERAL.—

''(A) MEETINGS AND NOTICE.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of—

''(i) a facility evaluation, as appropriate;

''(ii) announcement of a proposed remedial action plan; and

''(iii) completion of a final remedial design.

''(B) INFORMATION.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information to the community, with respect to a facility concerning the Administrator's facility activities and pending decisions.

''(2) PARTICIPANTS AND SUBJECT.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

''(A) the participants include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility referral) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

''(B) the subject of the meeting involves discussions directly affecting—

''(i) a legally enforceable work plan document, or any significant amendment to the document, for a removal, facility evaluation, proposed remedial action plan, final remedial design, or remedial action for a facility on the National Priorities List; or

''(ii) the final record of information on which the Administrator will base a hazard ranking system score for a facility.

''(3) LIMITATION.—Nothing in this subsection shall be construed—

''(A) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that concerns only the potential liability or settlement of potential liability of any person, whether prior to or following the commencement of litigation or administrative enforcement action;

''(B) to provide for public participation in or otherwise affect any negotiation, meeting, or other discussion that is attended only by representatives of the United States (or of a department, agency, or instrumentality of the United States) with attorneys representing the United States (or of a department, agency, or instrumentality of the United States); or

''(C) to waive, compromise, or affect any privilege that may be applicable to a communication related to an activity described in subparagraph (A) or (B).

''(4) EVALUATION.—

''(A) IN GENERAL.—To the extent practicable, before and during the facility evaluation, the Administrator shall solicit and evaluate concerns, interests, and information from the community.

''(B) PROCEDURE.—An evaluation under subparagraph (A) shall include, as appropriate—

''(i) face-to-face community surveys to identify the location of private drinking water wells, historic and current or potential use of water, and other environmental resources in the community;

''(ii) a public meeting;

''(iii) written responses to significant concerns; and

''(iv) other appropriate participatory activities.

''(5) VIEWS AND PREFERENCES.—

''(A) SOLICITATION.—During the facility evaluation, the Administrator (or other person performing the facility evaluation) shall solicit the views and preferences of the community on the remediation and disposition of hazardous substances or pollutants or contaminants at the facility.

''(B) CONSIDERATION.—The views and preferences of the community shall be described in the facility evaluation and considered in the screening of remedial alternatives for the facility.

''(6) ALTERNATIVES.—Members of the community may propose remedial action alternatives, and the Administrator shall consider such alternatives in the same manner as the Administrator considers alternatives proposed by potentially responsible parties.

''(7) INFORMATION.—

''(A) THE COMMUNITY.—The Administrator, with the assistance of the community response organization under subsection (g) if there is one, shall provide information to the community and seek comment from the community throughout all significant phases of the response action at the facility.

''(B) TECHNICAL STAFF.—The Administrator shall ensure that information gathered from the community during community outreach efforts reaches appropriate technical staff in a timely and effective manner.

''(C) RESPONSES.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

''(8) NONPRIVILEGED INFORMATION.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request, subject to reasonable service charges as appropriate.

''(9) PRESENTATION.—

''(A) DOCUMENTS.—

''(i) IN GENERAL.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

''(ii) RISK.—To the extent feasible, documents prepared by the Administrator and made available to the public that purport to describe the degree of risk to human health shall, at a minimum, state—

''(I) the distribution of risk, including upperbound and lowerbound estimates of the incremental risk;

''(II) the population or populations addressed by any estimates of the risk;

''(III) the expected risk or central estimate of the risk for the specific population;

''(IV) the reasonable range or other description of uncertainties in the assessment process; and

''(V) the assumptions that form the basis for any estimates of such risk posed by the facility and a brief explanation of the assumptions.

''(B) COMPARISONS.—The Administrator, in carrying out responsibilities under this Act, shall provide comparisons of the level of risk from hazardous substances found at the facility to comparable levels of risk from those hazardous substances ordinarily encountered by the general public through other sources of exposure.

''(10) REQUIREMENTS.—

''(A) LENGTHY REMOVAL ACTIONS.—Notwithstanding any other provision of this subsection, in the case of a removal action taken in accordance with section 104 that is expected to require more than 180 days to complete, and in any case in which implementation of a removal action is expected to obviate or that in fact obviates the need to conduct a long-term remedial action—

''(i) the Administrator shall, to the maximum extent practicable, allow for public participation consistent with paragraph (1); and

''(ii) the removal action shall achieve the goals of protecting human health and the environment in accordance with section 121(a)(1).

''(B) OTHER REMOVAL ACTIONS.—In the case of all other removal actions, the Administrator may provide the community with notice of the anticipated removal action and a public comment period, as appropriate.''.

(b) ISSUANCE OF GUIDELINES.—The Administrator of the Environmental Protection Agency shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 90 days after the date of enactment of this Act.

TITLE II—STATE ROLE

SEC. 201. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

(a) IN GENERAL.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 302, is amended by adding at the end the following:

''SEC. 135. DELEGATION TO THE STATES OF AUTHORITIES WITH RESPECT TO NATIONAL PRIORITIES LIST FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) COMPREHENSIVE DELEGATION STATE.—The term 'comprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authority.

''(2) DELEGABLE AUTHORITY.—The term 'delegable authority' means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

''(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

''(i) a preliminary assessment or facility evaluation under section 104;

''(ii) facility characterization under section 104;

''(iii) a remedial investigation under section 104;

''(iv) a facility-specific risk evaluation under section 129(b)(4); and

''(v) any other authority identified by the Administrator under subsection (b).

''(B) CATEGORY B.—All authorities necessary to perform alternatives development and remedy selection, including—

''(i) a feasibility study under section 104; and

''(ii)(I) remedial action selection under section 121 (including issuance of a record of decision); or

''(II) remedial action planning under section 129(b)(5); and

''(iii) any other authority identified by the Administrator under subsection (b).

''(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

''(i) remedial design under section 121; and

''(ii) any other authority identified by the Administrator under subsection (b).

''(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

''(i) a removal under section 104;

''(ii) a remedial action under section 104 or section 10 (a) or (b);

''(iii) operation and maintenance under section 104(c); and

''(iv) any other authority identified by the Administrator under subsection (b).

''(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

''(i) information collection activity under section 104(e);

''(ii) allocation of liability under section 132;

''(iii) a search for potentially responsible parties under section 104 or 107;

''(iv) settlement under section 122; and

''(v) any other authority identified by the Administrator under subsection (b).

''(F) CATEGORY F.—All authorities necessary to perform enforcement, including—

''(i) issuance of an order under section 106(a);

''(ii) a response action cost recovery under section 107;

''(iii) imposition of a civil penalty or award under section 109 (a)(1)(D) or (b)(4);

''(iv) settlement under section 122; and

''(v) any other authority identified by the Administrator under subsection (b).

''(3) DELEGATED STATE.—The term 'delegated State' means a State to which delegable authority has been delegated under subsection (c), except as may be provided in a delegation agreement in the case of a limited delegation of authority under subsection (c)(5).

''(4) DELEGATED AUTHORITY.—The term 'delegated authority' means a delegable authority that has been delegated to a delegated State under this section.

''(5) DELEGATED FACILITY.—The term 'delegated facility' means a non-federal listed facility with respect to which a delegable authority has been delegated to a State under this section.

''(6) NONCOMPREHENSIVE DELEGATION STATE.—The term 'noncomprehensive delegation State', with respect to a facility, means a State to which the Administrator has delegated authority to perform fewer than all of the categories of delegable authority.

''(7) NONDELEGABLE AUTHORITY.—The term 'nondelegable authority' means authority to—

''(A) make grants to community response organizations under section 117; and

''(B) conduct research and development activities under any provision of this Act.

''(8) NON-FEDERAL LISTED FACILITY.—The term 'non-federal listed facility' means a facility that—

''(A) is not owned or operated by a department, agency, or instrumentality of the United States in any branch of the Government; and

''(B) is listed on the National Priorities List.

''(b) IDENTIFICATION OF DELEGABLE AUTHORITIES.—

''(1) IN GENERAL.—The President shall by regulation identify all of the authorities of the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

''(2) LIMITATION.—The Administrator shall not identify a nondelegable authority for inclusion in a delegation of any category of delegable authority.

''(c) DELEGATION OF AUTHORITY.—

''(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to 1 or more non-Federal listed facilities in the State.

''(2) APPLICATION.—An application under paragraph (1) shall—

''(A) identify each non-Federal listed facility for which delegation is requested;

''(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

''(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate, has—

''(i) statutory and regulatory authority (including appropriate enforcement authority) to perform the requested delegable authorities in a manner that is protective of human health and the environment;

''(ii) resources in place to adequately administer and enforce the authorities; and

''(iii) procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 129.

''(3) APPROVAL OF APPLICATION.—

''(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

''(i) issue a notice of approval of the application (including approval or disapproval regarding any or all of the facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated); or

''(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization, or expertise to administer and enforce any of the requested delegable authority, issue a notice of disapproval, including an explanation of the basis for the determination.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of all or any portion of an application within the applicable time period under subparagraph (A), the application shall be deemed to have been granted.

''(C) RESUBMISSION OF APPLICATION.—

''(i) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

''(ii) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

''(D) NO ADDITIONAL TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in paragraph (2) (except that any technical deficiencies in the application be corrected).

''(E) JUDICIAL REVIEW.—The State (but no other person) shall be entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.

''(4) DELEGATION AGREEMENT.—On approval of a delegation of authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

''(5) LIMITED DELEGATION.—

''(A) IN GENERAL.—In the case of a State that does not meet the requirements of paragraph (2)(C) the Administrator may delegate to the State limited authority to perform, ensure the performance of, or supervise or otherwise participate in the performance of 1 or more delegable authorities, as appropriate in view of the extent to which the State has the required legal authority, financial and personnel resources, organization, and expertise.

''(B) SPECIAL PROVISIONS.—In the case of a limited delegation of authority to a State under subparagraph (A), the Administrator shall specify the extent to which the State shall be considered to be a delegated State for the purposes of this Act.

''(d) PERFORMANCE OF DELEGATED AUTHORITIES.—

''(1) IN GENERAL.—A delegated State shall have sole authority (except as provided in paragraph (6)(B), subsection (e)(4), and subsection (g)) to perform a delegated authority with respect to a delegated facility.

''(2) AGREEMENTS FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a delegated State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegated State or States, or a combination of such subdivisions or interstate bodies, providing for the performance of any category of delegated authority with respect to a delegated facility in the State if the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

''(B) NO AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall not enter into an agreement under subparagraph (A) with a political subdivision or interstate body that is, or includes as a component an entity that is, a potentially responsible party with respect to a delegated facility covered by the agreement.

''(C) CONTINUING RESPONSIBILITY.—A delegated State that enters into an agreement under subparagraph (A)—

''(i) shall exercise supervision over and approve the activities of the parties to the agreement; and

''(ii) shall remain responsible for ensuring performance of the delegated authority.

''(3) COMPLIANCE WITH ACT.—

''(A) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act (including regulations and guidance issued by the Administrator) so as to perform each delegated authority with respect to a delegated facility in the same manner as would the Administrator with respect to a facility that is not a delegated facility.

''(B) COMPREHENSIVE DELEGATION STATES.—

''(i) IN GENERAL.—A comprehensive delegation State shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121.

''(ii) COSTLIER REMEDIAL ACTION.—

''(I) IN GENERAL.—A delegated State may select a remedial action for a delegated facility that has a greater response cost (including operation and maintenance costs) than the response cost for a remedial action that would be selected by the Administrator under section 121, if the State pays for the difference in cost.

''(II) NO COST RECOVERY.—If a delegated State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

''(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State with respect to a delegated facility shall be reviewable only in United States district court under section 113.

''(5) DELISTING OF NATIONAL PRIORITIES LIST FACILITIES.—

''(A) DELISTING.—After notice and an opportunity for public comment, a delegated State may remove from the National Priorities List all or part of a delegated facility—

''(i) if the State makes a finding that no further action is needed to be taken at the facility (or part of the facility) under any applicable law to protect human health and the environment consistent with section 121(a)(1) and (2);

''(ii) with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or if the cleanup will proceed at the facility under section 3004 (u) or (v) of the Solid Waste Disposal Act (42 U.S.C. 6924 (u), (v)); or

''(iii) if the State is a comprehensive delegation State with respect to the facility.

''(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (ii) or (iii) shall not affect—

''(i) the authority or responsibility of the State to complete remedial action and operation and maintenance;

''(ii) the eligibility of the State for funding under this Act;

''(iii) notwithstanding the limitation on section 104(c)(1), the authority of the Administrator to make expenditures from the Fund relating to the facility; or

''(iv) the enforceability of any consent order or decree relating to the facility.

''(C) NO RELISTING.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist on the National Priorities List a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A).

''(ii) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or part of a facility that has been removed from the National Priorities List under subparagraph (A) if cleanup is not completed in accordance with the enforceable agreement under subparagraph (A)(ii).

''(6) COST RECOVERY.—

''(A) RECOVERY BY A DELEGATED STATE.—Of the amount of any response costs recovered from a responsible party by a delegated State for a delegated facility under section 107—

''(i) 25 percent of the amount of any Federal response cost recovered with respect to a facility, plus an amount equal to the amount of response costs incurred by the State with respect to the facility, may be retained by the State; and

''(ii) the remainder shall be deposited in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1986.

''(B) RECOVERY BY THE ADMINISTRATOR.—

''(i) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if—

''(I) the delegated State notifies the Administrator in writing that the delegated State does not intend to pursue action for recovery of response costs under section 107 against the responsible party; or

''(II) the delegated State fails to take action to recover response costs within a reasonable time in light of applicable statutes of limitation.

''(ii) NOTICE.—If the Administrator proposes to commence an action for recovery of response costs under section 107, the Administrator shall give the State written notice and allow the State at least 90 days after receipt of the notice to commence the action.

''(iii) NO FURTHER ACTION.—If the Administrator takes action against a potentially responsible party under section 107 relating to a release from a delegated facility, the delegated State may not take any other action for recovery of response costs relating to that release under this Act or any other Federal or State law.

''(e) FEDERAL RESPONSIBILITIES AND AUTHORITIES.—

''(1) REVIEW USE OF FUNDS.—

''(A) IN GENERAL.—The Administrator shall review the certification submitted by the Governor under subsection (f)(8) not later than 120 days after the date of its submission.

''(B) FINDING OF USE OF FUNDS INCONSISTENT WITH THIS ACT.—If the Administrator finds that funds were used in a manner that is inconsistent with this Act, the Administrator shall notify the Governor in writing not later than 120 days after receiving the Governor's certification.

''(C) EXPLANATION.—not later than 30 days after receiving a notice under subparagraph (B), the Governor shall—

''(i) explain why the Administrator's finding is in error; or

''(ii) explain to the Administrator's satisfaction how any misapplication or misuse of funds will be corrected.

''(D) FAILURE TO EXPLAIN.—If the Governor fails to make an explanation under subparagraph (C) to the Administrator's satisfaction, the Administrator may request reimbursement of such amount of funds as the Administrator finds was misapplied or misused.

''(E) REPAYMENT OF FUNDS.—If the Administrator fails to obtain reimbursement from the State within a reasonable period of time, the Administrator may, after 30 days' notice to the State, bring a civil action in United States district court to recover from the delegated State any funds that were advanced for a purpose or were used for a purpose or in a manner that is inconsistent with this Act.

''(2) WITHDRAWAL OF DELEGATION OF AUTHORITY.—

''(A) DELEGATED STATES.—If at any time the Administrator finds that contrary to a certification made under subsection (c)(2), a delegated State—

''(i) lacks the required financial and personnel resources, organization, or expertise to administer and enforce the requested delegated authorities;

''(ii) does not have adequate legal authority to request and accept delegation; or

''(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

''(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State to which a limited delegation of authority was made under subsection (c)(5) has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

''(C) NO WITHDRAWAL WITH 1 YEAR OF APPROVAL.—The Administrator shall not withdraw a delegation of authority within 1 year after the date on which the application for delegation is approved (including approval under subsection (c)(3) (B) or (C)(ii)).

''(D) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

''(E) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a notice under subparagraph (D), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

''(F) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

''(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to—

''(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority; or

''(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

''(4) EMERGENCY REMOVAL.—

''(A) NOTICE.—Before performing an emergency removal action under section 104 at a delegated facility, the Administrator shall notify the delegated States of the Administrator's intention to perform the removal.

''(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the delegated State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal at the delegated facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the delegated State has failed to act within a reasonable period of time to perform the emergency removal.

''(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency at a delegated facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

''(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegated State, the President, the Administrator, and the Attorney General shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority that has been delegated to a State with respect to a delegated facility.

''(f) FUNDING.—

''(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

''(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

''(3) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

''(A) determine—

''(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

''(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

''(B) publish a list describing the delegable authorities in each category.

''(4) FACILITY-SPECIFIC GRANTS.—The costs described in paragraph (3)(A)(i) shall be funded as such costs arise with respect to each delegated facility.

''(5) NONFACILITY-SPECIFIC GRANTS.—

''(A) IN GENERAL.—The costs described in paragraph (3)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

''(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

''(i) the cost of administering the delegated authority;

''(ii) the number of sites for which the State has been delegated authority;

''(iii) the types of activities for which the State has been delegated authority;

''(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 127(d)(5);

''(v) the number of other high priority facilities within the State;

''(vi) the need for the development of the State program;

''(vii) the need for additional personnel;

''(viii) the amount of resources available through State programs for the cleanup of contaminated sites; and

''(ix) the benefit to human health and the environment of providing the funding.

''(6) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any duty necessary to implement the authority delegated to the State under this section.

''(7) COST SHARE.—

''(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

''(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

''(8) CERTIFICATION OF USE OF FUNDS.—

''(A) IN GENERAL.—Not later than 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

''(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan; and

''(ii) information describing the manner in which the State used the funds.

''(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that a State shall be required to provide under subparagraph (A)(ii).

''(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator under section 104(d)(1) to enter into a cooperative agreement with a State, a political subdivision of a State, or an Indian tribe to carry out actions under section 104.

''(h) NON-NATIONAL PRIORITIES LIST FACILITIES.—

''(1) DEFINITIONS.—In this subsection, the term 'non-National Priorities List facility' means a facility that is not, and never has been, listed on the National Priorities List and that is not owned or operated by a department, agency, or instrumentality of the United States.

''(2) FINALITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a determination that a response action at a non-National Priorities List facility or portion of a non-National Priorities List facility is complete under State law is final, and the facility shall not be subject to further response action notwithstanding any provision of this Act or any other Federal law.

''(B) EXCEPTION FOR EMERGENCY REMOVALS.—The Administrator may conduct an emergency removal action under the authority of section 104 subject to the notice requirement of section 135(e)(4) at a non-National Priorities List facility.''.

(b) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking ''(c)(1) Unless'' and inserting the following:

''(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

''(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless'';

(2) by striking ''(2) The President'' and inserting the following:

''(2) CONSULTATION.—The President''; and

(3) by striking paragraph (3) and inserting the following:

''(3) STATE COST SHARE.—

''(A) IN GENERAL.—The Administrator shall not provide any remedial action under this section unless the State in which the release occurs first enters into a contract or cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

''(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under section 104 and facilities with respect to which there is an exemption under section 107(r).

''(C) SPECIFIED PERCENTAGE.—

''(i) IN GENERAL.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

''(ii) MAXIMUM IN ACCORDANCE WITH LAW PRIOR TO 1996 AMENDMENTS.—

''(I) On petition by a State, the Director of the Office of Management and Budget (referred to in this clause as the 'Director'), after providing public notice and opportunity for comment, shall establish a cost share percentage, which shall be uniform for all facilities in the State, at the percentage rate at which the total amount of anticipated payments by the State under the cost share for all facilities in the State for which a cost share is required most closely approximates the total amount of estimated cost share payments by the State for facilities that would have been required under cost share requirements that were applicable prior to the date of enactment of this subparagraph, adjusted to reflect the extent to which the State's ability to recover costs under this Act were reduced by reason of enactment of amendments to this Act by the Accelerated Cleanup and Environmental Restoration Act of 1996.

''(II) The Director may adjust a State's cost share under this clause not more frequently than every 3 years.

''(D) INDIAN TRIBES.—In the case of remedial action to be taken on land or water held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe (if the land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph shall not apply.''.

(c) USES OF FUND.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended by inserting after paragraph (6) the following:

''(7) GRANTS TO DELEGATED STATES.—Making a grant to a delegated State under section 135(f).''.

(d) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Section 114(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9614(b)) is amended by striking ''removal'' each place it appears and inserting ''response''.

(2) CONFORMING AMENDMENT.—Section 101(37)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended by striking ''section 114(c)'' and inserting ''section 114(b)''.

TITLE III—VOLUNTARY CLEANUP

SEC. 301. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) is amended by adding at the end the following:

''(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—The term 'qualifying State voluntary response program' means a State program that includes the elements described in section 133(b).''.

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 501, is amended by adding at the end the following:

''SEC. 133. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.

''(a) ASSISTANCE TO STATES.—The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

''(b) ELEMENTS.—The elements of a qualifying State voluntary response program are the following:

''(1) Opportunities for technical assistance for voluntary response actions.

''(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in appropriate circumstances, in selecting response actions.

''(3) Streamlined procedures to ensure expeditious voluntary response actions.

''(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

''(A) voluntary response actions will protect human health and the environment and be conducted in accordance with applicable Federal and State law; and

''(B) if the person conducting the voluntary response action fails to complete the necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

''(5) Mechanisms for approval of a voluntary response action plan.

''(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.''.

(c) FUNDING.—Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611), as amended by section 201(b), is amended by inserting after paragraph (7) the following:

''(8) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS.—For assistance to States to establish and administer qualifying State voluntary response programs, during the first 5 full fiscal years following the date of enactment of this subparagraph, in a total amount to all States that is not less than 2 percent and not more than 5 percent of the amount available in the Fund for each such

fiscal year, distributed among each of the States that notifies the Administrator of the State's intent to establish a qualifying State voluntary response program and each of the States with a qualifying State voluntary response program in the amount that is equal to the total amount multiplied by a fraction—

''(A) the numerator of which is the number of facilities in the State that, as of September 29, 1995, were listed on the Comprehensive Environmental Response, Compensation, and Liability Information System (not including facilities that are listed on the National Priorities List); and

''(B) the denominator of which is the total number of such facilities in the United States.''.

(d) COMPLIANCE WITH ACT.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed for listing on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner comporting with State policy, so long as the remedial action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 121(a).

SEC. 302. BROWNFIELD CHARACTERIZATION PROGRAM.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 301(b), is amended by adding at the end the following:

''SEC. 134. BROWNFIELD CHARACTERIZATION PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATIVE COST.—The term 'administrative cost' does not include the cost of—

''(A) investigation and identification of the extent of contamination;

''(B) design and performance of a response action; or

''(C) monitoring of natural resources.

''(2) BROWNFIELD FACILITY.—The term 'brownfield facility' means—

''(A) a parcel of land that contains an abandoned, idled, or underused commercial or industrial facility, the expansion or redevelopment of which is complicated by the presence or potential presence of a hazardous substance; but

''(B) does not include—

''(i) a facility that is the subject of a removal or planned removal under title I;

''(ii) a facility that is listed or has been proposed for listing on the National Priorities List or that has been delisted under section 135(d)(5);

''(iii) a facility that is subject to corrective action under section 3004(u) or 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) at the time at which an application for a grant or loan concerning the facility is submitted under this section;

''(iv) a land disposal unit with respect to which—

''(I) a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted; and

''(II) closure requirements have been specified in a closure plan or permit;

''(v) a facility with respect to which an administrative order on consent or judicial consent decree requiring cleanup has been entered into by the United States under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f et seq.);

''(vi) a facility that is owned or operated by a department, agency, or instrumentality of the United States; or

''(vii) a portion of a facility, for which portion, assistance for response activity has been obtained under subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) from the Leaking Underground Storage Tank Trust Fund established under section 9508 of the Internal Revenue Code of 1986.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) a general purpose unit of local government;

''(B) a land clearance authority or other quasi-governmental entity that operates under the supervision and control of or as an agent of a general purpose unit of local government;

''(C) a regional council or group of general purpose units of local government;

''(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and

''(E) an Indian tribe.

''(b) BROWNFIELD CHARACTERIZATION PROGRAM.—

''(1) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a program to provide interest-free loans for the site characterization and assessment of brownfield facilities.

''(2) ASSISTANCE FOR SITE CHARACTERIZATION AND ASSESSMENT.—

''(A) IN GENERAL.—On approval of an application made by an eligible entity, the Administrator may make interest-free loans out of the Fund to the eligible entity to be used for the site characterization and assessment of 1 or more brownfield facilities.

''(B) APPROPRIATE INQUIRY.—A site characterization and assessment carried out with the use of a loan under subparagraph (A) shall be performed in accordance with section 101(35)(B).

''(C) REPAYMENT.—

''(i) IN GENERAL.—An eligible entity that receives a loan under subparagraph (A) shall agree to repay the full amount of the loan within 10 years after the date on which the loan is made.

''(ii) DEPOSIT IN FUND.—Repayments on a loan under subparagraph (A) shall be deposited in the Fund.

''(3) HAZARDOUS SUBSTANCE SUPERFUND.—Notwithstanding section 111 of this Act or any provision of the Superfund Amendments and Reauthorization Act of 1986 (100 Stat. 1613), there is authorized to be appropriated out of the Fund $15,000,000 for each of the first 5 fiscal years beginning after the date of enactment of this section, to be used for making interest-free loans under paragraph (2).

''(4) MAXIMUM LOAN AMOUNT.—A loan under subparagraph (A) shall not exceed, with respect to each brownfield facility covered by the loan, $100,000 for any fiscal year or $200,000 in total.

''(5) SUNSET.—No amount shall be available from the Fund for purposes of this section after the fifth fiscal year after the date of enactment of this section.

''(6) PROHIBITION.—No part of a loan under this section may be used for payment of penalties, fines, or administrative costs.

''(7) AUDITS.—The Inspector General of the Environmental Protection Agency shall audit all loans made under paragraph (2) to ensure that all funds are used for the purposes described in this section and that all loans are repaid in accordance with paragraph (2).

''(8) AGREEMENTS.—Each loan made under this section shall be subject to an agreement that—

''(A) requires the eligible entity to comply with all applicable State laws (including regulations);

''(B) requires that the eligible entity shall use the loan exclusively for purposes specified in paragraph (2); and

''(C) contains such other terms and conditions as the Administrator determines to be necessary to protect the financial interests of the United States and to carry out the purposes of this section.

''(9) LEVERAGING.—An eligible entity that receives a loan under paragraph (1) may use the loaned funds for part of a project at a brownfield facility for which funding is received from other sources, but the loan funds shall be used only for the purposes described in paragraph (2).

''(c) LOAN APPLICATIONS.—

''(1) IN GENERAL.—Any eligible entity may submit an application to the Administrator, through a regional office of the Environmental Protection Agency and in such form as the Administrator may require, for a loan under this section for 1 or more brownfield facilities.

''(2) APPLICATION REQUIREMENTS.—An application for a loan under this section shall include—

''(A) an identification of each brownfield facility for which the loan is sought and a description of the redevelopment plan for the area or areas in which each facility is located, including a description of the nature and extent of any known or suspected environmental contamination within the area;

''(B) an analysis that demonstrates the potential of the grant to stimulate economic development on completion of the planned response action, including a projection of the number of jobs expected to be created at the facility after remediation and redevelopment and, to the extent feasible, a description of the type and skill level of the jobs and a projection of the increases in revenues accruing to Federal, State, and local governments from the jobs; and

''(C) information relevant to the ranking criteria stated in paragraph (4).

''(3) APPROVAL.—

''(A) INITIAL LOANS.—On or about March 30 and September 30 of the first fiscal year following the date of enactment of this section, the Administrator shall make loans under this section to eligible entities that submit applications before those dates that the Administrator determines have the highest rankings under ranking criteria established under paragraph (4).

''(B) SUBSEQUENT LOANS.—Beginning with the second fiscal year following the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year and make loans under this section to eligible entities that submit applications during the prior year that the Administrator determines have the highest rankings under the ranking criteria established under paragraph (4).

''(4) RANKING CRITERIA.—The Administrator shall establish a system for ranking loan applications that includes the following criteria:

''(A) The extent to which a loan will stimulate the availability of other funds for environmental remediation and subsequent redevelopment of the area in which the brownfield facilities are located.

''(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

''(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

''(ii) The potential of a loan to create new or expand existing business and employment opportunities (particularly full-time employment opportunities) on completion of any necessary response action.

''(iii) The estimated additional tax revenues expected to be generated by economic redevelopment in the area in which a brownfield facility is located.

''(iv) The estimated extent to which a loan would facilitate the identification of or facilitate a reduction of health and environmental risks.

''(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the proposed redevelopment is consistent with any applicable State or local community economic development plan.

''(vi) The extent to which the site characterization and assessment or response action and subsequent development of a brownfield facility involves the active participation and support of the local community.

''(vii) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.''.

SEC. 303. TREATMENT OF SECURITY INTEREST HOLDERS AND FIDUCIARIES AS OWNERS OR OPERATORS.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 301(a), is amended—

(1) in paragraph (20)—

(A) in subparagraph (A) by striking the second sentence; and

(B) by adding at the end the following:

''(E) SECURITY INTEREST HOLDERS.—

''(i) IN GENERAL.—The term 'owner or operator' does not include a person that, without participating in the management of a vessel or facility, holds an indicium of ownership primarily to protect the person's security interest in a vessel or facility.

''(ii) PARTICIPATING IN MANAGEMENT.—A security interest holder—

''(I) shall be considered to be participating in management of a vessel or facility only if the security interest holder has undertaken—

''(aa) responsibility for the hazardous substance handling or disposal practices of the vessel or facility; or

''(bb) overall management of the vessel or facility encompassing day-to-day decision-making over environmental compliance or over an operational function (including functions such as those of a plant manager, operations manager, chief operating officer, or chief executive officer), as opposed to financial and administrative aspects, of a vessel or facility; and

''(II) shall not be considered to be participating in management solely on the ground that the security interest holder—

''(aa) serves in a capacity or has the ability to influence or the right to control the operation of a vessel or facility if that capacity, ability, or right is not exercised;

''(bb) acts, or causes or requires another person to act, to comply with an applicable law or to respond lawfully to disposal of a hazardous substance;

''(cc) performs an act or omits to act in any way with respect to a vessel or facility prior to the time at which a security interest is created in a vessel or facility;

''(dd) holds, abandons, or releases a security interest;

''(ee) includes in the terms of an extension of credit, or in a contract or security agreement relating to an extension of credit, a covenant, warranty, or other term or condition that relates to environmental compliance;

''(ff) monitors or enforces a term or condition of an extension of credit or a security interest;

''(gg) monitors or undertakes 1 or more inspections of a vessel or facility;

''(hh) requires or conducts a response action or other lawful means of addressing a release or threatened release of a hazardous substance in connection with a vessel or facility prior to, during, or on the expiration of the term of an extension of credit;

''(ii) provides financial or other advice or counseling in an effort to mitigate, prevent, or cure a default or diminution in the value of a vessel or facility;

''(jj) exercises forbearance by restructuring, renegotiating, or otherwise agreeing to alter a term or condition of an extension of credit or a security interest; or

''(kk) exercises any remedy that may be available under law for the breach of a term or condition of an extension of credit or a security agreement.

''(iii) FORECLOSURE.—Legal or equitable title acquired by a security interest holder through foreclosure (or the equivalent of foreclosure) shall be considered to be held primarily to protect a security interest if the holder undertakes to sell, re-lease, or otherwise divest the vessel or facility in a reasonably expeditious manner on commercially reasonable terms.

''(iv) DEFINITION OF SECURITY INTEREST.—In this subparagraph, the term 'security interest' includes a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement, or lease, or any other right accruing to a person to secure the repayment of money, the performance of a duty, or any other obligation.

''(F) FIDUCIARIES.—

''(i) IN GENERAL.—The term 'owner or operator' does not include a fiduciary that holds legal or equitable title to, is the mortgagee or secured party with respect to, controls, or manages, directly or indirectly, a vessel or facility for the purpose of administering an estate or trust of which the vessel or facility is a part.''; and

(2) by adding at the end the following:

''(40) FIDUCIARY.—The term 'fiduciary' means a person that is acting in the capacity of—

''(A) an executor or administrator of an estate, including a voluntary executor or a voluntary administrator;

''(B) a guardian;

''(C) a conservator;

''(D) a trustee under a will or a trust agreement under which the trustee takes legal or equitable title to, or otherwise controls or manages, a vessel or facility for the purpose of protecting or conserving the vessel or facility under the rules applied in State court;

''(E) a court-appointed receiver;

''(F) a trustee appointed in proceedings under title 11, United States Code;

''(G) an assignee or a trustee acting under an assignment made for the benefit of creditors; or

''(H) a trustee, or a successor to a trustee, under an indenture agreement, trust agreement, lease, or similar financing agreement, for debt securities, certificates of interest of participation in debt securities, or other forms of indebtedness as to which the trustee is not, in the capacity of trustee, the lender.''.

(b) LIABILITY OF FIDUCIARIES AND LENDERS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

''(n) LIABILITY OF FIDUCIARIES.—

''(1) IN GENERAL.—The liability of a fiduciary that is liable under any other provision of this Act for the release or threatened release of a hazardous substance from a vessel or facility held by a fiduciary may not exceed the assets held by the fiduciary that are available to indemnify the fiduciary.

''(2) NO INDIVIDUAL LIABILITY.—Subject to the other provisions of this subsection, a fiduciary shall not be liable in an individual capacity under this Act.

''(3) EXCEPTIONS.—This subsection does not preclude a claim under this Act against—

''(A) the assets of the estate or trust administered by a fiduciary;

''(B) a nonemployee agent or independent contractor retained by a fiduciary; or

''(C) a fiduciary that causes or contributes to a release or threatened release of a hazardous substance.

''(4) SAFE HARBOR.—Subject to paragraph (5), a fiduciary shall not be liable in an individual capacity under this Act for—

''(A) undertaking or directing another to undertake a response action under section 107(d)(1) or under the direction of an on-scene coordinator designated by the Administrator or the Coast Guard to coordinate and direct responses under subpart D of the National Contingency Plan or by the lead agency to coordinate and direct removal actions under subpart E of the National Contingency Plan;

''(B) undertaking or directing another to undertake any other lawful means of addressing a hazardous substance in connection with a vessel or facility;

''(C) terminating the fiduciary relationship;

''(D) including, monitoring, or enforcing a covenant, warranty, or other term or condition in the terms of a fiduciary agreement that relates to compliance with environmental laws;

''(E) monitoring or undertaking 1 or more inspections of a vessel or facility;

''(F) providing financial or other advice or counseling to any party to the fiduciary relationship, including the settlor or beneficiary;

''(G) restructuring, renegotiating, or otherwise altering a term or condition of the fiduciary relationship;

''(H) administering a vessel or facility that was contaminated before the period of service of the fiduciary began; or

''(I) declining to take any of the actions described in subparagraphs (B) through (H).

''(5) DUE CARE.—This subsection does not limit the liability of a fiduciary if the fiduciary fails to exercise due care and the failure causes or contributes to the release of a hazardous substance.

''(6) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

''(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

''(B) create any liability for any person; or

''(C) create a private right of action against a fiduciary or against a Federal agency that regulates lenders.

''(o) LIABILITY OF LENDERS.—

''(1) DEFINITIONS.—In this subsection:

''(A) ACTUAL BENEFIT.—The term 'actual benefit' means the net gain, if any, realized by a lender due to an action.

''(B) EXTENSION OF CREDIT.—The term 'extension of credit' includes a lease finance transaction—

''(i) in which the lessor does not initially select the leased vessel or facility and does not during the lease term control the daily operations or maintenance of the vessel or facility; or

''(ii) that conforms to all regulations issued by any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))) and any appropriate State banking regulatory authority.

''(C) FORECLOSURE.—The term 'foreclosure' means the acquisition of a vessel or facility through—

''(i) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, or from a trustee, deed in lieu of foreclosure, or similar conveyance, or through repossession, if the vessel or facility was security for an extension of credit previously contracted;

''(ii) conveyance under an extension of credit previously contracted, including the termination of a lease agreement; or

''(iii) any other formal or informal manner by which a person acquires, for subsequent disposition, possession of collateral in order to protect the security interest of the person.

''(D) LENDER.—The term 'lender' means—

''(i) a person that makes a bona fide extension of credit to, or takes a security interest from, another party;

''(ii) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other entity that in a bona fide manner is engaged in the business of buying or selling loans or interests in loans;

''(iii) a person engaged in the business of insuring or guaranteeing against a default in the repayment of an extension of credit, or acting as a surety with respect to an extension of credit, to another party; and

''(iv) a person regularly engaged in the business of providing title insurance that acquires a vessel or facility as a result of an assignment or conveyance in the course of underwriting a claim or claim settlement.

''(E) NET GAIN.—The term 'net gain' means an amount not in excess of the amount realized by a lender on the sale of a vessel or facility less acquisition, holding, and disposition costs.

''(F) VESSEL OR FACILITY ACQUIRED THROUGH FORECLOSURE.—The term 'vessel or facility acquired through foreclosure'—

''(i) means a vessel or facility that is acquired by a lender through foreclosure from a person that is not affiliated with the lender; but

''(ii) does not include such a vessel or facility if the lender does not seek to sell or otherwise divest the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.

''(2) LIABILITY LIMITATION.—

''(A) IN GENERAL.—The liability of a lender that is liable under any other provision of this Act for the release or threatened release of a hazardous substance at, from, or in connection with a vessel or facility shall be limited to the amount described in subparagraph (E) if the vessel or facility is—

''(i) a vessel or facility acquired through foreclosure;

''(ii) a vessel or facility subject to a security interest held by the lender;

''(iii) a vessel or facility held by a lessor under the terms of an extension of credit; or

''(iv) a vessel or facility subject to financial control or financial oversight under the terms of an extension of credit.

''(B) AMOUNT.—The amount described in this subparagraph is the excess of the fair market value of a vessel or facility on the date on which the liability of a lender is determined over the fair market value of the vessel or facility on the date that is 180 days before the date on which the response action is initiated, not to exceed the amount that the lender realizes on the sale of the vessel or facility after subtracting acquisition, holding, and disposition costs.

''(3) EXCLUSION.—This subsection does not limit the liability of a lender that causes or contributes to the release or threatened release of a hazardous substance.

''(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

''(A) affect the rights or immunities or other defenses that are available under this Act or other applicable law to any person;

''(B) create any liability for any person; or

''(C) create a private right of action against a lender or against a Federal agency that regulates lenders.''.

SEC. 304. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

''SEC. 45. FEDERAL BANKING AND LENDING AGENCY LIABILITY.

''(a) DEFINITIONS.—In this section:

''(1) FEDERAL BANKING OR LENDING AGENCY.—The term 'Federal banking or lending agency'—

''(A) means the Corporation, the Resolution Trust Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, a Federal Reserve Bank, a Federal Home Loan Bank, the Department of Housing and Urban Development, the National Credit Union Administration Board, the Farm Credit Administration, the Farm Credit System Insurance Corporation, the Farm Credit System Assistance Board, the Farmers Home Administration, the Rural Electrification Administration, the Small Business Administration, and any other Federal agency acting in a similar capacity, in any of their capacities, and their agents or appointees; and

''(B) includes a first subsequent purchaser of the vessel or facility from a Federal banking or lending agency, unless the purchaser—

''(i) would otherwise be liable or potentially liable for all or part of the costs of the removal, remedial, corrective, or other response action due to a prior relationship with the vessel or facility;

''(ii) is or was affiliated with or related to a party described in clause (i);

''(iii) fails to agree to take reasonable steps necessary to remedy the release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

''(iv) causes or contributes to any additional release or threatened release on the vessel or facility.

''(2) FACILITY.—The term 'facility' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(3) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' means a hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

''(4) RELEASE.—The term 'release' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(5) RESPONSE ACTION.—The term 'response action' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(6) VESSEL.—The term 'vessel' has the meaning stated in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

''(b) FEDERAL BANKING AND LENDING AGENCIES NOT STRICTLY LIABLE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a Federal banking or lending agency shall not be liable under section 106 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607) for the release or threatened release of a hazardous substance at or from a vessel or facility (including a right or interest in a vessel or facility) acquired—

''(A) in connection with the exercise of receivership or conservatorship authority, or the liquidation or winding up of the affairs of an insured depository institution, including a subsidiary of an insured depository institution;

''(B) in connection with the provision of a loan, a discount, an advance, a guarantee, insurance, or other financial assistance; or

''(C) in connection with a vessel or facility received in a civil or criminal proceeding, or administrative enforcement action, whether by settlement or by order.

