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

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

WASHINGTON, DC, March 27, 1996.

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

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

Where there is no hope, our hearts are heavy; where there is no love, then evil thrives; where there is no faith, doubt increases; and where there is no vision, the people perish. Grant to us and to every person, O gracious God, the wisdom to discern and to accept Your gifts of faith and hope and love and, filled by Your spirit, may we be Your faithful people and You our God forever and ever. 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 1, the Journal stands approved.

PLEDGE OF ALLEGIANCE

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

Mr. WALSH led the Pledge of Allegiance as follows:

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

SUNDARY MESSAGES FROM THE PRESIDENT

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

RESIGNATION OF MEMBER AND APPOINTMENT OF MEMBER TO UNITED STATES-CANADA INTERPARLIAMENTARY GROUP

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

HOUSE OF REPRESENTATIVES,
Washington, DC, March 27, 1996.

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

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

Sincerely,

DON MANZULLO,
Member of Congress.

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

There was no objection.

APPOINTMENT AS MEMBER TO LIBRARY OF CONGRESS TRUST FUND BOARD

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

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

GO ORANGE

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

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

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

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

No team has come further than the SU Orangemen. Coach Boeheim has

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
once again successfully inspired and challenged an extraordinary group of young men.

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

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

Congratulations to all, and go Orange.

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

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

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

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

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

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

Mr. NORWOOD. Madam Speaker, not so long ago, the President stood before us in this very Chamber and declared that “the era of big Government is over.” His latest budget tells a different story, particularly with taxes.

The President wants to raise taxes immediately and phase in a tax cut—that can be yanked if deficit targets are not met. In other words, the President wants a permanent tax increase and a temporary tax cut.

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

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

Mr. BALDACCI. Madam Speaker, I was deeply saddened to learn yesterday of the death of Senator Ed Muskie. As a new Member of Congress from Maine, I have been privileged to call on Ed Muskie for advice and wisdom. Ed Muskie was a leader for Maine and a statesman for the Nation. He never lost sight of his roots, nor wavered from his principles.

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

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

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

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

Mr. TRAFICANT. Madam Speaker, China just sold patrol boats armed with state-of-the-art cruise missiles to Iran. Let me quote China just sold cruise missiles to Iran. Now, the last time I checked, Iran is still listed as a terrorist nation by America, and, No. 2, the leaders of Iran refer to Uncle Sam as “the Great Satan.”

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

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

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

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

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

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

Not only do the Republicans not want to teach our children, they do not want to give them summer jobs. I guess they think they are better off hanging out on street corners than earning a few dollars to help with their families. This just shows once again the extreme, mean-spirited Republican agenda of sticking it to middle-class families.

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

OIL IMPORTS A THREAT TO U.S. NATIONAL SECURITY
(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Madam Speaker, independent oil and gas producers are the mainstay of our domestic energy industry. In fact, independents produce about 64 percent of the natural gas in the country and about 39 percent of the crude oil.

But this great industry is struggling. Imports of both oil and natural gas are on the rise, and employment is declining. The United States now imports over half of our annual demand. Our dependency on foreign oil costs about $60 billion annually and makes up a substantial part of our trade deficit.

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

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

KENNEDY-KASSEBAUM HEALTH CARE REFORM EFFORT

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

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

We are all supportive of this. The Democrats, over 170, have said that they support it, but the Republican leadership here is trying to load this bill with all kinds of extraneous material in terms of the example is medical savings accounts that will actually drive up the cost of health insurance for the average person and make health insurance less affordable.

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

TIME TO STOP PLAYING POLITICS WITH OUR CHILDREN'S FUTURE

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

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

Because of Republican intransigence on the fiscal year 1996 budget, which is now almost half a year overdue, local schools have been severely injured, now knowing how much Federal aid they will receive, not knowing how many teachers they can hire, how many books they can buy, what kind of science programs they can run.

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

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

WHO IS FOR KIDS, AND WHO IS JUST KIDDING?

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

Mrs. SCHROEDER. Madam Speaker, the question of who is for kids and who is just kidding sounds very playful, but this is a real question to ponder. This is really about the survival of this great Republic which we are so proud of, because we need to know which Members of this body are not for kids. If they are not for kids, they are going right at this Nation's future.

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

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

PUT OUR CHILDREN FIRST AND VOTE TO FUND EDUCATION

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

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

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

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

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

IN SUPPORT OF THE WOMEN'S HEALTH EQUITY ACT

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

Ms. EDDIE BERNICE JOHNSON of Texas. Madam Speaker, I rise today in support of the Women's Health Equity Act and, in particular, in support of the osteoporosis provisions of the bill. Most women find out that they have osteoporosis when it is too late, after a bone fracture or the spine has occurred. The real tragedy is that for many women the disease is preventable and treatable. But this is a disease that has an underlying condition that affects 25 million Americans, most of them, 80 percent of them, women. All of us lose bone mass as we age, but people with osteoporosis lose an excessive amount, leading to weak and brittle bones. As I just said, 80 percent of those suffering from osteoporosis are older women, and a woman's risk for hip fracture alone is now equal to the risk of developing breast and ovarian cancer.

It is time for us to give a little bit more attention to this disease, Madam Speaker.

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

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

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

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

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

**THE WOMEN'S HEALTH EQUITY ACT OF 1996**

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

Ms. SLAUGHTER. Madam Speaker, I rise today as Chair of the Women's Health Task Force of the Congressional Caucus on Women's Issues. On behalf of the caucus, I have the honor of introducing the Women's Health Equity Act of 1996. A momentous legislative initiative, the Women's Health Equity Act is an omnibus bill comprised of 36 separate pieces of legislation targeting women's health.

The first Women's Health Equity Act was introduced in 1990 as a result of a GAO report that documented widespread exclusion of women from medical research and energized caucus and women around the Nation to act on women's health issues. As Vice Chair, we have accomplished a great deal. We have achieved greater equity in both women's health research funding and inclusion of women in clinical trials. The increased funding for breast cancer research has resulted in the discovery of new treatments that can save women's lives. One reason is that the women and men affected must be assured access to genetic testing and therapy without concern that they will be discriminated against. As legislators, I believe it is our responsibility to ensure that protection is guaranteed and I hope my colleagues will join me in that endeavor.

**SPECIAL ORDERS**

The SPEAKER pro tempore (Ms. VUCANOVICH). Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

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

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

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

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

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

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

**INTRODUCTION OF HPV RESOLUTION**

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

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

First, I am proud to introduce the HPV Infection and Cervical Cancer Research Resolution. This vital legislation will speed the detection and diagnosis of cervical cancer, in fact, help to save women's lives. Early detection is the most effective method of stopping this killer of women. I know. I am a survivor of ovarian cancer, and early detection saved my life.

As a measure of Congress that the National Cancer Institute and the National Institute of Allergy and Infectious Diseases should conduct collaborative basic and clinical research on the human papillomavirus [HPV] diagnosis and prevention as an indicator for cervical cancer.

Approximately 16,000 new cases of cervical cancer are diagnosed each year, and about 4,800 women die from this disease annually. In addition, I am pleased to include my bill in this Women's Health Equity Act of 1996.

In addition, I have introduced H.R. 1797, the Equitable Health Care for Neurobiological Disorders Act, into the Women's Health Equity Act of 1996. This legislation requires nondiscriminatory treatment of neurobiological disorders in employer health benefit plans. Under my bill, insurance coverage must be provided in a manner consistent with coverage for other major illnesses. Neurobiological disorders, include affective disorders like major depression, anxiety disorders, autism, schizophrenia, and Tourette's syndrome.

While we know that individuals with neurobiological disorders receive much less insurance coverage than illnesses such as cancer, heart disease, or diabetes. This in equality contributes to the myth that such diseases are not physical illnesses and somehow they are the fault of the patient. For the individuals and the families affected by these disorders, the ordeal of coping with the
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disease is often compounded by severe financial burdens. My legislation recognizes the physical basis for many mental disorders, and requires their equal health coverage.

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

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

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

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

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

STATUS OF THE DRUG WAR

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

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

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

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

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

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

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

Madam Speaker, let me tell you the details of what this report is about and how it is affecting our children. Heroin use by teenagers is up, and emergency room visits for heroin rose 31 percent between 1992 and 1993 alone. In less than 3 years, the President has destroyed our drug interdiction program, and we know that cocaine is coming in from Bolivia, Peru, and Colombia, and transshipped through Mexico, which he recently granted certification in the drug certification program to.

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

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

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

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

WOMEN'S HEALTH ISSUES

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

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

Madam Speaker, Congresswomen take the floor today and talk about the Women's Health Equity Act. The one thing that Congresswomen have the right to make a victory lap about is the progress that we have made for women's health in this body.

If the Congressmen had not been here, believe me, it would not have happened, because when we first got into this they were even doing breast cancer studies on men. They had no women in any studies, no women in the breast cancer studies, no women in any studies. Basically the Federal Government's message to women was, we may as well go see a veterinarian, because what our own doctors got from Federal studies was really very little. They had to take studies done on men and then try and see if it distilled and was applicable to women.