''(2) ACTIVE CAUSATION.—Subject to section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(d)), a Federal banking or lending agency that causes or contributes to a release or threatened release of a hazardous substance may be liable for a response action pertaining to the release or threatened release.

''(3) FEDERAL OR STATE ACTION.—Notwithstanding subsection (a)(1)(B), if a Federal agency or State environmental agency is required to take a response action because a subsequent purchaser—

''(A) fails to agree to take reasonable steps necessary to remedy a release or threatened release or to protect public health and safety in a manner consistent with the purposes of applicable environmental laws; or

''(B) causes or contributes to any additional release or threatened release on the vessel or facility,

the subsequent purchaser shall reimburse the Federal agency or State environmental agency for the costs of the response action in an amount not to exceed the increase in the fair market value of the vessel or facility attributable to the response action.

''(c) LIEN EXEMPTION.—Notwithstanding any other law, a vessel or facility held by a subsequent purchaser described in subsection (a)(1)(B) or held by a Federal banking or lending agency shall not be subject to a lien for costs or damages associated with the release or threatened release of a hazardous substance existing at the time of the transfer.

''(d) EXEMPTION FROM COVENANTS TO REMEDIATE.—Notwithstanding section 120, a Federal banking or lending agency shall be exempt from any law requiring the agency to grant a covenant warranting that a response action has been, or will in the future be, taken with respect to a vessel or facility acquired in a manner described in subsection (b)(1).

''(e) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

''(1) affect the rights or immunities or other defenses that are available to any party under this Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) or any other law;

''(2) create any liability for any party;

''(3) create a private right of action against an insured depository institution or lender, a Federal banking or lending agency, or any other party, except as provided in subsection (b)(3);

''(4) preempt, affect, apply to, or modify a State law or a right, cause of action, or obligation under State law, except that the liability of a Federal banking or lending agency for a response action under a State law shall not exceed the value of the interest of

the agency in the asset giving rise to the liability; or

''(5) preclude a Federal banking or lending agency from agreeing with a State to transfer a vessel or facility to the State in lieu of any liability that might otherwise be imposed under State law.''.

SEC. 305. CONTIGUOUS PROPERTIES.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)), as amended by section 303(b), is amended by adding at the end the following:

''(p) CONTIGUOUS PROPERTIES.—

''(1) NOT CONSIDERED TO BE AN OWNER OR OPERATOR.—A person that owns or operates real property that is contiguous to or otherwise similarly situated with respect to real property on which there has been a release or threatened release of a hazardous substance and that is or may be contaminated by the release shall not be considered to be an owner or operator of a vessel or facility under subsection (a) (1) or (2) solely by reason of the contamination if—

''(A) the person did not cause, contribute, or consent to the release or threatened release; and

''(B) the person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.

''(2) COOPERATION, ASSISTANCE, AND ACCESS.—Notwithstanding paragraph (1), a person described in paragraph (1) shall provide full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(3) ASSURANCES.—The Administrator may—

''(A) issue an assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

''(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(f).''.

SEC. 306. PROSPECTIVE PURCHASERS AND WINDFALL LIENS.

(a) DEFINITION.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 303(a)(2), is amended by adding at the end the following:

''(41) BONA FIDE PROSPECTIVE PURCHASER.—The term 'bona fide prospective purchaser' means a person that acquires ownership of a facility after the date of enactment of this paragraph, or a tenant of such a person, that establishes each of the following by a preponderance of the evidence:

''(A) DISPOSAL PRIOR TO ACQUISITION.—All active disposal of hazardous substances at the facility occurred before the person acquired the facility.

''(B) INQUIRIES.—

''(i) IN GENERAL.—The person made all appropriate inquiries into the previous ownership and uses of the facility and the facility's real property in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The standards and practices referred to in paragraph (35)(B)(ii) or those issued or adopted by the Administrator under that paragraph shall be considered to satisfy the requirements of this subparagraph.

''(iii) RESIDENTIAL USE.—In the case of property for residential or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

''(C) NOTICES.—The person provided all legally required notices with respect to the discovery or release of any hazardous substances at the facility.

''(D) CARE.—The person exercised appropriate care with respect to each hazardous substance found at the facility by taking reasonable steps to stop any continuing release, prevent any threatened future release and prevent or limit human or natural resource exposure to any previously released hazardous substance.

''(E) COOPERATION, ASSISTANCE, AND ACCESS.—The person provides full cooperation, assistance, and facility access to the persons that are responsible for response actions at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

''(F) RELATIONSHIP.—The person is not liable, and is not affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''.

(b) AMENDMENT.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 305, is amended by adding at the end the following:

''(q) PROSPECTIVE PURCHASER AND WINDFALL LIEN.—

''(1) LIMITATION ON LIABILITY.—Notwithstanding subsection (a), a bona fide prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the bona fide prospective purchaser does not impede the performance of a response action or natural resource restoration.

''(2) LIEN.—If there are unrecovered response costs at a facility for which an owner of the facility is not liable by reason of subsection (n)(1)(C) and each of the conditions described in paragraph (3) is met, the United States shall have a lien on the facility, or may obtain from appropriate responsible party a lien on any other property or other assurances of payment satisfactory to the Administrator, for such unrecovered costs.

''(3) CONDITIONS.—The conditions referred to in paragraph (1) are the following:

''(A) RESPONSE ACTION.—A response action for which there are unrecovered costs is carried out at the facility.

''(B) FAIR MARKET VALUE.—The response action increases the fair market value of the facility above the fair market value of the facility that existed 180 days before the response action was initiated.

''(C) SALE.—A sale or other disposition of all or a portion of the facility has occurred.

''(4) AMOUNT.—A lien under paragraph (2)—

''(A) shall not exceed the increase in fair market value of the property attributable to the response action at the time of a subsequent sale or other disposition of the property;

''(B) shall arise at the time at which costs are first incurred by the United States with respect to a response action at the facility;

''(C) shall be subject to the requirements of subsection (l)(3); and

''(D) shall continue until the earlier of satisfaction of the lien or recovery of all response costs incurred at the facility.''.

SEC. 307. SAFE HARBOR INNOCENT LANDHOLDERS.

(a) AMENDMENT.—Section 101(35) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(35)) is amended by striking subparagraph (B) and inserting the following:

''(B) KNOWLEDGE OF INQUIRY REQUIREMENT.—

''(i) ALL APPROPRIATE INQUIRIES.—To establish that the defendant had no reason to know of the matter described in subparagraph (A)(i), the defendant must show that, at or prior to the date on which the defendant acquired the facility, the defendant undertook all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.

''(ii) STANDARDS AND PRACTICES.—The Administrator shall by regulation establish as standards and practices for the purpose of clause (i)—

''(I) the American Society for Testing and Materials (ASTM) Standard E1527–94, entitled 'Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'; or

''(II) alternative standards and practices under clause (iii).

''(iii) ALTERNATIVE STANDARDS AND PRACTICES.—

''(I) IN GENERAL.—The Administrator may by regulation issue alternative standards and practices or designate standards developed by other organizations than the American Society for Testing and Materials after conducting a study of commercial and industrial practices concerning the transfer of real property in the United States.

''(II) CONSIDERATIONS.—In issuing or designating alternative standards and practices under subclause (I), the Administrator shall consider including each of the following:

''(aa) The results of an inquiry by an environmental professional.

''(bb) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the potential for contamination at the facility and the facility's real property.

''(cc) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

''(dd) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

''(ee) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

''(ff) Visual inspections of the facility and facility's real property and of adjoining properties.

''(gg) Specialized knowledge or experience on the part of the defendant.

''(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

''(ii) Commonly known or reasonably ascertainable information about the property.

''(jj) The degree of obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate investigation.

''(iv) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.''.

(b) STANDARDS AND PRACTICES.—

(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), not later than 1 year after the date of enactment of this Act.

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as added by subsection (a), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.

TITLE IV—SELECTION OF REMEDIAL ACTIONS

SEC. 401. DEFINITIONS.

Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 306(a), is amended by adding at the end the following:

''(42) ACTUAL OR PLANNED OR REASONABLY ANTICIPATED FUTURE USE OF THE LAND AND WATER RESOURCES.—The term 'actual or planned or reasonably anticipated future use of the land and water resources' means—

''(A) the actual use of the land, surface water, and ground water at a facility on the date of submittal of the proposed remedial action plan; and

''(B)(i) with respect to land—

''(I) the use of land that is authorized by the zoning or land use decisions formally adopted, at or prior to the time of the initiation of the facility evaluation, by the local land use planning authority for a facility and the land immediately adjacent to the facility; and

''(II) any other reasonably anticipated use that the local land use authority, in consultation with the community response organization (if any), determines to have a substantial probability of occurring based on recent (as of the time of the determination) development patterns in the area in which the facility is located and on population projections for the area; and

''(ii) with respect to water resources, the future use of the surface water and ground water that is potentially affected by releases from a facility that is reasonably anticipated, by a local government or other governmental unit that regulates surface or ground water use or surface or ground water use planning in the vicinity of the facility, on the earlier of—

''(I) the date of issuance of the first record of decision; or

''(II) the initiation of the facility evaluation.

''(43) SIGNIFICANT ECOSYSTEM.—The term 'significant ecosystem', for the purpose of section 121(a)(1)(B), means an ecosystem that exhibits a uniqueness, particular value, or historical presence or that is widely recognized as a significant resource at the national, State or local level.

''(44) VALUABLE ECOSYSTEM.—The term 'valuable ecosystem' means an ecosystem that is a known source of significant human or ecological benefits for its function.

''(45) SUSTAINABLE ECOSYSTEM.—The term 'sustainable ecosystem' means an ecosystem that has redundancy and resiliency sufficient to enable the ecosystem to continue to function and provide benefits within the normal range of its variability notwithstanding exposure to hazardous substances resulting from releases.

''(46) ECOLOGICAL RESOURCE.—The term 'ecological resource' means land, fish, wildlife, biota, air, surface water, and ground water within an ecosystem.

''(47) SIGNIFICANT RISK TO ECOLOGICAL RESOURCES THAT ARE NECESSARY TO THE SUSTAINABILITY OF A SIGNIFICANT ECOSYSTEM OR VALUABLE ECOSYSTEM.—The term 'significant risk to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem' means the risk associated with exposures and impacts resulting from the release of hazardous substances which together reduce or eliminate the sustainability (within the meaning of paragraph (45)) of a significant ecosystem or valuable ecosystem.''.

SEC. 402. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621) is amended—

(1) by striking the section heading and subsections (a) and (b) and inserting the following:

''SEC. 121. SELECTION AND IMPLEMENTATION OF REMEDIAL ACTIONS.

''(a) GENERAL RULES.—

''(1) SELECTION OF MOST COST-EFFECTIVE REMEDIAL ACTION THAT PROTECTS HUMAN HEALTH AND THE ENVIRONMENT.—

''(A) IN GENERAL.—The Administrator shall select a remedial action that is the most cost-effective means of achieving the goals of protecting human health and the environment as stated in subparagraph (B) using the criteria stated in subparagraph (C).

''(B) GOALS OF PROTECTING HUMAN HEALTH AND THE ENVIRONMENT.—

''(i) PROTECTION OF HUMAN HEALTH.—A remedial action shall be considered to protect human health if, considering the expected exposures associated with the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action achieves a residual risk—

''(I) from exposure to carcinogenic hazardous substances, pollutants, or contaminants such that cumulative lifetime additional cancer from exposure to hazardous substances from releases at the facility range from 10^{-4} to 10^{-6} for the affected population; and

''(II) from exposure to noncarcinogenic hazardous substances, pollutants, or contaminants at the facility that does not pose an appreciable risk of deleterious effects.

''(ii) PROTECTION OF THE ENVIRONMENT.—A remedial action shall be considered to protect the environment if, based on the actual or planned or reasonably anticipated future use of the land and water resources, the remedial action will protect against significant risks to ecological resources that are necessary to the sustainability of a significant ecosystem or valuable ecosystem and will not interfere with a sustainable functional ecosystem.

''(C) COMPLIANCE WITH FEDERAL AND STATE LAWS.—

''(i) SUBSTANTIVE REQUIREMENTS.—

''(I) IN GENERAL.—Subject to clause (iii), a remedial action shall—

''(aa) comply with the substantive requirements of all promulgated standards, requirements, criteria, and limitations under each Federal law and each State law relating to the environment or to the siting of facilities (including a State law that imposes a more stringent standard, requirement, criterion, or limitation than Federal law) that is applicable to the conduct or operation of the remedial action or to determination of the level of cleanup for remedial actions; and

''(bb) comply with or attain any other promulgated standard, requirement, criterion, or limitation under any State law relating to the environment or siting of facilities that applies to the conduct or operation of remedial actions under this Act, as determined by the State, after the date of enactment of the Accelerated Cleanup and Environmental Restoration Act of 1996, through a rulemaking procedure that includes public notice, comment, and written response comment, and opportunity for judicial review, but only if the State demonstrates that the standard, requirement, criterion, or limitation is consistently applied to remedial actions under State law.

''(II) IDENTIFICATION OF FACILITIES.—Compliance with a State standard, requirement, criterion, or limitation described in subclause (I) shall be required at a facility if the standard, requirement, criterion, or limitation has been identified by the State to the Administrator in a timely manner as being applicable to the facility.

''(III) PUBLISHED LISTS.—Each State shall publish a comprehensive list of the standards, requirements, criteria, and limitations that the State may apply to remedial actions under this Act, and shall revise the list periodically, as requested by the Administrator.

''(IV) CONTAMINATED MEDIA.—Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination onsite at a facility.

''(ii) PROCEDURAL REQUIREMENTS.—Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

''(iii) WAIVER PROVISIONS.—

''(I) DETERMINATION BY THE PRESIDENT.—The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (i).

''(II) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY.—The Administrator may select for a facility a remedial action that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in clause (i) if the Administrator makes any of the following findings:

''(aa) IMPROPER IDENTIFICATION.—The standard, requirement, criterion, or limitation was improperly identified as an applicable requirement under clause (i)(I)(aa) and fails to comply with the rulemaking requirements of clause (i)(I)(bb).

''(bb) PART OF REMEDIAL ACTION.—The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements of clause (i) when the total remedial action is completed.

''(cc) GREATER RISK.—Compliance with or attainment of the standard, requirement, criterion, or limitation at the facility will

result in greater risk to human health or the environment than alternative options.

''(dd) TECHNICALLY IMPRACTICABILITY.—Compliance with or attainment of the standard, requirement, criterion, or limitation is technically infeasible from an engineering perspective or unreasonably costly.

''(ee) EQUIVALENT TO STANDARD OF PERFORMANCE.—The selected remedial action will attain a standard of performance that is equivalent to that required under a standard, requirement, criterion, or limitation described in clause (i) through use of another approach.

''(ff) INCONSISTENT APPLICATION.—With respect to a State standard, requirement, criterion, limitation, or level, the State has not consistently applied (or demonstrated the intention to apply consistently) the standard, requirement, criterion, or limitation or level in similar circumstances to other remedial actions in the State.

''(gg) BALANCE.—In the case of a remedial action to be undertaken solely under section 104 or 132 using amounts from the Fund, a selection of a remedial action that complies with or attains a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for protection of public health and welfare and the environment at the facility, and the need to make amounts from the Fund available to respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats presented by the various facilities.

''(III) PUBLICATION.—The Administrator shall publish any findings made under subclause (II), including an explanation and appropriate documentation.

''(D) REMEDY SELECTION CRITERIA.—In selecting a remedial action from among alternatives that achieve the goals stated in subparagraph (B), the Administrator shall balance the following factors, ensuring that no single factor predominates over the others:

''(i) The effectiveness of the remedy in protecting human health and the environment.

''(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

''(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial action.

''(iv) The acceptability of the remedial action to the affected community.

''(v) The implementability and technical feasibility of the remedial action from an engineering perspective.

''(vi) The reasonableness of the cost.

''(2) TECHNICAL INFEASIBILITY AND UNREASONABLE COST.—

''(A) MINIMIZATION OF RISK.—If the Administrator, after reviewing the remedy selection criteria stated in paragraph (1)(C), finds that achieving the goals stated in paragraph (1)(B), is technically infeasible from an engineering perspective or unreasonably costly, the Administrator shall evaluate remedial measures that mitigate the risks to human health and the environment and select a technically practicable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

''(B) BASIS FOR FINDING.—A finding of technical impracticability may be made on the basis of a determination, supported by appropriate documentation, that, at the time at which the finding is made—

''(i) there is no known reliable means of achieving at a reasonable cost the goals stated in paragraph (1)(B); and

''(ii) it has not been shown that such a means is likely to be developed within a reasonable period of time.

''(3) PRESUMPTIVE REMEDIAL ACTIONS.—A remedial action that implements a presumptive remedial action issued under section 128 shall be considered to achieve the goals stated in paragraph (1)(B) and balance adequately the factors stated in paragraph (1)(C).

''(4) GROUND WATER.—

''(A) IN GENERAL.—A remedial action shall protect uncontaminated ground water that is suitable for use as drinking water by humans or livestock in the water's condition at the time of initiation of the facility evaluation.

''(B) CONSIDERATIONS.—A decision under subparagraph (A) regarding remedial action for ground water shall take into consideration—

''(i) the actual or planned or reasonably anticipated future use of the ground water and the timing of that use;

''(ii) any attenuation or biodegradation that would occur if no remedial action were taken; and

''(iii) the criteria stated in paragraph (1)(C).

''(C) OFFICIAL CLASSIFICATION.—For the purposes of subparagraph (A), there shall be no presumption that because ground water is suitable for use as drinking water by humans or livestock, such use is the actual or planned or reasonably anticipated future use of the ground water.

''(D) UNCONTAMINATED GROUND WATER.—A remedial action for protecting uncontaminated ground water may be based on natural attenuation or biodegradation so long as the remedial action does not interfere with the actual or planned or reasonably anticipated future use of the ground water.

''(E) CONTAMINATED GROUND WATER.—A remedial action for contaminated ground water may include point-of-use treatment.

''(5) OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alternatives.'';

(2) by redesignating subsection (c) as subsection (b), and, in the first sentence of that subsection, by striking ''5 years'' and inserting ''7 years'';

(3) by striking subsection (d); and

(4) by redesignating subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

''SEC. 127. FACILITY-SPECIFIC RISK EVALUATIONS.

''(a) USES.—

''(1) IN GENERAL.—A facility-specific risk evaluation shall be used to—

''(A) identify the significant components of potential risk posed by a facility;

''(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

''(C) compare the relative protectiveness of alternative potential remedies proposed for a facility; and

''(D) demonstrate that the remedial action selected for a facility is capable of protecting human health and the environment considering the actual or planned or reasonably anticipated future use of the land and water resources.

''(2) COMPLIANCE WITH PRINCIPLES.—A facility-specific risk evaluation shall comply with the principles stated in this section to ensure that—

''(A) actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

''(B) all of the components of the evaluation are, to the maximum extent practicable, scientifically objective and inclusive of all relevant data.

''(b) RISK EVALUATION PRINCIPLES.—A facility-specific risk evaluation shall—

''(1) be based on actual or plausible estimates of exposure considering the actual or planned or reasonably anticipated future use of the land and water resources;

''(2) be comprised of components each of which is, to the maximum extent practicable, scientifically objective, and inclusive of all relevant data;

''(3) use chemical and facility-specific data and analysis (such as toxicity, exposure, and fate and transport evaluations) in preference to default assumptions;

''(4) use a range and distribution of realistic and plausible assumptions when chemical and facility-specific data are not available;

''(5) use mathematical models that take into account the fate and transport of hazardous substances, pollutants, or contaminants, in the environment instead of relying on default assumptions; and

''(6) use credible hazard identification and dose/response assessments.

''(c) RISK COMMUNICATION PRINCIPLES.—The document reporting the results of a facility-specific risk evaluation shall—

''(1) contain an explanation that clearly communicates the risks at the facility;

''(2) identify and explain all assumptions used in the evaluation, all alternative assumptions, the policy or value judgments used in choosing the assumptions, and whether empirical data conflict with or validate the assumptions;

''(3) present—

''(A) a range and distribution of exposure and risk estimates, including, if numerical estimates are provided, central estimates of exposure and risk using—

''(i) the most plausible assumptions or a weighted combination of multiple assumptions based on different scenarios; or

''(ii) any other methodology designed to characterize the most plausible estimate of risk given the scientific information that is available at the time of the facility-specific risk evaluation; and

''(B) a statement of the nature and magnitude of the scientific and other uncertainties associated with those estimates;

''(4) state the size of the population potentially at risk from releases from the facility and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land and water resources; and

''(5) compare the risks from the facility to other risks commonly experienced by members of the local community in their daily lives and similar risks regulated by the Federal Government.

''(d) REGULATIONS.—Not later than 18 months after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that neither minimizes nor exaggerates the risks and potential risks posed by a facility or a proposed remedial action.

''SEC. 128. PRESUMPTIVE REMEDIAL ACTIONS.

''(a) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation establishing presumptive remedial actions for commonly encountered types of facilities with reasonably well understood contamination problems and exposure potential.

''(b) PRACTICABILITY AND COST-EFFECTIVENESS.—Such presumptive remedies must have been demonstrated to be technically practicable and cost-effective methods of achieving the goals of protecting human

health and the environment stated in section 121(a)(1)(B).

''(c) VARIATIONS.—The Administrator may issue various presumptive remedial actions based on various uses of land and water resources, various environmental media, and various types of hazardous substances, pollutants, or contaminants.

''(d) ENGINEERING CONTROLS.—Presumptive remedial actions are not limited to treatment remedies, but may be based on, or include, institutional and standard engineering controls.''.

SEC. 404. REMEDY SELECTION PROCEDURES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 403, is amended by adding at the end the following:

''SEC. 129. REMEDIAL ACTION PLANNING AND IMPLEMENTATION.

''(a) IN GENERAL.—

''(1) BASIC RULES.—

''(A) PROCEDURES.—A remedial action with respect to a facility that is listed or proposed for listing on the National Priorities List shall be developed and selected in accordance with the procedures set forth in this section.

''(B) NO OTHER PROCEDURES OR REQUIREMENTS.—The procedures stated in this section are in lieu of any procedures or requirements under any other law to conduct remedial investigations, feasibility studies, record of decisions, remedial designs, or remedial actions.

''(C) LIMITED REVIEW.—In a case in which the potentially responsible parties prepare a remedial action plan, only the work plan, facility evaluation, proposed remedial action plan, and final remedial design shall be subject to review, comment, and approval by the Administrator.

''(D) DESIGNATION OF POTENTIALLY RESPONSIBLE PARTIES TO PREPARE WORK PLAN, FACILITY EVALUATION, PROPOSED REMEDIAL ACTION, AND REMEDIAL DESIGN AND TO IMPLEMENT THE REMEDIAL ACTION PLAN.—In the case of a facility for which the Administrator is not required to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan—

''(i) if a potentially responsible party or group of potentially responsible parties—

''(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

''(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and

''(ii) if more than 1 potentially responsible party or group of potentially responsible parties—

''(I) expresses an intention to prepare a work plan, facility evaluation, proposed remedial action plan, and remedial design and to implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith); and

''(II) demonstrates that the potentially responsible parties or group of potentially responsible parties has the financial resources and the expertise to perform those functions, the Administrator, based on an assessment of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, shall designate 1 potentially responsible party or group of potentially responsible parties to perform those functions.

''(E) APPROVAL REQUIRED AT EACH STEP OF PROCEDURE.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, until a work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

''(F) NATIONAL CONTINGENCY PLAN.—The Administrator shall conform the National Contingency Plan regulations to reflect the procedures stated in this section.

''(2) USE OF PRESUMPTIVE REMEDIAL ACTIONS.—

''(A) PROPOSAL TO USE.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the remedial action plan may, after conducting a facility evaluation, propose a presumptive remedial action for the facility, if the Administrator or preparer shows with appropriate documentation that the facility fits the generic classification for which a presumptive remedial action has been issued and performs an engineering evaluation to demonstrate that the presumptive remedial action can be applied at the facility.

''(B) LIMITATION.—The Administrator may not require a potentially responsible party to implement a presumptive remedial action.

''(b) REMEDIAL ACTION PLANNING PROCESS.—

''(1) IN GENERAL.—The Administrator or a potentially responsible party shall prepare and implement a remedial action plan for a facility.

''(2) CONTENTS.—A remedial action plan shall consist of—

''(A) the results of a facility evaluation, including any screening analysis performed at the facility;

''(B) a discussion of the potentially viable remedies that are considered to be reasonable under section 121(a) and how they balance the factors stated in section 121(a)(1)(C);

''(C) a description of the remedial action to be taken;

''(D) a description of the facility-specific risk-based evaluation under section 127 and a demonstration that the selected remedial action will satisfy sections 121(a) and 128; and

''(E) a realistic schedule for conducting the remedial action, taking into consideration facility-specific factors.

''(3) WORK PLAN.—

''(A) IN GENERAL.—Prior to preparation of a remedial action plan, the preparer shall develop a work plan, including a community information and participation plan, which generally describes how the remedial action plan will be developed.

''(B) SUBMISSION.—A work plan shall be submitted to the Administrator, the State, the community response organization, the local library, and any other public facility designated by the Administrator.

''(C) PUBLICATION.—The Administrator or other person that prepares a work plan shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the work plan is available for review at the local library and that comments concerning the work plan can be submitted to the preparer of the work plan, the Administrator, the State, or the local community response organization.

''(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

''(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall—

''(i) identify to the preparer of the work plan, with specificity, any deficiencies in the submission; and

''(ii) require that the preparer submit a revised work plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(4) FACILITY EVALUATION.—

''(A) IN GENERAL.—The Administrator (or the preparer of the facility evaluation) shall conduct a facility evaluation at each facility to characterize the risk posed by the facility by gathering enough information necessary to—

''(i) assess potential remedial alternatives, including ascertaining, to the degree appropriate, the volume and nature of the contaminants, their location, potential exposure pathways and receptors;

''(ii) discern the actual or planned or reasonably anticipated future use of the land and water resources; and

''(iii) screen out any uncontaminated areas, contaminants, and potential pathways from further consideration.

''(B) SUBMISSION.—A draft facility evaluation shall be submitted to the Administrator for approval.

''(C) PUBLICATION.—Not later than 30 days after submission, or in a case in which the Administrator is preparing the remedial action plan, after the completion of the draft facility evaluation, the Administrator shall publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice announcing that the draft facility evaluation is available for review and that comments concerning the evaluation can be submitted to the Administrator, the State, and the community response organization.

''(D) AVAILABILITY OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall make the comments available to the preparer of the facility evaluation.

''(E) NOTICE OF APPROVAL.—If the Administrator approves a facility evaluation, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(F) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a facility evaluation, the Administrator shall—

''(i) identify to the preparer of the facility evaluation, with specificity, any deficiencies in the submission; and

''(ii) require that the preparer submit a revised facility evaluation within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(5) PROPOSED REMEDIAL ACTION PLAN.—

''(A) SUBMISSION.—In a case in which a potentially responsible party prepares a remedial action plan, the preparer shall submit the remedial action plan to the Administrator for approval and provide a copy to the local library.

''(B) PUBLICATION.—After receipt of the proposed remedial action plan, or in a case in which the Administrator is preparing the remedial action plan, after the completion of

the remedial action plan, the Administrator shall cause to be published in a newspaper of general circulation in the area where the facility is located and posted in other conspicuous places in the local community a notice announcing that the proposed remedial action plan is available for review at the local library and that comments concerning the remedial action plan can be submitted to the Administrator, the State, and the community response organization.

''(C) AVAILABILITY OF COMMENTS.—If comments are submitted to a State or the community response organization, the State or community response organization shall make the comments available to the preparer of the proposed remedial action plan.

''(D) HEARING.—The Administrator shall hold a public hearing at which the proposed remedial action plan shall be presented and public comment received.

''(E) APPROVAL.—

''(i) IN GENERAL.—The Administrator shall approve a proposed remedial action plan if the plan—

''(I) contains the information described in section 127(b); and

''(II) satisfies section 121(a).

''(ii) DEFAULT.—If the Administrator fails to issue a notice of disapproval of a proposed remedial action plan in accordance with subparagraph (G) within 90 days after the proposed plan is submitted, the plan shall be considered to be approved and its implementation fully authorized.

''(F) NOTICE OF APPROVAL.—If the Administrator approves a proposed remedial action plan, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(G) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

''(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

''(ii) request that the preparer submit a revised proposed remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

''(6) IMPLEMENTATION OF REMEDIAL ACTION PLAN.—A remedial action plan that has been approved or is considered to be approved under paragraph (5) shall be implemented in accordance with the schedule set forth in the remedial action plan.

''(7) REMEDIAL DESIGN.—

''(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

''(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

''(i) notify the community response organization; and

''(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

''(C) COMMENT.—The Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

''(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

''(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

''(i) notify the community response organization; and

''(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

''(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

''(i) identify with specificity any deficiencies in the submission; and

''(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

''(c) JUDICIAL REVIEW.—

''(1) FINAL ACTION.—Notwithstanding any other provision of this Act or any other law, an approval or disapproval of a remedial action plan described in paragraph (2), shall be final action of the Administrator subject to judicial review in United States district court.

''(2) APPLICATION AND SUBSECTION.—A remedial action plan is described in this paragraph if—

''(A) the plan is approved or disapproved after the date of enactment of this section; and

''(B) the capital cost of the remedial action under the plan is projected to cost more than $15,000,000 for any operating unit that is the subject of a separately enforceable remedial action plan or more than $27,000,000 for an entire facility.

''(d) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

''(1) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator, to—

''(A) comply with the terms of the remedial action plan; or

''(B) submit a notice for modifying the plan.

''(2) FAILURE TO COMPLY.—

''(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

''(B) ADDITIONAL ENFORCEMENT MEASURES.—If the implementing party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

''(e) MODIFICATIONS TO REMEDIAL ACTION.—

''(1) DEFINITION.—In this subsection, the term 'major modification' means a modification that—

''(A) fundamentally alters the interpretation of site conditions at the facility;

''(B) fundamentally alters the interpretation of sources of risk at the facility;

''(C) fundamentally alters the scope of protection to be achieved by the selected remedial action;

''(D) fundamentally alters the performance of the selected remedial action; or

''(E) delays the completion of the remedy by more than 180 days.

''(2) MAJOR MODIFICATIONS.—

''(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

''(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

''(ii) that the revised remedy will continue to satisfy section 121(a).

''(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and at least 30 days' opportunity to comment on any such proposed modification.

''(C) PROMPT ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed modification and order implementation of the modification in accordance with any reasonable and relevant requirements that the Administrator may specify.

''(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.''.

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 404, is amended by adding at the end the following:

''SEC. 130. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

''(a) IN GENERAL.—

''(1) PROPOSED NOTICE OF COMPLETION AND PROPOSED DELISTING.—Not later than 60 days after the completion by the Administrator of physical construction necessary to implement a response action at a facility, or not later than 60 days after receipt of a notice of such completion from the implementing party, the Administrator shall publish a notice of completion and proposed delisting of the facility from the National Priorities List in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

''(2) PHYSICAL CONSTRUCTION.—For the purposes of paragraph (1), physical construction necessary to implement a response action at a facility shall be considered to be complete when—

''(A) construction of all systems, structures, devices, and other components necessary to implement a response action for the entire facility has been completed in accordance with the remedial design plan; or

''(B) no construction, or no further construction, is expected to be undertaken.

''(3) COMMENTS.—The public shall be provided 30 days in which to submit comments on the notice of completion and proposed delisting.

''(4) FINAL NOTICE.—Not later than 60 days after the end of the comment period, the Administrator shall—

''(A) issue a final notice of completion and delisting or a notice of withdrawal of the proposed notice until the implementation of the remedial action is determined to be complete; and

''(B) publish the notice in the Federal Register and in a newspaper of general circulation in the area where the facility is located.

''(5) FAILURE TO ACT.—If the Administrator fails to publish a notice of withdrawal within the 60-day period described in paragraph (4)—

''(A) the remedial action plan shall be deemed to have been completed; and

''(B) the facility shall be delisted by operation of law.

''(6) EFFECT OF DELISTING.—The delisting of a facility shall have no effect on—

''(A) liability allocation requirements or cost-recovery provisions otherwise provided in this Act;

''(B) any liability of a potentially responsible party or the obligation of any person to provide continued operation and maintenance;

''(C) the authority of the Administrator to make expenditures from the Fund relating to the facility; or

''(D) the enforceability of any consent order or decree relating to the facility.

''(7) FAILURE TO MAKE TIMELY DISAPPROVAL.—The issuance of a final notice of completion and delisting or of a notice of withdrawal within the time required by subsection (a)(3) constitutes a nondiscretionary duty within the meaning of section 310(a)(2).

''(b) CERTIFICATION.—A final notice of completion and delisting shall include a certification by the Administrator that the facility has met all of the requirements of the remedial action plan (except requirements for continued operation and maintenance).

''(c) FUTURE USE OF A FACILITY.—

''(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction, a facility is available for unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable factual information about the facility, that the facility does not satisfy section 121(a).

''(2) FACILITY NOT AVAILABLE FOR ANY USE.—If, after completion of physical construction, a facility is not available for any use or there are continued operation and maintenance requirements that preclude use of the facility, the Administrator shall—

''(A) review the status of the facility every 7 years; and

''(B) require additional remedial action at the facility if the Administrator determines, after notice and opportunity for hearing, that the facility does not satisfy section 121(a).

''(3) FACILITIES AVAILABLE FOR RESTRICTED USE.—The Administrator may determine that a facility or portion of a facility is available for restricted use while a response action is under way or after physical construction has been completed. The Administrator shall make a determination that uncontaminated portions of the facility are available for unrestricted use when such use would not interfere with ongoing operations and maintenance activities or endanger human health or the environment.

''(d) OPERATION AND MAINTENANCE.—The need to perform continued operation and maintenance at a facility shall not delay delisting of the facility or issuance of the certification if performance of operation and maintenance is subject to a legally enforceable agreement, order, or decree.

''(e) CHANGE OF USE OF FACILITY.—

''(1) PETITION.—Any person may petition the Administrator to change the use of a facility described in subsection (c) (2) or (3) from that which was the basis of the remedial action plan.

''(2) GRANT.—The Administrator may grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 121(a), considering the different use of the facility.

''(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.''.

SEC. 406. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 405, is amended by adding at the end the following:

''SEC. 131. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

''(a) NO RECORD OF DECISION.—

''(1) OPTION.—In the case of a facility or operable unit that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 129 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the requesting party notifies the Administrator and other potentially responsible parties of the election not later than 90 days after the date of enactment of this section.

''(2) SUBMISSION OF FACILITY EVALUATION.—In a case in which the potentially responsible parties have or the Administrator has made an election under subsection (a), the potentially responsible parties shall submit the proposed facility evaluation within 180 days after the date on which notice of the election is given.

''(b) REMEDY REVIEW BOARDS.—

''(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish 1 or more remedy review boards (referred to in this subsection as a 'remedy review board'), each consisting of at least 3 independent technical experts, to review petitions under paragraphs (3) and (4).

''(2) GENERAL PROCEDURE.—

''(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

''(B) COSTS.—All costs of review by a remedy review board shall be borne by the petitioner.

''(C) DECISIONS.—At the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition.

''(D) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board.

''(E) REVIEW BY THE ADMINISTRATOR.—

''(i) IN GENERAL.—The Administrator shall have final review of any decision of a remedy review board.

''(ii) STANDARD OF REVIEW.—In conducting a review of a decision of a remedy review board, the Administrator shall accord substantial weight to the remedy review board's decision.

''(iii) REJECTION OF DECISION.—Any determination to reject a remedy review board's decision must be approved by the Administrator or the Assistant Administrator for Solid Waste and Emergency Response.

''(F) DECISION OF THE BOARD.—A decision of a remedy review board decision under subparagraph (B) and the Administrator's review of a decision under subparagraph (E) shall be subject to judicial review under section 113(h).

''(3) CONSTRUCTION NOT BEGUN.—

''(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed but construction has not yet begun prior to the date of enactment of this section, the implementor of the record of decision may file a petition with a remedy review board not later than 90 days after the date of enactment of this section to determine whether an alternate remedy under section 127 should apply to the facility or operable unit.

''(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

''(i) the alternative remedial action proposed in the petition satisfies section 121(a);

''(ii) the alternative remedial action achieves a cost savings of at least $1,500,000.

''(iii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action.

''(C) REVIEW OF COMMENTS.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

''(D) CONTENTS OF PETITION.—A petition described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision but shall consider the actual or planned or reasonably anticipated future use of the land and water resources.

''(E) INCORRECT DATA.—Notwithstanding subparagraph (B) and (D), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

''(4) ADDITIONAL CONSTRUCTION.—

''(A) PETITION.—In the case of a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section, but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether an alternative remedial action should apply to the facility or operable unit.

''(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if—

''(i) the alternative remedial action proposed in the petition is protective of human health and the environment in accordance with the standards of section 121, as in effect prior to the date of enactment of this section;

''(ii) implementation of the alternative remedial action will not result in a substantial delay in the implementation of a remedial action; and

''(iii)(I) the petitioner demonstrates that the selected remedial action is inconsistent with the most recent version of any guidance issued by the Administrator prior to the date of enactment of this section concerning the selection or implementation of any remedial action; or

''(II) the alternative remedial action employs a phased remedial approach which, if successful would preclude the need for full implementation of the selected remedial action.

''(C) REVIEW OF COMMENTS.—A remedy review board may reject or modify a petition under subparagraph (A), even though the petition meets the criteria stated in subparagraph (B), based on a review of comments submitted by persons other than the petitioner.

''(D) INCORRECT DATA.—Notwithstanding subparagraph (B), a remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

''(5) DELAY.—In determining whether an alternative remedial action will substantially delay the implementation of a remedial action of a facility, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.''.

SEC. 407. JUDICIAL REVIEW.

(a) REVIEW OF CERTAIN ACTIONS.—Section 113(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(h)) is amended by adding at the end the following:

''(6) An action under section 129(c).''.

(b) STAY.—Section 113(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(b)) is amended by adding at the end the following: ''In the case of a challenge under section 113(h)(6), the court may stay the implementation or initiation of the challenged actions pending judicial resolution of the matter.''.

SEC. 408. NATIONAL PRIORITIES LIST.

(a) REVISION OF NATIONAL CONTINGENCY PLAN.—

(1) AMENDMENTS.—Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) is amended—

(A) in subsection (a)(8) by adding at the end the following:

''(C) provision that in listing a facility on the National Priorities List, the Administrator shall not include any parcel of real property at which no release has actually occurred, but to which a released hazardous substance, pollutant, or contaminant has migrated in ground water that has moved through subsurface strata from another parcel of real estate at which the release actually occurred, unless—

''(i) the ground water is in use as a public drinking water supply or was in such use at the time of the release; and

''(ii) the owner or operator of the facility is liable, or is affiliated with any other person that is liable, for any response costs at the facility, through any direct or indirect familial relationship, or any contractual, corporate, or financial relationship other than that created by the instruments by which title to the facility is conveyed or financed.''; and

(B) by adding at the end the following:

''(h) LISTING OF PARTICULAR PARCELS.—

''(1) DEFINITION.—In subsection (a)(8)(C) and paragraph (2) of this subsection, the term 'parcel of real property' means a parcel, lot, or tract of land that has a separate legal description from that of any other parcel, lot, or tract of land the legal description and ownership of which has been recorded in accordance with the law of the State in which it is located.

''(2) STATUTORY CONSTRUCTION.—Nothing in subsection (a)(8)(C) shall be construed to limit the Administrator's authority under section 104 to obtain access to and undertake response actions at any parcel of real property to which a released hazardous substance, pollutant, or contaminant has migrated in the ground water.''.

(2) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendment made by paragraph (1) not later that 180 days of the date of enactment of this Act.

TITLE V—LIABILITY

SEC. 501. LIABILITY EXCEPTIONS AND LIMITATIONS.

(a) IN GENERAL.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

''(r) 10-PERCENT LIMITATION FOR MUNICIPAL SOLID WASTE AND SEWAGE SLUDGE.—No person or group of persons (other than the United States or a department, agency, or instrumentality of the United States) shall be liable for more than 10 percent of total response costs at a facility listed on the National Priorities List, in the aggregate, incurred after the date of enactment of this subsection if—

''(1) the person is liable solely under subparagraph (C) or (D) of subsection (a)(1); and

''(2) the arrangement for disposal, treatment, or transport for disposal or treatment, or the acceptance for transport for disposal or treatment, involved only municipal solid waste or sewage sludge.