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

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

This year there are 36 bills in there, and it deals with an awful lot of the things still on the table that we have not dealt with, everything from eating disorders, which affect women much more severely than men, all the way through to female genital mutilation, which this body has still refused to deal with, even though our European counterparts have, and there are all sorts of international bodies crying out, saying this is a human rights violation and that we
should make it a felony for people to move to this country as immigrants and bring those cultural things with them.

I do not want to see female genital mutilation in this country and I hope everyone agrees, and I cannot understand why this body will not move on it. But to still think we have got 36 bills of that wide a range that we have reintroduced, that are out there, that we are still going to keep trying to move before we are anywhere close to having parity with where men have been in all the health care issues.

Our point has always been, this is Federal money we are talking about, Federal money that goes to research and Federal money that goes to services, and they always collected the same tax dollars for women they did for men. No one ever said to women, “We’ll leave you out of the research and we won’t give you any services, but don’t worry, we’ll charge you lesser, and we won’t give you any services, but don’t worry, we’ll charge you lesser.”

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

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

Further, neither Dr. Haskell nor Dr. McMahon—the two abortionists who have publicly discussed their use of the procedure—claims that this technique is used only in limited circumstances. Dr. Haskell advocates the method from his mother’s womb.

He advocates the method because, quote:

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

Dr. McMahon uses the partial-birth abortion method throughout the entire 40 weeks of pregnancy. He claims that most of the abortions he performs are nonelective, but his definition of nonelective is extremely broad. He describes abortions performed because of a mother’s youth or depression as “nonelective.” I do not believe the American people support aborting babies in the second and third trimesters because the mother is young or suffers from depression.

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

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

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

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

To all my colleagues I say: Look at the drawings. Open your eyes wide and see what is being done to innocent, defenseless babies. What you see is an offense to the conscience of humankind. Today, we will attempt to put an end to this detestable practice. After today, it will be up to the President. He has the power to end partial-birth abortion or continue to allow the killing of a living child pulled partially from his mother’s womb.
The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. SMITH] is recognized for 5 minutes.

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

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

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

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

This picture is worth a thousand words. It shows what the doctor does, and I just would like to use the doctor who is one of the pioneers of this gruesome method. I will just very succinctly read his statement as to how this method is done. His name is Dr. Martin Haskell, a doctor who performs partial-birth abortions by the hundreds. He has said, and I quote,

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

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

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

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

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

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

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

Mr. SALMON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.

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

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

WHY THE ENDANGERED SPECIES ACT SHOULD BE IMPROVED

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

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

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

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

Because of the way that these Washington bureaucrats, primarily in the Fish and Wildlife agencies, have treated landowners, and particularly farmers, wildlife is no longer considered an asset by the landowners. Now the presence of wildlife is feared. A lucky few people who have not been so lucky and asset by the landowners. Now the presence of wildlife is feared. A lucky few who have not been so lucky and have had to suffer the loss of their property or their livelihoods in silence. The tens of thousands of dollars needed to defend their rights in court.

Since I became chairman of the Committee on Resources, I have tried to ensure full and fair public debate on how to protect our endangered species and our threatened species while protecting the private property owner. Our committee held seven field hearings and
five Washington, DC, hearings on this issue, the Endangered Species Act, and the revision of said act. We heard over 160 witnesses. Over 5,000 people attended and participated in these hearings.

Through our hearings all over the country, we gave the American people an opportunity to help us write our recommendations for repairing the Endangered Species Act. What we learned from these hearings is that American people love wildlife and have a true appreciation for our natural resources. However, the American people also love and cherish our Constitution, our way of life, and our freedom. The American people want a law that protects both wildlife and people. They want a law that is reasonable and balanced. They want a law that uses good science to list the species. Right now, today, all it takes is someone to file a petition saying they think, in fact, it is endangered, and then the Fish and Wildlife Service, whoever it may be, will have to make a massive study even though that species may never reside there. That is how this act has been misused. The American people are willing to make sacrifices to protect our natural resources. They want a law that makes sense and accomplish the goal of protecting truly endangered or threatened species. However, the current law on species, subspecies, and small geographic populations is based only on the best currently available science. That means, even though a species or subspecies may be thriving and abundant in various areas around the nation, one small geographic population can be listed and can be used to stop the property owners from using their land in that area.

This is not America. The number of frivolous lawsuits that have been filed under the ESA have exploded. These lawsuits result in friendly settlements between the Government and extremist groups. The Government uses the excuse of court orders to shut down entire industries, put thousands of people out of work, and deprive landowners of their rights.

Lawyers are making millions of dollars, paid for by the taxpayers, by filing these suits, since the ESA requires judges to pay lawyers from the Federal Treasury.

The result is entire communities are devastated while environmental groups get richer. Who is filing these suits? Only environmentalists are allowed to file these suits in most of the country. If a property owner is harmed economically and wants to file a suit to protect their own land or job, the courts have closed the door in their faces. The ESA has been identified recently by a government commission as the worst unfunded mandate on States and local governments.

The Fish and Wildlife Service and the courts are imposing exorbitant costs on species protection and on small local towns and districts which they cannot afford. These small towns either pass on these costs to their taxpayers and property owners or reduce important public safety, health, and educational services. There are other serious problems with the Endangered Species Act. The Federal Government is using the law.

Now, do I, do we, does the committee support gutting or repealing the Endangered Species Act? Absolutely not. Contrary to what you may read in the newspapers and by this administration, we do not believe in eliminating or gutting ESA. But the American people are not going to continue to support and pay for our efforts to protect their wildlife unless we make the ESA work for the people and the wildlife. We need to make necessary repairs in a law that has become broken.

We spend hundreds of millions of dollars in court for the protection of our natural resources. Our good Secretary of Interior, Bruce Babbitt, has a $6 billion budget, a $6 billion budget, to protect our natural resources, but he says that is not enough. What we want is more money under Government control, more money under Government control, and more power. Let us not forget that word, power.

We want to keep a good Endangered Species Act, one that truly protects our wildlife and our people. We want to give more to do these good things back to the people who can do it best, the American public.

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

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

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

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

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

It is time we review this act and improve this act, to make it work for the people of America, for the animals, and for the species. Mr. Speaker, I yield 5 minutes to the gentleman from Utah, Mr. [HANSEN].

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

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that act is not in danger as he thinks. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to change it. Now, this is the perfect time to make a change in a law that we see is not working.

The gentleman from Alaska gave some very good illustrations. In another hearing, Mr. Matheson, a very nice man. He was just furnishing. He was mad as could be. He said, “I am not going to let another blankety-blank person come into this State and find an endangered species, because what do they do, they tie it up in critiquing and taking away power to the people. They want more power, more land under Government control, and more money under Government control, and more power. Let us not forget that word, power.” We want to keep a good Endangered Species Act, one that truly protects our wildlife and our people. We want to give more to do these good things back to the people who can do it best, the American public.

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

Mr. Speaker, I agree with the gentleman from Alaska. This is probably a very worthwhile piece of legislation, and I think the gentleman did the right thing in voting for it in 1973. However, that act is not in danger as he thinks. That did not come from Mount Sinai by the hand of Moses or some other great prophet. It was just done by puny little legislators who got together, and from time to time we have to change it. Now, this is the perfect time to make a change in a law that we see is not working.

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Why do you think those species are there? It is because he has protected them. He has provided them shelter. He has provided them with food and the love that takes to maintain the species. But somehow this Government says, “Now, we know what is best. You must not disturb their habitat.” He was the one who protected the habitat.
most impacted areas is Washington County in the little State of Utah. There we have four fish and a desert tortoise in that area. In addition to those, there are also approximately 50 species on the candidate list, some of which current efforts are likely to be listed in the near future.

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

To this end, the good people of Washington County have undertaken a habitat conservation plan that represents over 5 years of gut-wrenching effort, including the expenditure of over $1 million by a relatively small county to get this HCP approved. Another approach would be to just compensate affected landowners. Notwithstanding the fact that the Federal Government has this obligation, to date not one, not one single landowner has received payment for their land that has been rendered worthless by this HCP.

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

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

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

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

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

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

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

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Utah.

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

Mr. YOUNG of Alaska. Mr. Speaker, I yield 10 minutes to the gentleman from Texas, Mr. Smith.

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

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

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

First, the Endangered Species Act needs to be reformed to respect the basic civil rights of all Americans. The fifth amendment to the U.S. Constitution provides: “Private property shall not be taken for public use without just compensation.” This amendment guarantees a basic civil right: that no citizen in society can be forced to shoulder public burdens which, in all fairness, the public as a whole should share.

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

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

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

But not all public uses are equal. When it comes to uses of private property, private landowners are denied compensation. Americans whose land is used to protect endangered species suffer condemnation without compensation. Americans whose fifth amendment rights have been violated by an unfair, and unconstitutional, application of the Endangered Species Act is Margaret Rector. A 74-year-old constituent, Ms. Rector purchased 15 acres in 1973 in order to retire. Her retirement plans were destroyed when in 1990, the U.S. Fish and Wildlife Service decided that her property might be critical habitat for the golden cheeked warbler, even though no birds were found on her property.

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

The same rule of basic fairness that applies to Americans whose land is used to protect a highway or a park, should also apply to Margaret Rector, Americans who are used for protecting endangered species are not second-class citizens, and it’s time that their Government stopped treating them that way. It is time that we end a violation of basic civil rights, to obtain this kind of public benefit by forcing only a few Americans to shoulder the entire cost.