''(s) DE MINIMIS CONTRIBUTOR EXEMPTION.—In the case of a vessel or facility that is not owned by the United States and is listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any other person (including liability for contribution) under Federal or State law for any costs under this section incurred after the date of enactment of this subsection, if no activity specifically attributable to the person resulted in—

''(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility prior to December 11, 1980; or

''(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility prior to January 1, 1996, or such greater or lesser amount as the Administrator may determine by regulation.

''(t) SUCCESSOR LIABILITY.—The liability of a person that has purchased assets from another person that is otherwise liable under this section shall be determined in accordance with the law of the State in which the vessel or facility is located.''.

(b) CONFORMING AMENDMENT.—Section 107(a) is amended by striking ''of this section'' and inserting '', the limitation stated in subsection (r), and the exemption stated in subsection (s)''.

(c) EFFECTIVE DATE AND TRANSITION RULES.—The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.

Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9612) is amended by adding at the end the following:

''(g) CONTRIBUTION FROM THE FUND FOR CERTAIN RETROACTIVE LIABILITY.—

''(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement decree with the United States or a State as of the date of enactment of this subsection shall complete the person's obligations under the order or settlement decree.

''(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs incurred for the performance of the response action after the date of enactment of this subsection—

''(A) if the person is not liable for such costs by reason of the de minimis contributor exemption under section 107(s); or

''(B) if and to the extent the person's allocated share, as determined under section 503, is funded by the orphan share under section 503(l)(2)(B).

''(3) APPLICATION FOR CONTRIBUTION.—

''(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application from the person requesting contribution.

''(B) PERIODIC APPLICATIONS.—Application may be made no more frequently than every 6 months after such payments are made or such costs are incurred, commencing 6 months after the enactment of this subsection.

''(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

''(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

''(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

''(7) CONSISTENCY WITH NATIONAL CONTINGENCY PLAN.—No contribution shall be made under this subsection unless the Administrator determines that such costs are consistent with the National Contingency Plan.''.

SEC. 503. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended by section 406, is amended by adding at the end the following:

''SEC. 132. ALLOCATION OF LIABILITY FOR CERTAIN FACILITIES.

''(a) DEFINITIONS.—In this section:

''(1) ALLOCATED SHARE.—The term 'allocated share' means the percentage of liability assigned to a potentially responsible party by the allocator in an allocation report under section 132(j)(6).

''(2) ALLOCATION PARTY.—The term 'allocation party' means a party, named on a list of parties that will be subject to the allocation process under this section, issued by an allocator under subsection (g)(3)(A).

''(3) ALLOCATOR.—The term 'allocator' means an allocator retained to conduct an allocation for a facility under subsection (f)(1).

''(4) MANDATORY ALLOCATION FACILITY.—The term 'mandatory allocation facility' means—

''(A) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this

section, and at which one or more potentially responsible parties are liable or potentially liable for status or conduct after December 11, 1980;

''(B) a non-federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980;

''(C) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which 1 or more potentially responsible parties (other that a department, agency, or instrumentality of the United States) are liable or potentially liable for status or conduct after December 11, 1980; and

''(D) a federally owned vessel or facility listed on the National Priorities List with respect to which response costs are incurred after the date of enactment of this section, and with respect to which one or more of the potentially responsible parties is not a department, agency, or instrumentality of the United States and with respect to which no person is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980.

''(5) ORPHAN SHARE.—The term 'orphan share' means the total of the allocated shares determined by the allocator under section 132(l).

''(b) ALLOCATIONS OF LIABILITY.—

''(1) MANDATORY ALLOCATIONS.—For each mandatory allocation facility involving 2 or more potentially responsible parties (including 1 or more potentially responsible parties that are qualified for de minimis contributor exemption under section 107(s)), the Administrator shall conduct the allocation process under this section.

''(2) REQUESTED ALLOCATIONS.—For a facility (other than a mandatory allocation facility) involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section if the allocation is requested in writing by a potentially responsible party that has—

''(A) incurred response costs with respect to a response action; or

''(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

''(3) PERMISSIVE ALLOCATIONS.—For any facility (other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2)) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

''(4) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require payment of an orphan share under subsection (l) or reimbursement under subsection (t).

''(5) EXCLUDED FACILITIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for purposes of the allocation process only, this section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

''(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there was not in effect as of the date of enactment of this section a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to subsection (l)(2) for any response costs incurred after the date of enactment of this section.

''(6) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

''(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(3) (A), (B), (C), or (D); and

''(B) response costs incurred at a facility that is the subject of a requested or permissive allocation under subsection (b) (2) or (3).

''(7) ORPHAN SHARE FACILITY.—Any non-federally owned vessel or facility that is listed on the National Priorities List at which at least 1 person is liable or potentially liable under section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, and at which no person is liable or potentially liable for status or conduct after December 11, 1980, shall be considered to be an orphan share facility, and all response costs incurred at the vessel or facility after the date of enactment of this section shall be paid by the orphan share.

''(8) OTHER MATTERS.—This section shall not limit or affect—

''(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that has been the subject of a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

''(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of the allocation process, subject to subsection (l)(3);

''(C) the validity, enforceability, finality, or merits of any judicial or administrative order, judgment, or decree, issued prior to the date of enactment of this section with respect to liability under this Act; or

''(D) the validity, enforceability, finality, or merits of any preexisting contract or agreement relating to any allocation of responsibility or any indemnity for, or sharing of, any response costs under this Act.

''(c) MORATORIUM ON LITIGATION AND ENFORCEMENT.—

''(1) IN GENERAL.—No person may assert a claim for recovery of a response cost or contribution toward a response cost (including a claim for insurance proceeds) under this Act or any other Federal or State law in connection with a response action—

''(A) for which an allocation is required to be performed under subsection (b)(1); or

''(B) for which the Administrator has initiated the allocation process under this section,

until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report.

''(2) PENDING ACTIONS OR CLAIMS.—If a claim described in paragraph (1) is pending on the date of enactment of this section or on initiation of an allocation under this section, the portion of the claim pertaining to response costs that are the subject of the allocation shall be stayed until the date that is 120 days after the date of issuance of a report by the allocator under subsection (j)(6) or, if a second or subsequent report is issued under subsection (q), the date of issuance of the second or subsequent report, unless the court determines that a stay would result in manifest injustice.

''(3) TOLLING OF PERIOD OF LIMITATION.—

''(A) BEGINNING OF TOLLING.—Any applicable period of limitation with respect to a claim subject to paragraph (1) shall be tolled beginning on the earlier of—

''(i) the date of listing of the facility on the National Priorities List if the listing occurs after the date of enactment of this section; or

''(ii) the date of initiation of the allocation process under this section.

''(B) END OF TOLLING.—A period of limitation shall be tolled under subparagraph (A) until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6), or of a second or subsequent report under subsection (q).

''(4) LATER ACTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), until the date that is 180 days after the date of issuance of a report by the allocator under subsection (j)(6) or of a second or subsequent report under subsection (q), the Administrator shall not issue an order under section 106 after the date of enactment of this section in connection with a response action for which an allocation is required to be performed under subsection (b)(1) to any party that, based on the initial list of parties compiled pursuant to subsection (d)(5) appears to be entitled to full orphan share funding under section (l)(2)(B).

''(B) EMERGENCIES.—Subparagraph (A) does not preclude an order requiring the performance of a removal action that is necessary to address an emergency at a facility.

''(C) SUBSEQUENT ALLOCATION REPORT.—If, after the date of enactment of this section, the Administrator issues an order under section 106 to a party that the allocator subsequently determines is entitled to full funding for the party's allocated share pursuant to section (l)(2)(B)—

''(i) all response costs incurred by the party after the date of enactment of this section shall be reimbursed; and

''(ii) the party's obligations under the order shall cease 90 days after the issuance of the allocator's report under subsection (j)(6) or a second report under subsection (q).

''(5) RETAINED AUTHORITY.—Except as specifically provided in this section, this section does not affect the authority of the Administrator to—

''(A) exercise the powers conferred by section 103, 104, 105, 106, or 122;

''(B) commence an action against a party if there is a contemporaneous filing of a judicial consent decree resolving the liability of the party;

''(C) file a proof of claim or take other action in a proceeding under title 11, United States Code; or

''(D) require implementation of a response action at an allocation facility during the conduct of the allocation process.

''(d) INITIATION OF ALLOCATION PROCESS.—

''(1) RESPONSIBLE PARTY SEARCH.—For each facility described in paragraph (2), the Administrator shall initiate the allocation process as soon as practicable by commencing a comprehensive search for all potentially responsible parties with respect to the facility under authority of section 104.

''(2) FACILITIES.—The Administrator shall initiate the allocation process for each—

''(A) mandatory allocation facility;

''(B) facility for which a request for allocation is made under subsection (b)(2); and

''(C) facility that the Administrator considers to be appropriate for allocation under subsection (b)(3).

''(3) TIME LIMIT.—The Administrator shall initiate the allocation process for a facility not later than the earlier of—

''(A) the date of completion of the facility evaluation or remedial investigation for the facility; or

''(B) the date that is 60 days after the date of selection of a removal action.

''(4) SUBMISSION OF INFORMATION AT ALLOCATION FACILITIES.—Any person may submit information to the Administrator concerning a potentially responsible party for a facility that is subject to a search, and the Administrator shall consider the information in carrying out the search.

''(5) INITIAL LIST OF PARTIES.—

''(A) IN GENERAL.—As soon as practicable after initiation of an allocation process for a facility, the Administrator shall publish, in accordance with section 117(d), a list of all potentially responsible parties identified for a facility.

''(B) TIME LIMIT.—The Administrator shall publish a list under paragraph (1) not later than 120 days after the commencement of a comprehensive search.

''(C) COPY OF LIST.—The Administrator shall provide each person named on a list of potentially responsible parties with—

''(i) a copy of the list; and

''(ii) the names of not less than 25 neutral parties—

''(I) who are not employees of the United States;

''(II) who are qualified to perform an allocation at the facility, as determined by the Administrator; and

''(III) at least some of whom maintain an office in the vicinity of the facility.

''(D) PROPOSED ALLOCATOR.—A person identified by the Administrator as a potentially responsible party may propose an allocator not on the list of neutral parties.

''(e) SELECTION OF ALLOCATOR.—

''(1) IN GENERAL.—As soon as practicable after the receipt of a list under subsection (d)(5)(C), the potentially responsible parties named on the list shall—

''(A) select an individual to serve as allocator by plurality vote on a per capita basis; and

''(B) promptly notify the Administrator of the selection.

''(2) VOTE BY REPRESENTATIVE.—The representative of the Fund shall be entitled to cast 1 vote in an election under paragraph (1).

''(3) ELIGIBLE ALLOCATORS.—The potentially responsible parties shall select an allocator under paragraph (1) from among individuals—

''(A) named on the list of neutral parties provided by the Administrator;

''(B) named on a list that is current on the date of selection of neutrals maintained by the American Arbitration Association, the Center for Public Resources, or another nonprofit or governmental organization of comparable standing; or

''(C) proposed by a party under subsection (d)(5)(D).

''(4) UNQUALIFIED ALLOCATOR.—

''(A) IN GENERAL.—If the Administrator determines that a person selected under paragraph (1) is unqualified to serve, the Administrator shall promptly notify all potentially responsible parties for the facility, and the potentially responsible parties shall make an alternative selection under paragraph (1).

''(B) LIMIT ON DETERMINATIONS.—The Administrator may not make more than 2 determinations that an allocator is unqualified under this paragraph with respect to any facility.

''(5) DETERMINATION BY ADMINISTRATOR.—If the Administrator does not receive notice of selection of an allocator within 60 days after a copy of a list is provided under subsection (d)(5)(C), or if the Administrator, having given a notification under paragraph (4), does not receive notice of an alternative selection of an allocator under that paragraph within 60 days after the date of the notification, the Administrator shall promptly select and designate a person to serve as allocator.

''(6) JUDICIAL REVIEW.—No action under this subsection shall be subject to judicial review.

''(f) RETENTION OF ALLOCATOR.—

''(1) IN GENERAL.—On selection of an allocator, the Administrator shall promptly—

''(A) using the procurement procedures authorized by section 109(e), contract with the allocator for the provision of allocation services in accordance with this section; and

''(B) notify each person named as a potentially responsible party at the facility that the allocator has been retained.

''(2) DISCRETION OF ALLOCATOR.—A contract with an allocator under paragraph (1) shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner.

''(3) PROVISION OF INFORMATION.—

''(A) IN GENERAL.—Not later than 30 days after the selection of an allocator, the Administrator shall make available to the allocator and to each person named as a potentially responsible party for the facility—

''(i) any information or documents furnished under section 104(e)(2); and

''(ii) any other potentially relevant information concerning the facility and the potentially responsible parties at the facility.

''(B) PRIVILEGED INFORMATION.—The Administrator shall not make available any privileged information, except as otherwise authorized by law.

''(4) RECOVERY OF CONTRACT COSTS.—The costs of the Administrator in retaining an allocator under paragraph (1) shall be considered to be a response cost for all purposes of this Act.

''(g) ADDITIONAL PARTIES.—

''(1) IN GENERAL.—Any person may propose to the allocator the name of an additional potentially responsible party at a facility, or otherwise provide the allocator with information pertaining to a facility or to an allocation, until the date that is 60 days after the later of—

''(A) the date of issuance of the initial list described in subsection (d)(5)(A); or

''(B) the date of retention of the allocator under subsection (f)(1)(A).

''(2) NEXUS.—Any proposal under paragraph (1) to add a potentially responsible party shall include all information reasonably available to the person making the proposal regarding the nexus between the additional potentially responsible party and the facility.

''(3) FINAL LIST.—

''(A) IN GENERAL.—The allocator shall issue a final list of all parties that will be subject to the allocation process (referred to in this section as the 'allocation parties') not later than 120 days after publication of the initial list under subsection (d)(5)(A).

''(B) STANDARD.—The allocator shall include each party proposed under paragraph (1) in the final list of allocation parties unless the allocator determines that the party is not liable under section 107.

''(C) IDENTIFICATION OF DE MINIMIS CONTRIBUTORS.—

''(i) IN GENERAL.—In compiling the final list of allocation parties, the allocator shall identify, to the extent possible, all parties entitled to the de minimis contributor exemption under section 107(s) and provide a list of the parties identified to the Administrator.

''(ii) NOTIFICATION OF EXEMPTION.—Not later than 60 days after receipt of the list, the Administrator shall provide to each party identified on the list a written notification of the party's entitlement to the de minimis contributor exemption unless the Administrator publishes a written determination that—

''(I) no rational interpretation of the facts before the allocator supports the allocator's decision; or

''(II) the allocator's decision was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

''(iii) NO JUDICIAL REVIEW.—Any determination by the Administrator under this subparagraph shall not be subject to judicial review.

''(D) EFFECT.—If the allocator determines that there is an inadequate basis in law or fact to conclude that a party is liable based on the information presented by the nominating party or otherwise available to the allocator, the nominated party's costs (including reasonable attorney's fees) shall be borne by the party that proposed the addition of the party to the allocation.

''(h) FEDERAL, STATE, AND LOCAL AGENCIES.—

''(1) IN GENERAL.—Other than as set forth in this Act, any Federal, State, or local governmental department, agency, or instrumentality that is named as a potentially responsible party or an allocation party shall be subject to, and be entitled to the benefits of, the allocation process and allocation determination under this section to the same extent as any other party.

''(2) ORPHAN SHARE.—The Administrator or the Attorney General shall participate in the allocation proceeding as the representative of the Fund from which any orphan share shall be paid.

''(i) POTENTIALLY RESPONSIBLE PARTY SETTLEMENT.—

''(1) SUBMISSION.—At any time prior to the date of issuance of an allocation report under subsection (j)(6) or of a second or subsequent report under subsection (q), any group of potentially responsible parties for a facility may submit to the allocator a private allocation for any response action that is within the scope of the allocation under subsection (b)(6).

''(2) ADOPTION.—The allocator shall promptly adopt a private allocation under paragraph (1) as the allocation report if the private allocation—

''(A) is a binding allocation of 100 percent of the recoverable costs of the response action that is the subject of the allocation; and

''(B) does not allocate a share to—

''(i) any person who is not a signatory to the private allocation; or

''(ii) any person whose share would be part of the orphan share under subsection (l), unless the representative of the Fund is a signatory to the private allocation.

''(3) WAIVER OF RIGHTS.—Any signatory to a private allocation waives the right to seek from any other party for a facility—

''(A) recovery of any response cost that is the subject of the allocation; and

''(B) contribution under this Act with respect to any response action that is within the scope of the allocation.

''(j) ALLOCATION DETERMINATION.—

''(1) ALLOCATION PROCESS.—An allocator retained under subsection (f)(1) shall conduct an allocation process culminating in the issuance of a written report with a nonbinding equitable allocation of percentage shares of responsibility for any response action that is within the scope of the allocation under subsection (b)(6).

''(2) IDENTIFICATION OF DE MINIMIS CONTRIBUTORS.—

''(A) IN GENERAL.—If all parties entitled to the de minimis contributor exemption were not previously identified under subsection (g)(3)(C), the allocator's report under paragraph (1) shall identify all parties entitled to the de minimis contributor exemption under section 107(s).

''(B) PROCEDURE.—If a party is identified under subparagraph (A), the Administrator

shall follow the procedural requirements of subsection (g)(3)(C)(ii).

''(2) COPIES OF REPORT.—An allocator shall provide the report issued under paragraph (1) to the Administrator and to the allocation parties.

''(3) INFORMATION-GATHERING AUTHORITIES.—

''(A) IN GENERAL.—An allocator may request information from any person in order to assist in the efficient completion of the allocation process.

''(B) REQUESTS.—Any person may request that an allocator request information under this paragraph.

''(C) AUTHORITY.—An allocator may exercise the information-gathering authority of the Administrator under section 104(e), including issuing an administrative subpoena to compel the production of a document or the appearance of a witness.

''(D) DISCLOSURE.—Notwithstanding any other law, any information submitted to the allocator in response to a subpoena issued under paragraph (4) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

''(E) ORDERS.—In the event of contumacy or a failure of a person to obey a subpoena issued under paragraph (4), an allocator may request the Attorney General to—

''(i) bring a civil action to enforce the subpoena; or

''(ii) if the person moves to quash the subpoena, to defend the motion.

''(F) FAILURE OF ATTORNEY GENERAL TO RESPOND.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for enforcement of a subpoena or information request, the allocator may retain counsel to commence a civil action to enforce the subpoena or information request.

''(4) ADDITIONAL AUTHORITY.—An allocator may—

''(A) schedule a meeting or hearing and require the attendance of allocation parties at the meeting or hearing;

''(B) sanction an allocation party for failing to cooperate with the orderly conduct of the allocation process;

''(C) require that allocation parties wishing to present similar legal or factual positions consolidate the presentation of the positions;

''(D) obtain or employ support services, including secretarial, clerical, computer support, legal, and investigative services; and

''(E) take any other action necessary to conduct a fair, efficient, and impartial allocation process.

''(5) CONDUCT OF ALLOCATION PROCESS.—

''(A) IN GENERAL.—The allocator shall conduct the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (k).

''(B) OPPORTUNITY TO BE HEARD.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of an allocation party) and an opportunity to comment on a draft allocation report.

''(C) RESPONSES.—The allocator shall not be required to respond to comments.

''(D) STREAMLINING.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

''(6) ALLOCATION REPORT.—

''(A) DEADLINE.—

''(i) IN GENERAL.—The allocator shall provide a written allocation report to the Administrator and the allocation parties not later than 180 days after the date of issuance of the final list of allocation parties under subsection (g)(3)(A) that specifies the allocation share of each potentially responsible party and any orphan shares, as determined by the allocator.

''(ii) EXTENSION.—On request by the allocator and for good cause shown, the Administrator may extend the time to complete the report by not more than 90 days.

''(B) BREAKDOWN OF ALLOCATION SHARES INTO TIME PERIODS.—The allocation share for each potentially responsible party with respect to a mandatory allocation facility at which 1 or more persons are liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for conduct prior to December 11, 1980, shall be comprised of percentage shares of responsibility stated separately for status or conduct prior to December 11, 1980, and status or conduct on or after December 11, 1980.

''(k) EQUITABLE FACTORS FOR ALLOCATION.—The allocator shall prepare a nonbinding allocation of percentage shares of responsibility to each allocation party and to the orphan share, in accordance with this section and without regard to any theory of joint and several liability, based on—

''(1) the amount of hazardous substances contributed by each allocation party;

''(2) the degree of toxicity of hazardous substances contributed by each allocation party;

''(3) the mobility of hazardous substances contributed by each allocation party;

''(4) the degree of involvement of each allocation party in the generation, transportation, treatment, storage, or disposal of hazardous substances;

''(5) the degree of care exercised by each allocation party with respect to hazardous substances, taking into account the characteristics of the hazardous substances;

''(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

''(7) such other equitable factors as the allocator determines are appropriate.

''(l) ORPHAN SHARES.—

''(1) IN GENERAL.—The allocator shall determine whether any percentage of responsibility for the response action shall be allocable to the orphan share.

''(2) MAKEUP OF ORPHAN SHARE.—The orphan share shall consist of—

''(A) any share that the allocator determines is attributable to an allocation party that is insolvent or defunct and that is not affiliated with any financially viable allocation party;

''(B) any share that the allocator determines is attributable to an allocation party (other than a department, agency, or instrumentality of the United States) at a vessel or facility at which one or more persons is liable or potentially liable pursuant to section 107(a)(1) (C) or (D) for status or conduct prior to December 11, 1980, to the extent such allocation party's share is based on status or conduct prior to December 11, 1980; and

''(C) the difference between the aggregate share that the allocator determines is attributable to a person and the aggregate share actually assumed by the person in a settlement with the United States if—

''(i) the person is eligible for an expedited settlement with the United States under section 122 based on limited ability to pay response costs;

''(ii) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

''(iii) the person settled with the United States before the completion of the allocation.

''(3) UNATTRIBUTABLE SHARES.—A share attributable to a hazardous substance that the allocator specifically determines was disposed at the site prior to December 11, 1980, but which cannot be attributed to any identified and viable party shall be considered an orphan share. All other unattributable shares shall be distributed among the allocation parties and the orphan share in accordance with the allocated share assigned to each.

''(m) INFORMATION REQUESTS.—

''(1) DUTY TO ANSWER.—Each person that receives an information request or subpoena from the allocator shall provide a full and timely response to the request.

''(2) CERTIFICATION.—An answer to an information request by an allocator shall include a certification by a representative that meets the criteria established in section 270.11(a) of title 40, Code of Federal Regulations (or any successor regulation), that—

''(A) the answer is correct to the best of the representative's knowledge;

''(B) the answer is based on a diligent good faith search of records in the possession or control of the person to whom the request was directed;

''(C) the answer is based on a reasonable inquiry of the current (as of the date of the answer) officers, directors, employees, and agents of the person to whom the request was directed;

''(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

''(E) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

''(F) the person executing the certification understands that there are significant penalties for submitting false information, including the possibility of a fine or imprisonment for a knowing violation.

''(n) PENALTIES.—

''(1) CIVIL.—

''(A) IN GENERAL.—A person that fails to submit a complete and timely answer to an information request, a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (m)(2), or knowingly makes a false or misleading material statement or representation in any statement, submission, or testimony during the allocation process (including a statement or representation in connection with the nomination of another potentially responsible party) shall be subject to a civil penalty of not more than $10,000 per day of violation.

''(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

''(2) CRIMINAL.—A person that knowingly and willfully makes a false material statement or representation in the response to an information request or subpoena issued by the allocator under subsection (m) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

''(o) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

''(1) DOCUMENT REPOSITORY.—

''(A) IN GENERAL.—The allocator shall establish and maintain a document repository containing copies of all documents and information provided by the Administrator or any allocation party under this section or generated by the allocator during the allocation process.

''(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

''(2) CONFIDENTIALITY.—

''(A) IN GENERAL.—Each document or material submitted to the allocator or placed in the document repository and the record of any information generated or obtained during the allocation process shall be confidential.

''(B) MAINTENANCE.—The allocator, each allocation party, the Administrator, and the Attorney General—

''(i) shall maintain the documents, materials, and records of any depositions or testimony adduced during the allocation as confidential; and

''(ii) shall not use any such document or material or the record in any other matter or proceeding or for any purpose other than the allocation process.

''(C) DISCLOSURE.—Notwithstanding any other law, the documents and materials and the record shall not be subject to disclosure to any person under section 552 of title 5, United States Code.

''(D) DISCOVERY AND ADMISSIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii), the documents and materials and the record shall not be subject to discovery or admissible in any other Federal, State, or local judicial or administrative proceeding, except—

''(I) a new allocation under subsection (q) or (v) for the same response action; or

''(II) an initial allocation under this section for a different response action at the same facility.

''(ii) OTHERWISE DISCOVERABLE OR ADMISSIBLE.—

''(I) DOCUMENT OR MATERIAL.—If the original of any document or material submitted to the allocator or placed in the document repository was otherwise discoverable or admissible from a party, the original document, if subsequently sought from the party, shall remain discoverable or admissible.

''(II) FACTS.—If a fact generated or obtained during the allocation was otherwise discoverable or admissible from a witness, testimony concerning the fact, if subsequently sought from the witness, shall remain discoverable or admissible.

''(3) NO WAIVER OF PRIVILEGE.—The submission of testimony, a document, or information under the allocation process shall not constitute a waiver of any privilege applicable to the testimony, document, or information under any Federal or State law or rule of discovery or evidence.

''(4) PROCEDURE IF DISCLOSURE SOUGHT.—

''(A) NOTICE.—A person that receives a request for a statement, document, or material submitted for the record of an allocation proceeding, shall—

''(i) promptly notify the person that originally submitted the item or testified in the allocation proceeding; and

''(ii) provide the person that originally submitted the item or testified in the allocation proceeding an opportunity to assert and defend the confidentiality of the item or testimony.

''(B) RELEASE.—No person may release or provide a copy of a statement, document, or material submitted, or the record of an allocation proceeding, to any person not a party to the allocation except—

''(i) with the written consent of the person that originally submitted the item or testified in the allocation proceeding; or

''(ii) as may be required by court order.

''(5) CIVIL PENALTY.—

''(A) IN GENERAL.—A person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

''(B) ASSESSMENT OF PENALTY.—A penalty may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

''(C) DEFENSES.—In any administrative or judicial proceeding, it shall be a complete defense that any statement, document, or material or the record at issue under subparagraph (A)—

''(i) was in, or subsequently became part of, the public domain, and did not become part of the public domain as a result of a violation of this subsection by the person charged with the violation;

''(ii) was already known by lawful means to the person receiving the information in connection with the allocation process; or

''(iii) became known to the person receiving the information after disclosure in connection with the allocation process and did not become known as a result of any violation of this subsection by the person charged with the violation.

''(p) REJECTION OF ALLOCATION REPORT.—

''(1) REJECTION.—The Administrator and the Attorney General may jointly reject a report issued by an allocator only if the Administrator and the Attorney General jointly publish, not later than 180 days after the Administrator receives the report, a written determination that—

''(A) no rational interpretation of the facts before the allocator, in light of the factors required to be considered, would form a reasonable basis for the shares assigned to the parties; or

''(B) the allocation process was directly and substantially affected by bias, procedural error, fraud, or unlawful conduct.

''(2) FINALITY.—A report issued by an allocator may not be rejected after the date that is 180 days after the date on which the United States accepts a settlement offer (excluding an expedited settlement under section 122) based on the allocation.

''(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocation reports relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.

''(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated to any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.

''(q) SECOND AND SUBSEQUENT ALLOCATIONS.—

''(1) IN GENERAL.—If a report is rejected under subsection (p), the allocation parties shall select an allocator under subsection (e) to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.

''(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall be extended until the date that is 180 days after the date of the issuance of any second or subsequent allocation report under paragraph (1).

''(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine under subsection (e) that an allocator whose previous report at the same facility has been rejected under subsection (p) is unqualified to serve.

''(r) SETTLEMENTS BASED ON ALLOCATIONS.—

''(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (l).

''(2) IN GENERAL.—Unless an allocation report is rejected under subsection (p), any allocation party at a mandatory allocation facility (including an allocation party whose allocated share is funded partially or fully by orphan share funding under subsection (l)) shall be entitled to resolve the liability of the party to the United States for response actions subject to allocation if, not later than 90 days after the date of issuance of a report by the allocator, the party—

''(A) offers to settle with the United States based on the percentage share specified by the allocator; and

''(B) agrees to the other terms and conditions stated in this subsection.

''(3) PROVISIONS OF SETTLEMENTS.—

''(A) IN GENERAL.—A settlement based on an allocation under this section—

''(i) may consist of a cash-out settlement or an agreement for the performance of a response action; and

''(ii) shall include—

''(I) a waiver of contribution rights against all persons that are potentially responsible parties for any response action addressed in the settlement;

''(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action;

''(III) a premium, calculated on a facility-specific basis and subject to the limitations on premiums stated in paragraph (5), that reflects the actual risk to the United States of not collecting unrecovered response costs for the response action, despite the diligent prosecution of litigation against any viable allocation party that has not resolved the liability of the party to the United States, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;

''(IV) complete protection from all claims for contribution regarding the response action addressed in the settlement; and

''(V) provisions through which a settling party shall receive prompt reimbursement from the Fund under subsection (s) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.

''(B) RIGHT TO REIMBURSEMENT.—A right to reimbursement under subparagraph (A)(ii)(V) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.

''(4) REPORT.—The Administrator shall report annually to Congress on the administration of the allocation process under this section, providing in the report—

''(A) information comparing allocation results with actual settlements at multiparty facilities;

''(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;

''(C) a description of any impediments to achieving complete recovery; and

''(D) a complete accounting of the costs incurred in administering and participating in the allocation process.

''(5) PREMIUM.—In each settlement under this subsection, the premium authorized—

''(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement; but

''(B) shall not exceed—

''(i) 5 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 80 percent and less than 100 percent of responsibility for the response action;

''(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 60 percent and not more than 80 percent of responsibility for the response action;

''(iii) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for more than 40 percent and not more than 60 percent of responsibility for the response action; or

''(iv) 20 percent of the total costs assumed by a settling party if all settlements (including any orphan share) account for 40 percent or less of responsibility for the response; and

''(C) shall be reduced proportionally by the percentage of the alllocated share for that party paid through orphan funding under subsection (l).

''(s) FUNDING OF ORPHAN SHARES.—

''(1) REIMBURSEMENT.—For each settlement agreement entered into under subsection (r), the Administrator shall promptly reimburse the allocation parties for any costs incurred that are attributable to the orphan share, as determined by the allocator.

''(2) ENTITLEMENT.—Paragraph (1) constitutes an entitlement to any allocation party eligible to receive a reimbursement.

''(3) AMOUNTS OWED.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unpaid balances at the rate equal to that of the current average market yield on outstanding marketable obligations of the United States with a maturity of 1 year.

''(4) DOCUMENTATION AND AUDITING.—The Administrator—

''(A) shall require that any claim for reimbursement be supported by documentation of actual costs incurred; and

''(B) may require an independent auditing of any claim for reimbursement.

''(t) POST-ALLOCATION CONTRIBUTION.—

''(1) IN GENERAL.—Subject to paragraph (2), an allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation under this section to an extent that exceeds the percentage share of the allocation party, as determined by the allocator, shall be entitled to prompt reimbursement of the excess amount, including any orphan share, from the Fund, unless the allocation report is rejected under subsection (p).

''(2) EXCEPTION.—No person whose allocated share is fully funded by the orphan share pursuant to subsection (l)(2)(B) shall be subject to an order pursuant to section 106 issued after the date of enactment of this section.

''(3) NOT CONTINGENT.—The right to reimbursement under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.

''(4) TERMS AND CONDITIONS.—

''(A) RISK PREMIUM.—A reimbursement shall be reduced by the amount of the litigation risk premium under subsection (r)(5) that would apply to a settlement by the allocation party concerning the response action, based on the total allocated shares of the parties that have not reached a settlement with the United States.

''(B) TIMING.—

''(i) IN GENERAL.—A reimbursement shall be paid out during the course of the response action that was the subject of the allocation, using reasonable progress payments at significant milestones.

''(ii) CONSTRUCTION.—Reimbursement for the construction portion of the work shall be paid out not later than 120 days after the date of completion of the construction.

''(C) EQUITABLE OFFSET.—A reimbursement is subject to equitable offset or recoupment by the Administrator at any time if the allocation party fails to perform the work in a proper and timely manner.

''(D) INDEPENDENT AUDITING.—The Administrator may require independent auditing of any claim for reimbursement.

''(E) WAIVER.—An allocation party seeking reimbursement waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.

''(F) BAR.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party for recovery of response costs in connection with the response action, or for contribution toward the costs of the response action.

''(u) POST-SETTLEMENT LITIGATION.—

''(1) IN GENERAL.—Subject to subsections (q) and (r), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not resolved the liability of the party to the United States following allocation and may seek to recover response costs not recovered through settlements with other persons.

''(2) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (l), but shall not include any share allocated to a Federal, State, or local governmental agency, department, or instrumentality.

''(3) IMPLEADER.—A defendant in an action under paragraph (1) may implead an allocation party only if the allocation party did not resolve liability to the United States.

''(4) CERTIFICATION.—In commencing or maintaining an action under section 107 against an allocation party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to settle the matter based on the share that the allocation report assigned to the party.

''(5) RESPONSE COSTS.—

''(A) ALLOCATION PROCEDURE.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

''(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section—

''(i) shall be considered as a necessary cost of response cost; and

''(ii) shall be recoverable in accordance with section 107 only from an allocation party that does not reach a settlement and does not receive an administrative order under subsection (r) or (t).

''(v) NEW INFORMATION.—

''(1) IN GENERAL.—An allocation under this section shall be final, except that any settling party, including the United States, may seek a new allocation with respect to the response action that was the subject of the settlement by presenting the Administrator with clear and convincing evidence that—

''(A) the allocator did not have information concerning—

''(i) 35 percent or more of the materials containing hazardous substances at the facility; or

''(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility; and

''(B) the information was discovered subsequent to the issuance of the report by the allocator.

''(2) NEW ALLOCATION.—Any new allocation of responsibility—

''(A) shall proceed in accordance with this section;

''(B) shall be effective only after the date of the new allocation report; and

''(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

''(w) ALLOCATOR'S DISCRETION.—The Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

''(x) ILLEGAL ACTIVITIES.—Section 107 (n), (o), (p), (q), (r), (s), (t), and (u), section 112(g), and (l)(2)(B) shall not apply to any person whose liability for response costs under section 107(a)(1) is otherwise based on any act, omission, or status that is determined by a court or administrative body of competent jurisdiction, within the applicable statute of limitation, to have been a violation of any Federal or State law pertaining to the treatment, storage, disposal, or handling of hazardous substances if the violation pertains to a hazardous substance, the release or threat of release of which caused the incurrence of response costs at the vessel or facility.''.

SEC. 504. LIABILITY OF RESPONSE ACTION CONTRACTORS.

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 303(a), is amended by adding at the end the following:

''(G) LIABILITY OF CONTRACTORS.—

''(i) IN GENERAL.—The term 'owner or operator' does not include a response action contractor (as defined in section 119(e)).

''(ii) LIABILITY LIMITATIONS.—A person described in clause (i) shall not, in the absence of negligence by the person, be considered to—

''(I) cause or contribute to any release or threatened release of a hazardous substance, pollutant, or contaminant;

''(II) arrange for disposal or treatment of a hazardous substance, pollutant, or contaminant;

''(III) arrange with a transporter for transport or disposal or treatment of a hazardous substance, pollutant, or contaminant; or

''(IV) transport a hazardous substance, pollutant, or contaminant.

''(iii) EXCEPTION.—This subparagraph does not apply to a person potentially responsible under section 106 or 107 other than a person associated solely with the provision of a response action or a service or equipment ancillary to a response action.''.

(b) NATIONAL UNIFORM NEGLIGENCE STANDARD.—Section 119(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(a)) is amended—

(1) in paragraph (1) by striking ''title or under any other Federal law'' and inserting ''title or under any other Federal or State law''; and

(2) in paragraph (2)—

(A) by striking ''(2) NEGLIGENCE, ETC.—Paragraph (1)'' and inserting the following:

''(2) NEGLIGENCE AND INTENTIONAL MISCONDUCT; APPLICATION OF STATE LAW.—

''(A) NEGLIGENCE AND INTENTIONAL MISCONDUCT.—

''(i) IN GENERAL.—Paragraph (1)''; and

(B) by adding at the end the following:

''(ii) STANDARD.—Conduct under clause (i) shall be evaluated based on the generally accepted standards and practices in effect at

the time and place at which the conduct occurred.

''(iii) PLAN.—An activity performed in accordance with a plan that was approved by the Administrator shall not be considered to constitute negligence under clause (i).

''(B) APPLICATION OF STATE LAW.—Paragraph (1) shall not apply in determining the liability of a response action contractor under the law of a State if the State has adopted by statute a law determining the liability of a response action contractor.''.

(c) EXTENSION OF INDEMNIFICATION AUTHORITY.—Section 119(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(1)) is amended by adding at the end the following: ''The agreement may apply to a claim for negligence arising under Federal or State law.''.

(d) INDEMNIFICATION DETERMINATIONS.—Section 119(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)) is amended by striking paragraph (4) and inserting the following:

''(4) DECISION TO INDEMNIFY.—

''(A) IN GENERAL.—For each response action contract for a vessel or facility, the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

''(B) STANDARD.—The Administrator shall enter into an indemnification agreement to the extent that the potential liability (including the risk of harm to public health, safety, environment, and property) involved in a response action exceed or are not covered by insurance available to the contractor at the time at which the response action contract is entered into that is likely to provide adequate long-term protection to the public for the potential liability on fair and reasonable terms (including consideration of premium, policy terms, and deductibles).

''(C) DILIGENT EFFORTS.—The Administrator shall enter into an indemnification agreement only if the Administrator determines that the response action contractor has made diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

''(D) CONTINUED DILIGENT EFFORTS.—An indemnification agreement shall require the response action contractor to continue, not more frequently than annually, to make diligent efforts to obtain insurance coverage from non-Federal sources to cover potential liabilities.

''(E) LIMITATIONS ON INDEMNIFICATION.—An indemnification agreement provided under this subsection shall include deductibles and shall place limits on the amount of indemnification made available in amounts determined by the contracting agency to be appropriate in light of the unique risk factors associated with the cleanup activity.''.

(e) INDEMNIFICATION FOR THREATENED RELEASES.—Section 119(c)(5)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(c)(5)(A)) is amended by inserting ''or threatened release'' after ''release'' each place it appears.

(f) EXTENSION OF COVERAGE TO ALL RESPONSE ACTIONS.—Section 119(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(1)) is amended—

(1) in subparagraph (D) by striking ''carrying out an agreement under section 106 or 122''; and

(2) in the matter following subparagraph (D)—

(A) by striking ''any remedial action under this Act at a facility listed on the National Priorities List, or any removal under this Act,'' and inserting ''any response action,''; and

(B) by inserting before the period at the end the following: ''or to undertake appropriate action necessary to protect and restore any natural resource damaged by the release or threatened release''.

(g) DEFINITION OF RESPONSE ACTION CONTRACTOR.—Section 119(e)(2)(A)(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619(e)(2)(A)(i)) is amended by striking ''and is carrying out such contract'' and inserting ''covered by this section and any person (including any subcontractor) hired by a response action contractor''.

(h) SURETY BONDS.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C) by striking '', and before January 1, 1996,''; and

(2) in subsection (g)(5) by striking '', or after December 31, 1995''.

(i) NATIONAL UNIFORM STATUTE OF REPOSE.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended by adding at the end the following:

''(h) LIMITATION ON ACTIONS AGAINST RESPONSE ACTION CONTRACTORS.—

''(1) IN GENERAL.—No action may be brought as a result of the performance of services under a response contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to recover—

''(A) injury to property, real or personal;

''(B) personal injury or wrongful death;

''(C) other expenses or costs arising out of the performance of services under the contract; or

''(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

''(2) EXCEPTION.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes intentional misconduct.

''(3) INDEMNIFICATION.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

''(i) STATE STANDARDS OF REPOSE.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute of repose determining the liability of a response action contractor.''.

SEC. 505. RELEASE OF EVIDENCE.

(a) TIMELY ACCESS TO INFORMATION FURNISHED UNDER SECTION 104(e).—Section 104(e)(7)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(e)(7)(A)) is amended by inserting after ''shall be available to the public'' the following: ''not later than 14 days after the records, reports, or information is obtained''.

(b) REQUIREMENT TO PROVIDE POTENTIALLY RESPONSIBLE PARTIES EVIDENCE OF LIABILITY.—

(1) ABATEMENT ACTIONS.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking ''(a) In addition'' and inserting the following: ''(a) ORDER.—''

''(1) IN GENERAL.—In addition''; and

(B) by adding at the end the following:

''(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.''.

(2) SETTLEMENTS.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(e)(1)) is amended by inserting after subparagraph (C) the following:

''(D) For each potentially responsible party, the evidence that indicates that each element of liability contained in section 107(a)(1) (A), (B), (C), and (D), as applicable, is present.''.

SEC. 506. CONTRIBUTION PROTECTION.

Section 113(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(2)) is amended in the first sentence by inserting ''or cost recovery'' after ''contribution''.

SEC. 507. TREATMENT OF RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS AS OWNERS OR OPERATORS.

(a) DEFINITION.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)), as amended by section 502(a), is amended by adding at the end the following:

''(H) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—The term 'owner or operator' includes an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is organized and operated exclusively for religious, charitable, scientific, or educational purposes and that holds legal or equitable title to a vessel or facility.''.

(b) LIMITATION ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 306(b), is amended by adding at the end the following:

''(u) RELIGIOUS, CHARITABLE, SCIENTIFIC, AND EDUCATIONAL ORGANIZATIONS.—

''(1) LIMITATION ON LIABILITY.—Subject to paragraph (2), if an organization described in section 101(20)(I) holds legal or equitable title to a vessel or facility as a result of a charitable gift that is allowable as a deduction under section 170, 2055, or 2522 of the Internal Revenue Code of 1986 (determined without regard to dollar limitations), the liability of the organization shall be limited to the lesser of the fair market value of the vessel or facility or the actual proceeds of the sale of the vessel or facility received by the organization.

''(2) CONDITIONS.—In order for an organization described in section 101(20)(I) to be eligible for the limited liability described in paragraph (1), the organization shall—

''(A) provide full cooperation, assistance, and vessel or facility access to persons authorized to conduct response actions at the vessel or facility, including the cooperation and access necessary for the installation, preservation of integrity, operation, and maintenance of any complete or partial response action at the vessel or facility;

''(B) provide full cooperation and assistance to the United States in identifying and locating persons who recently owned, operated, or otherwise controlled activities at the vessel or facility;

''(C) establish by a preponderance of the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility; and

''(D) establish by a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.

''(3) LIMITATION.—Nothing in this subsection affects the liability of a person other than a person described in section 101(20)(G)

that meets the conditions specified in paragraph (2).''.

SEC. 508. COMMON CARRIERS.

Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking ''a published tariff and acceptance'' and inserting ''a contract''.

SEC. 509. LIMITATION ON LIABILITY FOR RESPONSE COSTS.

Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607), as amended by section 505(b), is amended by adding at the end the following:

''(v) LIMITATION ON LIABILITY OF RAILROAD OWNERS.—Notwithstanding subsection (a)(1), a person that does not impede the performance of a response action or natural resource restoration shall not be liable under this Act to the extent that liability is based solely on the status of the person as a railroad owner or operator of a spur track, including a spur track over land subject to an easement, to a facility that is owned or operated by a person that is not affiliated with the railroad owner or operator, if—

''(1) the spur track provides access to a main line or branch line track that is owned or operated by the railroad;

''(2) the spur track is 10 miles long or less; and

''(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.''.

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

''(g) TRANSFER OF AUTHORITIES.—

''(1) DEFINITIONS.—In this section:

''(A) INTERAGENCY AGREEMENT.—The term 'interagency agreement' means an interagency agreement under this section.

''(B) TRANSFER AGREEMENT.—The term 'transfer agreement' means a transfer agreement under paragraph (3).

''(C) TRANSFEREE STATE.—The term 'transferee State' means a State to which authorities have been transferred under a transfer agreement.

''(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator to exercise the authorities vested in the Administrator under this Act at any facility located in the State that is—

''(A) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

''(B) listed on the National Priorities List.

''(3) TRANSFER OF AUTHORITIES.—

''(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

''(i) the State has the ability to exercise such authorities in accordance with this Act, including adequate legal authority, financial and personnel resources, organization, and expertise;

''(ii) the State has demonstrated experience in exercising similar authorities;

''(iii) the State has agreed to be bound by all Federal requirements and standards under section 129 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

''(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authorities.

''(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

''(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

''(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action for the facility; and

''(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

''(4) EFFECT OF TRANSFER.—

''(A) STATE AUTHORITIES.—A transferee State—

''(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

''(ii) shall have exclusive authority to exercise authorities that have been transferred.

''(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement covering a facility with respect to which authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

''(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 129 by a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

''(A) any corrective action under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) that was initiated prior to the date of enactment of this subsection; and

''(B) any remedial action in excess of remedial action under section 129 that the State selects in accordance with paragraph (10).

''(6) DEADLINE.—

''(A) IN GENERAL.—The Administrator shall make a determination on an application by a State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

''(7) RESUBMISSION OF APPLICATION.—

''(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

''(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

''(8) JUDICIAL REVIEW.—A disapproval of a resubmitted application shall be subject to judicial review under section 113(b).

''(9) WITHDRAWAL OF AUTHORITIES.—The Administrator may withdraw the authorities transferred under a transfer agreement in whole or in part if the Administrator determines that the State—

''(A) is exercising the authorities, in whole or in part, in a manner that is inconsistent with the requirements of this Act;

''(B) has violated the transfer agreement, in whole or in part; or

''(C) no longer meets one of the requirements of paragraph (3).

''(10) STATE COST RESPONSIBILITY.—The State may require a remedial action that exceeds the remedial action selection requirements of section 121 if the State pays the incremental cost of implementing that remedial action over the most cost-effective remedial action that would result from the application of section 129.

''(11) DISPUTE RESOLUTION AND ENFORCEMENT.—

''(A) DISPUTE RESOLUTION.—

''(i) FACILITIES COVERED BY BOTH A TRANSFER AGREEMENT AND AN INTERAGENCY AGREEMENTS.—In the case of a facility with respect to which there is both a transfer agreement and an interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in the dispute resolution process provided for in the interagency agreement, except that the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

''(ii) FACILITIES COVERED BY A TRANSFER AGREEMENT BUT NOT AN INTERAGENCY AGREEMENT.—In the case of a facility with respect to which there is a transfer agreement but no interagency agreement, if the State does not concur in the remedial action proposed for selection by the Federal department, agency, or instrumentality, the Federal department, agency, or instrumentality and the State shall engage in dispute resolution as provide in paragraph (3)(B)(ii) under which the final level for resolution of the dispute shall be the head of the Federal department, agency, or instrumentality and the Governor of the State.

''(iii) FAILURE TO RESOLVE.—If no agreement is reached between the head of the Federal department, agency, or instrumentality and the Governor in a dispute resolution process under clause (i) or (ii), the Governor of the State shall make the final determination regarding selection of a remedial action. To compel implementation of the State's selected remedy, the State must bring a civil action in United States district court.

''(B) ENFORCEMENT.—

''(i) AUTHORITY; JURISDICTION.—An interagency agreement with respect to which there is a transfer agreement or an order issued by a transferee State shall be enforceable by a transferee State or by the Federal department, agency, or instrumentality that is a party to the interagency agreement only in the United States district court for the district in which the facility is located.

''(ii) REMEDIES.—The district court shall—

''(I) enforce compliance with any provision, standard, regulation, condition, requirement, order, or final determination that has become effective under the interagency agreement;

''(II) impose any appropriate civil penalty provided for any violation of an interagency agreement, not to exceed $25,000 per day;

''(III) compel implementation of the selected remedial action; and

''(IV) review a challenge by the Federal department, agency, or instrumentality to the remedial action selected by the State under this section, in accordance with section 113(j).

''(12) COMMUNITY PARTICIPATION.—If, prior to the date of enactment of this section, a Federal department, agency, or instrumentality had established for a facility covered by a transfer agreement a facility-specific advisory board or other community-based advisory group (designated as a 'site-specific advisory board', a 'restoration advisory board', or otherwise), and the Administrator determines that the board or group is willing and able to perform the responsibilities of a community response organization under section 117(e)(2), the board or group—

''(A) shall be considered to be a community response organization for the purposes of section 117 (e) (2), (3), (4), and (9), and (g) and sections 127 and 129; but

''(B) shall not be required to comply with, and shall not be considered to be a community response organization for the purposes of, section 117 (e) (1), (5), (6), (7), or (8) or (f).''.

SEC. 602. LIMITATION ON CRIMINAL LIABLIITY OF FEDERAL OFFICERS, EMPLOYEES, AND AGENTS.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by adding at the end the following:

''(i) CRIMINAL LIABILITY.—Notwithstanding any other provision of this Act or any other law, an officer, employee, or agent of the United States shall not be held criminally liable for a failure to comply, in any fiscal year, with a requirement to take a response action at a facility that is owned or operated by a department, agency, or instrumentality of the United States, under this Act, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), or any other Federal or State law unless—

''(1) the officer, employee, or agent has not fully performed any direct responsibility or delegated responsibility that the officer, employee, or agent had under Executive Order 12088 (42 U.S.C. 4321 note) or any other delegation of authority to ensure that a request for funds sufficient to take the response action was included in the President's budget request under section 1105 of title 31, United States Code, for that fiscal year; or

''(2) appropriated funds were available to pay for the response action.''.

SEC. 603. INNOVATIVE TECHNOLOGIES FOR REMEDIAL ACTION AT FEDERAL FACILITIES.

(a) IN GENERAL.—Section 311 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660) is amended by adding at the end the following:

''(h) FEDERAL FACILITIES.—

''(1) DESIGNATION.—The President may designate a facility that is owned or operated by any department, agency, or instrumentality of the United States, and that is listed or proposed for listing on the National Priorities List, to facilitate the research, development, and application of innovative technologies for remedial action at the facility.

''(2) USE OF FACILITIES.—

''(A) IN GENERAL.—A facility designated under paragraph (1) shall be made available to Federal departments and agencies, State departments and agencies, and public and private instrumentalities, to carry out activities described in paragraph (1).

''(B) COORDINATION.—The Administrator—

''(i) shall coordinate the use of the facilities with the departments, agencies, and instrumentalities of the United States; and

''(ii) may approve or deny the use of a particular innovative technology for remedial action at any such facility.

''(3) CONSIDERATIONS.—

''(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated under paragraph (1), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 120.

''(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that there is a need to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.''.

(b) REPORT TO CONGRESS.—Section 311(e) of Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking ''At the time'' and inserting the following:

''(1) IN GENERAL.—At the time''; and

(2) by adding at the end the following:

''(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the use of facilities described in subsection (h)(1) for the research, development, and application of innovative technologies for remedial activity, as authorized under subsection (h).''.

SEC. 604. FEDERAL FACILITY LISTING.

Section 120(h)(4)(C) of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(C)) is amended by adding at the end the following:

''(v) On identification of parcels of uncontaminated property under this paragraph, the President may provide notice that the listing does not include the identified uncontaminated parcels.''.

SEC. 605. FEDERAL FACILITY LISTING DEFERRAL.

Paragraph (3) of section 120(d) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(d)), as designated by section 604, is amended by inserting after ''persons'' the following: '', but an appropriate factor as referred to in section 105(a)(8)(A) may include the extent to which the Federal agency has arranged with the Administrator or with a State to respond to the release or threatened release under other legal authority''.

SEC. 606. TRANSFERS OF UNCONTAMINATED PROPERTY.

Section 120(h)(4)(A) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)(A)) is amended in the first sentence by striking ''stored for one year or more,''.

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), as amended by section 504(b), is amended by adding at the end the following:

''(52) BASELINE.—The term 'baseline' means the condition or conditions that would have existed at a natural resource had a release of hazardous substances not occurred.

''(53) COMPENSATORY RESTORATION.—The term 'compensatory restoration' means the provision of ecological services lost as a result of injury to or destruction or loss of a natural resource from the initial release giving rise to liability under section 107(a)(2)(C) until primary restoration has been achieved with respect to those services.

''(54) ECOLOGICAL SERVICE.—The term 'ecological service' means a physical or biological function performed by an ecological resource, including the human uses of such a function.

''(55) PRIMARY RESTORATION.—The term 'primary restoration' means rehabilitation, natural recovery, or replacement of an injured, destroyed, or lost natural resource, or acquisition of a substitute or alternative natural resource, to reestablish the baseline ecological service that the natural resource would have provided in the absence of a release giving rise to liability under section 107(a)(2)(C).

''(56) RESTORATION.—The term 'restoration' means primary restoration and compensatory restoration.''.

(b) LIABILITY FOR NATURAL RESOURCE DAMAGES.—

(1) AMENDMENT.—Section 107(a) of the Comprehensive Environmental Response Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)) is amended—

(A) by inserting ''IN GENERAL.—'' after ''(a)'';

(B) by striking ''Notwithstanding'' and inserting the following:

''(1) PERSONS LIABLE.—Notwithstanding'';

(C) by redesignating paragraphs (1), (2), (3), and (4) (as designated prior to the date of enactment of this Act) as subparagraphs (A), (B), (C), and (D), respectively, and adjusting the margins accordingly;

(D) by striking ''hazardous substance, shall be liable for—'' and inserting the following: ''hazardous substance,
shall be liable for the costs and damages described in paragraph (2).

''(2) COSTS AND DAMAGES.—A person described in paragraph (1) shall be liable for—'';

(E) by striking subparagraph (C) of paragraph (2), as designated by subparagraph (D), and inserting the following:

''(C) damages for injury to, destruction of, or loss of the baseline ecological services of natural resources, including the reasonable costs of assessing such injury, destruction, or loss caused by a release; and'';

(F) by striking ''The amounts'' and inserting the following:

''(3) INTEREST.—The amounts''; and

(G) in the first sentence of paragraph (3), as designated by subparagraph (F), by striking ''subparagraphs (A) through (D)'' and inserting ''paragraph (2)''.

(2) CONFORMING AMENDMENTS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended—

(A) in subsection (d)(3) by striking ''the provisions of paragraph (1), (2), (3), or (4) of subsection (a) of this section'' and inserting ''subsection (a)'';

(B) in subsection (f)(1) by striking ''subparagraph (C) of subsection (a)'' each place it appears and inserting ''subsection (a)(2)(C)''.

(c) NATURAL RESOURCE DAMAGES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting ''NATURAL RESOURCE DAMAGES.—'' after ''(f)'';

(2) by striking ''(1) NATURAL RESOURCES LIABILITY.—In the case'' and inserting the following:

''(1) LIABILITY.—

''(A) IN GENERAL.—In the case'';

(3) in paragraph (1)(A), as designated by paragraph (2)—

(A) in the first sentence by inserting ''the baseline ecological services of'' after ''loss of'';

(B) in the third and fourth sentences, by striking ''to restore, replace, or acquire the equivalent'' each place it appears and inserting ''for restoration'';

(C) by inserting after the fourth sentence the following: ''Sums recovered by an Indian tribe as trustee under this subsection shall be available for use only for restoration of such natural resources by the Indian tribe. A restoration conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically practicable, cost-effective, and consistent with all known or anticipated response actions at or near the facility.''; and

(D) by striking ''The measure of damages in any action'' and all that follows through the end of the paragraph and inserting the following:

''(B) LIMITATIONS ON LIABILITY.—

''(i) MEASURE OF DAMAGES.—The measure of damages in any action under subsection (a)(2)(C) shall be limited to the reasonable costs of restoration and of assessing damages.

''(ii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of non-use values.

''(iii) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for injury to, destruction of, or loss of a natural resource caused by a release shall not be entitled to recovery under or any other Federal or State law for injury to or destruction or loss of the natural resource caused by the release.

''(iv) NO RETROACTIVE LIABILITY.—

''(I) COMPENSATORY RESTORATION.—There shall be no recovery from any person under this section for the costs of compensatory restoration for a natural resource injury, destruction, or loss that occurred prior to December 11, 1980.

''(II) PRIMARY RESTORATION.—There shall be no recovery from any person under this section for the costs of primary restoration if the natural resource injury, destruction, or loss for which primary restoration is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.

''(v) BURDEN OF PROOF ON THE ISSUE OF THE DATE OF OCCURRENCE OF A RELEASE.—The trustee for an injured, destroyed, or lost natural resource bears the burden of demonstrating that any amount of costs of compensatory restoration that the trustee seeks under this section is to compensate for an injury, destruction, or loss (or portion of an injury, destruction, or loss) that occurred on or after December 11, 1980.''; and

(4) by adding at the end the following:

''(3) SELECTION OF RESTORATION METHOD.—When selecting appropriate restoration measures, including natural recovery, a trustee shall select the most cost-effective method of achieving restoration.''.

SEC. 702. ASSESSMENT OF DAMAGES.

(a) DAMAGE ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

''(C) DAMAGE ASSESSMENT.—

''(i) REGULATION.—A natural resource damage assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

''(I) the regulation issued under section 301(c); and

''(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

''(ii) FACILITY-SPECIFIC CONDITIONS AND RESTORATION REQUIREMENTS.—Injury determination, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on an assessment of facility-specific conditions and restoration requirements.

''(iii) USE BY TRUSTEE.—A natural resource damage assessment under clause (i) may be used by a trustee as the basis for a natural resource damage claim only if the assessment demonstrates that the hazardous substance release in question caused the alleged natural resource injury.

''(iv) COST RECOVERY.—As part of a trustee's claim, a trustee may recover only the reasonable damage assessment costs that were incurred directly in relation to the site-specific conditions and restoration measures that are the subject of the natural resource damage action.''.

(b) REGULATIONS.—

(1) NEW REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651) is amended by striking subsection (c) and inserting the following:

''(c) REGULATIONS FOR DAMAGE ASSESSMENTS.—

''(1) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 107(f)(2), shall issue a regulation for the assessment of restoration damages and assessment costs for injury to, destruction of, or loss of natural resources resulting from a release of a hazardous substance for the purposes of this Act.

''(2) CONTENTS.—The regulation under paragraph (1) shall—

''(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of baseline ecological services of the environment;

''(B) identify the best available procedures to determine damages for the reasonable cost of restoration and assessment;

''(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources; and

''(D) specify an appropriate mechanism for the cooperative designation of a single lead decisionmaking trustee at a site where more than one Federal, State, or Indian tribe trustee intends to conduct an assessment, which designation shall occur not later than 180 days after the date of first notice to the responsible parties that a natural resource damage assessment will be made.

''(3) BIENNIAL REVIEW.—The regulation under paragraph (1) shall be reviewed and revised as appropriate every 2 years.''.

(2) INTERIM PROVISION.—Until such time as the regulations issued pursuant to the amendment made by paragraph (1) become effective, the regulations issued under section 301(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9651(c)) shall remain in effect and shall be applied, subject to challenge on any ground, in the same manner and to the same extent as if this Act had not been enacted, except to the extent that those regulations are inconsistent with this Act or an amendment made by this Act.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND RESOURCE RESTORATION STANDARDS AND ALTERNATIVES.

(a) RESTORATION STANDARDS AND ALTERNATIVES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)), as amended by section 701(b)(4), is amended by adding at the end the following:

''(4) CONSISTENCY WITH RESPONSE ACTIONS.—A restoration standard or restoration alternative selected by a trustee for a facility listed or proposed for listing on the National Priorities List shall not be duplicative of or inconsistent with actions undertaken pursuant to section 104, 106, 121, or 129.''.

(b) RESPONSE ACTIONS.—

(1) ABATEMENT ACTION.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended by adding at the end the following: ''The President shall not take action under this subsection except such action as is necessary to protect the public health and the baseline ecological services of the environment.''.

(2) LIMITATION ON DEGREE OF CLEANUP.—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)), as amended by section 402(1), is amended by adding at the end the following:

''(7) LIMITATION.—

''(A) IN GENERAL.—The Administrator shall not select a remedial action under this section that goes beyond the measures necessary to protect human health and the environment and restore the baseline ecological services of the environment.

''(B) CONSIDERATIONS.—In evaluating and selecting remedial actions, the Administrator shall take into account the potential for injury to or destruction or loss of a natural resource resulting from such actions.

''(C) NO LIABILITY.—No person shall be liable for injury to or destruction or loss of a natural resource resulting from a response action or remedial action selected by the Administrator that is properly implemented without negligence or other improper performance on the part of a potentially responsible party or other person acting at the direction of a potentially responsible party.''.

SEC. 704. MISCELLANEOUS AMENDMENTS.

Section 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9613(f)(1)) is amended in the third sentence by inserting ''and natural resource damages'' after ''costs''.

TITLE VIII—MISCELLANEOUS

SEC. 801. RESULT-ORIENTED CLEANUPS.

(a) AMENDMENT.—Section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) is amended—

(1) by striking ''and'' at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting ''; and''; and

(3) by inserting after paragraph (10) the following:

''(11) procedures for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

''(A) use a results-oriented approach to minimize the time required to conduct response measures and reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

''(B) require, at a minimum, expedited facility evaluations and risk assessments, timely negotiation of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

''(C) be subject to the requirements of sections 117, 120, 121, and 129 in the same manner and to the same degree as those sections apply to response actions; and

''(D) be required to be used for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B).''.

(b) AMENDMENT OF NATIONAL HAZARDOUS SUBSTANCE RESPONSE PLAN.—Not later than 180 days after the date of enactment of this Act, the Administrator, after notice and opportunity for public comment, shall amend the National Hazardous Substance Response Plan under section 105(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)) to include the procedures required by the amendment made by subsection (a).

SEC. 802. NATIONAL PRIORITIES LIST.

Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605), as amended by section 408(a)(1)(B), is amended by adding at the end the following:

''(i) NATIONAL PRIORITIES LIST.—

''(1) ADDITIONAL VESSELS AND FACILITIES.—

''(A) LIMITATION.—

''(i) IN GENERAL.—After the date of the enactment of this subsection, the President may add vessels and facilities to the National Priorities List only in accordance with the following schedule:

''(I) Not more than 30 vessels and facilities in 1996.

''(II) Not more than 25 vessels and facilities in 1997.

''(III) Not more than 20 vessels and facilities in 1998.

''(IV) Not more than 20 vessels and facilities in 1999.

''(V) Not more than 10 vessels and facilities in 2000.

''(VI) Not more than 10 vessels and facilities in 2001.

''(VII) Not more than 10 vessels and facilities in 2002.

''(ii) RELISTING.—The relisting of a vessel or facility under section 135(d)(5)(C)(ii) shall not be considered to be an addition to the National Priorities List for purposes of this subsection.

''(B) PRIORITIZATION.—The Administrator shall prioritize the vessels and facilities added under subparagraph (A) on a national basis in accordance with the threat to human health and the environment presented by each of the vessels and facilities, respectively.

''(C) STATE CONCURRENCE.—A vessel or facility may be added to the National Priorities List under subparagraph (A) only with the concurrence of the State in which the vessel or facility is located.

''(2) SUNSET.—

''(A) NO ADDITIONAL VESSELS OR FACILITIES.—The authority of the Administrator to add vessels and facilities to the National Priorities List shall expire on December 31, 2002.

''(B) LIMITATION ON ACTION BY THE ADMINISTRATOR.—At the completion of response actions for all vessels and facilities on the National Priorities List, the authority of the Administrator under this Act shall be limited to—

''(i) providing a national emergency response capability;

''(ii) conducting research and development;

''(iii) providing technical assistance; and

''(iv) conducting oversight of grants and loans to the States.''.

SEC. 803. OBLIGATIONS FROM THE FUND FOR RESPONSE ACTIONS.

Section 104(c)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(1)) is amended—

(1) in subparagraph (C) by striking ''consistent with the remedial action to be taken'' and inserting ''not inconsistent with any remedial action that has been selected or is anticipated at the time of any removal action at a facility.'';

(2) by striking ''$2,000,000'' and inserting ''$4,000,000''; and

(3) by striking ''12 months'' and inserting ''2 years''.

SEC. 804. REMEDIATION WASTE.

(a) DEFINITIONS.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding at the end the following:

''(42) DEBRIS.—The term 'debris'—

''(A) means—

''(i) a solid manufactured object exceeding a 60 millimeter particle size;

''(ii) plant or animal matter; and

''(iii) natural geologic material; but

''(B) does not include material that the Administrator may exclude from the meaning of the term by regulation.

''(43) IDENTIFIED CHARACTERISTIC WASTE.—The term 'identified characteristic waste' means a solid waste that has been identified as having the characteristics of hazardous waste under section 3001.

''(44) LISTED WASTE.—The term 'listed waste' means a solid waste that has been listed as a hazardous waste under section 3001.

''(45) MEDIA.—The term 'media' means ground water, surface water, soil, and sediment.

''(46) REMEDIATION ACTIVITY.—The term 'remediation activity' means the remediation, removal, containment, or stabilization of—

''(A) solid waste that has been released to the environment; or

''(B) media and debris that are contaminated as a result of a release.

''(47) REMEDIATION WASTE.—The term 'remediation waste' means—

''(A) solid and hazardous waste that is generated by a remediation activity; and

''(B) debris and media that are generated by a remediation activity and contain a listed waste or identified characteristic waste.

''(48) STATE VOLUNTARY REMEDIATION PROGRAM.—The term 'State voluntary remediation program' means a program established by a State that permits a person to conduct remediation activity at a facility under general guidance or guidelines without being subject to a State order or consent agreement specifically applicable to the person.''.

(b) IDENTIFICATION AND LISTING.—Section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) is amended by adding at the end the following:

''(j) REMEDIATION WASTE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a person that manages remediation waste that is an identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste shall be subject to the requirements of this subtitle (including regulations issued under this subtitle, including the regulation for corrective action management units published in section 264.552, Code of Federal Regulations, and the regulation for temporary units published in section 264.553, Code of Federal Regulations, or any successor regulation).

''(2) EXCEPTIONS.—

''(A) REQUIREMENTS UNDER SECTION 3004.—Media and debris generated by a remediation activity that are identified characteristic wastes or listed wastes or that contain an identified characteristic waste or a listed waste shall not be subject to the requirements of section 3004 (d), (e), (f), (g), (j), (m), or (o).

''(B) PERMIT REQUIREMENTS.—No Federal, State, or local permit shall be required for the treatment, storage, or disposal of remediation waste that is conducted entirely at the facility at which the remediation takes place.

''(3) REMEDIATION WASTE SUBJECT TO ORDERS, CONSENT AGREEMENTS, VOLUNTARY REMEDIATION PROGRAMS, AND OTHER MECHANISMS.—

''(A) REQUIREMENTS NOT APPLICABLE.—Notwithstanding paragraph (1), a person that manages remediation waste that—

''(i) is identified characteristic waste or listed waste or that contains an identified characteristic waste or listed waste; and

''(ii) is subject to a Federal or State order, Federal or State consent agreement, a State voluntary remediation program, or such other mechanism as the Administrator considers appropriate,

shall not be subject to the requirements of this subtitle (including any regulation under this subsection) unless the requirements are specified in the Federal or State order, Federal or State consent agreement, State voluntary cleanup program, or other mechanism, as determined by the Administrator.

''(B) ENFORCEMENT.—Unless other enforcement procedures are specified in the order, consent agreement, or other mechanism, a person described in subparagraph (A) (except a person that manages remediation waste under a State voluntary remediation program) shall be subject to enforcement of the requirements of the order, consent agreement, or other mechanism by use of enforcement procedures under section 3008.''.

(c) REGULATION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue a regulation implementing section 3001(j) of the Solid Waste Disposal Act, as added by subsection (b).

TITLE IX—FUNDING

Subtitle A—General Provisions

SEC. 901. AUTHORIZATION OF APPROPRIATIONS FROM THE FUND.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended in the first sentence by striking ''not more than $8,500,000,000 for the 5-year period beginning on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986, and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994'' and inserting ''a total of $8,500,000,000 for fiscal years 1996, 1997, 1998, 1999, and 2000''.

SEC. 902. ORPHAN SHARE FUNDING.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 301(c), is amended by inserting after paragraph (8) the following:

''(9) ORPHAN SHARE FUNDING.—Payment of orphan shares under section 132.''.

SEC. 903. DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (m) and inserting the following:

''(m) HEALTH AUTHORITIES.—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(4) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1996, 1997, 1998, 1999, and 2000. Funds appropriated under this subsection for a fiscal year, but not obligated by the end of the fiscal year, shall be returned to the Fund.''.

SEC. 904. LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (n) and inserting the following:

''(n) LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

''(1) ALTERNATIVE OR INNOVATIVE TECHNOLOGIES RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.—

''(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of carrying out the applied research, development, and demonstration program for alternative or innovative technologies and training program authorized under section 311(b) other than basic research.

''(B) CONTINUING AVAILABILITY.—Such amounts shall remain available until expended.

''(2) HAZARDOUS SUBSTANCE RESEARCH, DEMONSTRATION, AND TRAINING.—

''(A) LIMITATION.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000 not more than $20,000,000 of the amounts available in the Fund may be used for the purposes of section 311(a).

''(B) FURTHER LIMITATION.—No more than 10 percent of such amounts shall be used for training under section 311(a) for any fiscal year.

''(3) UNIVERSITY HAZARDOUS SUBSTANCE RESEARCH CENTERS.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $5,000,000 of the amounts available in the Fund may be used for the purposes of section 311(d).''.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS FROM GENERAL REVENUES.

Section 111(p) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(p)) is amended by striking paragraph (1) and inserting the following:

''(1) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the Hazardous Substance Superfund—

''(i) for fiscal year 1996, $250,000,000;

''(ii) for fiscal year 1997, $250,000,000;

''(iii) for fiscal year 1998, $250,000,000;

''(iv) for fiscal year 1999, $250,000,000; and

''(v) for fiscal year 2000, $250,000,000.

''(B) ADDITIONAL AMOUNTS.—There is authorized to be appropriated to the Hazardous Substance Superfund for each such fiscal year an amount, in addition to the amount authorized by subparagraph (A), equal to so much of the aggregate amount authorized to be appropriated under this subsection and section 9507(b) of the Internal Revenue Code of 1986 as has not been appropriated before the beginning of the fiscal year.''.

SEC. 906. ADDITIONAL LIMITATIONS.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by adding at the end the following:

''(q) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM.—For each of fiscal years 1996, 1997, 1998, 1999, and 2000, not more than $25,000,000 of the amounts available in the Fund may be used for the purposes of subsection (a)(7) (relating to qualifying State voluntary response programs).

''(r) BROWNFIELD CLEANUP ASSISTANCE.—For each of fiscal years 1996 through 2000, not more than $15,000,000 of the amounts available in the Fund may be used to carry out section 134(b).

''(s) COMMUNITY RESPONSE ORGANIZATION.—For the period commencing October 1, 1995, and ending September 30, 2000, not more than $15,000,000 of the amounts available in the Fund may be used to make grants under section 117(f) (relating to Community Response Organizations).

''(t) RECOVERIES.—Effective beginning October 1, 1995, any response cost recoveries collected by the United States under this Act shall be credited as offsetting collections to the Superfund appropriations account.''.

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)), as amended by section 902, is amended by inserting after paragraph (9) the following:

''(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

''(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

''(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

''(i) are unallowable due to contractor fraud;

''(ii) are unallowable under the Federal Acquisition Regulation; or

''(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures,

a potentially responsible party may be reimbursed for those costs.''.

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the global proliferation of weapons of mass destruction, part II.

This hearing will take place on Friday, March 22, 1996 in room 342 of the Dirksen Senate Office Building. For further information, please contact Daniel S. Gelber of the Subcommittee staff at 224–9157.

SPECIAL COMMITTEE ON AGING

Mr. COHEN. Mr. President, I wish to announce that the Special Committee on Aging will hold a hearing on Thursday, March 28, 1996, at 9:30 a.m., in room 562 of the Dirksen Senate Office Building. The hearing will discuss adverse drug reactions and the effects on the elderly.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10 a.m. on Thursday, March 21, 1996, in open session, to receive testimony from the unified commanders on their military strategies, operational requirements, and the defense authorization request for fiscal year 1997 and the future years defense programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 2 p.m. on Thursday, March 21, 1996 to receive testimony on Department of the Navy shipbuilding programs in review of the defense authorization request for fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GORTON. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, March 21, at 9:00 a.m. for a hearing on the Tenth Amendment Enforcement Act of 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. 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, March 21, 1996 at 10:00 a.m. in SH216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Thursday, March 21, 1996. The committee will be in executive session at 9:00 a.m. on S. 1578, The Individuals With Disabilities in Education Act [IDEA].

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate for a hearing on Thursday, March 21, 1996, at 10:30 a.m., in room 428A of the Russell Senate Office Building, to conduct a hearing focusing on ''S. 1574, the HUBZones Act of 1996—Revitalizing Inner Cities and Rural America.''

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GORTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 21, 1996, at 2 p.m. to hold a closed briefing for members on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT AND STRUCTURE

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on HUD Oversight and Structure, of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 21, 1996, to conduct a hearing on the 1992 Federal Housing Enterprises Safety and Soundness Act as it affects Fannie Mae and Freddie Mac.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, March 21, 1996, for purposes of conducting a subcommittee hearing which is

scheduled to begin at 9:30 a.m. The purpose of this hearing is to review S. 305, a bill to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia; H.R. 1091, a bill to improve the National Park System in the Commonwealth of Virginia; S. 1225, a bill to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the upper Hudson River Valley; S. 1226, a bill to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, to establish an American Battlefield Protection Program; and S.J. Res. 42, a joint resolution designating the Civil War Center at Louisiana State University as the U.S. Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Readiness of the Committee on Armed Services be authorized to meet at 2:30 p.m. on Thursday, March 21, 1996, in open session, to receive testimony on the readiness of the Guard and Reserve to support the national military strategy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CORPORATE SUBSIDY REVIEW, REFORM AND TERMINATION COMMISSION

● Mr. MCCAIN. Mr. President, last year, I introduced bipartisan legislation to establish a Corporate Subsidy Review, Reform, and Termination Commission.

The proposed eight-member panel, styled after the military base closing commission would review Federal programs as well as provisions of the U.S. Tax Code to identify those that unduly subsidize specific profit-making companies, select industries, or segments of an industry in a manner that is unfair or anticompetitive and has no compelling public benefit. The Commission would recommend to Congress specific reforms and or termination of such subsidies, and Congress would consider the package under limited procedures spelled out in the legislation.

The establishment of such a Commission, though an inferior alternative to Congress taking action directly, has become necessary because Congress does not appear willing or able to eliminate or significantly reform corporate subsidies.

In these times of budget austerity, we are asking millions of Americans—from families who receive food stamps to our men and women in uniform—to sacrifice in order to stop the Nation's fiscal bleeding. As a matter of simple fairness, we have a moral obligation to ensure that corporate interests share the burden.

The Cato and Progressive Policy Institutes, have identified 125 Federal programs that subsidize industry to the tune of $85 billion every year, and PPI found an additional $30 billion in tax loopholes to powerful industries.

Mr. President, I want to make clear, I am sure there are a number of programs which could be classified as a corporate subsidy which may serve a public interest. And, every Senator in this Chamber, including this Senator, have supported at one time or another a variety of these programs.

So, no one is pure or innocent on the question of corporate subsidies. But, blame is not the issue, that's only an oft-used diversion. The issue is what is required of us today to reduce the debt that grown larger every day, eating up a greater percentage of the budget in debt service and submerging the prospects of our children as they are required to spend an evergrowing portion of their life to pay our bills.

Under such circumstances, we are compelled to take a harder, more judicious, look at corporate subsidies and eliminate those that are not justified and do not have a compelling public interest.

As the Public Policy Institute observed,

> The President and Congress can break the current impasse and substantially reduce both spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

Let me conclude, Mr. President, by acknowledging that I do not really like the idea of commissions. In some instances reasonable and well-intentioned people may disagree on what is pork as opposed to a necessary and vital program. But in many instances we know what can and should be eliminated. The reality, however, is that Members will simply not gore their own ox, unless others are forced to do the same. As with military base closures—the mentality is—we either all go together or we do not go at all. Perhaps that is the only fair way to do it.

An independent corporate pork commission with privileged and expedited procedures to ensure congressional action would help us even better define what is an unnecessary and unwarranted corporate subsidy, and it will help us depoliticize the process, guarantee that the pain is shared, and might be the only realistic means of achieving the meaningful reform that the public and our dire fiscal circumstances demand.

I look forward to working with my colleagues to refine a commission and congressional consideration process that is fair, targeted, and appropriate.●

TRIBUTE TO CF INDUSTRIES, INC.

● Mr. BREAUX. Mr. President, I rise today along with my colleagues: Mr. GRAHAM and Mr. MACK of Florida, Mr. SIMON and Mrs. MOSELEY-BRAUN of Illinois, and Mr. JOHNSTON of Louisiana, to pay tribute to CF Industries, Inc., which is celebrating its 50th anniversary this year. CF is an interregional farm supply cooperative owned by 11 regional cooperatives in the United States and Canada. CF's nitrogen, phosphate, and potash products reach over 1 million farmer-owners who depend on the CF system to manufacture and distribute agricultural fertilizers to them. We would like to congratulate CF and its employees on the high-quality products and services they have provided to the Nation's farmers over the past 50 years and their commitment to sound environmental, health, and safety practices.

Established in 1946 as Central Farmers Fertilizer Co., CF began as a broker for sales of fertilizer products to farmer-members with the goal of becoming the Nation's major fertilizer supplier for the agricultural cooperative community. Through 1960, CF evolved from a broker to a manufacturer and distributor of fertilizer products.

Today, CF has become more than the founding members have ever envisioned. CF manufacturing plants include nitrogen fertilizer complexes in Donaldsonville, LA, and Medicine Hat, AB, Canada, as well as extensive phosphate mining and manufacturing facilities in Florida. CF plants have the capacity to produce more than 8 million tons of fertilizer products annually. In 1995, CF sales totaled over $1.3 billion.

Products are distributed to farmer-members in 46 States and two Canadian provinces through an extensive system. CF has ownership and lease positions in 63 regional terminals and warehouses. Total storage capacity of CF distribution terminals and warehouses is in excess of 2.4 million tons of product.

In closing, Mr. President, we want to express our good wishes to CF Industries, Inc., and its employees as they continue to respond to the needs of the cooperative community and look to providing high-quality products and services into the 21st century.●

THE 100TH ANNIVERSARY OF ST. PAUL'S EVANGELICAL LUTHERAN CHURCH

● Mr. ABRAHAM. Mr. President, I rise today to congratulate St. Paul's Evangelical Lutheran Church of Northville, MI, on their 100th anniversary. Just over 100 years ago, a group of German speaking residents began meeting on Sunday mornings, forming what was to become the Evangelical Lutheran Church of the Reformation of Northville. On August 30, 1896, the congregation celebrated Holy Communion for the first time.

Remembering the verse in Proverbs, ''The fear of the Lord is the beginning of wisdom,'' the congregation started a Christian Day School in September with seven children attending the first

semester. Less than 1 year later, St. Paul's church purchased the deed to property on Elm Street. The church still resides at that location.

On November 28, 1948, ground was broken for the new church building. Dedicated in February 1950, the Gothic building contained three beautiful stained glass windows located above the altar symbolizing the Holy Trinity. Other windows throughout the nave tell the story of Christ's apostles.

Since 1896, the congregation at St. Paul's has met faithfully on Sunday mornings. The Day School continues to serve families of St. Paul's and the Northville community.

Again, congratulations to this community. I wish it many more years of fellowship and worship.●

ICI EXPORT LTD.

● Mr. DODD. Mr. President, it has come to my attention that ICI Export Ltd. was erroneously listed among the ''Corporations and companies cited in the international media as having commercial activities with the Republic of Cuba'' in the CONGRESSIONAL RECORD of March 5, 1996. ICI Export Ltd., which is in no way affiliated with ICI Americas, Inc., has not existed since 1992. I ask that the attached letter from William A. Meaux of ICI Americas, Inc. be printed in the RECORD.

The letter follows:

ICI AMERICAS INC.,
Washington, DC, March 12, 1996.

Hon. CHRISTOPHER DODD,
Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Thank you very much for your offer to correct the erroneous listing of ICI Export Ltd. in the Congressional Record of March 5, 1996, on page S 1490. The listing of ICI Export Ltd. by the U.S.-Cuba Trade and Economic Council, Inc. is in error. ICI Export does not exist, has not existed since 1992, and is not affiliated with any company in the ICI group. After 1992, it is our understanding that ICI Export Ltd. became Zeneca International Ltd. located at 10 Stanhope Gate in London, England. Zeneca International Ltd. is not affiliated with, does not own, and is not owned by, ICI Americas or any other ICI company. We are very grateful for your offer to correct this inaccuracy in the RECORD.

Sincerely,

WILLIAM A. MEAUX.●

RECOGNIZING ILLINOIS WESLEYAN UNIVERSITY

● Mr. SIMON. Mr. President, the Illinois Wesleyan University Titans Men's Basketball Team recently placed third in the Nation among NCAA Division III schools. The Titans head coach, Denny Bridges, has been with the team for 31 years. He is one of the winningest coaches in Division III basketball. The university ought to be proud of its coach and players.