It is essential that we reform the Endangered Species Act to ensure that all Americans’ fifth amendment rights are respected. Government must compensate private landowners when it pays for this private property instead of taking it by condemnation. It is time that we reform the Endangered Species Act to ensure that Americans’ fifth amendment rights are respected.
we're discussing today is not the goal: approach and the reform model that the Act should be protection of species and people of Texas, California, Wyoming, Washington, DC. Whether we're talking more power and more bureaucracy in our policies should be results, not hardship. We hope that the Government end its destruction of their habitat. It is my species list has encouraged the rapid black-capped vireo to the endangered and Wildlife Department contend that enforced. Officials at the Texas Parks and Wildlife Department argue that the land to discourage the costly development. Congressman expressed this idea to attract wildlife to his property. Mr. Cone was successful, so much so that Mr. Cone's property became the type of land that is habitat to the red cockaded woodpecker. How did the Government reward Mr. Cone for his success in environmental management? It forced him to bear a $2 million loss for his hard work by prohibiting any development of a small portion of his property. His lesson: accelerate the rate of clearing the land to discourage the costly woodpecker.

The story of Mr. Cone is by no means the only evidence of the antienvironmental effects of the Endangered Species Act, as it is currently enforced. The Governor of Texas Parks and Wildlife Department contend that adding the golden-cheeked warbler and black-capped vireo to the endangered species list has encouraged the rapid destruction of their habitat. It is my hope that the Government end its counterproductive, and unfair, reliance on heavy regulation and instead encourage private environmental stewardship. As in so many other areas, the goal of our policies should be results, not more power and more bureaucracy in Washington, DC. Whether we're talking about welfare, Medicaid, education, or protection of endangered species, the people of Texas, California, Wyoming, or Maine understand what needs to be done. As the gentleman will continue to yield, Mr. Cone for his success in environmental management. They don't need unelected officials in Washington—who have never visited their land—telling them what to do.

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

We believe that landowners have an important role to play in resource protection. We believe that our resource protection efforts should work with the landowners, not against them. And we believe that the kinds of disincentives that encouraged Ben Cone from protecting species must be eliminated. The Endangered Species Act must be reformed to accomplish its goal: protection of species. Today it actually harms species.

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

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

Unfortunately, too often what starts out as a reasonable and laudable Government program does not remain that way. Government officials at the Department of Interior have interpreted this reasonable law in an overbroad and unreasonable way so as to restrict activities on private property, regardless of whether an endangered species is threatened by this activity.

The Government has used the Endangered Species Act to impose ruinous restrictions on private lands regardless of whether the endangered species is on the land, will be harmed by the proposed activity, or has ever visited the land. According to the Department of Interior, as the Secretary has noted, the question is the type of habitat that the endangered species tends to use, the Endangered Species Act applies. Most recently, Secretary Babbitt has discussed expanding this habitat to cover entire ecosystems. It's time to return the Endangered Species Act to the original intent of its authors: to prevent harm to particular species. It's time to remind Government officials that private property is privately owned, and that the families and individuals who purchased the land, not the Federal Government, have dominion over it.

The Endangered Species Act is in critical need of reform. Our reform goals must be: Protect civil rights. Encourage private stewardship. Prevent Federal land control. Adoption of these goals will ensure that the Government in action, with no science, simply an agency's idea of how the act should be implemented. That is why I thank the gentleman for supporting my efforts to improve the act so that the American people can regain their faith in this Government and also protect the species. I thank the gentleman.

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

Mr. SMITH of Texas. Mr. Speaker, if the gentleman will continue to yield, that is exactly correct. This is not an isolated incident. It is not the exception to the rule. This is very typically the area where one purchases property for investment purposes, for a retirement home in this case, and then sees the value of their lifetime savings, perhaps lifetime savings of two or
point which is to say that this type of endangered species. That to me is out of balance. It has been my policy to amend the Endangered Species Act.

Furthermore, I want to say to the gentleman, he makes another good point which is to say that this type of overzealous regulation enforcement by the Federal Government can hit anybody at any time. We are not just talking about an isolated landowner that may have a large ranch or farm in a rural area. We are talking about any one who lives anywhere close to habitat that is being considered by the Federal Government to be a critical habitat.

Mr. POMBO. As chairman of the task force, I had the opportunity to take the Golden-cheeked Warbler Act and hold a hearing earlier last year. One of the good fortunes that we had while we were in your district is we had the opportunity to visit a cattle ranch, a very well-managed cattle ranch in that area, and the gentleman took us out and explained to us how he was managing it to get the highest return from the property.

One of the issues that came up when we were out there was what would happen if the golden-checked warbler had to be protected. Is there the perverse incentive to destroy the habitat so that they do not have a problem with the fish and wildlife coming in and tell them they could not run cattle or could not run goats on their property.

Mr. SMITH of Texas. I remember well that day you and I were together on that Texas ranch. When you tell some one that they may lose the right of use their property, it does not take long for that rancher or farmer to decide they are going to clear the brush that might be that critical habitat. Why wait for the Federal Government to, in effect, take over your property. The gentleman is absolutely correct. unfortunately these regulations force individuals not to be good stewards, it forces them to perhaps take some action that actually hurts the habitat in order to try to protect themselves.

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

Mr. SMITH of Texas. I agree with the gentleman. I do not think the Endangered Species Act is being enforced as it is being intended and, quite frankly, it has been a disaster. The balance is too great on the side of the regulations, and they do not take in, their enforcement, enough consideration of the adverse economic impact on the real people, hard-working individuals that may have spent their lives working to cultivate the land, spent their lives investing in the land, spent their lives working from daylight to dark pouring everything they have into the land and then all of sudden they find themselves rich with their trickle nowhere near that which to revise and extend their remarks and include extraneous material on the subject of my special order? The SPEAKER pro tempore (Mr. EWING). Is there objection to the request of the gentleman from Alaska? There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. TAUZIN] newly acquired great Member of this side.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman from Alaska [Mr. YOUNG] not only for yielding time but for bringing this special order. It is important because I think all Americans love and appreciate the great outdoors. We appreciate the diversity of animal and plant life not only in America but on the planet. We all have an interest in preserving it and making sure that we do not lose it.

When you come to areas like Alaska and Louisiana, you have a special appreciation for it, because of the land, the water, the species that inhabit them are special to us. I grew up in the bayou country of south Louisiana where we are extremely close to nature. Nature was not just something we experienced by watching the Discovery Channel. It was part of our lives every day. To see anything go extinct is nothing that is very pleasant and certainly something we all want to avoid, not simply for the esthetics of it, but for the importance of it in terms of life on this planet.

Life should be precious to all of us. The life of a species ought to be one of the things we deeply cherish and want to protect.

Mr. Speaker, the question is not whether we love the great outdoors and whether we appreciate the great outdoors. The real question is whether the government has the wisdom well enough to preserve the great outdoors. The great indoors is the Interior Department, and so great indoors is where bureaucrats work night and day turning out the regulations we all have to live with that most concerns us.

Mr. Speaker, what I think we are about is asking for reforms that bring common sense and effectiveness, user friendliness, to the environmental laws, the endangered species laws, of this country, and doing this in a special order. It is not like bureaucrats, but, Mr. Speaker, more importantly, because rules and regulations ought to, No. 1, make common sense, because we will understand
Mr. Speaker, I have said all along that we must be partners in this law in order to protect the species. You cannot expect the Government to protect the species by itself. The partners who should be part of it will in fact extinguish the species because they have no other choice.

Mr. TAUZIN. Mr. Speaker, a perfect example, this black bear deal in Louisiana. Not only was the conservation program working without any mandates from the Federal Government, not only was the black bear recovering and doing nicely, but the Department of the Interior was not happy with that. They instead came in and proposed a $3 million critical habitat area. They were going to impose it without any public hearings. They were not French speaking; were they?

Mr. TAUZIN. Mr. Speaker, one of the things the gentleman from California [Mr. Pombo] has talked about at a number of our hearings was the fact that, overall, there are 4000 species waiting to get listed right now under the Endangered Species Act and control system. Most of them are bugs. While we talk about the Endangered Species Act protecting beautiful animals, like pumas and bears and eagles, that actually the next listings, the next big round of listings, will be all kinds of insects. People’s properties and values and their lives are going to be affected now dramatically because of the presence or absence of an insect anywhere near their home.

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

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

Mr. TAUZIN. You could if you wanted to pay——

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

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

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

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

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

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

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

Mr. Speaker, we are driving, in effect, the whole body of regulations that are becoming increasingly difficult for Americans to live with on the basis of bad science. We do it without public hearings in many cases. We do not consider cost-benefit ratios. We do not consider whether the regulations we impose make common sense. We simply must impose them once that listing occurs on the basis of bad science.

Now, if instead of that kind of a law makes good sense, to say that you are going to list something with bad science. Then you are going to have rules and regulations made without the benefit of public hearings and representing to the public that it is laws that make sense. That is a regulation that impacts dramatically the lives of people without ever considering the cost, without looking for the least-cost alternative, to find the best way to save that plant or animal without putting people out of work, or taking their property away from them, or putting in jail, as the gentleman from Alaska [Mr. YOUNG] said, smashing a bug.

Mr. POMBO. Mr. Speaker, the gentleman is absolutely correct. Current law does not require them to use good science. If he went out and did a biological study on his black bear in Louisiana, and he wanted to print that in a scientific magazine, it would have to stand up to peer review before they would ever allow you to even print it in a scientific magazine. But it could be listed as an endangered species based on that biological data without ever being peer reviewed, without another scientist, biologist, in this entire world verifying the data.

Mr. TAUZIN. You mean a biologist could nominate a species, and on the basis of his information could get listed and impact millions of Americans?

Mr. POMBO. Absolutely, and it does have to be a biologist. It can be a college student doing their senior thesis on the disappearance.

Mr. YOUNG of Alaska. Mr. Speaker, if I can, the gentleman has to understand one thing. We had a case in my state of Alaska where there was a petition filed by two students from New Mexico saying that the archipelago wolf possibly could live in this forest and, by even filing the petition, 355,000 acres were put off limits for any man's activities until they can study if the archipelago wolf was, in fact, a reality.

Mr. TAUZIN. Mr. Speaker, the gentleman is saying that the land was put off limits even before the listing?

Mr. YOUNG of Alaska. Before the listing.

Mr. TAUZIN. Just because somebody—

Mr. YOUNG of Alaska. No scientist, and on top of that, the Fish and Wildlife, I have to give them some credit, says there is no way that the archipelago wolf would ever be there.

But Mr. Speaker, the Forest Service said we have to follow through with the studies. Consequently, the impact upon people in that community has been devastating. We have lost employment, we have put people on welfare, and still, there is no wolf and there never was a wolf and there never will be a wolf in that area, but because two people out of New Mexico filed a petition, that is why this act must be reformed.

Mr. TAUZIN. Mr. Speaker, I thought of something else that really does not make any common sense. Under the law, the way it is written today, interpreted by the Supreme Court, if I own a piece of property that may harbor some endangered species and I want to alter that property to enhance its capacity to hold that species, I cannot do it.

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

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

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

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

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

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

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

Mr. POMBO. The species has become secondary.

Mr. YOUNG of Alaska. They say it is a great success. In reality, there have been no species protected. They claim the eagle. The eagle was very viable in my part of the country. The eagle is making a comeback. It is not the act; but they keep saying it was because it was the American bird. They keep saying, “This is what we did with this act.”

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

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

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

We also have the testimony of one landowner whose father left him this beautiful property that they had developed years ago. They did not have to do much because there were farms there that did the clear-cutting. I keep saying that is the wrong thing to do, but he has had to do it. Mr. TAUZIN. He had to do it to protect his value.

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

Mr. HASTINGS of Washington. Mr. Speaker, I thank the gentleman for yielding, and I thank him for having this special order. The discussion that we have had has been, frankly, very interesting. What I would like to bring to this is the kind of discussion from a macro standpoint. You have been talking about a micro standpoint.

When I look at reforming the Endangered Species Act, I look at bringing good science in as being very important, as the gentleman from Louisiana, Mr. TAUZIN, has said, and also protecting private property rights. But in my part of the country, we do not talk about it from a macro standpoint, because it has a huge impact beyond what we talked about.

For example, the power in the Northwest comes from falling water. About 90 percent of our power comes from water. One way we deal with water, of course, what are we dealing with? We are dealing with fish. We have a potential listing of several species of salmon, as the chairman knows, in the Pacific Northwest, Snake River salmon, Columbia River salmon. I can tell you from a scientific standpoint, and this is the important part, from a scientific standpoint there is little difference between the Snake River salmon or the Columbia River salmon. It goes to the tributary, and the other continues on up. Yet, because of that potential listing and because, in part, of the bad science, that has been part of what is being suggested by NMFS we have drawdowns that are not based on science, where it simply has not worked. I think what the committee has done as part of a reform to this plan is to bring the local community, the State, the local counties, whatever the case may be, into saving those species.

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

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

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

The Endangered Species Act is having a devastating impact on our local economy throughout the Pacific Northwest. Whether it be loggers, farmers, water users, or any other hard working man or woman dependent on our natural resources, the ESA is in desperate need of reform.

My own area of central Washington is certainly no stranger to the existing problems of the ESA. As the location of many large dams and irrigation districts along the Columbia and Snake Rivers that generate power and provide water for our farmers, we have been faced in recent years with an ESA mandated National Marine Fisheries Service (NMFS) Plan to protect several species of salmon that will bring the power cost for service for our region to $500 million. Since 1982, our region has already spent $1.5 billion for salmon restoration. If we do not reform the ESA soon, the Pacific Northwest is likely to spend close to $1 billion annually on salmon recovery alone by the turn of the 21st century.

The NMFS plan recommends deleting the storage reservoirs on the Columbia/Snake mainstem by 13 to 16 million acre feet (MAF). Up to 90 percent of the total storage capacity would be used for flow augmentation at the annual cost of $200 to $300 million.

Worst of all, the best and most current science suggests that the only way to increase survival of the salmon is to provide better flow management and the science upon which NMFS is basing its recommendations is highly suspect. However, NMFS seems to have ignored this evidence and concluded that only dams operating in the current fashion are the problem. The point is we are about to enter into a process that will further restrict the economic opportunities of thousands of hard working men and women in our area with little or no scientific evidence that this plan will enhance or even protect existing salmon populations.

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

One of the problems with the current law is that it mandates that all listed species be restored to original numbers. In some cases, this is a worthy and realistic goal. However, in other instances, this may be counterproductive to the goal of species recovery. For example, in my area of the country, there is the Snake River Sockeye salmon run that we are spending tens of millions of dollars in an attempt to restore to original numbers. Almost everyone admits that it is virtually impossible to completely recover this run. However, under the current ESA, we are being forced to do just that when we could be
spending this money more wisely on improving salmon runs that are genetically indistinguishable from the Snake River Sockeye but have a far better chance of complete recovery.

Under H.R. 2275, the ESA is amended so that salmon runs like the Snake River Sockeye and the same class of species will be considered for listing only after they have been studied and given greater consideration to enhancing healthier runs that have a better chance of full recovery. This change in the law will lead to a much larger and healthier salmon supply for our entire region.

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

One of the major reasons for the act’s failure to fully recover species is the set of perverse incentives that it encourages. The current law punishes people for protecting habitat on their property and rewards those who develop and clear land for consideration for protection.

These perverse incentives were mentioned over and over again by witnesses at our task force field hearings. That is why I am delighted that Chairman Young has included a number of our recommended reforms in his bill.

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

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

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

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

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

Mr. YOUNG of Alaska, Mr. Speaker, I thank the gentleman for his support and information. He brings up a very valid point. If we had listened to the localities, the States, and the communities, we could have solved the problem on the river. I would suggest that, other than, as long as the gentleman brought it up, because I brought it up myself about importing the Canadian wolves down to reintroduce wolves.

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

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

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

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

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

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

Mr. HASTINGS of Washington. That is right. If we look at what the intention of the act was 23 years ago, and you voted for it because the intention was good, that action by this farmer would do nothing at all to enhance the species. It is counter to what we are trying to do. Why? Because of the heavyhanded administration coming from the Federal Government, because they are not listening to the people involved in this sort of stuff, but more important, common sense, and let us protect private property rights, because after all, that is a constitutional requirement.

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

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

In its current form, the Endangered Species Act creates perverse incentives for landowners to destroy habitat which could attract endangered species. Once identified as migrate, a property owner loses their property rights to the snails, birds or rats that happen to move in. In essence, the ESA, as currently written, discourages the very practices which will ultimately protect endangered species habitats.

Instead, we need to ask landowners to participate in preserving and not destroying our natural resources. Property owners are not villains. Everyone wants to preserve our resources.

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

In my district I can give you several recent examples of government violating the rights of private property owners. One hundred twenty-one acres of the most beautiful property in Dana Point valued at over $1,500,000 an acre was devalued because of the discovery of 30 pocket mice, an animal on the endangered species list. Years of planning for the use of this land had to be abandoned. The owner even offered to set aside four acres of his land just for the mice, about $150,000 per mouse, but the government said that was not enough.

In another instance, a property owner had a multimillion dollar piece of property in escrow when the city declared it as wetlands. He was then offered $1 an acre for this useless “wetland.” This is a travesty.

Mr. Speaker, Congress passed the Endangered Species Act more than 20 years ago. Originally intended to protect animals, this act hurts humans. It is time to give human needs at least as much consideration as those of birds, fish, insects, and rodents. The time has come for a change. Private, voluntary, incentive driven environmental protection is the only effective and fair answer to this controversial law.
have heard many of these myself as I have sat on the task force, on the committee, and we have held hearings, we have had a number of instances where this has proven not to be the case.

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

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

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

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

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

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

Mr. DOOLITTLE. If the gentleman will yield to the gentleman from California.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

How did things go so wrong so fast?

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

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

We went together, and made tremendous progress. Today, 60 percent of our lakes and rivers are clean. Major rivers no longer catch on fire. Millions of Americans are breathing cleaner air.

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

March 27, 1996
Hundreds of toxic dump sites have been cleaned up. And tens of millions of Americans all over this country are reusing and recycling. Together we've banned DDT. We've protected millions of children from lead poisoning. We've cut toxic emissions from factories in half. And in the process of keeping our environment clean, we've helped create millions of jobs.