We should also recognize the quality education that the school offers. Illinois Wesleyan was recently ranked by U.S. News and World Report in the top 5 among Liberal Arts universities in the United States.

I commend the university and its basketball team. They deserve our accolades.●

THE 75TH ANNIVERSARY OF THE JACKSON LIONS HOST CLUB

● Mr. ABRAHAM. Mr. President, I rise today to congratulate the 75th anniversary of the Jackson Lions Host Club. For 75 years, members of this outstanding organization have been providing care and assistance to the handicapped and less fortunate as well as contributing both physical and monetary resources toward a brighter future.

In 1921 at the International Host Lions Club Convention, Helen Keller challenged the delegates to dedicate their charitable outreach to the blind. The Jackson club has been generously meeting this challenge, furnishing free Leader Dogs, promoting the enactment of the White Cane Law, and supporting numerous other civic projects and local charities.

Once again, I would like to congratulate this organization and to encourage the spirit of giving that its members have demonstrated in so many ways.●

COMMENDING THE ANTI-DEFAMATION LEAGUE FOR THEIR EFFORTS TO COMBAT HATE CRIMES

● Mr. SIMON. Mr. President, I applaud the Anti-Defamation League [ADL] for its continuing work to expose and combat hate crimes, and to bring your attention to its most recent ''Audit of Anti-Semitic Incidents.'' For the past 17 years, the ADL has compiled data about anti-Jewish attacks. Their efforts in the collection of data and the development of programs regarding anti-Semitic acts increase public awareness of this problem, and help generate constructive solutions. I commend ADL for continuing this important endeavor and would like to share with you some of their recent findings.

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against property and persons—was 1,843. I am pleased to report that this total represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066. This is the largest decline in 10 years. Unfortunately, the decline is contrasted with the seriousness of many of the incidents reported. For the fifth straight year in a row, acts of anti-Semitic harassment against individuals outnumber incidents of vandalism against institutions and other property. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, compared to 727 accounts of vandalism. Fortunately, the 1,116 incidents of harassment, threats, and assaults represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record. Although it is encouraging to see the number of harassments down from previous years, I am troubled that incidents of harassment remain one of the dominant forms of anti-Semitic activity.

Although the ADL audit provides useful statistics about anti-Semitism generally, it is particularly revealing to consider specific incidents. One particularly violent incident occurred in Cincinnati, OH, when a group of four youths assaulted the son of a community rabbi, chasing him for about a block before they caught him outside of the synagogue and beat him until he collapsed on the street. The ADL also reported an incident of arson in New York City, at Freddy's Fashion Mart, where eight people, including the arsonist himself, died. At Fresno State College, following the assassination of Israeli Prime Minister Yitzhak Rabin, the student-run newspaper printed an article calling Rabin, ''The most despicable mass murderer the 20th century has seen, making Hitler look like Big Bird.''

Sadly, 1995 saw a large number of anti-Semitic incidences on college campuses. One disturbing incident occurred at the University of Pennsylvania. On March 24, two students were walking in an area immediately off campus. Derogatory epithets were shouted at them by two students sitting on the porch of a private home. When the Jewish students confronted them, one of the two went into the house and returned brandishing a shotgun which he used to threaten the Jewish students, who quickly fled the scene.

On another somber note, the number of arrests made in conjunction with anti-Semitic hate crimes was 108, a significant decrease of 33 from last year's arrest total of 141. This may be attributed to either fewer crimes or underreporting of crime instances. However, the number of arrests is still relatively high, which is encouraging. Law enforcement agencies have been making intensive efforts to refine procedures for investigation of hate crimes, with the assistance of the ADL and other human relations organizations.

In closing, I again want to commend the ADL for its outstanding and important work and ask that portions of the ADL report be printed in the RECORD.

The material follows:

AUDIT OF ANTI-SEMITIC INCIDENTS—1995

THE FINDINGS

In 1995, the total number of anti-Semitic incidents reported to the Anti-Defamation League—including acts against both property and persons—was 1,843. This total, comprising reports from 42 states and the District of Columbia, represents a decrease of 223 incidents, or 11 percent, from the 1994 total of 2,066.

The four states reporting the highest totals of anti-Semitic incidents of all kinds in 1995 were: New York (370), California (264), New Jersey (228), and Florida (152). These four states account for 1,014 of the 1,843 incidents reported (55 percent).

The 1995 audit reveals the following new developments:

(1) The decline in violent crime in the U.S. that has been reported by Federal and municipal law enforcement in 1995 carries over

into anti-Semitic bias incidents as well. The overall 11 percent decline reflected in this year's Audit is the first since 1992, and the largest decline in 10 years. Thus, the Audit statistics mirror the state of crime in American society. Enhanced security awareness by Jewish institutions, steadily improving law enforcement action, and passage of hate crimes legislation have likely contributed to this decline.

(2) The decline is contrasted with the seriousness of many of the incidents reported. An extremely violent arson incident in New York City led to several deaths. In addition, the number of cemetery desecrations (one of the most serious and hurtful forms of vandalism, which affects an entire community) actually increased over 1994.

(3) The number of incidents occurring on the college campus shows the first decline since 1987, and only the second since the Audit began separately counting such incidents in 1984. In 1995, 118 campus incidents occurred, a decrease of 25 (17 percent) from the 1994 total of 143.

In addition to the aforementioned findings, the 1995 figures maintain two important trends noted in the 1994 ADL study:

(1) For the fifth straight year, acts of anti-Semitic harassment outnumber incidents of vandalism. In 1995, the 1,116 incidents of harassment account for 61 percent of all incidents, vs. 727 incidents of vandalism. The number of harassments and assaults in 1995 dropped by 81, or 7 percent, from 1994.

(2) As in previous years, of the total of 727 incidents of vandalism, the number of vandalism incidents committed against public properly locations (362)—i.e., public school buildings, bridges, and sign posts—in 1995 was more than twice that committed against synagogues and other Jewish institutional targets (145). (The remaining 220 vandalism incidents were perpetrated against privately owned property.) This pattern continues a trend seen over the previous five years. Vandals, it seems, are still opting for the more numerous and harder-to-protect public locations rather than the generally better secured and increasingly more aware Jewish institutions. In recent years, such institutions have also become better protected by more intensive law enforcement action.

FEWER INCIDENTS—BUT MANY STILL VERY SERIOUS

In contrast to the overall decline in incidents reported in 1995, there were several particularly troubling incidents which took place over the last year.

On November 11, 1995, the FBI arrested four suspects in a foiled attempt to bomb several offices of civil rights organizations around the country, including ADL Regional Offices. Willie Ray Lampley, Cecilia Lampley, Larry Wayne Crow, and John Dare Baird had been allegedly conspiring since August 1995 to build homemade bombs out of ammonium nitrate, fuel oil, and other ingredients to destroy the ADL Houston office, a second unnamed ADL office, the Southern Poverty Law Center in Montgomery, Alabama, and two other targets to be decided by the ''Tri-State Militia.''

The FBI became aware of the plans on a tip from local law enforcement sources in South Dakota, and closely monitored the development plot through the use of undercover informants and surveillance. All of the suspects were arrested without incident, and indicted on Federal charges.

On December 8th, Roland Smith entered Freddy's Fashion Mart on Harlem's historic 125th Street in New York City. According to the New York Times (Dec. 9, 10), he then produced a revolver and yelled ''It's on now!'' and ordered all blacks to leave the store. After this he began to fire the gun, and to spread a flammable liquid over the racks of clothing in the store, before igniting them. When the fire department had finally extinguished the flames, 8 people were dead, including Smith. An additional 4 people were wounded.

Fred Harari, the Jewish owner of Freddy's, was involved in a landlord-tenant dispute with Sikhulu Shange, the black owner of the Record Shack, a store subletting an adjacent property. (The entire property was actually owned by the United House of Prayer for All People, a Black church). Mr. Shange enlisted the support of the 125th Street Vendors Association, which organized demonstrations outside of Freddy's. Though it started as a simple economic dispute, the demonstrators quickly began to characterize it in terms of a white Jewish-owned business trying to force a black business off 125th Street. In late November, Mr. Harari complained that the demonstrations, which was supported by community newspapers and radio stations, were taking an anti-Semitic tone, and were laced with increasingly violent racist rhetoric.

On Saturday, February 18, members of the Ohev Shalom Synagogue in York, PA, arrived for services to find a severed pig's head mounted on the front door. The community quickly rallied behind the efforts of law enforcement officials to apprehend the perpetrator, and support the synagogue. At a vote on a motion to condemn the incident, town supervisor Lori Mitrick states that the Jewish community should know ''this is not just an embarrassment to them, it is an embarrassment to all decent human beings.''

Determined police work led to the eventual arrest and conviction of 22-year-old Mason E. Aldrich for institutional vandalism, desecration of venerated objects, and criminal conspiracy. He was sentenced to 23 months in jail and ordered to perform 120 hours of community service, including 15 hours of cultural awareness programming with ADL.

In interviews leading up to his October 16 Million Man March, the Nation of Islam leader Louis Farrakhan sought to justify his referring to Jews and others as ''blood suckers.'' On Reuters Television, Farrakhan explained, ''Many of the Jews who owned the homes, the apartments in the black community, we considered them bloodsuckers because they took from our community but didn't offer anything back to our community.'' Minister Farrakhan was interviewed by many national news programs in the weeks leading up to the march, interspersing many of his remarks with thinly veiled conspiracy theory anti-Semitism.

In addition to the above incidents, other troubling acts included the beating of a rabbi's son in Cincinnati, OH, and the intimidation of the cast of a play about the Holocaust in Honolulu, HI. At the University of Pennsylvania, two Jewish students were threatened by other students brandishing a shotgun, after being taunted with anti-Semitic epithets. In California, a home-made fire-bomb was thrown at a synagogue. The bomb did not detonate, and the synagogue was spared. (Please see Examples of Harassment, Threats and Assaults, p. 4; Campus Incidents, p. 9; and A Look at Some Noteworthy Incidents, p. 13, for more information.)

HARASSMENT, THREATS, AND ASSAULTS

In 1995, the number of incidents of anti-Semitic harassment, threats, and assaults directed at Jewish individuals and institutions totaled 1,116. This total represents a decrease of 81, or 7 percent from the 1994 total of 1,197, which was the highest on record.

This category of incidents covers a large variety of intimidating and hostile acts, including: slanderous anti-Semitic and neo-Nazi hate literature mailed or disseminated in public places; slurs directed against Jewish individuals walking to synagogue services or campus gatherings; speeches given on campus containing anti-Semitic language; Holocaust-denial advertisements in campus newspapers; a threatening phone call to a synagogue or Jewish school; as well as direct physical violence against Jewish persons as a result of their identity. Although many incidents of harassment are not crimes, they continue to constitute overt and painful expressions of anti-Semitic hatred.

While it is encouraging that the number of harassments is down from previous years, a troubling trend has been maintained in the 1995 totals. As in past years, incidents of harassment are significantly more common than incidents of vandalism. While any expression of anti-Semitic behavior is troubling, the high number of these more personalized attacks is a cause for particular concern.

EXAMPLES OF HARASSMENT, THREAT, AND ASSAULT INCIDENTS

The following is a representative sampling of 1995 incidents of anti-Semitic harassment, threats, and assaults in the 20 states reporting the highest totals of such acts.

1. New York (200 incidents) March—Upon leaving a dance club late at night, a group of men was approached by several people who asked if they were Jewish. When they responded that they were, one of them was beaten with a ''Club'' anti-car-theft device. (New York City)

2. California (175) August—A car with four young men in it drove past a group of campers and staff at a JCC camp and shouted profanities and anti-Semitic epithets. (San Diego)

3. Florida (102) October—Police officers and social workers received messages on their beepers leading them to call the Children of the Reich hate line, with a message threatening Jews and African-Americans.

4. New Jersey (97) January/February—Community leaders were threatened with bodily harm if they supported an application to erect a new synagogue building. (Closter)

5. Connecticut (51) February—An anti-Semitic, Holocaust-denying letter was sent to a Jewish newspaper. (Hartford)

6. Ohio (50) November—Soon after the assassination of Israeli Prime Minister Yitzhak Rabin, a spectator at a Cleveland Browns football game held a sign saying, ''They killed the wrong Jew,'' a reference to Art Modell, the owner of the team who decided to move it to Baltimore. (Cleveland)

7. Massachusetts (47) June—A 74-year-old Russian immigrant was assaulted by his neighbor, who yelled, ''F__ __ __ing Jew—go back to Russia.'' (Brighton)

8. Maryland (44) May—A Holocaust information center received numerous anti-Semitic phone calls after its phone number was posted on the Internet. (Baltimore)

9. Illinois (40) August—A man was walking on a downtown street wearing a sandwich board sign which read, ''HIROSHIMA + NAGASAKI Were (and are) JEWISH ATROCITIES.'' (Chicago)

10. Pennsylvania (36) April—A synagogue nursery school received a letter which stated, ''Fuel oil fertilizer. Jews go boom.'' (Western Pennsylvania)

11. Missouri (31) March—The Aryan Revolutionary Army passed out flyers stating that the ''only good Jew is a dead Jew.'' (St. Louis)

12. Georgia (27) April—A high school history teacher asserted in class that the Jews control the media and film industry. (Atlanta)

13. District of Columbia (21)—A U.S. Congressman received anti-Semitic hate mail including, ''How is it that a Jew backs a

Nazi?'' and ''You Jews cause trouble all around the world and then try to hide behind your religion,'' and imagery such as swastikas and other offensive drawings.

14. Minnesota (20) February—The National Socialist American Workers Freedom Movement, a neo-Nazi group, distributed flyers questioning the Holocaust and filled with virulently anti-Semitic statements. (Minneapolis)

15. Texas (20) February—A 15-year-old Jewish student was assaulted by a gang of 15 skinheads. He escaped without serious injury. (Alamo Heights)

16. Colorado (16) October—A threatening message was left on the voice mail of the ADL Regional Office, stating, ''Hello, is this the rabbi? F__ __ __ you. Six million more, hey six zillion more!'' (Denver)

17. Wisconsin (16) April—A letter addressed to the Executive Director of the Jewish Council said ''Death to all jews [sic]. Six million more!!! May you be next!!!'' (Milwaukee)

18. Washington (13) April—A package of dog feces was left on the front porch of a Jewish family, with the message, ''Happy Passover from Congregation Beth Shalom.''

19. North Carolina (11) January—Skinhead hate literature was distributed at a flea market by Gary Lauck's National Socialist German Workers Party. (Fayetteville)

20. Virginia (11) January—Anti-Semitic hate literature from the National Alliance was left in people's driveways. (Henrico County) ●

COMPREHENSIVE TERRORISM PREVENTION ACT

Mr. COATS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 735, a bill to prevent and punish acts of terrorism, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 735) entitled ''An Act to prevent and punish acts of terrorism, and for other purposes'', do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Effective Death Penalty and Public Safety Act of 1996''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study and recommendations for assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.
Sec. 207. Amendment of sentencing guidelines to provide for enhanced penalties for a defendant who commits a crime while in possession of a firearm with a laser sighting device.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Exclusion of certain types of information from wiretap-related definitions.
Sec. 303. Requirement to preserve record evidence.
Sec. 304. Detention hearing.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Denial of asylum to alien terrorists.
Sec. 612. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Miscellaneous provisions.
Sec. 671. Construction of expedited deportation requirements.
Sec. 672. Study of prisoner transfer treaty with Mexico.
Sec. 673. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 674. Prisoner transfer treaties.
Sec. 675. Interior repatriation program.
Sec. 676. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 677. Authorizing state and local law enforcement officials to arrest and detain certain illegal aliens.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.
Sec. 704. Sense of Congress.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist states.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.
Sec. 807. Overseas law enforcement training activities.
Sec. 808. Closed circuit televised court proceedings for victims of crime.
Sec. 809. Authorization of appropriations.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.

Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE X—INTERNATIONAL COUNTERFEITING

Sec. 1001. Short title.
Sec. 1002. Audits of international counterfeiting of United States currency.
Sec. 1003. Law enforcement and sentencing provisions relating to international counterfeiting of United States currency.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

Sec. 1101. Short title.
Sec. 1102. Attempts to acquire under false pretenses.
Sec. 1103. Inclusion of recombinant molecules.
Sec. 1104. Definitions.
Sec. 1105. Threatening use of certain weapons.
Sec. 1106. Inclusions of recombinant molecules and biological organisms in definition.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

Sec. 1201. Establishment.
Sec. 1202. Duties.
Sec. 1203. Membership and administrative provisions.
Sec. 1204. Staffing and support functions.
Sec. 1205. Powers.
Sec. 1206. Report.
Sec. 1207. Termination.

TITLE XIII—REPRESENTATION FEES

Sec. 1301. Representation fees in criminal cases.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

Sec. 1401. Death penalty aggravating factor.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

Sec. 1501. Financial transactions with terrorists.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

''Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.''.

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

''(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

''2339B. Providing material support to terrorist organizations.''.

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§ 2339A. Providing material support to terrorists

''(a) OFFENSE.—Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.''.

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism transcending national boundaries

''(a) PROHIBITED ACTS.—

''(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

''(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

''(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

''(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

''(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

''(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

''(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

''(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

''(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

''(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

''(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

''(c) PENALTIES.—

''(1) Whoever violates this section shall be punished—

''(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

''(B) for kidnapping, by imprisonment for any term of years or for life;

''(C) for maiming, by imprisonment for not more than 35 years;

''(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

''(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

''(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

''(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

''(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

''(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

''(e) PROOF REQUIREMENTS.—

''(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

''(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

''(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

''(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

''(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

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

''(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

''(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

''(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

''(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

''(5) the term 'Federal crime of terrorism' means an offense that—

''(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

''(B) is a violation of—

''(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

''(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

''(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

''(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

''2332b. Acts of terrorism transcending national boundaries.''.

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking ''any offense'' and inserting ''any non-capital offense'';

(2) striking ''36'' and inserting ''37'';

(3) striking ''2331'' and inserting ''2332'';

(4) striking ''2339'' and inserting ''2332a''; and

(5) inserting ''2332b (acts of terrorism transcending national boundaries),'' after ''(use of weapons of mass destruction),''.

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting '', 956(a), or 2332b'' after ''section 924(c)''.

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking ''In addition to any other'' and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

''§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

''(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

''(2) The punishment for an offense under subsection (a)(1) of this section is—

''(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

''(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

''(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.''.

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

''956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.''.

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and later found in the United States'';

(2) so that paragraph (2) reads as follows:

''(2) There is jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.''; and

(3) by inserting after paragraph (2) the following:

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking '', if the offender is later found in the United States,''; and

(2) by inserting at the end the following: ''There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.''.

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

''(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '''national of the United States','' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting '''national of the United States','' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following: ''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''the offender is later found in the United States''; and

(2) by inserting ''; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration

and Nationality Act (8 U.S.C. 1101(a)(22)))'' after ''the offender is later found in the United States''.

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting ''; and''; and

(3) by adding the following at the end:

''(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''AGAINST A NATIONAL OR WITHIN THE UNITED STATES'' after ''OFFENSE'';

(B) by inserting '', without lawful authority'' after ''A person who'';

(C) by inserting ''threatens,'' before ''attempts or conspires to use, a weapon of mass destruction''; and

(D) by inserting ''and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce'' before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking ''section 921'' and inserting ''section 921(a)(4) (other than subparagraphs (B) and (C))'';

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

''(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;'';

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

''(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.''.

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking ''or extortion;'' and inserting ''extortion, murder, or destruction of property by means of explosive or fire;''.

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after ''an offense under'' the following: ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'';

(2) by inserting after ''section 215 (relating to commissions or gifts for procuring loans),'' the following: ''section 351 (relating to Congressional or Cabinet officer assassination),'';

(3) by inserting after ''section 793, 794, or 798 (relating to espionage),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'';

(4) by inserting after ''section 875 (relating to interstate communications),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(5) by inserting after ''1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' the following: ''section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'';

(6) by inserting after ''section 1203 (relating to hostage taking),'' the following: ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'';

(7) by inserting after ''section 1708 (theft from the mail),'' the following: ''section 1751 (relating to Presidential assassination),'';

(8) by inserting after ''2114 (relating to bank and postal robbery and theft),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(9) by striking ''of this title'' and inserting the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code''.

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking ''commerce,'' and inserting ''interstate or foreign commerce, or in or affecting interstate or foreign commerce,''.

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''and the activity is not prohibited as a crime by the State in which the activity takes place''; and

(2) in clause (iii), by striking ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,''.

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

''(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.''.

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as ''armor piercing ammunition'' under 18, § 921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests and bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

''(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

''(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

''(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

''(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.''.

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking ''fined under this title or imprisoned not more than five years, or both'' and inserting ''imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both''.

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Arson offenses

''No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''.

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3295. Arson offenses.''.

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting ''or conspires'' after ''attempts''.

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking ''or attempted kidnapping'' both places it appears and inserting '', attempted kidnapping, or conspiracy to kidnap''.

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking ''or attempted murder'' and inserting '', attempted murder, or conspiracy to murder''.

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking ''and 1113'' and inserting '', 1113, and 1117''.

(4) Section 175(a) of title 18, United States Code, is amended by inserting ''or conspires to do so,'' after ''any organization to do so,''.

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting ''or conspiring'' after ''attempting''.

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting ''or conspiring to commit'' after ''committing''.

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by striking ''imprisoned not more than 10 years, fined in accordance with this title, or both.'' and inserting ''subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.''.

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.''.

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 207. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 302. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF ''ELECTRONIC COMMUNICATION''.—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by inserting ''or'' at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

''(D) information stored in a communications system used for the electronic storage and transfer of funds;''

(b) DEFINITION OF ''READILY ACCESSIBLE TO THE GENERAL PUBLIC''.—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting ''or'' at the end of subparagraph (D);

(2) by striking ''or'' at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 303. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.''.

SEC. 304. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting ''(not including any intermediate Saturday, Sunday, or legal holiday)'' after ''five days'' and after ''three days''.

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''nuclear material'' each place it appears and inserting ''nuclear material or nuclear byproduct material'';

(2) in subsection (a)(1)(A), by inserting ''or the environment'' after ''property'';

(3) so that subsection (a)(1)(B) reads as follows:

''(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;'';

(4) in subsection (a)(6), by inserting ''or the environment'' after ''property'';

(5) so that subsection (c)(2) reads as follows:

''(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;'';

(6) in subsection (c)(3), by striking ''at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and'';

(7) by striking ''or'' at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking ''nuclear material for peaceful purposes'' and inserting ''nuclear material or nuclear byproduct material'';

(9) by striking the period at the end of subsection (c)(4) and inserting ''; or'';

(10) by adding at the end of subsection (c) the following:

''(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.'';

(11) in subsection (f)(1)(A), by striking ''with an isotopic concentration not in excess of 80 percent plutonium 238'';

(12) in subsection (f)(1)(C) by inserting ''enriched uranium, defined as'' before ''uranium'';

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

''(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;'';

(15) by striking ''and'' at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

''(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.''.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

''(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

''(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

''(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

''(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

''(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

''(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

''(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

''(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.''.

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

''(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

''(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

''(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

''(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

''(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

''(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.''.

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

''(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''(l), (m), (n), or (o) of section 842 and subsections'' after ''subsections'';

(2) in subsection (a)(1), by inserting ''and which pertains to safety'' before the semicolon; and

(3) by adding at the end the following:

''(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

''(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

''(A) research, development, or testing of new or modified explosive materials;

''(B) training in explosives detection or development or testing of explosives detection equipment; or

''(C) forensic science purposes; or

''(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.''.

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: ''The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 612. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking ''section 241(a)(4)(D)'' and inserting ''subparagraph (B) or (D) of section 241(a)(4)''.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting ''under section 241(a)(4)(B) or'' after ''who is deportable''.

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or'' before ''(5)'', and

(2) by inserting before the period at the end the following: '', or (6) an alien who is deportable under section 241(a)(4)(B)''.

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting ''and is not deportable under section 241(a)(4)(B)'' after ''ineligible to citizenship''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

''(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

''(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

''(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

''(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

''(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

''(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

''(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

''(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

''(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

''(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

''(i) has had professional training in country conditions, asylum law, and interview techniques; and

''(ii) is supervised by an officer who meets the condition in clause (i).

''(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

''(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

''(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

''(B) The provisions of subparagraph (A) shall not apply—

''(i) to an alien crewman,

''(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

''(iii) if the conditions described in section 273(d) exist.

''(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.''.

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''Deportation'' and inserting ''Subject to section 235(b)(1), deportation'', and

(2) in the first sentence of paragraph (2), by striking ''If'' and inserting ''Subject to section 235(b)(1), if''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

''JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION''; and

(2) by adding at the end the following new subsection:

''(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

''(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

''(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

''(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

''(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

''(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

''(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.''.

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

''(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.''.

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

''Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.''.

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

''(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting ''(i)'' after ''except that the Attorney General'', and

(2) by inserting after ''title 13, United States Code'' the following: ''and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

''(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

''(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant''.

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting '', except as allowed by a court order issued pursuant to paragraph (6)'' after ''consent of the alien'', and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

''Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.''.

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

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

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).''.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after paragraph (5) the following new paragraph:

''(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation.''; and

(2) in subsection (b)(1)(B), by inserting ''or (a)(6)'' after ''(a)(2)''.

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting ''1028, 1541, 1542, 1543, 1544, 1546,'' before ''1956''.

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For purposes'' and inserting ''(A) Except as provided in subparagraph (B), for purposes'', and

(2) by adding at the end the following new subparagraph:

''(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the ''Criminal Alien Deportation Improvements Act of 1995''.

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting '', or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),'' after ''corrupt organizations)'';

(2) in subparagraph (K)—

(A) by striking ''or'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or'';

(3) by amending subparagraph (N) to read as follows:

''(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;'';

(4) by amending subparagraph (O) to read as follows:

''(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;''

(5) in subparagraph (P), by striking ''15 years'' and inserting ''5 years'', and by striking ''and'' at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

''(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;''; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

''(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

''(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

''(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (A) and inserting ''or'', and

(B) by amending subparagraph (B) to read as follows:

''(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.'';

(2) in paragraph (3), by striking ''30 calendar days'' and inserting ''14 calendar days'';

(3) in paragraph (4)(B), by striking ''proccedings'' and inserting ''proceedings'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

''(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

''(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;''.

(5) by adding at the end the following new paragraph:

''(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.''.

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

''(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.''.

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

''(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking ''has served for such felony or felonies'' and all that follows through the period and inserting ''has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.''.

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

''(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.''.

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,'' before ''section 1029'';

(2) by inserting ''section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'';

(3) by striking ''or'' before ''(E)''; and

(4) by inserting before the period at the end the following: '', or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain''.

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

''(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or''.

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

''(II) is convicted of a crime for which a sentence of one year or longer may be imposed,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: ''; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien''.

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: ''Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''and nothing in'' and all that follows through ''1252(i))''.

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 671. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 672. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the ''Treaty'') to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 673. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 674. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 675. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 676. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

''(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

''(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

''(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

''(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

''(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).''.

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

''(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.''.

SEC. 677. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting ''crimes involving terrorism,'' before ''driving while intoxicated''; and

(2) by inserting a comma after ''driving while intoxicated''.

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting ''are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or'' before ''are States not having''.

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

''(A) if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

''(B) if the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred; or

''(C) if the act occurred in the foreign state against which the claim has been brought and that state establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process.''; and

(2) by adding at the end the following:

''(e) For purposes of paragraph (7) of subsection (a)—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

''(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

''(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.''.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting '', or''; and

(B) by adding at the end the following new paragraph:

''(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.''.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking ''or (5)'' and inserting ''(5), or (7)''; and

(B) by striking ''used for the activity'' and inserting ''involved in the act''.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law'' and inserting ''shall order''; and

(ii) by adding at the end the following: ''The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.'';

(B) by adding at the end the following:

''(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

''(A) the criminal episode during which the offense occurred; or

''(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.'';

(2) in subsection (b)(1)(B) by striking ''impractical'' and inserting ''impracticable'';

(3) in subsection (b)(2) by inserting ''emotional or'' after ''resulting in'';

(4) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and'';

(5) in subsection (c) by striking ''If the court decides to order restitution under this section, the'' and inserting ''The'';

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

''(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

''(A) the economic circumstances of the offender; or

''(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

''(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

''(A) the financial resources and other assets of the offender;

''(B) projected earnings and other income of the offender; and

''(C) any financial obligations of the offender, including obligations to dependents.

''(3) A restitution order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

''(4) An in-kind payment described in paragraph (3) may be in the form of—

''(A) return of property;

''(B) replacement of property; or

''(C) services rendered to the victim or to a person or organization other than the victim.

''(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

''(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

''(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution to victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

''(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

''(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

''(A) any Federal civil proceeding; and

''(B) any State civil proceeding, to the extent provided by the law of the State.

''(h) A restitution order shall provide that—

''(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the United States Courts for accounting and payment by the entity in accordance with this subsection;

''(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

''(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful; and

''(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; and

''(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

''(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

''(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

''(k) An order of restitution may be enforced—

''(1) by the United States—

''(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

''(B) in the same manner as a judgment in a civil action; and

''(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

''(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.''.

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

''(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.''; and

(4) by adding at the end thereof the following new subsection:

''(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed

findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.''.

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection.

(e) DEFINITION.—As used in this section, the term ''State'' includes the District of Columbia and any other possession or territory of the United States.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A 1-year period of limitation shall apply to an application for a write of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

''(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

''(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

''(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final order in a proceeding to test the validity of a warrant to remove to another district or place for commitment or trial a person charged with a criminal offense against the United States, or to test the validity of such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 903. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

''Rule 22. Habeas corpus and section 2255 proceedings

''(a) APPLICATION FOR THE ORIGINAL WRIT.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application shall be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or its representative, a certificate of appealability is not required.''.

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

''(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

(5) by adding at the end the following new subsections:

''(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent

proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

(2) by adding at the end the following new undesignated paragraphs:

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

''(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

''(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

''(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 907. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

''CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

''Sec.
''2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
''2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
''2263. Filing of habeas corpus application; time requirements; tolling rules.
''2264. Scope of Federal review; district court adjudications.
''2265. Application to State unitary review procedure.
''2266. Limitation periods for determining applications and motions.

''§ 2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

''(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

''(b) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

''(1) appointing one or more counsels to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

''(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

''(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

''(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(e) The ineffectiveness or incompetence of counsel during State or Federal post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

''(a) Upon the entry in the appropriate State court of record of an order under section 2261(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application shall recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

''(b) A stay of execution granted pursuant to subsection (a) shall expire if—

''(1) a State prisoner fails to file a habeas corpus application under section 2254 within the time required in section 2263;

''(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

''(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

''§ 2263. Filing of habeas corpus application; time requirements; tolling rules

''(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

''(b) The time requirements established by subsection (a) shall be tolled—

''(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

''(2) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

''§ 2264. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

''(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

''§ 2265. Application to State unitary review procedure

''(a) For purposes of this section, a 'unitary review' procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

''(b) To qualify under this section, a unitary review procedure must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2261(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

''(c) Sections 2262, 2263, 2264, and 2266 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

''§ 2266. Limitation periods for determining applications and motions

''(a) The adjudication of any application under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters.

''(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

''(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

''(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.''.

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

''154. Special habeas corpus procedures in capital cases ..... 2261''.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

''(9) Upon a finding that investigative, expert, or other services are reasonably necessary for

the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE X—INTERNATIONAL COUNTERFEITING

SEC. 1001. SHORT TITLE.

This title may be cited as the ''International Counterfeiting Prevention Act of 1996''.

SEC. 1002. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the ''Secretary''), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 1003. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 1101. SHORT TITLE.

This Act may be cited as the ''Biological Weapons Enhanced Penalties Act of 1996.''.

SEC. 1102. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting ''attempts to acquire under false pretenses, after ''acquires,''.

SEC. 1103. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting ''recombinant molecules,'' after ''toxin,'' each place it appears.

SEC. 1104. DEFINITIONS.

Section 173 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''or naturally occurring or bioengineered component of any such microorganism, virus, or infectious substance,'' after ''infectious substance'';

(2) in paragraph (2)—

(A) by inserting ''the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances'' after ''means''; and

(B) by inserting '', and includes'' after ''production'';

(3) in paragraph (4), by inserting ''or a molecule, including a recombinant molecule,'' after ''organism''.

SEC. 1105. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting '', threatens,'' after ''uses, or''.

SEC. 1106. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking ''disease organism'' and inserting ''biological agent or toxin, as those terms are defined in section 178''.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 1201. ESTABLISHMENT.

There is established a commission to be known as the ''Commission on the Advancement of Federal Law Enforcement'' (in this title referred to as the ''Commission'').

SEC. 1202. DUTIES.

The Commission shall investigate, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based

upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 1203. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day, including travel time, during which the member is engaged in the performance of the duties of the Commission.

SEC. 1204. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 1205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 1206. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 1207. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

TITLE XIII—REPRESENTATION FEES

SEC. 1301. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public.''; and

(2) in subsection (3) by adding at the end of the following:

''(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.''.

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

''(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time, Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

''(B) The amounts paid under this paragraph for services in any case shall be made available to the public.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

SEC. 1401. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

''(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.''.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. 1501. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

''§ 2332c. Financial transactions

''(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C. App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) As used in this section—

''(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

''(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

''2332c. Financial transactions.''.

Mr. COATS. Mr. President, I ask unanimous consent that the Senate disagree to the amendments of the House, agree to the request for a conference, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Thereupon, the Presiding Officer (Mr. SMITH) appointed Mr. HATCH, Mr. THURMOND, Mr. SIMPSON, Mr. BIDEN, and Mr. KENNEDY conferees on the part of the Senate.

ORDERS FOR MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10 a.m. on Monday, March 25; further, that immediately following the prayer, the Journal of proceedings be approved to date, no resolutions come over under the rule, the call of the Calendar be dispensed with, the morning hour be deemed to have expired, and the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of calendar No. 300, H.R. 1296, the Presidio legislation; and further, that Senator MURKOWSKI be recognized at that time to offer a substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. COATS. Mr. President, for the information of all Senators, the Senate will debate the Presidio legislation on Monday. No rollcall votes will occur during Monday's session. Senators are expected to offer and debate their amendments to H.R. 1296 on Monday. Any votes ordered on those amendments will be stacked to occur during Tuesday's session.

ADJOURNMENT UNTIL 10 A.M., MONDAY, MARCH 25, 1996

Mr. COATS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:22 p.m., adjourned until Monday, March 25, 1996, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 21, 1996:

DEPARTMENT OF STATE

KENNETH C. BRILL, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CYPRUS.

GENTA HAWKINS HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO AUSTRALIA.

THOMAS C. HUBBARD, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PALAU.

DAY OLIN MOUNT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ICELAND.

GLEN ROBERT RASE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BRUNEI DARUSSALAM.

DEPARTMENT OF JUSTICE

CALVIN D. BUCHANAN, OF MISSISSIPPI, TO BE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS, VICE ROBERT Q. WHITEWELL, RESIGNED.

EXTENSIONS OF REMARKS

TRIBUTE TO NATIONAL DANCE WEEK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mrs. MALONEY. Mr. Speaker, I rise today to bring National Dance Week, which is being celebrated April 28 to May 4, to the attention of my colleagues.

National Dance Week is an annual celebration sponsored by the United Dance Merchants of America to increase public awareness and appreciation of dance. National Dance Week encourages all forms of dance including not only classical dance, but also lyrical, hip hop, ethnic, jazz, and modern. The goal of National Dance Week is to encourage growth and development of dance in America by raising the level of public consciousness and focus on the value and importance of the contributions of dance to our daily lives and culture.

Established 15 years ago, this celebration of dance has grown out of a grass roots campaign. Everyone who works on National Dance Week is a volunteer working to spread their love of dance to others. Today, a national steering committee enlists the talents of many prominent figures in dance manufacturing, publishing, worldwide dancing competitions, teachers, and choreographers. Regional managers are working with the local communities in order to coordinate events occurring during National Dance Week.

Local events are the core of National Dance Week because they brig the most recognition to the art of dance. Some dance schools are sending cards of congratulations as well as gift certificates for dance classes to the parents of new born babies in their communities. Other dance communities are holding demonstration classes in schools and community centers to showcase the different types of dance as well a show much fun dancing can be. Other events include dance festivals and parades. There is also a nationwide poster contest for National Dance Week. In all, dance instructors across the country are working diligently to create an awareness of dance and to bring a new vision of dance to the American public.

In today's society it is important to give our children outlets to express their energy and creativity. Dance is just such an outlet. As Marianne Prinkey, the National Dance Week Chair, put it, ''[Dance] enriches the body with discipline, activity and feelings.''

Mr. Speaker, I ask that my colleagues join me in recognizing the hard work that dancers, not only in New York City, but across the country have put into National Dance Week. Let us help them celebrate dance and the contributions that this wonderful art gives to society. Congratulations and best wishes to all for a most successful week and a most successful year of dance.

NAOMI FRANK

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. WALKER. Mr. Speaker, I take this opportunity to bring to your attention a special constituent of mine, Naomi Frank, of West Chester, PA. Born in Sharpsville, PA, on April 29, 1915, Naomi Frank moved to Farrell, PA, when she was 3½ years old. From an early age, Naomi had learning impediments that would prevent her from keeping up with her classmates. After many starts in the public schools, her parents realized the problems and had Naomi enrolled in the Woods School in Langhorne, PA. Naomi then worked with Dr. Frederick Martin and participated in a speech seminar at Ithaca College in New York. While on her way home to Farrell, in August 1934, she was involved in a serious car accident.

After much rehabilitation, Naomi enrolled in 1938 to attend the Devereaux School where she would learn to be independent. As part of her education, Naomi learned to play the baritone D-flat horn and participated in the school band. The Devereaux School had a camp for its students on Emden Lake in the State of Maine. In 1942, 1943, 1944, and 1946, Naomi was selected as one of the young women to spend her summer in Maine. Naomi stayed at the Devereaux School working and learning until 1983, when she was forced to leave school because she could not earn enough to pay the tuition herself.

Upon leaving the Deveraux School, Naomi moved to Coatesville, then Brandamore, PA, and in 1990 she moved to the Wentworth Home in West Chester, PA—located in my congressional district. She took a job at the West Chester library, while also volunteering her time at the Chester County Hospital. In 1993, Naomi received her 500-hour volunteer pin and in 1995 her 1,000-hour volunteer pin.

In October 1987, Naomi Frank began to prepare for her bat mitzvah. She was encouraged to do that by Rabbi Charny, and on October 27, 1988 was bat mitzvahed. Currently, she has just completed her autobiography entitled ''Book of My Life''.

Naomi Frank, throughout her life, has shown that a strong will and hard work can improve not only one's own life, but the lives of others. Naomi Frank has overcome many obstacles in her life and in doing so has touched the lives of countless others. I rise today to salute Naomi Frank for her perseverance and determination for I believe she has been an example of self-reliance to many people.

TUNISIA AT 40

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAMILTON. Mr. Speaker, March 20, 1996 marks the 40th anniversary of the independence of the Republic of Tunisia. I urge my colleagues to join me in saluting the people of this important North African country on this significant milestone.

Tunisia, first, under President Bourguiba, and since 1987, under President Ben Ali, has played a key role in preserving peace and stability in often turbulent North Africa and in providing leadership for the entire Arab world.

This country of 9 million people is located between Libya and Algeria on the coast of the Mediterranean Sea. It has a tradition of playing an important regional role. For 11 years until 1990, Tunisia hosted the Arab League, and for 12 years from 1982 to 1994, Tunisia was the home of Yasir Arafat and the Palestine Liberation Organization. In that time, the Tunisians worked hard to moderate policies of the PLO and to promote the peace process.

More recently, Tunisia has been a leader in promoting the peace process. Tunisia was the first Arab state to host a U.N. multilateral meeting of the peace process and to welcome an official Israeli delegation. And on January 22 of this year, Israel and Tunisia agreed to establish diplomatic relations, and I understand that interests sections will open in Tunis and Tel Aviv by mid-April, 1996.

At home, Tunisia has been a leader in its region. Tunisia has taken steps toward democracy. It has opened up both its economy and its political system, despite the pressures of extremism with which Tunisia and its neighbors must contend. Tunisia's budget has the right priorities. Defense spending is reduced. Education is a top priority, and it is reflected in Tunisia's 60 percent literacy rate.

Tunisia still has some distance to go in achieving a full democracy and full protection of human rights. This year's Department of State human rights report notes that some serious problems remain. The government continued to stifle freedoms of speech, press, and association. Some improvement on human rights has occurred, and I hope that Tunisia will take note of these concerns and address them in a positive way in the months ahead.