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

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

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

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

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

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

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

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

And Mr. Speaker that one man is NEWT GINGRICH himself.

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

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

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

But it wasn't always that way, Mr. Speaker. In the early 1970s, before he was ever elected to Congress, NEWT GINGRICH actually taught a course on the environment.

In 1982, he earned a League of Conservation Voters approval rating of 66 percent. In 1987-88, his approval stood at 50 percent. That's not a stellar rating, but it's not bad.

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

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

And his voting record began to change.

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

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

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

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

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

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

In 1989, it went down to 10 percent.

In 1990, it stood at 13 percent.

In 1991, it dove to 8 percent.

In 1992, it fell to 6 percent.

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

In 1994—zero percent.

In 1995—zero.

In 1996—zero.

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

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

Well, its a simple answer. In 1989, NEWT GINGRICH was elected to his party's leadership. He was elected Whip of the Republican Party.

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

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

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

As NEWT GINGRICH's own newspaper, the Atlanta Journal-Constitution wrote last May, these people have been, and I quote, "flooded the campaign coffers of friendly congressmen with hundreds of thousands of dollars in contributions."

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

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

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

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

I just listen to what the Republican environmental agenda does in 1 year's time:

It cuts the Environmental Protection Agency by 21 percent. It cuts pollution enforcement 25 percent. It denies local communities $712 million that might help protect drinking water, which is 29 percent below the President's request. It cuts the land and water conservation fund 25 percent. It even tried to kill the bipartisan Great Lakes Initiative.

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

And that's not all.

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

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

It cuts Superfund research by 75 percent. It cuts the Endangered Species Act 38 percent below the President's request. It bars the listing of any new species as endangered.

It allows oil drilling in the Arctic Refuge.

It delays new meat inspection standards.

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

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

It eliminates funding for the National Park Service at Mojave Desert. It terminates the Columbia Basin Ecosystem Management Project.

It delays approving pesticides with lower health risks to farmers. It even delays new standards for toxic industrial air pollutants.

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

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

And just as important as what they're trying to do is how they're trying to do it. They knew the American people would never put up with the outright...
repeal of these bills so they're trying to sneak through the back door.

They knew they couldn't pass a bill to allow oil drilling in the Alaskan wilderness. So they snuck a provision into the reconciliation bill that allows drilling in Alaska.

They knew they couldn't just repeal the Clean Water Act. So they've attached legislative riders to gut environmental laws in 17 different ways.

They knew they couldn't pass a budget that cuts environmental protection. So every week, we get another stop-and-go budget that quietly keeps the EPA from doing its job.

I think the Republican Whip, Tom DeLay, said it best. He stood on this floor in defiance just a few months ago, and he said: "We are going to fund only those programs we want to fund. We're in charge. We don't have to negotiate with the Senate. We don't have to negotiate with the Democrats."

And apparently, they don't care much what the American people think either.

Thankfully, the American people are seeing right through the Republican agenda.

And thankfully, the veto pen of the President is more powerful than the axe of the Gingrich Republicans.

Tired, and time again, the President has stood tall against the extreme cuts and we will continue to fight them every step of the way. Because we are a better nation than this and we are a better people than this.

We have come too far as a nation and we have sacrificed too much to turn the clock back now.

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

We have done so because we've always realized that despite our differences in the end we all drink the same water, we all breathe the same air, and we all depend on the same environment for our survival.

We can never forget. We don't just inherit this land from our parents. We borrow it from our children.

Speaker Gingrich may have made a deal with polluters. But we were elected to what's right for the American people.

And if this Congress isn't going to work to protect the environment for our families and our children, if they aren't going to work to keep our water clean and our air safe, then come November the American people will elect a Congress that will.

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

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

Governors and education leaders from across the Nation recognize the urgent need to deal with America's education dilemma.

Most Americans, too, recognize the need to improve our education system so that all our children have a chance to learn, develop, and to realize his or her full potential, and in doing so, to be able to make a contribution to society.

Yet, many Americans understand, regretfully, that there are too many of our Nation's students who are not being prepared for success later in life, but are doomed to failure.

They are in overcrowded classrooms, schools with poor curriculum, limited equipment, and low educational standards. Their teachers are underpaid and discouraged.

And some of our students will drop out before completing high school if they are not challenged.

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

Again, most Americans are committed to investing more to improve our education system. Most Americans want to support our children and to ensure our Nation's future.

And, if we understand the economics of education, we would know that quality education is a good investment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

These educational programs are a great payoff for our society. The programs can, certainly, be improved, can be made more effective. We should always seek to improve and to require full accountability for all resources.

But, we should amend or reform our investment in the programs—not cripple or end them.

Mr. Speaker, We are at a crossroads. We must make required reforms, improvement, and sufficient investment to provide a quality education system where every child every child has a chance to learn, develop, and contribute.

HEALTH CARE REFORM LEGISLATION

Mr. PALLONE. Mr. Speaker, I am here today, because I wanted to discuss the health care reform legislation that we expect to come to the House floor tomorrow. I was at the Committee on Rules earlier today, and at some point today this afternoon or this evening I would expect that they would report a rule on the health care reform.

My concern is that the bill that will come to the floor tomorrow, rather than being the very simple legislation that was called for and endorsed by President Clinton during his State of the Union Address, instead it could be a much more complex bill loaded up with many provisions that cannot be agreed upon on a bipartisan basis in this House and in the Senate and that
the rare opportunity that we have in this session in the next few weeks to pass meaningful health care reform essentially would be scuttled because of the language and because of the nature of the bill that Speaker GINGRICH and the Republican leadership would bring to the floor tomorrow.

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

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

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

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

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

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

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

Well, I believe that is what is happening. I believe, Mr. Speaker, that based on what the Committee on Rules is reporting later today, even though myself and other urged them not to, that the bill that comes to the floor tomorrow is going to be a lot more controversial and a lot more complex and a lot more loaded down with provisions that are not necessarily good for the American people and that the bill tomorrow is likely to have provisions providing for MSA’s, which are medical savings accounts, it is likely to deal with malpractice issues, it is likely to deal with antitrust issues, it is likely to deal with a affordability issues that have nothing to do with the original Kennedy-Kassebaum.

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

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

The principle of MSA’s, or medical savings accounts, basically says that if you are a fairly healthy individual or if you are a fairly wealthy individual or if you happen to be both, then you basically put your money aside in a savings account that is not taxable, essentially, somewhat like an IRA. I think.
clean health care reform bill, rather than have it loaded up with all these other extraneous provisions.

If I could just briefly read part of the editorial that was in the Washington Post on March 18 that says “Bad Move on H2894” and says exactly the way I and many of my colleagues on the Democratic side have felt that:

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

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

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

In fact, when this legislation went before the House Committee on Ways and Means, there were a number of Democrats who essentially expressed the same concern that I have, and they put out a dissenting view on the Kennedy-Kassebaum bill. They referred to the bill that it should be the “sink the good ship Kassebaum-Kennedy bill, because it was designed in every way to torpedo the passage of the modest helpful provisions of Kennedy-Kassebaum-Roukema. The bill as reported by the Committee on Ways and Means, according to the Democrats in dissent, is not health insurance reform. It includes only a weakened version of the group non-discrimination provisions of Kennedy-Kassebaum. Of course, they would again go into the whole problem with the MSA’s and the problems that I have outlined before with the medical savings accounts and what they would mean in terms of the average person’s health insurance costs or premiums going up.

In fact, we estimate that the proposal to include the medical savings accounts could end up costing taxpayers $2 to $3 billion overall, because essentially what the MSA’s do is to encourage skimming or cherry-picking. The healthiest and wealthiest will leave traditional health insurance, thereby raising costs on everyone else. The high deductible insurance costing thousands of dollars that result from the MSA’s are especially unaffordable for middle-class families or for the recently unemployed, the very people who most need insurance.

One of the things that many of the Democrats have also been pointing out about this legislation and the inclusion of the medical savings accounts is that it basically has been included by the Speaker and the Republican leadership in order to placate, if you will, one insurance company, the Golden Rule Insurance Co., and the person who is the leader of that by the name of J. Patrick Rooney. He and the Golden Rule Insurance Co. have actually given $1.2 million to Republican campaign committees, $157,000 to GOPAC, the Speaker’s political action committee, and $45,000 to Speaker Gingrich’s own reelection campaign.

So essentially what we are seeing here are special interests ruling the day, because the Golden Rule Insurance Co. felt that they would like to see the medical savings accounts proposal included in health insurance reform, because they have a lot to gain, because it is not in this bill, even though all the Democrats and probably most of the Republicans do not really want to see it there, because they know it will kill any real proposal for reform.

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

I just wanted, Mr. Speaker, if I could for a minute, to talk about some of the things that the Consumers Union says about this legislation tomorrow and the fact that it has been loaded up with all these other provisions. They mention with regard to the medical savings accounts that the medical savings accounts disrupt the health insurance market by creating financial incentives that encourage divi-
The recess having expired, the House was called to order by the Speaker pro tempore [Mr. ROGERS] at 5 p.m.