Mr. Speaker, I am pleased to join in saluting Tunisia for its moderation, its leadership, and its continued strong partnership with the United States. I hope that United States-Tunisian relations continue to expand and deepen and that Tunisia continues to grow as a leader in promoting peace, stability, and economic and political openness.

COMMEMORATING THE 70TH BIRTHDAY OF JAMES J. MANCINI

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. SAXTON. Mr. Speaker, it is an honor and a privilege to pay tribute to my good friend, Ocean County Freeholder and longtime mayor of Long Beach Township, James J. Mancini.

Freeholder Jim Mancini, as chairman of the Ocean County Office on Aging, serves the largest senior population in the State of New Jersey. Ocean County's nutrition sites, transportation programs for the elderly and senior outreach programs are considered among the finest in our State. Freeholder Mancini has worked closely with me through the years in our effort to preserve and protect such programs as Social Security, Medicare, and Medicaid. His support has been invaluable.

As liaison to the Ocean County Library Commission, Freeholder Mancini has worked tirelessly to expand the system to 17 branches throughout the county.

A former member of New Jersey's General Assembly, he continues to serve as mayor of Long Beach Township, a position he has held for 28 years. This dedicated public servant also serves as chairman of the board of Southern Ocean County Hospital and as vice president of the Long Beach Island St. Francis Community Center. The civic associations to which he has devoted many hours are too numerous to mention.

All these associations and activities were carried out while always putting his wife, Madeline, and their nine children first.

The residents of Long Beach Township pay him a great tribute by dedicating their municipal facility in his honor and name.

Jim Mancini represents what is so very good about our country—he is an honorable man, a family man, a man who is willing to go the extra mile for what is right. He has proven the point of the old saying, ''If you want something done, give the job to a busy person.''

I offer him my personal thanks and the gratitude of all those he has so faithfully served throughout the years.

As he celebrates his 70th birthday among family and friends, I wish him all the best that life can offer.

GREECE AND THE OTTOMAN EMPIRE

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BATEMAN. Mr. Speaker, on March 25, we will once again be celebrating the anniversary of the beginning of the effort by the Greek people to liberate themselves from oppression. Every year, I join with some of my colleagues here in the House of Representatives to make special note of this occasion. We do this because we recognize that it is absolutely vital that citizens of democratic nations the world over do not take the freedom we enjoy for granted.

On March 25, 1829, Greek patriots began their struggle for freedom and independence from the Ottoman Empire. Though the intervening years have been filled with trials and tribulations, the ultimate success of democracy in Greece is a testament to the courage and fortitude of her people.

Throughout world history, freedom of expression, of assembly, of government elected by the people, have been the exception rather than the rule. The concept of democratic government established by Greece laid the foundation for the most promising alternative to the autocratic forms of government that have predominated for much of history. From the Homeric tradition to Alexander, through the birth of the Socratic method, Aristotelian logic and countless artistic and architectural endeavors, the Greek people have left an indelible impression on civilization.

I am proud, once again, to congratulate the Greek people on their monumental achievement. Democracy has persevered against many threats to its continued existence. That is why it is important that we recognize this date every year. In national cemeteries across the Nation as well as those in foreign lands lie thousands of Americans who gave their lives so that the shining light of freedom would not be extinguished. That light was lit in Greece. It is proper that we recognize the occasion of Greek Independence Day. From it was the ideal of America borne.

CONGRATULATIONS TO THE FALLS CHURCH NEWS-PRESS ON ITS FIFTH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. MORAN. Mr. Speaker, the local newspaper of any town is a very important link in the community, from praising the town athlete to reporting the events of the big city, it allows the neighborhood to keep an open communication. It is that communication that maintains the character of the community and loyalty of the residents.

Today I rise to applaud one such paper that provides the communication lines of a city in my district, the Falls Church News-Press. The News-Press is celebrating 5 years of service as a definitive link in the community.

This paper's commitment to the city of Falls Church is underscored by its many awards and accomplishments. In 1991, it was honored by the Falls Church City Council and named recipient of the Council's Business of the Year.

The News-Press helped initiate, and testified on behalf of, legislation passed in the Virginia General Assembly in 1992 that set out criteria for nonpaid distribution newspapers to carry official legal notices. Subsequently, the News-Press became the first newspaper in the history of the Commonwealth of Virginia to receive court authorization to publish official legal notices as a nonpaid distribution newspaper. As a result, the News-Press was the first nonpaid distribution newspaper in the history of the Commonwealth to be accepted as a full, voting member of the Virginia Press Association.

The News-Press' owner/editor-in-chief, Nicholas Benton, served 2 years as president of the Greater Falls Church Chamber of Commerce and was the recipient of the Chamber's Pillar of the Community Award in 1992.

Please join me in wishing the Falls Church News-Press best wishes on their future endeavors.

AMNESTY INTERNATIONAL AND INDIA

HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. KING. Mr. Speaker, Amnesty International recently issued a report called Amnesty International and India detailing India's violations of fundamental human rights.

On the very first page of this report, Amnesty International states that ''violations such as torture, including rape, and deaths in custody remain endemic, and * * * political prisoners continue to face unfair trials.'' The report goes on to tell us that ''human rights violations affect most segments of Indian society, with people from some groups, particularly the socially or economically disadvantaged, being particularly disadvantaged.'' The record bears this out. More than 150,000 Sikhs have been killed since 1984, over 200,000 Christians in Nagaland since 1947 and in excess of 43,000 Moslems in Kashmir since 1988. Tens of thousands of Assamese, Manipuris, and others have been killed, as have thousands of Dalits or black untouchables.

The amnesty report cites the extensive use of disappearances as a way to circumvent the rights of detainees. Records of detentions are not maintained, allowing the regime to claim that the detainee died in an encounter, a form of extrajudicial execution. ''Thousands of people remain detained under the provisions of the now lapsed Terrorist and Disruptive Activities (Prevention) Act,'' the report says. Many of us have spoken about the brutality of TADA. Amnesty reports that ''torture of detainees in police and military custody remains endemic.'' According to the report, ''the most common method of torture is beating with lathis (canes). Other methods included suspension by the wrist and electric shocks. Reports of rapes indicate that it is used as a method of torture.'' According to the report, ''in 1995 at least 100 people died in the custody of police or security forces throughout India, as a result of torture and medical neglect.''

In the face of this kind of repression, no Sikh ever signed India's constitution. Instead, the Sikh Nation reasserted its claim to freedom on October 7, 1987 by declaring the independent, sovereign nation of Khalistan. Many Sikhs who are working peacefully to free Khalistan are denied their human rights by India. Human rights groups estimate that more than 100,000 Sikhs have been tortured, raped, killed, or made to disappear. Another 70,000 languish in India prisons without charge or trial, according to human rights groups. According to Amnesty International, ''lawyers and relatives are routinely denied access by police to people held in custody.'' The report tells us that ''most torture and ill-treatment in India occurs during the first stage of detention in police custody, when access to outsiders is routinely denied.''

Amnesty International sharply criticizes India for these repressive practices. ''Whatever imperatives the Indian state has to maintain internal peace and security, the violation of rights protected by the Constitution of India as well as by human rights standards is avoidable,'' the report says. Strong action by free countries of the world is called for. There are two bills in the House that address these concerns. H.R. 1425, the Human Rights in India

Act, would cut off United States development aid to India until basic human rights are respected, and House Concurrent Resolution 32 calls for a plebiscite in India under international supervision to let the Sikh nation have a free and fair vote on its political future. The sooner we pass these bills, the sooner the people of South Asia can live in freedom, security, and dignity. I call upon my colleagues to pass these bills as soon as possible.

AMNESTY INTERNATIONAL AND INDIA

This report is an introduction to Amnesty International and its concerns in India. It answers basic questions about Amnesty International: its role as a non-governmental international human rights organization; its worldwide membership, its mandate for action, its campaigning methods; and its work and membership in India.

The bulk of the report deals with human rights violations that Amnesty International has documented in India over several decades. It shows that violations such as torture, including rape, and deaths in custody remain endemic, and that political prisoners continue to face unfair trials. It highlights a legal and judicial system that facilitates these and many other abuses, often allowing the perpetrators to act with impunity. Even the safeguards that do exist are regularly disregarded. The report also summarizes human rights abuses committed by armed opposition groups.

Human rights violations affect most sections of Indian society, with people from some groups, particularly the socially or economically disadvantaged, being especially vulnerable. In a complex society of approximately 920 million people, speaking dozens of languages and dialects, living in 25 states and seven union territories, not everyone has equal access to justice or an equal chance to be allowed to live in safety and with dignity.

TRIBUTE TO KIM PUTENS

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAYES. Mr. Speaker, I want to express my appreciation publicly for the excellent job that Kim Putens has done the last 3 years as executive director of the National Wetlands Coalition. Kim departed her position on March 15 to move to the next exciting professional chapter in her life.

The National Wetlands Coalition was formed in September 1989 by a broad cross-section of trade associations, companies, public entities, and individuals that are directly affected by the Federal Wetlands Regulatory Program, either because they own or live on land that is considered Federal jurisdictional wetlands or because they undertake economic activities that encounter wetlands. The group was formed to participate in the anticipated debate over how to achieve President Bush's goal of no overall net loss of wetlands. Longstanding concerns about the program, coupled with issuance of the 1989 manual that greatly broadened the description of lands that are Federal jurisdictional wetlands, expanded the debate to one over the entire wetlands permitting program under section 404 of the Clean Water Act.

Mr. Speaker, this House, on May 16, 1995, by a vote of 240 to 185, adopted a number of reforms that are very similar to those that have been advocated by the National Wetlands Coalition since 1990. In fact, this was the first time since 1977 that either the House of Congress has adopted a comprehensive set of reforms of the section 404 program.

Kim Putens made a major contribution to the wetlands regulatory reform victory in the House. We all know that no victory on a major issue in the House of Representatives is achieved easily and without an enormous amount of work. There are 435 of us and our staffs to educate on the issues; there are innumerable inquiries to which to respond; there are press inquiries and the need to keep private sector coalition participants informed and coordinated in their activities. Obviously, Kim did all of these tasks successfully and for the first time in 18 years, a House of Congress took action on this controversial regulatory program.

Mr. Speaker, again I thank Kim for her efforts and wish her the best in her future endeavors.

LEGISLATION TO IMPROVE SERVICE DELIVERY TO VETERANS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. MONTGOMERY. Mr. Speaker, I am introducing legislation to enable VA to provide health care to Medicare-eligible veterans who cannot now gain access to VA care.

The VA's health care system serves a veteran population made up almost exclusively of veterans whose eligibility for care is based either on their income or on their service-incurred disability. Under tight budgets that for years have not fully kept pace with rising health-care delivery costs, most VA facilities have shut their doors to veterans with income exceeding VA's means test—approximately $21,000 in the case of a veteran without dependents. While eligible for VA care, these veterans have neither an entitlement to care nor sufficient priority to assure them access. Many, however, are former VA patients, locked out of a system on which they once depended. VA now provides care to only a small number of these individuals. In all, only 2 percent of VA's patients are higher income veterans.

While large numbers of veterans who routinely receive VA care are also Medicare-eligible, VA is barred under existing law from receiving Medicare reimbursement for their care. Veterans' advocates have, understandably, long bristled at what appears to be VA subsidization of the Medicare trust fund. This has prompted calls for legislation to reimburse VA for care provided Medicare-eligible non-service-connected veterans.

This bill provides for Medicare payments to VA only for higher income, Medicare-eligible veterans who are largely shut out of the VA system today. The bill would further limit the circumstances under which VA could receive Medicare payments—to covered veterans who enroll in a VA managed-care plan. My legislation would provide a long-sought avenue for former VA patients to regain access to VA care. At the same time, it could actually lower Medicare costs, as proposed in pending Medicare reforms, by encouraging numbers of Medicare beneficiaries to abandon the traditional fee-for-service Medicare Program in favor of enrollment in a lower cost managed-care plan administered by VA.

REMEMBERING THE TRAGEDY OF THE ''LEOPOLDVILLE''

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. ACKERMAN. Mr. Speaker, today I would like to pay tribute to 802 brave American soldiers who lost their lives while defending freedom during World War II. Until recently, the tragic story of the 66th Infantry Division remained untold in U.S. history. These men made the ultimate sacrifice for their country and are worthy of a much greater tribute than the statistics or the footnotes in history books that have already been granted to them. As the worst troopship loss in World War II, and the third worst naval disaster in U.S. history, the story of the sinking of the *Leopoldville* deserves full recognition.

On Christmas Eve, 1944, 2,235 American soldiers were crossing the English Channel as reinforcements to fight in the Battle of the Bulge, when their Belgian troopship, the *Leopoldville*, was torpedoed and sunk 5½ miles from Cherbourg, France. The result was a tremendous loss of lives—almost one-third of the division was killed. There were 493 bodies that were never recovered from the English Channel. Most of the soldiers who lost their lives were young boys, from 18 to 20 years old, barely out of high school. They represented 46 out of the 48 States that were part of the Union at the time.

However, the most tragic and troubling part of this story is the American public's general ignorance of the facts. All of us, and particularly the family members of the lost soldiers, should be told the full story of their loved ones' valiant efforts in their fight to preserve democracy.

Therefore, I ask my colleagues to join me in remembering and honoring those that gave their lives in protecting the ideals that all Americans cherish. I would also like to remind my colleagues that this story should hold a special place in ever State's history. Simply put, the 802 soldiers that lost their lives deserve the proper respect and remembrance for their sacrifice, and those that survived need to be recognized for their valor.

COMMEMORATING THE LIFE OF FREDERICK MCKINNEY

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. POSHARD. Mr. Speaker, I rise today to celebrate the life of Mr. Frederick McKinney, who died on March 2 in Decatur, IL, at the age of 66. Frederick lived a full life, giving not only to his family and friends, but to his country and community. I would like to send my condolences to his wife, Louise, as well as to his children, grandchildren, and great-grandchild, and let them know that the city of Decatur has lost a dear friend.

Originally from Chicago, Frederick served in numerous capacities, beginning with the Army during the Korean conflict from 1951 to 1952. He worked for A.E. Staley Manufacturing Co. as a draftsman for 25 years, retiring in 1992. His dedication to Decatur society was vigorous, including over 3 years as president of the Decatur Chapter of the National Association for the Advancement of Colored People [NAACP], in which time he pushed hard for increased minority hiring by the Decatur School Board and was a tireless proponent of affirmative action. Frederick was an integral part of St. Peter's African Methodist/Episcopal Church, where he sang in the senior and male choirs, served as secretary of the trustees department, was in charge of black history, and participated in the official board of the church.

Mr. Speaker, Frederick touched lives in his various roles, and it is obvious that he cared a great deal not only for his immediate circle of acquaintances, but tried to spread good works to all he could. This kind of love and commitment to community is not as prevalent as it should be, and I am grateful that Decatur had such a role model as Frederick for so many years. Frederick has been described as "'effective and forceful' without being loud and antagonistic." I would ask that we all try to emulate his example. I am proud to have represented Frederick in the U.S. Congress, and I will remember the way he represented the city of Decatur.

PROVIDING FOR CONSIDERATION OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

SPEECH OF

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. KLECZKA. Mr. Speaker, I am offering an amendment to H.R. 2202, the Immigration in the National Interest Act, as part of this en bloc amendment to correct an injustice done to the Polish community during the 1995 diversity visa process.

During the visa lottery, the State Department committed an error which resulted in 49,895 Poles being notified that they were eligible for visas. These individuals were not told that a maximum of 3,850 visas were available, or how many of their countrymen they were competing against. Thousands sent in the $130 fee, only to be denied a visa.

For all other nationalities, approximately two to four times as many applicants were notified as there were visas distributed. More than 12 times as many Poles were notified than the quantity of visas designated for this nationality.

The State Department's error was completely preventable and never should have occurred. Therefore, my amendment would require the Department of State to refund the $130 fee paid by the thousands of Polish applicants who did not receive a visa. In addition, the Department would be required to review and revise its procedures to ensure that this type of situation does not happen again—to Poles or anyone else.

Mr. Speaker, I hope my colleagues will join me in pursuing justice for the thousands of Poles who were the victims of this bureaucratic bungle. I urge a vote in support of this en bloc amendment.

TRIBUTE TO TRINITY ASSEMBLY CHURCH

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GORDON. Mr. Speaker, I would like to take this opportunity to congratulate the Trinity Assembly Church in Algood, TN, on recent completion of their new Sanctuary Complex. In the life of a church and a community, this is a monumental event. It is a testament to the years of hard work and dedication of this congregation.

The completion of the new sanctuary complex is not only of great benefit to the congregation at Trinity Assembly, but to the entire community of Algood. This new facility greatly enhances the ability of Trinity to conduct community outreach. This complex will allow Trinity to provide greater counseling and help to those in need.

Trinity Assembly was established in 1966 by Rev. W.F. Carlile. In 1983 there were 40 parishoners. Now, only 13 years later, there are over 1,200 parishoners at Trinity Assembly. The current pastor of Trinity, Eddie Turner, has displayed an expertise in leadership that is to be commended. His hard work and devotion has been instrumental in the growth and prosperity of this church. It is a credit to the entire community that this church has experienced such phenomenal success.

I offer my best wishes for many more years of growth to the congregation of Trinity Assembly.

AMERICAN RED CROSS: MEETING THE TEST OF A TOUGH WINTER IN RHODE ISLAND

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. REED. Mr. Speaker, I want to take this opportunity to let my colleagues know about the outstanding work of the Rhode Island Chapter of the American Red Cross during the terrible winter of 1995–96.

Even though spring is now officially here, it will be a long time before Rhode Islanders forget this past winter.

The harsh weather shattered all previous records for Rhode Island winters. We had the heaviest cumulative snowfall in recorded Rhode Island history, 93.2 inches; 75.6 inches was the previous record. Starting with last November 13, Rhode Island had 37 days of snowfall, with 11 major snowstorms rolling through our State.

In addition to the harsh weather, this past winter has also brought terrible environmental and human tragedy to Rhode Island.

On January 19, the oil barge *North Cape* ran aground on a southern Rhode Island beach, spilling over 800,000 gallons of home heating oil into our State's pristine coastal environment. Once this disaster began, it set into motion an emergency response and cleanup process that lasted days and involved over 1,000 Federal, State and local officials, private contractors, and U.S. Coast Guard personnel.

In terms of human tragedy, this past winter has been a season of terrible home fires in Rhode Island. According to the office of Rhode Island's Fire Marshal, the winter of 1995–96 was a time when the loss of life and destruction of property in Rhode Island due to fire showed a marked increase over previous years.

The one constant throughout all of Rhode Island's winter hardship was the hard work of the staff and volunteers of the Rhode Island Chapter of the American Red Cross.

The Red Cross was there during all the winter storms. When a snow plow hit an electrical transformer, knocking out power to a Bristol nursing home, the Red Cross helped evacuate the nursing home residents. When Pawtucket snow removal crews working round-the-clock needed cots to rest on before going back out on the road, the Rhode Island Chapter of the American Red Cross got it done.

The Red Cross was also there during the *North Cape* oilspill. Throughout the cleanup, 110 Rhode Island Red Cross Chapter volunteers were on the scene providing over 8,500 meals, enabling work crews to stay at their jobs from sunup to sundown.

And the Red Cross was there for all of Rhode Island's tragic winter fires. From last November until the end of winter, the Rhode Island Chapter of the American Red Cross helped an estimated 400 Rhode Islanders get back on their feet after a total of 125 fires.

It is in the aftermath of a fire that Rhode Island's Red Cross Chapter provides perhaps its most valuable ongoing service to our State. Last year, 26 Rhode Islanders died as a result of fire. When this tragedy does occur, the Red Cross is there with counseling for survivors and for emergency response crews. The volunteers and staff of the Rhode Island Chapter of the American Red Cross also provide food, shelter, and clothing—often in the middle of the night—for Rhode Islanders whose homes have been destroyed by fire.

The Rhode Island Chapter of American Red Cross performs all these tasks, with a small staff, a very limited budget and an army of dedicated volunteers. I commend the chairman of the board of the Rhode Island Chapter of the American Red Cross, Richard Moore, its executive director, Barbara G. DeCesare, and the entire staff of the Rhode Island Chapter of the American Red Cross, for all their hard work. Most of all, I would like to thank all of Rhode Island's Red Cross volunteers, for helping our State make it through a difficult winter.

PROVIDING FOR CONSIDERATION OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

SPEECH OF

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. BILBRAY. Mr. Speaker, as the House of Representatives begins debate on our comprehensive immigration bill today, I would like to focus on the human costs of our current immigration policy to highlight our most compelling argument for reform.

I grew up in San Diego County, who can actually see our neighbors across our border with Mexico from his own backyard, I brought a unique perspective from San Diego to Washington when elected to Congress.

Specifically, I was interested in educating Washington about its failed immigration policies, and the financial costs and human tragedies that these policies produced.

I would like to enter into the RECORD the following news articles from my hometown paper, The San Diego Union Tribune. These are headlines that me and my constituents see every day. The news stories are a common occurrence, appearing with the same predictable regularity as our weather reports.

Let me read you a few.

From March 29, 1995: ''Fall kills border agent in foot chase.''

From May 5, 1995: ''Alien smugglers are packing cars for perilous treks.''

From January 26, 1996: ''Border crosser, told to pack no provisions, dies in mountains.''

From February 22, 1996: ''31 immigrants caught in stolen vehicles.''

And just this morning: ''Immigrant-document counterfeiting plant raided; 12 arrested.''

Most illegals who enter our country are seeking a better life, however, this motivation leaves them vulnerable. In San Diego, illegals will literally risk life and limb running up I–5 during rush hour traffic.

Illegals crossing the Mexico border starve before losing their way, or die of exposure in the mountains. We hear constant reports of the horrific, filthy, inhumane conditions they endure at the hands of smugglers, or ''coyotes.''

Alien smugglers make money from their human cargo, and often entangle drug smuggling and other criminal activities in this enterprise. Illegal aliens are robbed and murdered; women and girls are brutally raped and abused by those involved in this insidious activity.

As someone who grew up on our border with Mexico, someone who has pulled the corpses of illegals who drowned trying to cross the Tijuana River, I would like to tell you that this country's immigration system is broken, as these tales of tragedy and loss illustrate.

I hope that our debate does not focus on intentions. Those who seek a better life in the United States should not be vilified.

However, we must remove the attractive nuisance of public benefits which are available to illegal immigrants; we must give employers a way to verify the legal status of new employees, we must eliminate the backlog of legal immigrants waiting to be granted access—those who wish to abide by our laws but are frustrated by the pace of assimilation, and thus inclined to break the law to enter the United States.

These are the distorted set of incentives that current immigration law has created.

These distorted incentives reward those who break our laws, and frustrate those who wish to abide by them.

Our current immigration system antagonizes and is contradictory to the very basis of the American dream. The American dream is based upon freedom and hard work.

However, if those who wish to be American citizens enter our country illegally, they cannot expect to enjoy the benefits of our freedom; they cannot legally work to support themselves and their families; therefore they cannot hope to leave a better future for their children.

I hope that my colleagues will join with me to reform our immigration laws to create a more compassionate system, and eliminate the incentives in our current laws which cause so much suffering.

IMMIGRANT-DOCUMENT COUNTERFEITING PLANT RAIDED; 12 ARRESTED

(By Leonel Sanchez)

SAN YSIDRO.—U.S. Border Patrol agents brought down a one-stop illegal immigration service operating out of an apartment here yesterday, confiscating more than 3,000 fake documents.

Agents arrested 12 people at the apartment and seized material used to make phony immigration documents, including ''several official Mexican and United States immigration seals and stamps,'' a Border Patrol spokesman said.

The noontime raid came as illegal border crossings in the San Diego area were on the increase. A phony legal U.S. residence card, also known as a ''green card,'' can cost up to $500, Border Patrol spokesman Jim Pilkington said.

''Our agents disrupted a substantial and sophisticated false-document ring and dealt a serious blow to a very sophisticated organization,'' Pilkington said.

He said the investigation continues and more arrests are expected.

The raid followed a two-month investigation by agents assigned to ''Operation Wildcat,'' which targets smugglers in San Ysidro.

Agents hit pay dirt when they executed a search warrant at an unidentified apartment near Interstate 5. They found eight men and women who had recently crossed the border illegally and were waiting to be transported north. Pilkington said they were to be deported.

The four others arrested at the apartment were U.S. citizens-and legal U.S. residents. At least three of them are facing felony charges of immigrant smuggling and counterfeiting.

Agents initially reported finding only 200 phony documents in the apartment but later said they found many more in different places.

In all, they found 2,000 immigration documents, including Mexican passports; travel permits; border crossing, legal residency and work authorization cards; and California driver licenses.

Agents also seized $5,000, four cellular phones and special scissors, glue, ''and numerous photographs'' that were to be material to make fake documents.

FALL KILLS BORDER AGENT IN FOOT CHASE

(By Leonel Sanchez)

A midnight dash after illegal immigrants cost a Border Patrol rookie his life yesterday. It was the first local death in the agency in 20 years.

The agent, Luis A. Santiago, 30, fell from a steep cliff while chasing a group of people near a dam in Otay Lakes.

''It was just a tragic accident that could have happened to any of our officers,'' said local Border Patrol Chief Johnny Williams. ''It points to the dangers of doing this job.''

Sheriff's and Border Patrol investigators said Santiago's death was accidental.

It comes at a time when the Border Patrol is cracking down on illegal immigration along San Diego County's border with Mexico, where more illegal crossings occur than anywhere else along the 2,000-mile international boundary, Part of that crackdown has included an unprecedented influx of rookie agents fresh from the agency's training academy in Georgia.

Santiago was among 279 new agents who have arrived here since the October start of Operation Gatekeeper.

The ex-military man had been on the force less than 10 months, the past six at the Chula Vista station. Agents at the station patrol the area east of Heritage Road, which in recent months has become the sector's hot spot for illegal crossings.

A concentration of agents to the west had shifted the illicit traffic in their direction.

At 12:40 a.m. yesterday, Santiago and three other agents—including a training officer—were patrolling a canyon area near Lower Otay Reservoir when they saw a group of 15 to 20 illegal border crossers.

The people scattered when they saw the agents approaching. Santiago raced up a canyon rim after some of them, leaving his fellow agents behind.

The area on top has grass that quickly gives way to loose rocks.

That time of the morning, the grass is quite damp from dew and slippery,'' Williams said. ''He tried to step around a rock and lost his foothold.''

Santiago fell at least 100 feet down a hill with jagged rocks.

The other agents heard a scream and rushed to find him.

He was lying about 150 yards south of the dam. They immediately tried to resuscitate him.

Soon they were joined by paramedics. But they, too, were unable to revive him.

He died from head injuries, Border Patrol spokeswoman Ann Summers said.

Agents apprehended at least two illegal crossers in the canyon, but they could not be linked to the group that Santiago was chasing. They were expected to be deported.

Santiago was to have completed the 10-month training period next week and then would have been eligible to take a two-hour written and oral examination to become a permanent Border Patrol agent.

He lived in Chula Vista and is survived by family members in his native Puerto Rico.

Human rights activists have questioned whether the agency in its haste to deploy agents on the line rapidly, is allowing sufficient training time.

Border Patrol officials defended the training, saying safety is stressed at all times.

''No one is going to do anything to endanger their life or anybody else's life, not intentionally,'' Summers said.

New recruits spend four months at an academy in Glynco, Ga., where they undergo weapon training and study Spanish and immigration law.

Afterward, they are sent to one of the agency's sectors for an additional six months of training. They are teamed up with experienced agents and learn about the area's terrain, particularly the key paths used by the illegal crossers.

Santiago was the first agent in the sector to die in the line of duty since Glenn A. Phillips was killed in a vehicle accident on the border in July 1974.

And he was the second agent to die on the job this year along the southern border. An agent was killed in a vehicle accident while patrolling in south Texas, officials said.

The mood among agents in the San Diego sector was somber yesterday. It was in stark contrast to the previous day, when morale ran high as 45 new agents arrived.

The U.S. flag flew at half-staff at the sector's headquarters in San Ysidro, and agents wore black ribbons around their badges.

Agents usually worry more about confrontations with illegal crossers than about falling while running, said Brent Johnson, 33, who has been on the force eight years.

''You can prepare yourself for the confrontations, but there's little you can do to

prevent an unforeseen accident,'' Johnson said.

Most of the serious injuries involve vehicle accidents on hilly and bumpy roads. Agents also pay a physical price while running after the crossers.

''Sometimes it's just a sprained ankle, a stubbed toe, a broken finger, scrapes and cuts,'' Summers said. ''It's not uncommon for agents to get injured, seriously injured. We've been fairly lucky.''

BORDER FUGITIVE PLUNGES TO DEATH

(By Stacy Finz)

Repeating a tragedy in the dark, a man trying to evade a U.S. Border Patrol agent plunged to his death and five other men were injured when they ran off a 120-foot cliff near Otay Lakes Dam Saturday night.

The cliff is about 50 yards from the place where a Border Patrol agent feel to his death last year while chasing illegal border crossers.

The FBI and the U.S. Attorney's Office are investigating Saturday's events because of reports that the agent may have fired his gun, panicking the group.

The agent, whose name has not been released, has denied firing his weapon. He has been assigned to administrative duty pending the outcome of the investigation.

Robert Walsh, the FBI special agent in charge of the San Diego office, said the agent's gun is being tested to determine whether it was fired.

At a press conference yesterday, Border Patrol Chief Johnny Williams said the agent was near Otay Lakes Dam when he spotted a group of 15 suspected illegal crossers and hid in the brush until they passed.

He began tailing the group, and then ordered them to stop, said Border Patrol spokesman Ron Henley.

Nine complied. Six broke into a run, Williams said.

Shortly thereafter, the agent heard cries and screams and found that the six men had fallen off a sheer cliff. Williams said.

''We see a lot of things in the course of our duty,'' said Henley, who helped give medical aid to the injured men. ''But to see this was like seeing a herd of cattle that had just fallen off a cliff.''

Henley said the men apparently didn't see the rugged drop, which is filled with boulders and jagged rocks. The incident happened about 9:40 p.m., according to the Border Patrol.

An agent also was injured in the rescue operation and was taken out of the area by helicopter.

Four of the injured men have been released from area hospitals and are being questioned, Williams said. They, and the nine men who surrendered, are being held on suspicion of entering this country illegally.

Officials would not release their names, but said they are men in their 20s and 30s who came from all parts of Mexico.

U.S. Attorney Alan Bersin said smugglers should be blamed for Saturday's death. Officials said they believe the 15 men paid a minimum of $300 each to a guide, who brought them to the isolated area, only about four miles from the border.

''The people who led these people here, and one man to his death, have to be dealt with,'' Bersin said. ''As a matter of public safety we must stop the smuggling of human beings. These people are profiting off the misery of others' poverty.''

Bersin praised agents for what he called bringing law back to the border. Regarding the investigation into whether the agent fired his gun, Bersin said: ''Allegations are just allegations at this point.''

Saturday night's incident was reminiscent of rookie Agent Luis Santiago's fall to his death last March, when he slipped from a cliff while chasing a group of suspected illegal crossers near the Lower Otay Reservoir. Santiago, 30, had raced up a canyon rim after them and plunged 100 feet down a hill with jagged rocks.

No warning signs have been erected since the first accident.

31 IMMIGRANTS CAUGHT IN STOLEN VEHICLES

(By Maria C. Hunt)

Thirty-one illegal immigrants who caught a ride through the East County in stolen vehicles were captured by authorities in two separate operations early yesterday.

Those apprehended by the Border Patrol and other authorities were sent back to Mexico voluntarily after the incidents that began in Dulzura and Pine Valley.

While it is not uncommon for Border Patrol agents to capture that many in two hours, a spokesman said they usually don't see vehicles so crammed with people.

''The fact that they were all in stolen vehicles, that's unusual,'' said spokesman Mark Moody, ''And they both came out of East County. That's where everything is taking place.''

Border Patrol agents working near the pine Valley Road exit of Interstate 8 pulled behind a suspicious pickup truck and tried to get it to stop about 5 a.m. When the driver did not comply, the agents ended the pursuit for safety reasons. They had lost sight of the truck for a few minutes when they spotted a cloud of dust ahead.

The truck had left the road and hit a guard rail of the Pine Valley creek bridge, coming to rest on the other side of the barrier. About 13 people got out of the truck and waited while agents went down the embankment to chase a few people who had tried to hide in the brush.

When the agents returned, a sheriff's deputy helped them extinguish a fire that had started in the truck. None of the 17 people captured needed medical treatment, Moody said. Although most of the people in the truck, which had been reported stolen from San Diego, were captured, authorities were unable to identify the driver.

About an hour later, Border Patrol agents arrested 14 People who had been traveling in a double-horse trailer pulled by a pickup truck, said spokesman Jim Pilkington.

Shortly after the truck was stolen from the owner's front yard around 6 a.m., someone drove it through the Highway 94 checkpoint without stopping. Agents in a marked Border Patrol car tried to get the westbound truck to stop, but the driver kept going, so they ended the chase.

Undercover agents were following at a safe distance as the truck drove onto northbound Interstate 805 and pulled to the median near Murray Ridge Road, Pilkington said. When the truck stopped, about 30 people spilled out of the trailer and truck and scattered across the freeway.

While 14 of those people were apprehended, the rest got away.

None was hit by cars and no collisions occurred.

BORDER CROSSER, TOLD TO PACK NO PROVISIONS, DIES IN MOUNTAINS

(By Leonel Sanchez)

ALPINE.—The medical examiner said José Luis Centeno died of natural causes.

But it was probably his ordeal in the East County mountains that killed the 35-year-old Mexican on Wednesday.

He was among a group of illegal border crossers whose smugglers told them not to pack any food or water because they would be hiking for only five hours, the Border Patrol said.

Centeno and a friend became separated from the group and spent four days wandering in the rugged mountains, where overnight temperatures dipped near freezing.

Border Patrol agents found the two men by the side of Japatul Road near Hidden Glen before dawn Wednesday.

Centeno was having difficulty breathing and went into cardiac arrest.

Paramedics tried to revive him, but he was pronounced dead an hour after being found.

His friend, Demetrio Moreno Esquivel, was interviewed later by the Mexican Consulate, but information on his whereabouts was not available yesterday.

Centeno died in a mountain area where agents from the Campo station are increasingly making arrests.

Campo agents made 2,735 arrests last month, compared with 853 in December 1994.

The Border Patrol's crackdown in the Imperial Beach area has deliberately pushed the illegal immigrant traffic east of the San Ysidro Port of Entry.

Thus, illegal border crossers are being forced to find new routes to enter the United States.

Some have paid the ultimate price.

On Saturday, a still unidentified illegal border crosser was killed when he and five others ran off a cliff near a dam near Otay Lakes while trying to elude a Border Patrol agent. A second man suffered head injuries and was in a coma yesterday at UCSD Medical Center.

In East County, agents said, they routinely find illegal border crossers who have been hiking for days to reach a point where they are picked up for their journey north.

Most carry food and water with them and do not suffer tragic consequences, said Jim Pilkington, a spokesman for the Border Patrol.

ALIEN SMUGGLERS ARE PACKING CARS FOR PERILOUS TREK

(By Leonel Sanchez)

The weekend crash that killed three people and injured 16 in Jamul has highlighted a dangerous trend in the smuggling of illegal immigrants through East County.

Smugglers are recklessly crowding people into vehicles and taking them on perilous rides on windy mountain roads in Jamul, Dulzura, Tecate and Campo.

''They don't care how they pack them in. All they care about is the money,'' said U.S. Border Patrol spokeswoman Ann Summers.

The Jamul crash underscored the risks illegal immigrants take to get North.

Thirty-six people were crammed in the Ford van that struck a pickup truck Saturday night on state Route 94. The crash killed the pickup driver and two van riders.

Agents were not surprised by what happened.

They have been seeing large groups of illegal immigrants, sometimes up to 100, congregated in the desolate stretches in East County near the border.

Many cross on foot, jumping or going around the steel fence near the Tecate border crossing, then board a van or truck waiting nearby to take them to Los Angeles. They pay as much as $375 apiece.

In East County, state Route 94 has become the smugglers' preferred route to get to major roads and freeways, where they can blend into traffic.

From Tecate, state Route 94 leads to Jamacha, Otay Lakes, Honey Springs and Buckman Springs roads.

Guides familiar with the area's mountainous terrain are in heavy demand as are smugglers with access to large vehicles.

East County mountain residents are feeling the impact of the new traffic and are complaining to authorities.

Border Patrol officials have met with residents and re to meet again May 15 at the Dulzura Community Center.

''We've told them we're concerned about it too and are getting resources there to deal with the problem,'' Summers said.

Overtime pay has been approved for more agents to work in East County, she said.

Illegal crossings have risen there mostly because the U.S. Border Patrol has been effective in stopping illegal traffic farther west in the Imperial Beach-San Ysidro area.

Arrest records for the past seven months show the illegal crossing hot spots now are near Chula Vista, Brown Field, El Cajon and Campo.

Arrests in Imperial Beach were down 52 percent in April compared with the same month last year from 23,855 to 11,348, according to records.

Elsewhere in the 66-mile-wide sector, arrests continued to soar.

Arrests in Chula Vista, Broken Field and El Cajon rose 34 percent, 126 percent and 824 percent, respectively, in April compared with the same period last year.

* * * * *

Arrests were down from March, however, when 61,687 were made.

Immigration officials maintain that their strategy is working because the illegal traffic is shifting east to isolated areas where they are easier to apprehend.

Officials said they anticipated illegal crossings going up during the first quarter of the year because of seasonal labor patterns. The devaluation of the Mexican peso also has been a factor.

Would-be crossers are still arriving in Tijuana to probe the border there or hook up with a smuggler. Many now end up walking or riding to the border area in East County, said the CHP's Summers.

Some are trying to enter through the desert area near Calexico. In past summers, people have gotten lost there and died.

In East County, meanwhile, smugglers appear to be brazen and reckless in their attempt to move their human cargo north. Agents are foiling their trips near the border and as far north as Temecula.

In the past month, agents at that southern Riverside County check-point have intercepted five vehicles loaded with illegal immigrants, something that's relatively rare there.

The most recent happened hours apart Tuesday when agents found 97 illegal immigrants in two rental trucks. Agents found one of the trucks on the median of Interstate 15 with 38 people aboard.

In April, agents found a rental truck abandoned in De Luz Road in Fallbrook. Inside were 48 illegal immigrants. Three women who had fainted were treated for heat exhaustion and dehydration.

HONORING FRANK MOORE ON HIS 100TH BIRTHDAY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GOODLING. Mr. Speaker, I would like to congratulate Mr. Frank Moore, a longtime resident of the 19th Congressional District of Pennsylvania, on his 100th birthday. Mr. Moore celebrated this momentous occasion surrounded by his loving family and many friends on March 4, 1996.

Mr. Moore was born in 1896 in Waynesboro, PA, and has lived in York since he was 6 years old. He proudly served his country in the U.S. Army during the First World War. A graduate of York High School, he married Emma Goodling. Their children blessed them with three grandchildren and five great-grandchildren.

Mr. Moore's life has borne witness to world-changing events of the twentieth century. His life has been guided by important values: strong religious belief and work ethic, dedication and service to his country, respect for himself and others, and love of his family. He most certainly is a role model for all Americans.

Mr. Speaker, I am very pleased to honor Mr. Moore today. I pray God will grant him many more happy and healthy years. Happy birthday, Frank.

HONORING ALVARADO MIDDLE SCHOOL

HON. JAY KIM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. KIM. Mr. Speaker, I am honored to rise today and salute Principal Hunt and the teachers and students of Alvarado Intermediate School in Rowland Heights for having been awarded the Blue Ribbon School Award by the U.S. Secretary of Education.

Blue ribbon awards honor 266 secondary, middle, and junior high schools around the country for showing exceptional dedication to providing a top notch education to its students. Alvarado Middle School was the only school in the 41st district to achieve this special honor. Blue ribbon schools must show strong leadership, a clear vision and sense of mission that is shared by all connected with the school, high quality teaching, a challenging up-to-date curriculum, policies and practices that ensure a safe environment conducive to learning, a solid commitment to parental involvement, and evidence that the school helps all students achieve high standards.

Alvarado Intermediate School was selected through a highly competitive process in which State education departments, the Department of Defense Dependent Schools, the Bureau of Indian Affairs, and the Council for American Private Education nominate schools which best meet the superior standards of the award. The selected schools are then visited and reviewed by a panel of 100 outstanding members of the education community. This panel then makes final recommendations to the U.S. Secretary of Education. Alvarado intermediate will be honored this spring at a national ceremony in Washington, DC where the school will be given a plaque and a special flag to fly.