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

Mrs. WALDHOLTZ. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 389 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

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

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

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

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

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

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

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

Mr. Speaker, the rule is narrowly drawn so that we can adequately work with the Senate on changes that they have adopted. The motion to expeditiously move the bill for final action. It is appropriate, Mr. Speaker, to limit debate on the measure to amendments that have been adopted in the Senate and not use the vehicle for debating the enormous range of contentious issues relating to abortion.

Abortion is clearly one of the most emotionally charged issues that our Nation faces. People with the best of intentions who have carefully considered this issue come to opposite conclusions, and it is difficult to find areas of common ground. I would hope that this particular bill is an area where we can find that elusive common ground and exhibit a procedure that partially delivers a live child before killing it and completing the procedure, a procedure that one practitioner admits he uses for purely elective abortions about 80 percent of the time he uses this procedure.

Mr. Speaker, the procedure that we are talking about today is one that is gruesome and horrific. Without wishing to offend other Members or the people who may be watching these proceedings, I think it is critical, Mr. Speaker, that we describe exactly what it is we mean by a partial-birth abortion so that people will understand that we are not talking about a series of other related or essentially connected to the abortion debate, but we are talking in this bill about one very clearly described procedure that should be banned.

In this procedure, which is used during the second and third trimesters of a pregnancy, the practitioner takes 3 days to accomplish the death of the child. For the first 2 days the woman's cervix is dilated so as to promote the ease with which the doctor will perform the procedure. The third day the abortionist enters the body of the pregnant woman and goes into the doctor's office and through the use of ultrasound the physician locates the legs of the child. Using a pair of forceps, the physician then seizes one of those legs and drags that leg through the birth canal. The doctor then delivers the rest of the child, legs, torso, arms, and stops when the head is still in the birth canal. One practitioner who uses this procedure says the child's head usually stops before being delivered because, of course, the cervix has not been dilated to the point that a regular vaginal delivery would occur because that is not the point of this exercise.

So, once the head is stopped in the birth canal, the doctor reaches down to the base of the child's skull, inserts a pair of scissors, ending the child's life, yanks those scissors open to enlarge the hole and uses a vacuum catheter to suck out the contents of the child's cranium.

That is the procedure that we are talking about in this bill, Mr. Speaker, the partial delivery of a living fetus whose life is ended with its head still in the birth canal by the deliberate insertion of a pair of surgical scissors so that an abortion may be accomplished. That is what we are talking about in the motion for final adoption.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Speaker, this is a very personal matter to the people involved. I would hope everyone knows that no one has the chance to read the very moving testimony of one of my own constituents, Mrs. Coreen Costello of Agoura, CA, in opposition to this bill. Mrs. Costello described herself as a conservative pro-life Republican who always believed abortion was wrong until she was faced with the choice that she was in this case faced with.

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

Mr. Speaker, if I may add a personal note, in 1967, then-Governor Ronald Reagan signed California’s Therapeutic Abortion Act. And when I first came to Congress this last year which was one of the first laws in the Nation to protect the lives and the health of our women.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Speaker, before I yield to the next speaker, I think it is important that we recognize that the procedure
that we are talking about today is not a legitimate medical procedure recognized by experts of the American Medical Association. With all respect to my colleague on the Committee on Rules, for whom I have great respect and affection, I question whether the experience that his constituent had is one that none of us hope we have to share. But, Mr. Speaker, the American Medical Association's Council on Legislation, made up of 12 physicians, voted unanimously to recommend that the American Medical Association board of trustees endorse this partial birth abortion ban.

A member of the council, after they had discussed this procedure, said that they felt that this was not a recognized medical technique, Mr. Speaker. It is unfortunate that we are having to debate what has been legalized infanticide.

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

Mr. WELDON of Florida. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I commend her and the Committee on Rules for bringing forth this rule, and the members of the Committee on the Judiciary for originally introducing this legislation.

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

I was amazed to read in this article that somebody could actually concoct a procedure this gruesome, and I was further shocked to read that the physicians who developed the procedure then went on to report that in 85 percent of the cases within which they do this procedure, there are no significant birth defects, and some of the defects that they cited, where they justified doing this procedure, included cleft lip and cleft palate.

Mr. Speaker, I was shocked, and frankly I was amazed that I could live in a country where a procedure as gruesome and awful as this could be legalized. So, I stood up and this was a safe medical procedure. I would contend that there was a party involved in this procedure where it was anything but safe. Indeed, it was lethal, and it was lethal in a most horrific way.

We have legalized abortion far before we did in this country, this type of procedure is not legal. They have restrictions on how you can do these procedures and when you can do them. Specifically, they are not legalized in late trimester, in late second trimester, and in the third trimester.

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

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

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

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

While abortions, except to save the mother's life, are legal, partial birth abortion is not. We have discussed this procedure, said that it is gruesome and inflicts pain on the victim. We have humane methods of capital punishment. We have humane treatment of prisoners. We even have laws to protect animals. It seems to me we should have some standards for abortion as well.

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

Finally, Mr. Speaker, I do not want to discuss a bill relating to abortion without saying that we have a deep moral obligation to improving the quality of life for children after they are born. I am a Member of Congress who is opposed to abortion. But, I could not sit here and honestly debate this trimester with that clear conscience if I did not spend a good portion of my time on hunger and trying to help children and their families achieve a just life once they are born.

We need to promote social policies that ensure the mother and child will receive adequate health care, training and other assistance that will, in turn, enable them to become productive members of society. We have not done that so far, and I am afraid to say, this House has been unraveling social programs all too easily. Until our Nation makes a commitment to offering pregnant women and their children a promising future, I am afraid the demand for abortion will not subside.

Enough is enough. If there's one thing this Congress ought to do this year is stop this very reprehensible and gruesome technique of abortion. We treat dogs better than this. Vote yes on this bill.

Mrs. WALDHOLTZ. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT asked and was given permission to revise and extend his remarks.

Mr. CHABOT. Mr. Speaker, today we will again vote on whether or not it should be lawful for an abortionist to take the life of a baby that is alive, yet partially delivered in circumstances where the mother's life is not at risk. Remember, the doctor must grasp two kicking, healthy legs to secure the baby so that he can insert into the child's skull a scissors-like device that causes the brain to collapse, and it kills the child. Even those who advocate this type of abortion shudder to describe it. Only the most extreme ideologue could favor such a gruesome procedure where the mother's life is not in jeopardy.

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

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

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, this is not a bill about life, this is a bill about politics. Think about it. The House passed this bill in its original version to ban partial birth abortions. The Senate changed it. The Senate said, "You can make an exception to the ban in the case of the life of the mother." What is going on here? Congress is trying to be your doctor. Enough is enough. If there's one thing this Congress ought to do this year, it's stop this very reprehensible and gruesome technique of abortion.

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It is ironic that this Congress honors this month of March as Women's History Month. We celebrate women overcoming obstacles in their lives, women having liberties, and women having freedom of choice. Now here tonight, in a male-dominated Congress, this would be an opportune moment to take away a woman's right to decide what is right for her and for her baby.

I have talked to constituents who have been forced to have this procedure to protect future fertility. I think we are foolish to think that we can handle this in a law making process better than women can handle it in the medical arena.

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

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

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

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

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

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

The Supreme Court has considered in the case of Roe versus Bolton that to protect a mother's health may sound reasonable on its face, the Supreme Court has defined "health" as anything that relates to one's well-being. It is ironic that this Congress honors this month of March as Women's History Month that we actually protect the preborn, the particular, that we actually protect the preborn, the egg of that eagle, more than we protect the preborn of a human being. It is actually a fine of $500 to $5,000, up to 1 year in prison, for destroying an eagle egg, a preborn eagle.

But this issue here is not about the big issue of abortion, but simply outlawing a particularly egregious and terrible procedure that is used. As I argued earlier, we do not transfer this type of procedure over to a way of executing people who have committed murder, on death row, there would be many in this body that would be the first to stand up and encourage people to go to court to stop this type of procedure over the use of the death penalty.

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

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

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

First, the abortionist uses ultrasound—an amazing, high-technology medical tool that shows doctors and parents exactly what is happening inside the womb. The abortionist uses this tool of life as a tool of death. He uses ultrasound to guide his forceps to grab the unborn baby's leg. The abortionist pulls the baby's leg into the birth canal and proceeds to deliver the baby's entire body, except for the head.

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

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

Some of the so-called antichoice extremists who support this bill include the American Medical Association's Council on Legislation, which voted unanimously to recommend that the AMA endorse this bill. I think their opinion would carry an awful lot of weight.

Mr. Speaker, I was very pleased when this bill passed H.R. 1833, the Partial-Birth Abortion Ban Act, by an overwhelming 288-to-139 margin. Today we consider the Senate's amendments to the bill and the rule.

The Senate amended the Partial-Birth Abortion Ban Act with similar bipartisan support. And that body's amendments are reasonable and acceptable. Furthermore, the rule simply addresses the matter at hand—the Senate amendments. There is no reason to consider extraneous amendments.

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

Under the guise of protecting the mother's health, the radical abortionists want to add a health-of-the-mother exception. The bill already would allow the partial-birth abortion procedure if the abortion was necessary to save the woman's life. And this procedure was the only method of doing so.