Mr. Speaker, I ask my colleagues to join me in commending Alvarado Intermediate School for its uncommon dedication to preparing its students for the challenges they will face growing up in and around Los Angeles County. Behind this Blue Ribbon Award is a dedicated group of faculty, students, and staff whose commitment to education is an example for schools around the country to follow.

TRIBUTE TO MILWAUKEE'S COMMUNITY BRAINSTORMING CONFERENCE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BARRETT of Wisconsin. Mr. Speaker, it is with pride today that I celebrate an important event that will take place in the city of Milwaukee. On Friday, March 22, the Community Brainstorming Conference [CBC] of Milwaukee will gather to celebrate its 10th anniversary. I ask my colleagues to join me in saluting the outstanding achievements of this remarkable coalition of leaders from a great community.

In February 1986, Samuel L. Johnson and Reuben K. Harpole, Jr., invited 13 people to a meeting at Saint Matthew's CME Church to discuss a series of vital issues facing Milwaukee's African-American community. The meeting was highly productive, and it was decided that a public forum of community activists should convene on the fourth Saturday of each month. The rest is history, and the CBC continues to fulfill its mission to this very day.

From day one, the CBC has represented the essence of grassroots political participation, and has made a significant impact at the local, State, and national level. Beyond the political arena, the CBC is actively engaged in a wide array of activities. In 1994, the CBC is actively engaged in a wide array of activities. In 1994, the CBC created its foundation to tap the creative talents of African-Americans, especially the young people in our community. To build on this progress, the CBC is moving aggressively to create new scholarship and fellowship opportunities.

Having personally taken part in CBC meetings and projects on many occasions, I can personally attest to its unfailing and dedicated membership. The men and women of the CBC consistently rise above and beyond the call of duty to make our community a better place to live. I am proud to have worked with the CBC and have come to rely on the policy expertise and good counsel of its membership. As we rapidly approach the 21st century, we need the CBC's voice today more than ever before.

Mr. Speaker I ask my colleagues to join me in paying tribute to Milwaukee's Community Brainstorming Conference. I join with the city of Milwaukee in wishing this outstanding organization a happy 10th anniversary, and wish the CBC continued success in our community.

TRIBUTE TO THE LATE MAX WRIGHT

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. JACOBS. Mr. Speaker, as can be seen by the following, Max Wright was a superlative human being. He was a minister of the gospel, a labor leader, an auctioneer and a delightful musician. The loss of Max Wright is a loss to us all.

MAX WRIGHT HAD WORKED WITH AFL–CIO

Max F. Wright, 80, Beech Grove, a retired labor leader, Church of Christ minister, singer and auctioneer, died March 15.

He was secretary-treasurer of the Indiana State AFL–CIO from 1958 until his retirement in 1985.

''The death of Max Wright is a loss for all citizens of Indiana.'' Gov. Evan Bayh said in a statement. ''Max was a pillar of the union movement in our state . . . He was a constant advocate of worker causes for his entire career.''

Chuck Deppert, president of the Indiana State AFL–CIO, said Mr. Wright dedicated his life to helping others.

''He did everything he could to help you with hour problem,'' Deppert said, ''That's the way I'll remember him.''

A sheet metal worker by trade, Mr. Wright was elected business agent of Sheet Metal Workers Local 7 in Terre Haute in 1943. He served in that capacity until being elected to the state labor position 15 years later.

After he retired, he was given the title secretary-treasurer emeritus, and the AFL–CIO state headquarters's in Indianapolis was named after him.

As a minister, Mr. Wright preached to Church of Christ congregations throughout Indian. He was a member and elder of Fountain Square Church of Christ, and he was a former elder at Farmersburg Church of Christ. As a gospel music singer, he performed with the Melody Boys Quartet.

Mr. Wright also was a licensed auctioneer. He was active in the sale of livestock at 4–H exhibitions, including the Sullivan and Vigo county fairs.

He served on numerous civic and public boards and commissions, including the Indiana Employment Security Board, Indiana Vocational Education Board, Ivy Tech State College board, Goodwill industries, the Blue Cross-Blue Shield of Indiana board and executive committee, the Maryvale Senior Citizens Retirement Home, Indiana Council on Economic Education, Indiana Emergency Training Committee, Governor's Youth Unemployment Committee, Indiana Private Industry Council and Indiana Council on Aging.

He also was Indiana's delegate to the White House Conference on Aging in 1961, 1971 and 1981.

Mr. Wright received the City of Hope's ''Spirit of Life'' award in 1974. He was named Sagamore of the Wabash by Govs. Matthew Welsh, Edgar Whitcomb, Otis Bowen, Robert Orr and Bayh.

Memorial contributions may be made to the Max F. Wright Memorial Education Fund, c/o Citizens Bank of Central Indiana, Greenwood.

Services: 1 p.m. March 18 in Fountain Square Church of Christ. Calling: 2 to 9 p.m. March 17 in Little & Sons Funeral Home, Stop 11 Road, and from noon to 1 p.m. March 18 in the church.

Survivors: wife Lanore Elwood Wright; children Diane Hauser, Marcia Payne, John M., David J., Lloyd Wright; brother Leo Paul Wright, sister Marietta Riggs Schumann, 15 grandchildren; 17 great-grandchildren.

FISCAL YEAR 1996 OMNIBUS APPROPRIATIONS BILL

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today to applaud my colleagues in the Senate for adding by voice vote an amendment to the fiscal year 1996 omnibus appropriations bill that repeals the requirement that all HIV-positive members of the military be dismissed. In a show of bipartisanship, the appropriations bill was passed by the Senate 79–21, and was supported by Senators CONNIE MACK, JOHN MCCAIN, and SAM NUNN among others.

The HIV provision, which was included in the fiscal year 1996 Defense authorization bill that was signed by the President on February 10, discharges within 6 months the 1,049 dedicated HIV-positive men and women who have been serving their country without fail for years. Half of these servicemembers are married and, on average, have served in the military for more than a decade.

This provision immediately cuts off health care benefits to the servicemembers' dependents. Therefore, this new policy will not only deprive many men and women of their livelihood, but will leave their families—their spouses and children—without health care.

All of the individuals who will be impacted by this provision are able to perform their jobs. They are senior officers, lawyers, computer specialists, intelligence officers, missile specialists, doctors, mechanics and others. Replacing them and retraining new servicemembers is not only unjust, it is inefficient.

This unnecessary measure was neither sought nor supported by the Department of Defense. Both the Assistant Secretary for Force Management Policy and the Army's Deputy Chief of Staff for Personnel have stated that the provision would do nothing to improve military readiness while depriving the Armed Forces of experienced individuals who are ready and able to perform their assigned duties.

Furthermore, the number of servicemembers infected with HIV is small, comprising less than one-tenth of 1 percent of the active force. Current law already requires that such individuals be separated or retired when their condition makes them unfit to perform their duties.

This provision is unwise and unjust—it hurts not only those men and women who are serving our country with distinction but also their families. This provision kicks HIV-infected servicemembers when they are down and I hope that this body will follow the Senate's lead and repeal it.

TRIBUTE TO NEW YORK CITY MAYOR ABE BEAME ON HIS 90TH BIRTHDAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mrs. MALONEY. Mr. Speaker, today I rise to pay tribute to the Honorable Abe Beame, Mayor of New York City and dedicated public servant. Today, March 20, 1996, we are happy to celebrate the 90th birthday of Mayor Beame and we remain forever grateful for his many years of service to New York City.

Abraham David Beame became New York City's first Jewish Mayor in a landslide election in 1973. At the time he entered office, the City had a $12 billion budget and $1.5 billion deficit. At the end of his administration, in 1977, New York City had a cash surplus of $250 million. Under his guidance, New York City also regained its reputation as a national center—it was the host to the Democratic National Convention and the Bicentennial's Operation Sail. During his tenure, he convinced the United States Open to remain in Flushing Meadows.

These successes are largely attributable to his many years of experience as the City's Budget Director and Comptroller. Because of the dire fiscal situation and Washington's refusal of support, Mayor Beame was forced to take drastic economic measures. Mayor Beame cut the City's spending by $100 million, reduced the work force by 65,000, and he convinced the trustees of the five pensions funds to buy nearly $4 million in New York City bonds. Such drastic measures, born of fiscal experience and skill and sound management procedures, returned New York City to the road to fiscal health.

Mayor Beame had begun his public service in 1946 with a position in the budget office of Mayor William O'Dwyer. He eventually rose to Budget Director and was later elected to the position of City Comptroller. Describing himself as a New Deal Liberal, Mayor Beame won the Democratic party nomination for Mayor in 1965, but was defeated by John Lindsay. It was not until 8 years later, in 1973, that Mayor Beame would declare victory and become the 104th Mayor of New York City.

Ninety years ago today, on March 20, 1906, Abraham David Beame was born in the East End of London. His parents were fleeing from Warsaw, Poland where his father had participated in an underground movement against the Russian Czar. They were en route to New York City, and the cold water tenement on Stanton Street in the Lower East Side, where Mayor Beame would spend his childhood.

While in the seventh grade at P.S. 160, Abe Beame began working after school in the paper factory where his father was foreman. He would continue working at the factory and contributing part of his paycheck to his parents throughout high school and while attending Baruch College at night. In February of 1928, the same month he graduated from college, Abe Beame married Mary Ingerman, whom he had met over a game of checkers at a gathering of the University Settlement, a community organization. The Beame's moved to Brooklyn, where they had two sons and where they began a life heavily involved in City politics. Before joining Mayor O'Dwyer's budget office in 1946, Abe Beame was an accountant and public school teacher in Brooklyn, and a member of the Madison Democratic Club. Mary Beame was to remain devotedly at his side for 67 years. Since leaving office, Mayor Beame's commitment to public service has continued through his participation in dozens of philanthropic organizations that benefit the city and nation.

Today, on his 90th birthday, I am very pleased to recognize Mayor Abraham David Beame's contribution to the great City of New York and thereby to the Nation. I ask that my colleagues join with me in this celebration by paying tribute to his nearly 70 years of accomplishments and dedication to public service.

WAGES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 20, 1996, into the CONGRESSIONAL RECORD.

WAGES

The issue of stagnant wages for American workers has moved to the top of the political agenda. It has become a leading issue in the 1996 presidential campaign, the focus of speeches by congressional leaders, and a prime topic for magazine covers and news features. Some believe that it will be the dominant national political issue in the U.S. for years to come.

The concern is understandable. Adjusted for inflation, the wages of middle-class Americans have basically not increased for years. People are working hard, being responsible, and trying to make things better for their families, yet they face rising prices and mounting bills and few increases in pay. They are holding second or third jobs, and both parents often must work, and that means less time for community involvement, reading to their kids, or Little League games.

On top of this, workers have been shaken by AT&T's layoff of 40,000 employees, and most Americans have a family member or friend who has lost a job to corporate downsizing. People expect to see layoffs and frozen wages during tough economic times, but they can't understand why all this is happening when the U.S. economy is growing, unemployment is low, companies are seeing record profits, the stock market is soaring to record levels, and compensation for CEOs is skyrocketing.

All of this has led to acute job insecurity and concern about the future. Far too many Americans believe that hard work and company loyalty are no longer being rewarded, and that the American promise of opportunity and a better future is slipping away. They are not proponents of big government, but they wonder if they will get any help out of Washington.

EXTENT OF THE PROBLEM

The problem of stagnant wages is getting a lot of attention now, but it is not new. The wages of American workers basically doubled between 1947 and 1973, with some of the strongest gains among moderate-income workers. But since 1973, hourly wages for the average American have lagged some 10–15% behind inflation. The situation is slightly better now than a few years ago, but wage growth is still weak. Moreover, since 1979, 98% of the growth in income in the U.S. has gone to the top 20% of U.S. households. Some people have been doing very well in today's economy, but not the average American worker. This is not just a personal problem for those families affected; it will ripple across the economy if our workers cannot afford to buy the products we make.

While some economists are fairly optimistic about future wage increases—citing rising productivity, falling prices, tighter labor markets—others are worried. The greatest concern is over the impact of global competition and technology on less skilled, less educated workers.

NO EASY ANSWERS

The national attention to stagnant wages is healthy and long overdue, but we must address the problem carefully rather than jump at the first solution offered. The problem has been with us for twenty years and the causes are complex; it will not be solved overnight. Indeed, some of the proposals could make things worse. For example, given the importance of exports to states like Indiana, the proposal for a stiff tariff on imported goods could boomerang and devastate many of our industries, particularly agriculture.

ADDRESSING THE PROBLEM

Several steps can be taken to help workers. Among the most important is to create opportunity for them by providing them the tools to succeed in the new economy. Education and job skills are essential. We simply have to put into place effective low-cost college loans, school-to-work apprenticeships, training vouchers for laidoff workers, and effective vocational and adult education.

We also need to make work pay for people at the bottom of the income scale. Work is better than welfare or unemployment. We need to raise the minimum wage and keep the earned income tax credit for working families. We also need to ease the transition from job to job. Health insurers should not be able to cut someone off who loses a job, pensions should be portable, unemployment insurance, job search assistance, and job training should be available at one-stop career centers.

But of course most of the effort has to be by individuals and private companies. Each person must make the most of the opportunities offered, and private companies must do everything they can to help workers make a transition. We certainly need more business investments that make even low-skilled workers productive, and investments in people like the GI Bill that upgrade the workforce. We should end the myriad of subsidies and tax breaks for particular companies and industries that provide no public benefit. Corporate welfare in the United States totals billions of dollars each year.

I am skeptical of sweeping measures to prevent job loss or protect laid-off workers. If we go too far we will deter firms from hiring and discourage the unemployed from finding new work.

Nothing is more important than raising the economic growth rate. The solution to economic anxiety in the country is to expand jobs and opportunities. There is no substitute for sound macroeconomic policies. In the present context that means cutting the deficit, expanding markets, cutting government spending, reducing regulation, increasing productivity by investing in people, plant and equipment, infrastructure, and technology, and running a monetary policy to allow for faster economic growth.

CONCLUSION

One of the toughest challenges today is how to make sense of what's happening in the American economy, with the new and often alarming economic reality. This economy has produced record profits for some corporations, but it has produced pink slips and falling wages for many workers. On many broad measurers, it's one of the healthiest economies we've had for several decades with many Americans living better, but there are too many Americans working harder just to keep up and they have many concerns about the financial security of their families. Our nation is struggling today to find the right way to deal with the discontent of the American worker. Few challenges have higher priority.

PERSONAL EXPLANATION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. PORTER. Mr. Speaker, on Tuesday, March 19 and Wednesday, March 20, I was at home in Illinois for the Illinois primary election and I was not present for votes on rollcall Nos. 68 through 76.

Had I been able to be present and voting, I would have voted ''yea'' on rollcall vote 68, ''yea'' on rollcall vote 69, ''yea'' on rollcall vote 70, ''no'' on rollcall vote 71, ''no'' on rollcall vote 72, ''yea'' on rollcall vote 73, ''no'' on rollcall vote 74, ''yea'' on rollcall vote 75, and ''no'' on rollcall vote 76.

FORTIETH ANNIVERSARY OF TUNISIAN INDEPENDENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. GILMAN. Mr. Speaker, today is the 40th anniversary of independence of the Republic of Tunisia. With increasingly strong ties between our two governments, the American people congratulate today the people of Tunisia on this historic anniversary. For the last 40 years, Tunisia has been a model of economic growth and the advancement of women in society.

It may be difficult for many Americans to appreciate Tunisia's situation. Its only two neighbors are Algeria, which has been racked by civil war for several years, and Libya, whose dictator has supported the most nefarious and subversive kinds of terrorism. Mr. Speaker, this is not a good neighborhood.

Nevertheless, Tunisia has maintained internal stability—not without its own controversies—in the face of external chaos. At the same time, years of hard work have produced one of the highest standards of living in the region. Tunisia is one of the few countries to graduate successfully from development assistance and join the developed world. For these accomplishments, Tunisia should be applauded and supported.

In addition, Tunisia has taken positive, cautious steps in the diplomatic realm, particularly in the Arab-Israel peace process. In January of this year, Tunisia and Israel announced the planned opening of interest sections in each country, to be completed by April 15. This development will be a welcome realization of forward progress in Israel-Tunisia relations. We were also extremely pleased to learn from the Tunisian Foreign Minister that Tunisia plans to establish full diplomatic relations with Israel by the end of 1996.

The United States and Tunisia have also moved closer over the years. Yesterday, officials from our Department of Defense concluded a meeting of the Joint Military Commission with Tunisian officials, evidence of our ongoing visible support of strong United States-Tunisian relations.

Mr. Speaker, on this special day for Tunisia, I urge my colleagues reflect on our strong commitment to our friend in North Africa.

VIDEO EXPOSES INDIA'S TORTURE, RAPE, AND MURDER OF SIKH NATION

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recommend to my colleagues the outstanding new video ''Disappearances in Punjab.'' This video was produced by Ram Narayan Kumar, a Hindu human rights activist, and Lorenz Skerjanz, an ethnologist from Austria. It paints a graphic picture of India's state terrorism against the Sikh Nation in Punjab, Khalistan. I thank Dr. Gurmit Singh Aulakh, president of the Council of Khalistan, for sending it to me.

This video highlights the abduction of Jaswant Singh Khalra, the general secretary of the Human Rights Wing (Shiromani Akali Dal), by the Indian regime. Mr. Khalra reported that more than 25,000 young Sikh men had been abducted, tortured, and killed by the regime. Then the regime tried to hide this fact by listing the bodies as unidentified and cremating them. For this he was silenced. According to several other human rights activists, including Inderjit Singh Jaijee, Colonel Partap Singh, Justice Ajit Singh Bains, and General Narinder Singh, over 100,000 Sikhs have disappeared at the hands of the Indian regime.

But the Khalra case is only part of a pattern of repression of the Sikh nation by an Indian regime the New York Times described on February 25 as ''a rotten, corrupt, repressive, and anti-people system.'' This documentary video also exposes other cases of Indian repression. It shows witnesses to the repression talking about what they have seen. This is important new evidence of India's brutal record. After watching the video, the viewer will conclude that India is the kind of police state that America spent many years and billions of dollars fighting.

It is time for the U.S. Government to speak out against this tyrannical regime. Only our pressure will cause India to begin acting like the democracy it proclaims itself to be. The time has come for the United States to cut off its aid to India until human rights are respected, as the Human Rights in India Act provides.

This video shows the bloody, violent repression which fuels the drive of Sikhs, Kashmiris, and other minority groups to be independent. I recommend it to all my colleagues and anyone else who is interested in promoting and expanding freedom.

Mr. Speaker, I would like to introduce the transcript of this video into the RECORD.

DISAPPEARANCES IN PUNJAB

On 31 August 1995, Punjab's Chief Minister Beant Singh was assassinated in a suicide mission of bombing carried out by a Sikh militant organization at the State government's Secretariat in Chandigarh. Beant Singh of the Congress party has taken office in early 1992 after winning the elections to the State Legislative Assembly, which the main Sikh political groups had boycotted to pursue their decade long agitation for a radical measure of autonomy for Punjab. As the Sikh electorate, constituting the majority of Punjab's population stayed away from the polling, the Congress party won the elections, without a real contest. But the government formed by the Congress party under Beant Singh's leadership projected the election results as the democratic mandate to stamp out the Sikh agitation, promising to implement the mandate by all possible means. Reports of human rights violations became widespread.

The leaders of Hindu public opinion in Punjab argued that the due process of law was a luxury, which Indian could not afford while fighting the secessionist terrorism:

[Interview with Vijay Chopra, publisher and editor of Hind Samachar group of newspapers, who brings out the three most popular language dailies in northern India.]

Only the human rights groups and the individuals, with little influence on the working of the government, expressed indignation against the reports of police atrocities.

[Interview with Satish Jain, Professor of Economics at Jawarharlal Nehru University, New Delhi.]

Many inside observers of Indian politics, including the former President of India Zail Singh, admitted that the highhanded methods of the security forces, instigated the separatist terrorism.

[Interview with Zail Singh.]

HISTORICAL BACKGROUND OF THE SIKH SEPARATIST UNREST

Approximately twenty million Sikhs of India form less than 2 per cent of the country's population, but constitute majority in the agriculturally prosperous Northwestern province of Punjab, which had been divided between India and Pakistan in 1947. Prosperous Jat Sikh farmers dominate the Akali Dal, the main political party of the orthodox Sikhs, that launched the agitation of the radical measure of autonomy for the State in early 1982. Jarnail Singh Bhindranwale, a charismatic religious preacher, who had already emerged on the scene as the messiah of ''true Sikhs'', rallied the discontented sections of the Sikhs, particularly the unemployed youth, to the Akali agitation. The Union government projected the agitation as a secessionist movement, and refused to negotiate decentralization of political power. The next two years of virulent violence, which also witnessed the rise of Sikh terrorism in the real sense, came to a head in June of 1984 when Prime Minister Indira Gandhi ordered the military to flush out Bhindranwale and his armed followers from the Golden Temple of Amritsar in which they had taken shelter. When the operation was over, hundreds of Sikh militants, including Bhindranwale, and a larger number of Sikh pilgrims, were dead. The Akal Takht, an important shrine inside the temple complex regarded as the seat of political authority within the Sikh historical tradition, was rubble. For devout Sikhs, Bhindranwale and his followers, who had died fighting the Indian military, became the martyrs of the faith. A section of Bhindranwale's followers now began to talk of an independent Sikh state.

The Parliamentary elections held at the end of 1989, returned many extremist candidates under the leadership of Simranjit Singh Mann, former police officer turned separatist politician. The results showed that the separatist cause now possessed a measure of popular support. Alienation of the Sikhs of Punjab from India's political system again became manifest when the overwhelming majority of them stayed away from the polling in early 1992, keeping with the call given by the main Akali groups to boycott the elections. The boycott helped the Congress party, under Beant Singh, to form its government in the State, and to embark on a highhanded policy to suppress the Sikh agitation without caring for the limits of the law. Many officials involved in the security operations privately admit that excesses, including custodial killings, do take place. But they argue that they have no other way to demoralize a secessionist movement, which enjoys a measure of sympathy in Punjab's countryside.

EVIDENCE OF STATE ATROCITIES

Interviews with Inderjit Singh Jaijee, Chairman, Movement Against State Repression, and Jaspal Singh Dhillon, Chairman, Shiromani Akali Dal's Human Rights Wing. [Photographic evidence of custodial torture and killings.]

[Interview with Ranjan Lakhanpal, a lawyer who fights generally losing legal battles to enforce the rule of law, against the working of the Punjab police. Lakhanpal introduces two women victims of custodial rape.]

Our own investigations in the Amritsar region reveal that the dealings of the security forces with the relatives of separatist militants, themselves unconnected with crime, are not only routinely illegal but also brutal. Apparently, the idea is to set an example of harshness that would discourage the rural folk from sympathizing with the extremist cause.

[Interview with Arjun Singh, grandfather of a known militant Paramjit Singh Panjwad, tortured in the police custody. Panjwad's mother was killed in custody.]

Many Sikh officers of the Punjab police privately corroborate these reports of police atrocities.

[Interview with one woman police officer, on the condition of anonymity: She told us about her experience of custodial torture, rape and murders at an interrogation center she was attached to. Photographic evidence of custodial torture and murders.]

Champions of human rights in Punjab are themselves vulnerable to persecution. Many have suffered long periods of illegal detention, torture in custody and even elimination. Sometimes their relatives become victims of police wrath. On 29 March 1995, lawyer Ranjan Lakhanpal's ten year old son Ashish was run over by a police vehicle. The vehicle belonged to an officer whom Ranjan has accused of murdering a detainee in custody.

THE CASE OF JASWANT SINGH KHALRA

The more recent example comes from the case of Jaswant Singh Khalra, General Secretary of the Shiromani Akali Dal's Human Rights Wing, who got picked up by uniformed commandos of Punjab police from the porch of his house in Amritsar on 6 September 1995, six days after Beant Singh's assassination. Human Rights Wing has been focussing attention on unravelling the mystery of what happens to the large number of people the security forces illegally pick-up for interrogation. Jaswant Singh Khalra was associated with the investigations that led to the discovery that Punjab police have been cremating thousands of dead Sikhs illegally, by mentioning them in the registers at the cremation grounds as ''unclaimed'' and ''unidentified.'' The investigations also established that these ''cremated'' Sikhs were largely those who had earlier been picked up for interrogation.

[Interview with the attendant of the cremation ground at Patti, a subdivisional town in Amritsar district.]

Equally incriminating evidence against the police comes from the hospitals where the police sent some bodies so cremated for postmortem.

[Interview with the Chief Medical Officer of the hospital at Patti: This doctor told us that Sarabjit Singh was still alive when the police first brought him for the postmortem. On being discovered alive, Sarabjit Singh was taken away by the police and brought back to the hospital the second time when he

was actually dead. The hospital gave the postmortem report the police wanted. The Chief Medical Officer of the hospital at Patti also offered us some astonishing information on how he helped the police to get the postmortem reports they legally needed in all circumstances before cremating the dead bodies.]

Investigation carried out by the Human Rights Wing forms the basis of a petition that the Committee for information and Initiative on Punjab has filed before the Supreme Court of India. The issue of illegal cremations by the Punjab police is not being investigated by the Central Bureau of Investigation, on the orders from the Supreme Court. However, the order of the probe did not come before Jaswant Singh Khalra himself ''disappeared.''

[Interview with Jaspal Singh Dhillon: ''Khalra was quite clearly told that he can also become an unidentified body. And today Khalra is not there.'']

The guilty officials of Punjab police knew that, without Khalra's investigative resourcefulness in the Amritsar district, the Human Rights Wing could not have so conclusively exposed their ways of handling the Sikh unrest in Punjab. Khalra had also been providing legal counselling to victims of police atrocities, particularly the relatives of the ''disappeared'', which encouraged them to approach the courts to redress their grievances.

Khalra's whereabouts remain unknown. The chief of the Punjab police has categorically denied Khalra's abduction by the officers of his force. The Supreme Court of India has ordered the Central Bureau of Investigation to probe the ''disappearance'' along with the issue of illegal cremations by the Punjab police. In ordering the probe, the court has neither extended protection to witness who might lead evidence to establish the truth, nor has asked the CBI to associate the human rights groups, directly involved in exposing the police atrocities, with the inquiry. It is evident that the Central Bureau of Investigation, as an investigating agency under the Union Home Ministry, lacks the necessary power and independence to determine the truth of allegations of serious human rights crimes, made against India's security forces.

Human right groups worldwide are seriously concerned about the disappearance of Jaswant Singh Khalra, which is seen as a warning to all those who are engaged in exposing police atrocities in the State. The Sikh groups in Punjab are agitating for Khalra's release. Many leaders of the Western countries, including the President of the United States of America have conveyed their concern about the case to the government of India. However, the information percolating from the police sources suggests that Khalra might already have been eliminated. Despair dominants the mood of the Sikh leaders in Punjab.

INDIA THREATENS WITNESS TO KHALRA ABDUCTION

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. CONDIT. Mr. Speaker, I rise today to condemn a blatant abuse of power by the Indian Government. I join many other Members of the House who have spoken previously about the kidnapping of human rights activist Jaswant Singh Khalra, who languishes in illegal detention more than 6 months after being taken from his home in Amritsar on September 6. Last year, 65 Members of the House wrote to Indian Prime Minister Rao demanding Mr. Khalra's release. So far, we have been ignored. Mr. Khalra must be released immediately.

The March 6–12, 1996, issue of World Sikh News reports that a key witness to the Khalra kidnapping, Kirpal Singh Randhawa, secretary of the Punjab Human Rights Organization, filed a complaint in India's Supreme Court stating that ''police had threatened to eliminate him and his family.'' It seems that the authorities will go to any length to keep Mr. Randhawa from testifying about Mr. Khalra's abduction. Mr. Randhawa also said that he feared that the Indian Government will file a false legal case against him to prevent him from testifying. I will be placing this article in the RECORD.

Such actions by the Indian Government are not unprecedented. In the State Department's 1996 country report on human rights in India, it is reported that ''the brother of Surinder Singh Fauji was held for a week in incommunicado detention, apparently to persuade Fauji not to testify on extrajudicial executions he witnessed in 1993.'' How can India call itself a democracy when the police are so out of control?

Recently I received a chilling video documentary called ''Disappearances in Punjab.'' It details murder, torture, and rapes of Sikhs in Punjab, Khalistan. I am introducing into the RECORD, a press release from the Council of Khalistan regarding this video.

In ''Disappearance in Punjab,'' a female officer from the Punjab police is interviewed. Her testimony is frightening to anyone who cares about basic human freedom. This police officer says that she saw ''atrocities—including those against women—that I cannot bear. Women suffer much. Male officers torture them. They also rape detainees. Some who had been picked up were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention.'' The policewoman is asked, ''What was their condition in custody?'' ''Their legs had been broken,'' she replies. ''Could they have run away?,'' asks the interviewer. ''They could not even have walked'' is her chilling reply.

This video, and the threat against Mr. Randhawa, prove that India's claim to be a democracy is a complete fraud. Democracies respect human rights. Democracies do not threaten to kill witnesses or falsely detain their relatives. Democracies neither kidnap people nor arrest them for publishing reports that embarrass the government, as in Mr. Khalra's case. In short, democracies respect and practice freedom. India does not. It is against this background that the Sikh Nation declared itself independent on October 7, 1987. With that declaration, the independent country of Khalistan was formed. The Council of Khalistan, which brought these gruesome cases to my attention, was formed at that time to serve as Khalistan's government in exile. India's response to the Skh Nation's exercise of its sovereignty has been to step up the repression, as these cases show. This repressive campaign of terror and genocide by the Indian regime has caused the deaths of over 150,000 Sikhs since 1984. Thousands of other non-Hindus have also been killed in Kshmier, Nagaland, and other areas struggling for human rights and self-determination.

The United States Government does not have to sit idly by and let India continue this brutal repression. There are two bills pending which address this situation. They are H.R. 1425, the Human Rights in India Act, which will seek to cut off United States development aid to India until India observes basic human rights; and House Concurrent Resolution 32, which seeks a plebiscite on independence in Khalistan under international supervision so that the Sikh Nation can freely choose its own future in free and fair vote, the way democracies make decisions. I urge my colleagues to support both of these bills. It is imperative that we assist the oppressed urge my colleagues to support both of these bills. It is imperative that we assist the oppressed Sikhs of Khalistan so that they too, can enjoy the glow of freedom, as we do here in America.

[From the World Sikh News, Mar. 6,–12, 1996]

KHALRA CASE THREATENED

AMRITSAR.—The secretary of Punjab Human Rights Organization, Mr. Kirpal Singh Randhawa, who is a key witness in the case pertaining to the alleged kidnapping of the human rights activist Mr. Jaswant Singh Khalra, last week alleged that police had threatened to eliminate him and his family.

In a complaint sent to Mr. Justice Kuldeep Singh of the Supreme Court who is hearing the case, Mr. Randhawa alleged that he had gone to Lopoke (Majitha) police station in connection with another case of police highhandedness where he was threatened of dire consequences by Mr. Jagdip Singh, SHO, and ASI Mr. Gurpal Singh Bajwa. The police also threatened Mr. Randhawa to withdraw security cover given to him by orders of the Supreme Court.

Mr. Randhawa told the Supreme Court that he apprehended danger to his life and his family or implication in a false case.

[Press Release From the Council of Khalistan, Mar. 14, 1996]

''DISAPPEARANCES IN PUNJAB''

VIDEO DOCUMENTARY EXPOSES MURDER, TORTURE AND RAPE OF SIKHS BY INDIAN POLICE

WASHINGTON, DC, MARCH 13.—A new video documentary entitled ''Disappearances in Punjab'' uncovers the truth about India's decade of brutal oppression against the Sikhs of Punjab, Khalistan. Produced by Ram Narayan Kumar, a Hindu human rights activist and Lorenz Skerjanz of the University of Vienna, the documentary shows ''disappearances'' and death in police custody as common occurrences in the Sikh homeland. Indian state terrorism against the Sikhs, the video shows, is part of its policy to violently crush the demand for Sikh independence—a policy widely supported by the government and Indian society at large. According to Dr. Satish Jain, Professor of Economics at Jawarharlal Nehru University, ''There is a large section of [India] which approves of State atrocities. And, I think, the weakness of the Indian nation, the weakness of Indian society, really lies in this attitude.''

According to ''Disappearances in Punjab,'' the deceased Chief Minister Beant Singh spearheaded a government-backed campaign to crush all voices of dissent in Punjab regarding the demand for an independent Khalistan. Under Beant Singh and police chief K.P.S. Gill, tens of thousands of Sikhs were murdered. Reports of human rights violations became widespread. According to the Amnesty International report, *Determining the Fate of the Disappeared in Punjab*, ''. . . the Punjab police have been allowed to commit human rights violations with impunity in the state.'' Indian journalist Iqbal Masud, called India's claims of having restored normalcy to Punjab a ''bogus peace.'' ''The

Beant-Gill duo,'' writes Masud, ''committed mass incarceration and disappearances and called it 'normalcy'" (*The Pioneer,* Nov. 4, 1995).

Through a series of interviews with respected human rights activists, intellectuals, Punjab police officers, and eye witnesses, ''Disappearances in Punjab'' reveals the extent to which the so-called ''world's largest democracy'' has used brutal oppression to silence the voice of dissent in Khalistan. For over a decade, Sikhs have claimed that the Indian police have followed a *modus operandi* in which they abduct Sikhs, torture them and then kill them claiming that the victim was killed in an ''armed encounter'' with the police. In the following excerpt, a female police officer confirms these allegations.

Woman: ''I work for the Punjab police. I joined out of patriotic sentiments, but what I saw, atrocities—including those against women—that I cannot bear. Woman suffer much. Male officers torture them. They also rape detainees. Some, who have been picked up, were in the interrogation center. Then I read that they had been killed in an encounter. But I had seen them in detention.''

Interviewer: What was their condition in custody?

Woman: Their legs had been broken.

Interviewer: Could they have run away?

Woman: They could not even have walked.

Interviewer: Are you afraid disclosing this?

Woman: No. I do not fear telling the truth.

The Chief Medical Officer at Patti Hospital sheds similar light on the tactics of police in Punjab. He recalled the time when police officers brought the body of Sarabjit Singh into his hospital to acquire a postmortem report. However, there was a problem: Sarabjit Singh was still alive. Upon learning of this, the police officers took Sarabjit away and returned his body later when he was actually dead! During his interview, the Chief Medical Officer offered some startling information on how he assisted police in giving them the postmortem reports they legally needed to cremate the bodies of their victims:

I ordered that the [postmortem] lists be prepared. The lists must say where the deaths have taken place. Also, mention the time of death and say ''death due to firearms.'' My boss said that postmortems should take time. I told him to do whatever he wanted. My example set the precedent in Punjab. Five minutes a portmortem, five minutes a postmortem.

After obtaining their postmortem reports, police cremate their Sikhs victims as ''unidentified bodies'' at municipal cremation grounds. An attendant at the cremation ground in Patti commented on the alarming rise such cremations:

Unclaimed bodies have continuously been burnt here. Previously, it used to happen once in awhile. In the last four–five years, it has been common. They only cremate. . . . No one cares to take away the remains.

''Disappearances in Punjab'' also explores the case of Sikh human rights activist, Jaswant Singh Khalra. According to the findings of Mr. Khalra, police have killed and cremated over 25,000 Sikhs in the manner described above. Mr. Khalra arrived at this number by visiting municipal cremation grounds and tallying up the number ''unidentified bodies'' recorded on their registers. During a press conference announcing these findings, the Amritsar district police chief publicly threatened Mr. Khalra saying ''We have made 25,000 disappear. It would be easy to make one more disappear.'' The police chief followed through on his threat. Mr. Khalra was abducted by Indian police in front of his home in the presence of witnesses at 9:15 AM on September 6, 1995. Amnesty International and other human rights organizations have taken up his case. On October 19, 1995, sixty-five Members of the U.S. Congress sent a letter to Indian Prime Minister P.V. Narasimha Rao demanding Khalra's release. India has yet to respond. Mr. Khalra's whereabouts remains unknown.

Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, praises ''Disappearances in Punjab'' as a milestone in the movement for Sikh freedom. ''This is a rare case in which the truth about Indian atrocities against the Sikhs has managed to find its way out of India. It shows that India is not the democracy it claims to be, but rather a repressive tyranny where the right of minorities are brutally violated. Now the world can see what the Sikhs have been enduring for over ten years. India has killed over 150,000 Sikhs and the time for an independent Khalistan is long overdue. After word of this video gets out to the international community, India will no longer be able to deny its policy of genocide against the Sikhs. Khalistan will be liberated.''

AMBASSADOR BENJAMIN LU ON A FREE TAIWAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. LANTOS. Mr. Speaker, a few days before the first free and democratic elections in Taiwan, Ambassador Benjamin Lu, the official representative of the Government of Taiwan here in the United States, made the following remarks to Members of Congress and others interested in a secure, free and prosperous Taiwan. I commend my colleagues' attention to his excellent remarks.

ADDRESS BY AMBASSADOR BENJAMIN LU

Distinguished guests, and Ladies and Gentlemen:

Thank you all for joining us today. I am delighted that so many good friends and associates could be here to share in this exciting event.

The ROC has embarked on a path of political reform which is transforming Taiwan into a full democracy. Adding to the many institutions of personal freedom, human rights, popular elections, and a full-scale market economy which my country already enjoys, this week, on the 23rd of March, the people of Taiwan will conduct their first direct popular election for president of the Republic of China, an historic milestone in our democratization movement. At this very moment, there is a spirited campaign underway among four presidential candidates, including the incumbent President Lee Teng-Hui; a DPP candidate; and two others running as independents.

By any standard, the Republic of China is functioning today as a genuine pluralistic democracy, with ample political choices and fully representational government. This is an amazing transformation in just one decade. The stark contrast with deteriorating political and human rights conditions on China's mainland today could not be more obvious.

The Republic of China and the United States today share the same political ideology, principles and objectives. As fellow democracies with a closely intertwined history of friendship, cooperation and trade in this century, we have much in common. Moreover, there is much we can accomplish together for the sake of regional and international peace, freedom, and prosperity in the 21st century.

The 21 million people on Taiwan are grateful that the United States has responded to mainland China's military exercises and missile tests in the Taiwan Strait, and reassured that Americans share our concern for the region's stability. A continued American presence in the area will discourage unnecessary escalation of tension and will help advance those principles and goals which are championed by your country and mine, as prospering democracies. The success of Taiwan's democratic reforms hopefully can influence mainland attitudes toward political reform in a positive way by encouraging the establishment of democratic process and institutions. Only within the framework of democracy can reunification be eventually achieved.

Mainland China's coercive and hostile actions should cease immediately, allowing the process of democratic elections and free market commerce in the region to continue unimpeded. Let us work together to support the causes of peace and democracy throughout the Asia-Pacific region, and indeed throughout the world.

SUPPORTING THE KARENNI FREEDOM FIGHTERS

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. ROHRABACHER. Mr. Speaker, Karenni freedom fighters are in battle today against the hired thugs of the Burma Army. Heavily outnumbered and outgunned, the Karenni are fighting to defend their homes along the Thai-Burma border from the inhuman onslaught of the SLORC regime. The SLORC regime is using air attacks and heavy artillery against the Karenni, a peace-loving Christian nation, who defend themselves with a few rifles.

Last year, thousands of SLORC troops attacked the Karen in neighboring territory. Then, the SLORC used brutal methods to systematically terrorize thousands of innocent hilltribe families. That tragic scene is now being replayed in the Karenni State.

Over 6,000 SLORC troops are relentlessly attacking less than 1,000 Karenni farmers, fisherman, and schoolteachers. These men and women are desperately fighting an honorable battle to defend their families, heritage, and identity. Although they may think that they are in the jungle alone, our spirit is with them. The heroes in the wilderness should know that we condemn the SLORC regime for its brutal aggression, and that we support their noble struggle for freedom and democracy.

In the past, the SLORC regime has justified aggression against the Karenni as a necessary first step before it could control the activities of Khun Sa, the infamous drug thug. Now, the SLORC regime has allowed Khun Sa to retire in luxury, while the aggression continues. It shouldn't surprise anyone that the SLORC regime was lying. Their entire system is based on lies.

I intend to visit the Karenni during the upcoming Easter break. Until then, I wish them success against their evil oppressors. Freedom loving people in the United States are on their side, and we will remember them in our prayers. Because they are striving for democracy and justice, they should know, that their victory is our victory.

HONORING BRIG. GEN. LEONARD F. KWIATKOWSKI

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Ms. HARMAN. Mr. Speaker, I rise to commend Air Force Brig. Gen. Leonard F. Kwiatkowski, who is retiring after 29 years of distinguished service to his country. General Kwiatkowski is the program director for the Military Satellite Communications [MILSATCOM] Joint Program Office, Space and Missile Systems Center, at Los Angeles Air Force Base, CA.