However, to add "health" would be tantamount to writing in a loophole through which a Mack truck could be driven. While protecting a mother's health may sound reasonable on its face, Supreme Court has defined "health" as anything that relates to one's well-being. Does that mean that being depressed or having a cold or allergies or a headache could qualify as jeopardizing health under such an open-ended definition? Certainly. In fact, the Court held in Roe versus Bolton that "health" encompasses "all factors—physical, emotional, psychological, familial, and the woman's age—relevant to the well-being of the patient." Therefore, to add "health" to this legislation would gut the bill.

The procedure would call themselves pro-choice. Do not make bad law. The American Medical Association's Council on Legislation has voted unanimously to recommend that the AMA endorse this bill. I commend that the AMA endorse this bill.
and unusual punishment. The appellate judge agreed with this man, who had been convicted on two counts of first-degree murder.

Mr. Speaker, H.R. 1833 bans the performance of partial-birth abortions, the gruesome procedure that I have described. As medical technology continues to develop to the point where surgery can be performed on unborn babies, where more and more premature babies survive, where doctors can perform increasingly sophisticated techniques that just 10 or 20 years ago we would have thought of as medical miracles, it’s time to take a hard look at biological and medical facts.

H.R. 1833 bans a single abortion technique that even many people who call themselves pro-choice support the banning of. But what are the ethical and moral questions we as a society need to confront? Do the medical facts we have today support the ignorant bliss on which Roe versus Wade and Doe versus Bolton were decided? Is this country still a civilized society? What kind of a people would allow the partial birthing of a half-gestated baby, to be wrestled with surgical scissors and his brains sucked out, knowing the biological facts we have in 1996?

It is also ironic that this Nation protects unborn eagles more vigorously than it protects unborn human beings. We punish people under federal law—the Migratory Bird Treaty Act (16 U.S.C. 703), the Bald Eagle Protection Act (16 U.S.C. 668), and the Endangered Species Act (16 U.S.C. 1538 and 1540)—for destroying an eagle egg. The Migratory Bird Treaty Act provides for penalties up to $5,000 and 6 months in prison for destroying an eagle egg. The penalty under the Bald Eagle Protection Act is a fine up to $5,000 and a year in prison. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly and intentionally destroying the egg of any endangered species are a fine up to $5,000 and a year in prison in federal court. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly and intentionally destroying the egg of any endangered species are a fine up to $5,000 and a year in prison in federal court. The Endangered Species Act provides for civil and criminal penalties; the criminal penalties for knowingly and intentionally destroying the egg of any endangered species are a fine up to $5,000 and a year in prison.

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

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

Mr. Speaker, I urge that we accede to the Senate’s amendments. I urge that we adopt this rule. And I urge the President to reconsider his veto threat.

Mr. FRANK of Massachusetts. Mr. Speaker, we will get to debate the substance of the bill, although very briefly. The gentlewoman from Utah [Mrs. WALDHOLTZ] said that this rule provides adequate time to discuss the Senate amendment. In fact, because this rule provides quite deliberately the minimum time that it is legally possible to give a bill on the floor of the House. The rule gives 1 hour. That is the minimum that is allowed under the Constitution. As part of an effort to suppress debate and discussion on this bill, we will get to the substance, but I want to talk here about the outrageous procedure. It is one more example of this majority running absolutely roughshod over the notion of open debate and democracy and fairness. This is, once again, a rule as we say in previous weeks where to achieve their political purpose, to make sure that their political message is unadulterated, the majority sacrifices the right of American people to have free debate.

For example, the gentlewoman from Utah talked about the amendment that was adopted in the Senate. She said people felt that the life exception for serious adverse health effects was just too broad, and so the Senate straightened it out. Many of us raised that same point here in the House, and why did we not straighten it out here in the House? Because they had the same rules the last time. The rule that was used for this amendment. It is an amendment that we in the House were prevented from considering because of the closed-fisted rule of the majority on this bill.

The Senate did adopt the amendment, so they are giving in and they say, “OK, we will do it.” They are almost taking credit for the improvement the Senate made when they refused to allow us to vote on such an amendment here. Now we have another amendment we want to offer, and I understand here that we cannot even offer a motion to recommit this.

It is a very cleverly crafted procedure they have. This is not a bill. It is a concurrence with the Senate amendment because, by making it that way, we cannot even recommit it and no amendments are in order. We can do nothing in the House to alter this. We can vote up or down. We have twice been asked by the majority, not asked, directed by the majority to vote on this issue with no amendment and with the minimum time for debate allowed under the rules of this House.

They want to do it. They want to do it quickly and have this little conversation as possible because it will not stand up, apparently, they believe, to greater scrutiny. They are afraid to allow an amendment.

We have an amendment that we offered, that was rejected from Colorado and I. It is an amendment that was offered in the Senate. The Senate adopted one amendment and then the Senate rejected another but it got 47 votes. We are hardly talking about some fringe position; 47 votes, including Republican votes, in the Senate, and we are not being allowed to offer it here.

We cannot do it on the motion to recommit because there is no committee of conference. This is simply a motion to concur in the Senate amendment, and what is the amendment that the majority is afraid to allow the House to vote on?

They cannot plead time. We are less busy than the guys in “Marty,” standing around on the corner. “What do you want to do tonight?” “I don’t know. What do you want to do tonight?”

Voting is not one of the things, because the majority cannot get itself organized. We have hardly overvoted ourselves this week, but the majority is afraid to allow the amendment.

The amendment says the doctor will not be considered a criminal and sent to prison if he performs this procedure to prevent damage to the health of the mother. If a doctor were to decide that this procedure was necessary to avoid damage to the mother’s ability to give birth in the future, he would be committing a crime if he did it because the majority is saying vote on an amendment that would say to avoid damage to her ability in the future to bear children. We are talking about serious adverse health effects.

At the Committee on Rules, the majority denied our debate in the Committee on Rules. They did not want to but they cannot shut us up. They are probably working on a way to do that in the Rules Committee.

The gentlewoman from Colorado said this is so broad. What do we mean by health? My answer is simple. I think serious adverse health is good enough, and I am prepared to put the doctor’s opinion up.

But if you think that is too broad, then amend the amendment. My colleagues on the other side of the aisle are afraid of open debate. If you think serious adverse health is too broad, why do you not put very, very, really serious adverse health? Or if you are afraid of psychological, physical, or mental health, I do not agree with that. I would vote against that, but if you want to avoid serious physical damage to the mother but do not want to let it in depression, then allow us to vote on it. At least let us debate your preferred procedure which you are imposing successfully on this House, I am afraid, I reemphasize this, procedure requires us to vote and will not allow an amendment that would say to a doctor if you perform this procedure, and by the way it is called a procedure by the American College of Obstetricians and Gynecologists. I will put their letter in opposition to this in the RECORD. You are saying that we cannot even offer an amendment that would cause serious damage to the mother’s physical health. Our amendment does not say that, but you could amend the amendment and make that in order.
I know that democracy seems complicated to people who have so little practice with it. You are instead going to demand that we vote to make it criminal even if a doctor wanted to prevent serious physical damage to the health of the mother.

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
Washington, DC, November 1, 1995.


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

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

The College does not support H.R. 1833, or the companion Senate bill, S. 999.

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

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

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

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

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

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

But the underlying thing that last bothered me ever since I have been in the Congress of the United States is there is another underlying piece here, and that is that women do not have the right to choose, maybe they are not smart enough, we cannot let them decide what is the best thing in the world for them to do. Some men have to sit here and decide what is the best, usually deciding things in legislatures all over the country and this Congress what it is that we can say is appropriate for them.

It is not original with me, but if women were that dumb, how in the world does anybody here expect that they had a mother who bore them and raised them to extraordinary lengths that they are today? Had a Member of the Congress of the United States like me or other attent, a woman deserves the best care based on the best circumstances and the knowledge that it fits her situation. It should not be tailored to fit the needs of Members of Congress or any ideas that they have. Women are the second-class citizens and that needs a big brother to tell her what is permissible and what is not.

Unfortunately, I think this is only a beginning. The bill’s sponsors have consistently stated this is a first step and, if they have the votes, they will prevent all abortion. I think many of them would also prohibit birth control. They want government intrusion into every doctor’s office and eventually into every bedroom. We should not start down this road. We should not prohibit medical procedures by Government fiat. We should not prohibit physicians and patients from making informed decisions based on the individual facts of the case.

Mr. Speaker, I ask defeat of this rule, which prohibits this House from modifying the draconian anti-woman provisions of this bill. I then ask my colleagues to preserve the right of women and the medical people to the proper medical procedure based on the best medical advice by defeating this underlying bill.

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

I think it is important to point out the definition of elective and nonelective abortion regarding third-trimester abortions. In this particular situation, it depends on the definition of the person expressing it. One of the doctors who pioneered the partial-birth abortion procedure, as he called it, said the third trimester abortions he performed were nonelective but he said that these abortions also are caused by factors such as maternal risk, rape, incest, psychiatric or pediatriac indications. This doctor’s definition of nonelective are extremely broad.

We went on to tell the Subcommittee on the Constitution that he had performed more than 2,000 of these partial-birth abortions and that he attested to over 130,000 them. He attested to called fetal indications or maternal indications.