General Kwiatkowski began his service to the Nation at a time when the space program was beginning to mature. He managed technology development programs that fielded some of the weapons systems we saw perform so well in the gulf war. In his first Air Force assignment, he was involved in the Manned Orbiting Laboratory Program, at the Los Angeles Air Force Base, which is in my district. This began his highly successful and distinguished career, which has been primarily devoted to the development, acquisition, and fielding of our country's most advanced weapon systems. He has been directly associated with the development of the F–15 air superiority fighter and the delivery of the first F–100 engines for the F–15 and F–16 fighter aircraft. He has also been responsible for the development and fielding of our country's most technologically advanced command, control, communications computer, and intelligence systems supporting all of our Nation's services. Additionally, he served with distinction with our NATO allies while assigned to the Supreme Headquarters Allied Powers Europe [SHAPE], Belgium. In these assignments he directly contributed to our deterrent posture during the cold war era and also was responsible for delivering key C4I systems to our forces during the gulf war. The systems General Kwiatkowski developed, enabled us to rapidly communicate reconnaissance information, vastly improving the combat effectiveness of our warfighters.

In this, his last, Air Force assignment General Kwiatkowski returned to Los Angeles AFB and the Space and Missile Systems Center to direct our Military Satellite Communications Systems. He managed the congressionally directed restructure of the MILSTAR communications system and has guided the program from its restructure through the Defense Department's acquisition decision process, through the launch of the first two satellites and the design and manufacturing of the restructured block II satellite.

General Kwiatkowski has been a leader in acquisition reform issues, as well. His efforts have been praised by TRW, the first level subcontractor building the MILSTAR communications satellites for the DOD. The first two satellites are in orbit now. They were launched on time, on budget, and are 100 percent effective. His efforts to reduce the number of military-unique specifications and requirements have encouraged TRW to find lower cost, less complex manufacturing requirements, and saved the taxpayers significant amounts of scarce Defense resources.

High-level TRW officials said they will miss General Kwiatkowski's innovations and close working relationship, but they will miss his leadership skills most of all. He was one of the first Defense Department acquisition personnel to use integrated contractor/government development teams to assess areas of potential risk and word to reduce the risk as the system was designed. Knowing where to devote such risk reduction efforts is already paying dividends as the next-generation advanced military communications satellites are being designed.

The general has also served as mission director of the first MILSTAR launch and the Defense Satellite Communications System [DSCS] III launches. In the latter case, under his leadership, the Defense Department completed the full operational capability milestone of the DSCS III constellation. He has also been a vigorous, enthusiastic, catalyst in reforming and streaming the acquisition process. Under his extraordinary leadership, the MILSTAR Program has underrun its budget projections by $1.5 billion and is meeting all of the warfighters' requirements of our country's most complex, secure communications satellite system.

General Kwiatkowski has served his country in a truly outstanding manner. Combat aviators, sailors, and soldiers will be more informed, capable, and most important, more likely to survive any future conflicts because of him. That's legacy we can all admire. We all wish General Kwiatkowski, his wife, Carol, and his children, Karen, Michael, and David, the best as this career closes and a new one begins.

TRIBUTE TO CONGRESSMAN SAM GIBBONS OF FLORIDA

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 20, 1996

Mr. PICKETT. Mr. Speaker, I join my colleagues in the House of Representatives, today, to pay tribute to one of the House's most distinguished Members, Congressman SAM GIBBONS of Tampa, FL, who will retire at the end of this Congress.

He served in the United States Army for 5 years during World War II with the 501st Parachute Infantry, 101st Airbone Division. He was in the initial assault force landing at Normandy and was awarded the Bronze Star.

SAM was among those honored during celebrations of the 50th anniversary of World War II last year and is a great example of heroism for us all.

During his service in the Congress, he has been a collegial friend and a hard worker. While he made a reputation for himself on the Ways and Means Committee as an expert on trade, he also showed his leadership abilities when he took the helm of the Committee in the spring of 1993, in the midst of intense debate over reforming our Nation's health care system.

This year, too, SAM GIBBONS, provided himself to be a tireless advocate to protect the interests of Medicare beneficiaries. He has been a persistent defender of the rights of senior citizens, a true representative of his constituents, and a credit to the United States Congress.

We will miss him very much.

PROVIDING FOR CONSIDERATION OF H.R. 2202, IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

SPEECH OF

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 19, 1996

Mr. LIPINSKI. Mr. Speaker, today, I offer my amendment on behalf of approximately 800 Polish and Hungarian immigrants who legally entered this country between 1989 and 1991. My amendment will allow these 800 immigrants to adjust their status to permanent resident so that they one day may become full citizens of the United States.

This group of immigrants was paroled into the United States by the attorney general. Parole is a limbo status which gives them the right to live in the United States indefinitely, but denies them the opportunity to acquire permanent residency or citizenship. These immigrants have already endured much hardship and suffering. They came to the United States after living for years in refugees camps in Europe. All of the parolees where on the verge of gaining refugee status when U.S. refugee policy for those two nations changed. With the fall of communism in 1989, INS no longer accepted their refugee applications. In fairness to those who were far along in the application process, INS granted some of the applicants parole.

The parolees have now been living in the United States for more than 6 years. They are working and paying taxes. They have made new homes and adjusted to a new way of life. America is now their home.

Unfortunately, the parole status places strict limitations on these new lives. Without residency or citizenship, they lack some of the rights Americans take for granted. These include the ability to qualify for in-state resident tuition at public universities and the right to travel internationally at will. That's right, they have no international travel privileges which has prevented them from visiting families for years. They have missed both weddings and funerals.

INS predicted that the parolees would adjust their status through relatives in the United States who petition on their behalf through the family reunification program. Unfortunately, this has not happened. In many cases it is not possible to apply for adjustment through family members, and in other cases it could take many years. This is because U.S. immigration law allows permanent residents to petition only for their spouses and children. Citizens can additionally petition for siblings. Grandparents and cousins, regardless of status, can never petition.

Many of these parolees were brought here, however, by distant family members. Without passage of this amendment, these unlucky individuals will never be residents. Some of the parolees were brought by brothers and sisters, many of whom came as refugees and are not yet citizens. Under current law, a parolee would have to wait 5 years for his or her sibling to become a citizen, then another 9 years for a fourth preference petition to become current. It would take 14 years for this kind of parolee to become a resident. Then again, if the bill currently under debate passes, siblings will

not be allowed to petition for other siblings and therefore, the parolees would be without an avenue to adjust their status.

Mr. Speaker, these 800 parolees have suffered much. Let's make their life a little easier and provide them with an opportunity to become full U.S. citizens. Please support my amendment.

Daily Digest

HIGHLIGHTS

Senate agreed to Product Liability Conference Report.
Senate passed Public Rangelands Management Act.
House/Senate passed Further Continuing Appropriations.

Senate

Chamber Action

Routine Proceedings, pages S2553–S2735

Measures Introduced: Eight bills were introduced, as follows: S. 1632–1639. **Page S2646**

Measures Passed:

Public/Federal Grasslands Management: By 51 yeas to 46 nays (Vote No. 50), Senate passed S. 1459, to provide for uniform management of livestock grazing on Federal land, after taking action on amendments proposed thereto, as follows: **Pages S2591–S2622**

Adopted:

Domenici Modified Amendment No. 3555, in the nature of a substitute. **Pages S2591–S2621**

Rejected:

Bumpers Modified Amendment No. 3556 (to Amendment No. 3555), to maintain the current formula used to calculate grazing fees for small ranchers with 2000 Animal Unit Months (AUMs) or less, with certain minimum fees, and establish a separate grazing fee for large ranchers with more that 2000 AUMs. (By 52 yeas to 47 nays (Vote No. 48), Senate tabled the amendment.) **Pages S2591–S2600**

Bingaman Amendment No. 3559 (to Amendment No. 3555), in the nature of a substitute. (By 57 yeas to 40 nays (Vote No. 49), Senate tabled the amendment.) **Pages S2600–21**

Withdrawn:

Pressler Amendment No. 3560 (to Amendment No. 3555), to preserve sporting activities on the National Grasslands. **Page S2621**

Further Continuing Appropriations: Senate passed H.J. Res. 165, making further continuing appropriations for the fiscal year 1996, clearing the measure for the President. **Page S2621**

Military Stability in the Taiwan Straits: By a unanimous vote of 97 yeas (Vote No. 51), Senate agreed to H. Con. Res. 148, expressing the sense of the Congress regarding missile tests and military exercises by the People's Republic of China, after agreeing to the following amendment proposed thereto: **Pages S2622–27**

Thomas Amendment No. 3562, in the nature of a substitute. **Pages S2622–25**

Product Liability Conference Report: By 59 yeas to 40 nays (Vote No. 46), Senate agreed to the conference report on H.R. 956, to establish legal standards and procedures for product liability litigation. **Pages S2553–91**

Whitewater Investigation Extension—Cloture Vote: By 52 yeas to 46 nays (Vote No. 47), three-fifths of those Senators duly chosen and sworn not having voted in the affirmative, Senate failed to agree to close further debate on the motion to proceed to the consideration of S. Res. 227, to authorize the use of additional funds for salaries and expenses of the Special Committee to Investigate Whitewater Development Corporation and Related Matters. **Page S2591**

Comprehensive Terrorism Prevention Act: Senate disagreed to the amendments of the House to S. 735, to prevent and punish acts of terrorism, agreed to the request of the House for a conference thereon, and the chair appointed the following conferees: Senators Hatch, Thurmond, Simpson, Biden, and Kennedy. **Pages S2719–35**

Administration of Presidio Properties—Agreement: A unanimous-consent agreement was reached providing for the consideration of H.R. 1296, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, on Monday, March 25, 1996. **Page S2735**

Nominations Received: Senate received the following nominations:

Kenneth C. Brill, of California, to be Ambassador to the Republic of Cyprus.

Genta Hawkins Holmes, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, as Ambassador to Australia.

Thomas C. Hubbard, of Tennessee, to be Ambassador to the Republic of the Philippines and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Palau.

Day Olin Mount, of Virginia, to be Ambassador to the Republic of Iceland.

Glen Robert Rase, of Florida, to be Ambassador to Brunei Darussalam.

Calvin D. Buchanan, of Mississippi, to be United States Attorney for the Northern District of Mississippi for the term of four years. **Page S2735**

Messages From the House: **Page S2642**

Petitions: **Pages S2642–46**

Statements on Introduced Bills: **Pages S2646–58**

Additional Cosponsors: **Pages S2658–59**

Amendments Submitted: **Pages S2659–S2715**

Notices of Hearings: **Page S2715**

Authority for Committees: **Pages S2715–16**

Additional Statements: **Pages S2716–19**

Record Votes: Six record votes were taken today. (Total–51) **Pages S2590–91, S2600, S2620–22, S2627**

Adjournment: Senate convened at 9 a.m., and adjourned at 8:22 p.m., until 10 a.m., on Monday, March 25, 1996. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2735.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS—MILITARY CONSTRUCTION

Committee on Appropriations: Subcommittee on Military Construction held hearings on proposed budget estimates for fiscal year 1997 for Army and Navy military construction programs, receiving testimony from Robert M. Walker, Assistant Secretary of the Army for Installations, Logistics and Environment; and Robert B. Pirie, Jr., Assistant Secretary of the Navy for Installation and Environment.

Subcommittee will meet again on Tuesday, April 16.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Committee resumed hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on military strategies, operational requirements of the unified commands, receiving testimony from Gen. Joseph W. Ashy, USAF, Commander in Chief, United States Space Command; Gen. Eugene E. Habiger, USAF, Commander in Chief, United States Strategic Command; Gen. Robert L. Rutherford, USAF, Commander in Chief, United States Transportation Command; and Gen. Henry H. Shelton, Commander in Chief, United States Special Operations Command.

Committee will meet again on Thursday, March 28.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Seapower resumed hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on Department of the Navy Shipbuilding programs, receiving testimony from John W. Douglass, Assistant Secretary of the Navy for Research, Development and Acquisition; and Vice Adm. Thomas J. Lopez, USN, Deputy Chief of Naval Operations for Resources, Warfare Requirements and Assessments.

Subcommittee will meet again on Tuesday, March 26.

GUARD AND RESERVE READINESS

Committee on Armed Services: Subcommittee on Readiness held hearings to examine the readiness of the Guard and Reserve to support the National Military Strategy, receiving testimony from Richard Davis, Director, and Robert Pelletler, Assistant Director, both of the National Security Analysis, General Accounting Office; and Deborah Lee, Assistant Secretary of Defense for Reserve Affairs.

Subcommittee recessed subject to call.

FANNIE MAE/FREDDIE MAC

*Committee on Banking, Housing, and Urban Affairs:*Subcommittee on HUD Oversight and Structure held oversight hearings on the implementation of the Federal Housing Enterprises Safety and Soundness Act of 1992 and its impact on the role the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) have on the Nation's mortgage finance system, receiving testimony from Franklin D. Raines, Fannie Mae, and Leland C. Brendsel, Freddie Mac, both of Washington, D.C.

Hearings were recessed subject to call.

PARKS/BATTLEFIELDS

Committee on Energy and Natural Resources: Subcommittee on Parks, Historic Preservation and Recreation concluded hearings on S. 305, to establish the Shenandoah Valley National Battlefields and Commission in the Commonwealth of Virginia, H.R. 1091, to improve the National Park System in the Commonwealth of Virginia, S. 1225, to require the Secretary of the Interior to conduct an inventory of historic sites, buildings, and artifacts in the Champlain Valley and the Upper Hudson River Valley in Vermont, including the Lake George area, S. 1226, to require the Secretary of the Interior to prepare a study of battlefields of the Revolutionary War and the War of 1812, and to establish an American Battlefield Protection Program, and S.J. Res. 42, designating the Civil War Center at Louisiana State University as the United States Civil War Center, making the center the flagship institution for planning the sesquicentennial commemoration of the Civil War, after receiving testimony from Senators Breaux and Warner; Representatives Wolf and Bliley; Katherine H. Stevenson, Associate Director, Cultural Resource Stewardship and Partnerships, and Ed Bearss, Historian Emeritus, both of the National Park Service, Department of the Interior; Townsend H. Anderson, Vermont State Agency of Development and Community Affairs, Montpelier; Ann Sullivan Cousins, Lake Champlain Basin Program, Grand Isle, Vermont; Louise Ransom, Mount Independence Coalition, Williston, Vermont; David Madden, United States Civil War Center/Louisiana State University, Baton Rouge; Gabor Boritt, Civil War Institute/Gettysburg College, Gettysburg, Pennsylvania; Dennis E. Frye, Association for the Preservation of Civil War Sites, Fredericksburg, Virginia; and James B. Donati, Jr., Henrico County Board of Supervisors, Richmond, Virginia; and Eileen Woodford, National Parks and Conservation Association, Washington, D.C.

CHEMICAL WEAPONS TREATY

Committee on Foreign Relations: Committee resumed hearings on the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature and signed by the United States at Paris on January 13, 1993 (Treaty Doc. 103–21), receiving testimony from Douglas J. Feith, Feith and Zell, Washington, D.C.; Kathleen C. Bailey, Lawrence Livermore National Laboratory, Livermore, California; Brad Roberts, Institute for Defense Analysis, Alexandria, Virginia; and Frederick L. Webber, Chemical Manufacturers Association, Arlington, Virginia.

Hearings will continue on Thursday, March 28.

TENTH AMENDMENT ENFORCEMENT ACT

Committee on Governmental Affairs: Committee held hearings on S. 1629, to protect the rights of the States and the people from abuse by the Federal Government, to strengthen the partnership and the intergovernmental relationship between State and Federal governments, to restrain Federal agencies from exceeding their authority, and to enforce the Tenth Amendment to the U.S. Constitution, receiving testimony from Senators Dole, Hatch, and Nickles; Virginia Attorney General James S. Gilmore III, Richmond; South Carolina Attorney General Charles Molony Condon, Columbia; Colorado Solicitor General Timothy M. Tymkovich, Denver; Alaska State Representative Eldon Mulder, Juneau; Ohio State Representative Patrick Sweeney, Columbus; New York State Senator James Lack, Albany; Nelson Lund, George Mason University School of Law, Fairfax, Virginia; and John Kincaid, Lafayette College, Easton, Pennsylvania.

Hearings were recessed subject to call.

IMMIGRATION REFORM

Committee on the Judiciary: Committee ordered favorably reported an original bill to increase control over immigration to the United States by increasing border patrol and investigator personnel, improving the verification system for employer sanctions, increasing penalties for alien smuggling and for document fraud, reforming asylum, exclusion, and deportation law and procedures, instituting a land border user fee, and reducing the use of welfare by aliens. (As approved by the committee, the bill incorporates the text of S. 269.)

AUTHORIZATION—INDIVIDUALS WITH DISABILITIES EDUCATION

Committee on Labor and Human Resources: Committee ordered favorably reported, with an amendment in the nature of a substitute, S. 1578, to authorize funds for programs of the Individuals With Disabilities Education Act.

HUBZONE ACT

Committee on Small Business: Committee held hearings on S. 1574, to create new opportunities for growth and jobs in economically distressed urban and rural communities, receiving testimony from C. Austin Fitts, Hamilton Securities Group, Inc., and Marvin G. Harris, Bridget J.C. McLaurin, and Wanda Riddick, all of Edgewood Technology Services Inc., all on behalf of e.villages, and Raj Barr-Kumar, American Institute of Architects, all of Washington, D.C.

Hearings were recessed subject to call.

House of Representatives

Chamber Action

Bills Introduced: 18 public bills, H.R. 3134–3151; and 3 resolutions, H.J. Res. 166–167, and H. Res. 387 were introduced. **Pages H2664–65**

Reports Filed: Reports were filed as follows:

H. Res. 388, providing for consideration of H.R. 125, to repeal the ban on semiautomatic assault weapons and the ban on large capacity ammunition feeding devices (H. Rept. 104–490);

Conference report on S. 4, to grant the power to the President to reduce budget authority (H. Rept. 104–491); and

Supplemental report on H.R. 2202, to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States (H. Rept. 104–459, Part IV). **Pages H2640–52**

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Waldholtz to act as Speaker pro tempore for today. **Page H2561**

Tea Importation Act: House passed H.R. 2969, to eliminate the Board of Tea Experts by repealing the Tea Importation Act of 1897. **Page H2577**

Privileged Resolution: House agreed to H. Res. 387, returning S. 1518, to eliminate the Board of Tea Experts by prohibiting funding for the Board and by repealing the Tea Importation Act of 1897. **Pages H2577–78**

Continuing Appropriations: By a recorded vote of 244 ayes to 180 noes, Roll No. 83, the House passed H.J. Res. 165, making further appropriations for fiscal year 1996. **Pages H2578–88**

Rejected the Obey motion to recommit the bill to the Committee on Appropriations with instructions to report it back forthwith containing an amendment to provide the necessary funding during the period of the joint resolution to avert all layoffs of instructional school personnel whose salaries are paid in whole or in part by programs of the Department of Education for the 1996–1997 academic year (rejected by a yea-and-nay vote of 192 yeas to 230 nays, Roll No. 82). **Pages H2578–87**

H. Res. 386, the rule under which the joint resolution was considered and which waived the requirements of clause 4(b) of rule XI of the House with respect to consideration of certain resolutions, was agreed to by a recorded vote of 237 ayes to 183 noes, Roll No. 81. Earlier, agreed to order the previous question on the resolution by a yea-and-nay vote of 234 years to 187 nays, Roll No. 80. **Pages H2565–77**

Permission to Sit: House agreed to the Armey motion that, pursuant to clause 2(i) of rule XI, for today and the balance of the week all committees be granted special leave to sit while the House is reading a measure for amendment under the five-minute rule. **Pages H2588–89**

Immigration Reform: By a recorded vote of 333 ayes to 87 noes Roll No. 89, the House passed H.R. 2202, to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States. **Pages H2589–H2640**

Rejected the Bryant motion to recommit the bill to the Committee on the Judiciary with instructions to report it back forthwith containing an amendment that sought to make changes relating to H–1B nonimmigrant worker regulations designed to protect United States workers from being laid off and replaced by temporary foreign workers (rejected by a recorded vote of 188 ayes to 231 noes, Roll No. 88). **Pages H2636–39**

Agreed To:

Agreed to the Chrysler amendment, as modified, that strikes language placing new limits on the number of legal immigrants allowed into the country annually, and the specific categories of those immigrants (agreed to by a recorded vote of 238 ayes to 183 noes, Roll No. 84); and **Pages H2589–H2603**

The Rohrabacher amendment that repeals a provision in current law allowing certain illegal aliens to apply for permanent status and remain in the United States while their applications are being adjudicated. **Pages H2603–04**

Rejected:

The Pombo amendment, as amended by the Condit amendment, that sought to modify the current temporary agriculture worker program by replacing the labor certification requirement with a labor attestation requirement; create an alternative pilot program, authorized for three years, requiring employers to file a form with the area's State employment security agency stating the wage rate of jobs which must be tied to comparable prevailing wages for that area, that the job is seasonal i.e., not more than 10 months in a 12-month period, and that the jobs will not adversely affect other area workers; provides for a two-year phaseout of the guest worker program should the pilot program become permanent; require employers to offer temporary agriculture workers reasonable housing; directs employers to hold twenty-five percent of the temporary agriculture worker's salary in a trust fund administered by the Justice Department which would be available to workers when they returned to their home countries; and require employers to pay Federal unemployment tax and make Federal insurance contributions on behalf of the workers to reimburse Justice, Labor and State Departments for the costs of administering the funds (rejected by a recorded vote of 180 ayes to 242 noes, Roll No. 85); **Pages H2604–21**

The Goodlatte amendment that sought to modify the current agricultural guest worker program by transferring from the Labor Department to the Immigration and Naturalization Service; to provide for no more than 100,000 foreign workers to be admitted under the program each year; to shorten from 60 days to 40 days the maximum amount of the time in advance of needing workers that employers could be required to submit petitions; and to limit to 20 days the time period during which the Department could require an employer to conduct active recruitment efforts for eligible workers (rejected by a recorded vote of 59 ayes to 357 noes, Roll No. 86); and **Pages H2621–26, H2629**

The Burr amendment that sought to extend the H–IA nonimmigrant nurse program for six months after the date of enactment; (rejected by a recorded vote of 152 ayes to 262 noes, Roll No. 87). **Pages H2626–30**

The Clerk was authorized to correct section numbers, cross-references, the table of contents, and punctuation and to make such other stylistic, clerical, technical, and conforming changes as may be necessary in the engrossment of the bill. **Page H2640**

Further Appropriations: Agreed to the Livingston motion to take from the Speaker's table H.R. 3019, making further appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, disagree to the Senate amendment and agree to a conference. Appointed as conferees:

For consideration of the House Bill (except for section 101(c)) and the Senate amendment (except for section 101 (d)), and modifications committed to conference: Representatives Livingston, Myers of Indiana, Young of Florida, Regula, Lewis of California, Porter, Rogers, Skeen, Wolf, Vucanovich, Lightfoot, Callahan, Walsh, Obey, Yates, Stokes, Bevill, Murtha, Wilson, Dixon, Hefner, and Mollohan.

For consideration of section 101(c) of the House bill and section 101(d)) of the Senate amendment, and modifications committed to conference: Representatives Porter, Young of Florida, Bonilla, Istook, Miller of Florida, Dickey, Riggs, Wicker, Livingston, Obey, Stokes, Hoyer, Pelosi, and Lowey. **Pages H2652–54**

Rejected the Obey motion to instruct the managers on the part of the House at the conference on the disagreeing votes of the two Houses to agree to the Position in the Senate amendment increasing funding above the levels in the House bill for programs of the Department of Education; agree to the position in the Senate amendment increasing funding above the levels in the House bill for programs of the Environmental Protection Agency; agree to the position in the Senate amendment that provides a minimum of $975 million from within the $1.9 provided for Local Law Enforcement Block Grants within the Department of Justice for the Public Safety and Community Policing grants pursuant to title I of the Violent Crime Control and Law Enforcement Act of 1994 (COPS on the beat program); agree to the position in the Senate amendment increasing funding above levels in the House bill for job training and worker protection programs of the Department of labor; agree to the position in the senate amendment deleting Title V of the House bill; agree to the position in the Senate amendment specifying a maximum grant award to $2,500 under the Pell Grant Program; and agree to the position in the Senate amendment providing fiscal year 1997 funding of $1 billion for the Low-Income Energy Assistance Program of the Department of Health and Human Services (rejected by a yea-and-nay vote of 194 yeas to 207 nays, Roll No. 90). **Pages H2652–54**

Referral: One Senate-passed measure was referred to the appropriate House committee. **Page H2663**

Senate Messages: Messages received from the Senate today appear on pages H2561, H2652.

Amendments Ordered Printed: Amendments ordered printed pursuant to the rule appear on page H2665.

Quorum Calls—Votes: Three yea-and-nay votes and eight recorded votes developed during the proceedings of the House today and appear on pages H2576, H2576–77, H2587, H2587–88, H2602–03, H2621, H2629, H2629–30, H2638–39, H2639–40, and H2653–54.

Adjournment: Met at 10 a.m. and adjourned at 9:41 p.m.

Committee Meetings

AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS

Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Food Safety and on the Secretary of Agriculture. Testimony was heard from the following officials of the USDA: Dan Glickman, Secretary; and Michael Taylor, Acting Under Secretary, Food Safety and Inspection Service.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on the Assistant Secretary of the Army for Civil Works and Chief of Engineers. Testimony was heard from the following officials of the Department of the Army: H. Martin Lancaster, Assistant Secretary, Civil Works; and Lt. Gen. Arthur E. Williams, USA, Chief of Engineers.

FOREIGN OPERATIONS, EXPORT FINANCING AND RELATED PROGRAMS APPROPRIATIONS

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Haiti. Testimony was heard from Alexander Watson, Assistant Secretary, Inter-American Affairs, Department of State.

NATIONAL SECURITY APPROPRIATIONS

Committee on Appropriations: Subcommittee on National Security met in executive session to hold a hearing on National Foreign Intelligence Program. Testimony was heard from John M. Deutch, Director, CIA.

The subcommittee also held a hearing on Ballistic Missile Defense. Testimony was heard from Lt. Gen. Malcolm R. O'Neill, USA, Director, Ballistic Missile Defense, Department of Defense.

TRANSPORTATION APPROPRIATIONS

Committee on Appropriations: Subcommittee on Transportation held a hearing on the National Highway Traffic Safety Administration. Testimony was heard from Ricardo Martinez, Administrator, National Highway Traffic Safety Administration, Department of Transportation.

OVERSIGHT—BUREAU OF ENGRAVING AND PRINTING; AND THE U.S. MINT

Committee on Banking and Financial Services: Subcommittee on Domestic and International Monetary Policy oversight hearing on the Bureau of Engraving and Printing; and the U.S. Mint. Testimony was heard from the following officials of the Department of the Treasury: Larry Rolufs, Director, Bureau of Engraving and Printing; and Philip Diehl, Director, U.S. Mint.

ADMINISTRATION'S BUDGET SUBMISSION

Committee on the Budget: Held a hearing on the Administration's fiscal year 1997 budget submission. Testimony was heard from Alice M. Rivlin, Director, OMB.

MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT

Committee on Commerce: Subcommittee on Commerce, Trade, and Hazardous Materials held a hearing on H.R. 2024 and S. 619, Mercury-Containing and Rechargeable Battery Management Act. Testimony was heard from Michael Shapiro, Director, Office of Solid Waste, EPA; and public witnesses.

FEDERAL MANAGEMENT OF THE RADIO SPECTRUM

Committee on Commerce: Subcommittee on Telecommunications and Finance held a hearing on Federal Management of the Radio Spectrum, with emphasis on Advanced Television Spectrum. Testimony was heard from Representative Frank of Massachusetts; Larry Irving, Assistant Secretary, Communications and Information, Department of Commerce; Robert M. Pepper, Chief, Office of Plans and Policy, FCC; David Moore, Senior Analyst, Natural Resources and Commerce Division, CBO; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Economic and Educational Opportunities: Ordered reported amended the following bills: H.R. 1227, to amend the Portal-to-Portal Act of 1947 relating to the payment of wages to employees who use employer-owned vehicles; and H.R. 2531, to amend the Fair Labor Standards Act of 1938 to clarify the exemption for houseparents from the minimum wage and maximum hours requirements of that Act.

CAMPAIGN FINANCE REFORM

Committee on House Oversight: Held a hearing on Campaign-Finance Reform, with emphasis on Influencing Elections: Political Activity of Labor Unions. Testimony was heard from Tom Durbin and Paige Whitaker, Legislative Attorneys, American Law Division, Congressional Research Service, Library of Congress; and public witnesses.

IRAN OIL SANCTIONS ACT

Committee on International Relations: Ordered reported amended H.R. 3107, Iran Oil Sanctions Act of 1996.

NICARAGUA—CURRENT ISSUES

Committee on International Relations: Subcommittee on the Western Hemisphere held a hearing to review current issues in Nicaragua. Testimony was heard from Representative Diaz-Balart; John Hamilton, Deputy Assistant Secretary, Central America, Department of State; Mark L. Schneider, Assistant Administrator, Latin America and the Caribbean, AID, U.S. International Development Cooperation Agency; and a public witness.

OVERSIGHT

Committee on the Judiciary: Subcommittee on the Constitution held an oversight hearing on Fetal Death or Dangerous Deception? The Effects of Anesthesia During a Partial-Birth Abortion. Testimony was heard from Representative Coburn; and public witnesses.

MISCELLANEOUS MEASURES

Committee on the Judiciary: Subcommittee on Crime approved for full Committee action the following bills: H.R. 2092, Private Security Officer Quality Assurance Act of 1995; H.R. 2137, amended, Megan's Law; H.R. 2453, amended, Fugitive Detention Act of 1995; H.R. 2641, amended, United States Marshals Service Improvement Act of 1995; H.R. 2803, Anti-Car Theft Improvements Act of 1995; H.R. 2974, amended, Crimes Against Children and Elderly Persons Punishment and Prevention Act of 1995; H.R. 2980, amended, Interstate Stalking Punishment and Prevention Act of 1996; H.R. 2996, amended, Law Enforcement and Industrial Security Cooperation Act of 1996; and H.R. 3120, to amend title 18, United States Code, with respect to witness retaliation, witness tampering and jury tampering.

NATIONAL DEFENSE AUTHORIZATION

Committee on National Security: Subcommittee on Military Installations and Facilities continued hearings on national defense authorization, with emphasis on the military construction budget request. Testimony was heard from the following officials of the Department of the Navy: Robert B. Pirie, Jr., Assistant Secretary, Installations and Environment; RAdm. David J. Nash, USN, Commander, Facilities Engineering Command; RAdm. G. Dennis Vaughn, USN, Deputy Director, Naval Reserve; and Brig. Gen. Thomas A. Braaten, USMC, Assistant Deputy Chief of Staff, Installations and Logistics, Marine Corps; the following officials of the Department of the Air Force: Jimmy G. Dishner, Deputy Assistant Secretary, Installations; Maj. Gen. Eugene A. Lupia, USAF, Civil Engineer; Brig. Gen. Paul A. Weaver, USAF, Deputy Director, Air National Guard; and Brig. Gen. John A. Bradley, USAF, Deputy to the Chief, Air Force Reserve.

RESERVE FORCES REVITALIZATION ACT

Committee on National Security: Subcommittee on Military Personnel held a hearing on H.R. 1646, Reserve Forces Revitalization Act of 1995. Testimony was heard from the following officials of the Department of Defense: Deborah R. Lee, Assistant Secretary, Reserve Affairs; Gen. Joseph W. Ralston, USAF, Vice Chairman, Joint Chiefs of Staff; Gen. Ronald H. Griffith, USA, Vice Chief of Staff, Army; Adm. Jay L. Johnson, USN, Vice Chief, Naval Operations; Gen. Richard D. Hearney, USMC, Assistant Commandant, Marine Corps; Gen. Thomas S. Moorman, Jr., USAF, Vice Chief of Staff, Air Force; and public witnesses.

NATIONAL DEFENSE AUTHORIZATION

Committee on National Security: Subcommittee on Military Procurement and Subcommittee on Military Readiness held a joint hearing on national defense authorization, with emphasis on Department of Defense and Department of Energy environmental programs. Testimony was heard from Thomas B. Grumbly, Acting Under Secretary, Department of Energy; Sherry W. Goodman, Deputy Under Secretary, Environmental Security, Department of Defense; Victor S. Rezendes, Director, Energy, Resources, and Science Issues, GAO; Cindy Williams, Assistant Director, National Security Division, CBO; Jay C. Davis, Associate Director, Environmental Programs, Lawrence Livermore National Laboratory; and public witnesses.

Hearings continue March 29.

NATIONAL DEFENSE AUTHORIZATION

Committee on National Security: Subcommittee on Military Research and Development continued hearings on national defense authorization, with emphasis on ballistic missile defense. Testimony was heard from the following officials of the Department of Defense:

Kent Stansbury, Deputy Director, Arms Control Implementation and Compliance; Franklin Miller, Principal Deputy Assistant Secretary, International Security Police; and Lt. Gen. Malcolm O'Neill, USA, Director, Ballistic Missile Defense Organization; and public witnesses.

OVERSIGHT—ENERGY POLICY

Committee on Resources: Subcommittee on Energy and Mineral Resources continued oversight hearings on energy policy. Testimony was heard from the following officials of the Department of Energy: Kyle Simpson, Associate Deputy Secretary, Energy Programs; and David F. Morehouse, Senior Petroleum Geologist, Energy Information Administration; the following officials of the Department of the Interior: Michael Dombeck, Acting Director, Bureau of Land Management; David W. Houseknecht, Program Director for Energy, U.S. Geological Survey; and Thomas Readinger, Deputy Associate Director, Resources and Environmental Management, Minerals Management Service; and public witnesses.

OVERSIGHT—MARINE SANCTUARIES ACT

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing on Marine Sanctuaries Act. Testimony was heard from Representative Deutsch; Jeffrey Benoit, Director, Office of Ocean and Coastal Resource Management, NOAA, Department of Commerce; and public witnesses.

OVERSIGHT—FEDERAL LANDS AND REGULATION OF PRIVATE PROPERTY

Committee on Resources: Subcommittee on National Parks, Forests and Lands held an oversight hearing on Federal lands and Federal regulation of private property. Testimony was heard from Barry Hill, Associate Director, Energy Resources and Science Issues, GAO; and public witnesses.

GUN CRIME ENFORCEMENT AND SECOND AMENDMENT RESTORATION ACT

Committee on Rules: Granted, by voice vote, a closed rule on H.R. 125, Gun Crime Enforcement and Second Amendment Restoration Act of 1996. The rule provides that the amendment printed in the report of the Committee on Rules is considered as adopted. The rule provides for consideration in the House with 1 hour of debate equally divided between Rep. Chapman of Texas or Rep. Barr of Georgia, and Rep. Conyers of Michigan or his designee. The previous question is ordered to final passage without intervening motion except one motion to recommit which, if containing instructions, may only be offered by the Minority Leader or his designee. Testimony was heard from Representatives Barr, Heineman, Shays, Horn, Christensen, Neumann, Stockman, Conyers, Schumer, Jackson-Lee, and Chapman.

MISCELLANEOUS MEASURES

Committee on Science: Subcommittee on Energy and Environment held a hearing on the fiscal year 1997 budget requests for the following: Department of Energy; EPA and NOAA; and Safe Drinking Water Act reauthorization. Testimony was heard from Joseph F. Vivona, Chief Financial Officer, Department of Energy; D. James Baker, Administrator, NOAA and Under Secretary, Oceans and Atmosphere, Department of Commerce; Robert J. Huggert, Assistant Administrator, Office of Research and Development, EPA; and a public witness.

SBA BUDGET

Committee on Small Business: Held a hearing on the U.S. Small Business Administration Fiscal Year 1997 Budget. Testimony was heard from Philip Lader, Administrator, SBA; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

ADMINISTRATION'S BUDGET—IMPACT HIGHWAY AND AVIATION TRUST FUNDS

Committee on Transportation and Infrastructure: Held a hearing to determine the impact of the Administration's Budget on the highway and aviation trust funds. Testimony was heard from a public witness.

WATER RESOURCES DEVELOPMENT ACT

Committee on Transportation and Infrastructure: Subcommittee on Water Resources and Environment continued hearings on the Water Resources Development Act of 1996. Testimony was heard from Representatives Doolittle, Fazio, Matsui, Pombo, Norton, Moran, Hamilton, Miller of California, Tauzin, Hoyer, Coyne, Lipinski, Flanagan, Ortiz, Visclosky, Dornan, Kim, Pallone, Whitfield, Gilchrest, Pastor, Franks of New Jersey, Baker of California, Kingston, Farr, Woolsey, Lincoln, Stupak, Dickey, Seastrand, English of Pennsylvania, Riggs, Weldon of Florida, Bentsen, Ward, LoBiondo, Lofgren, Buyer, and Gene Green of Texas; John H. Zirschky, Principal Deputy to the Assistant Secretary of the Army (Civil Works), Department of the Army; and public witnesses.

OVERSIGHT

Committee on Veterans' Affairs: Subcommittee on Hospitals and Health Care held an oversight hearing on VA Medical Care and Construction Priorities for Fiscal Year 1997. Testimony was heard from Kenneth Kizer, M.D., Under Secretary, Health, Veterans

Health Administration, Department of Veterans Affairs.

MISCELLANEOUS MEASURES

Committee on Ways and Means: Ordered reported amended the following bills: H.R. 2754, Shipbuilding Trade Agreement Act; and H.R. 2337, Taxpayer Bill of Rights 2.

AERIAL RECONNAISSANCE

Permanent Select Committee on Intelligence: Subcommittee on Technical and Tactical Intelligence met in executive session hearing on Aerial Reconnaissance. Testimony was heard from departmental witnesses.

Joint Meetings

CONTINUING APPROPRIATIONS

Conferees met to resolve the differences between the Senate- and House-passed versions of H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, but did not complete action thereon, and recessed subject to call.

1996 FARM BILL

Conferees agreed to file a conference report on the differences between the Senate- and House-passed versions of H.R. 2854, to modify the operation of certain agricultural programs.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST *p. D220)*

H.R. 2778, to provide that members of the Armed Forces performing services for the peacekeeping effort in the Republic of Bosnia and Herzegovina shall be entitled to certain tax benefits in the same manner as if such services were performed in a combat zone. Signed March 20, 1996. (P.L. 104–117)

COMMITTEE MEETINGS FOR FRIDAY, MARCH 22, 1996

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Governmental Affairs, Permanent Subcommittee on Investigations, to resume hearings to examine global proliferation of weapons of mass destruction, 9 a.m., SD–342.

House

Committee on the Budget, to continue hearings on the Administration's fiscal year 1997 budget submission, 10 a.m., 210 Cannon.

Committee on Commerce, Subcommittee on Energy and Power, oversight hearing on the Department of Energy's Proposed Budget for Fiscal Year 1997, 10 a.m., 2123 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on Government Management, Information, and Technology, hearing on H.R. 2521, Statistical Consolidation Act of 1995, 10 a.m., 2154 Rayburn.

Subcommittee on Human Resources and Intergovernmental Relations, hearing on Unfunded Mandates Reform Act of 1995: A One Year Review, 10 a.m., 2247 Rayburn.

Committee on International Relations, Subcommittee on International Economic Policy and Trade, to mark up H.R. 361, Omnibus Export Administration Act of 1995, 10 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on the Constitution, oversight hearing on ethics in government and lobbying reform proposals, 10 a.m., 2237 Rayburn.

Committee on National Security, Subcommittee on Military Procurement and the Subcommittee on Military Research and Development, to continue joint hearings on the fiscal year 1997 national defense authorization, with emphasis on the Air Force modernization request, 10 a.m., 2118 Rayburn.

Committee on Rules, to consider Disposition of Senate amendments to H.R. 1833, Partial-Birth Abortion Ban Act of 1995, 11 a.m., H–313 Capitol.

Committee on Science, Subcommittee on Basic Research, hearing on fiscal year 1997 NSF authorization, 9:30 a.m., 2318 Rayburn.

Joint Meetings

Joint Economic Committee, to hold hearings to examine the state of the economy, focusing on whether it is the healthiest economy in three decades, 10 a.m., SD–106.

Next Meeting of the SENATE

10 a.m., Monday, March 25

Senate Chamber

Program for Friday: No legislative program is scheduled.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Friday, March 22

House Chamber

Program for Friday: Consideration of H.R. 125, Gun Crime Enforcement and Second Amendment Restoration Act of 1996 (closed rule, 1 hour of general debate).

Extensions of Remarks, as inserted in this issue

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