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

Mr. SOUDER. Mr. Speaker, first I want to agree with the earlier speaker.
that this amendment is actually not needed. We in the House had already protected life of the mother, but in the new language, "necessary to save the life of the mother whose life is endangered by a physical disorder, illness, or injury, provided that, in the opinion of the attending physician, the life of the mother would be endangered in case of the birth of the child," makes it clear this has nothing to do with life of the mother.

I would also like to address the question of whether we men are trying to regularize abortion. It is a tough debate under any circumstances, and an emotional one. But I think the reason I oppose this rule and oppose this amendment is used primarily to save the life of the mother. I yield 7 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I yield the gentlewoman for yielding me this time.

Mr. Speaker, for more than two decades the multimillion-dollar abortion industry has sanitized abortion methods by aggressively employing the most clever and most benign of euphemisms. Until today they succeeded in a massive coverup about the sickening truth about abortion methods, including chemical poisoning of the child by highly concentrated salt water or some other means, of the baby's fragile body by a knife connected to a suction machine that is 20 to 30 times more powerful than the average vacuum cleaner, and now brain extraction, the method at issue today, as if the child's brain were a diseased tooth in need of extraction or a tumor to be excised. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill.

We can revoke that license to kill, Mr. Speaker, partial-birth abortion is against the law. Make no mistake about it, Mr. Speaker, partial-birth abortion is child abuse. And those who do it today have an unfettered right to kill.

Mr. Speaker, the abortion lobby has, and I quote, "absolutely no basis in scientific fact," and is, "misleading and dangerously, to pregnant women." According to the ASA general anesthesia given to a pregnant woman does not kill nor does it injure an unborn baby or even provide the baby with protection from pain. And Dr. Haskell has testified that local anesthesia he uses has no effect on the baby.

Mr. Speaker, to my left is a chart, one of a series of charts, medically correct, a diagram of what the actual procedure is. The surgeon is able to open and close its jaws and firmly and reliably grasp a lower extremity of the fetus and pulls the extremity into the vagina.

He then goes on to say that, with a lower extremity in the vagina, the surgeon has control of the fetus and he could, if he wanted to, and he could apply a firm traction to the extremity, then the torso, the shoulders, and then the upper extremities, the skull lodges in the internal cervical os. Usually there is not enough dilation to get through. At this point, the right-handed surgeon slides the fingers of the left hand along the back of the fetus and hooks the shoulders of the fetus with the index and ring fingers palm down, while maintaining tension, lifting the cervix and applying traction to the shoulders with the right hand. The surgeon takes a pair of blunt curved Metzenbaum scissors in the right hand. He carefully advances its tip curled down along the spine and under the chin and through the base of the skull until he feels it contact the base of the skull.

Mr. Speaker, according to Dr. Haskell, the surgeon then forces the scissors into the skull, right into the skull of that baby. And then he introduces a suction catheter, holds it and evacuates the skull contents.

Mr. Speaker, one nurse, a registered nurse by the name of Brenda Pratt Schaefer, witnessed several of these partial-birth abortions while working for Dr. Haskell. She said, in describing the process that, the baby's body was moving, his little fingers were clasping together, he was kicking...
his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors, inserted them into the back of the baby’s head. Then he opened the scissors up. Then he stuck a high-powered suction tube into the hole and sucked the baby’s brains out.

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

First, let me say, Mr. Speaker, I want to commend the distinguished gentleman from Florida, Mr. CANADY, the chairman of the subcommittee, for his courage in bringing this very important human rights legislation to the floor. This is the issue that he wants to champion. The abortion, lobby certainly does. They hate many others who fight for unborn kids.

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

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

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

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

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule. The bill in question presents a direct challenge to Roe versus Wade. As one member of the majority boasted, “We intend to end this movement, this procedure by procedure.” I take him at his word, because this legislation will do just that.

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

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

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

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

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

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

Mr. Speaker, I eagerly, eagerly ask Members to vote against this rule. This rule is one more gag rule put on doctors dealing with women and their families in the most difficult situations that any family would ever have to face. I think it is unbelievable that we are gagging Members of Congress from being able to deal with the severe and adverse health conditions a woman can have, and that is what is being done. We are not being allowed to present that amendment.

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

We have heard so many statements made here that were incorrect, that you do not even know what to say.

People get up and they obsess on this, they obsess on this procedure and they obsess on all this stuff. The real issue is, show me an obstetrician and gynecologist that is going to do something terrible and evil and awful. We try to make this into a witch trial. Show me parents that would want this. These are crisis situations, where everything has gone wrong. We are only talking here about late, late abortions, where people were clinging to that child trying to go as far as possible. If we deny this kind of procedure, we are denying to young parents their chance to have another shot at being a parent, which is probably one of the most driving desires anyone has.

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

Should that not be okay? You hear people talk about how these are elective. Elective? These are not elective. Who in the world would sign up for a 100-page decision in Ohio, where the court said no, that is violative of Roe versus Wade?

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

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

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

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

Mr. Speaker, we ought to be listening to the specialists and to the people who are talking about this. If we really think our medical profession is so badly trained in America, so against life that they are out doing these grizzly, terrible things, then we better look at the situation with a fresh eye. But I do not think so. I hear this obsessing that you are hearing, which is wrong.

Vote “no” against this rule. Allow women to have their severe health consequences taken into consideration.

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

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

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
November 1, 1995.

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

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

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

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


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

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

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

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

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

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

Mr. BEILENSON. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentlewoman from California [Ms. JACKSON-LEE].

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

Ms. JACKSON-LEE. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

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

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

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

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of this medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 is a direct challenge to Roe versus Wade—1973. This legislation would make it a crime to perform a particular abortion method utilized primarily after the 20th week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians' ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that their lives or health are at risk or that the fetus they are carrying has severe, often fatal, abnormalities.

Women like Coreen Costello, a loyal Republican and former abortion protester whose baby had a lethal neurological disease; Mary-Dorothy Lines, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who terminated her pregnancy in the sixth month because her baby was riddled with fetal anomalies due to a fatal chromosomal disorder, Vicki Wilson, who discovered at 36 weeks that her baby's brain was growing outside his head; Tammy Stivers, whose heart and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. All these children were wanted but could not survive. These are the women who would be hurt by H.R. 1833.

Women who would be hurt by H.R. 1833 and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by States as long as an exception is provided in cases in which the woman's life or health is at risk. H.R. 1833 provides no true exceptions for cases in which a banned procedure would be necessary to preserve a woman's life or health.

The Dole amendment does not cover all cases where a woman's life is in danger. This narrow life exception applies only when a woman's life is threatened by a physical disorder, illness or injury and when no other medical procedure would suffice. By limiting the life exception in this way, the bill would in effect limit the most direct threat to a woman's life in cases involving severe fetal abnormalities—the pregnancy itself.

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

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This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god.

Women do not need medical instruction from the government. To criminalize a physician for using a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice.

I urge my colleagues to vote against this rule so that we can offer amendments which create true life exceptions to the bill. These amendments would allow doctors to continue to perform the procedure which they feel is safest for the mother without risk of prosecution.

True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

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

Mr. BECERRA asked and was given permission to revise and extend his remarks.

Mr. BECERRA. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.

Mr. BEILENSON. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I rise in opposition to this legislation, which would prevent doctors from performing a lifesaving medical procedure. This is a direct threat to the health and lives of American women.

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

The life exception included in this legislation is far too narrow to protect women's lives effectively. The exception would allow this procedure only as a last resort when a woman's life is threatened by physical disorder, illness, or injury—when other medical procedure would suffice. It does not consider that this may be the safest procedure to protect the health and life of the mother.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, Members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of this medical procedure would mark a dramatic and unprecedented expansion of congressional regulation of health care.

This bill is bad medicine, bad law, and bad policy. Women facing late term abortions due to risks to their lives, health, or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their god.

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True life and health amendments would ensure that mothers, and families, facing tragic circumstances would continue to receive the best possible, and safest medical care available.

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

Mr. BOS. Mr. Speaker, I rise in opposition to the rule and the bill. It is wrong-headed and should fail.
Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

(Mr. FAZIO of California asked and was given permission to revise and extend his remarks.)

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

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

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

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

We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to the debate.

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

This is an extraordinary broadening of this bill. This bill was debated by the House, Mr. Speaker. It was debated by the Senate. We are back now to consider whether we should concur in the amendments that the other side has already stated improve the bill, a change that will allow doctors to exercise their best judgment in performing this procedure when it is necessary to save the life of the mother.

The gentlewoman from Colorado said though, Mr. Speaker, that we ought to look to the specialists, to the physicians, in determining whether this is an appropriate piece of legislation. So I wish to close, Mr. Speaker, by referring to the specialists.

First, Mr. Speaker, I would quote from Dr. Martin Haskell, a practitioner of the partial birth abortion. When Dr. Haskell was asked about the advantages of this particular procedure he did not talk about the life of the mother. He did not talk about the health risk to the mother. He said this: “Among its advantages are that it is a quick, surgical, outpatient method that can be performed on a scheduled basis under local anesthesia.” Those are not emergency measures, Mr. Speaker.

When Dr. Haskell was asked in an interview with Cincinnati Medicine in the fall of 1993, Dr. Haskell said when asked about the impact to the fetus of this procedure, the question, “Does the fetus feel pain?” This is what Dr. Has- kell said: “I am not an expert, but my understanding is that fetal development is insufficient for consciousness. He continued, “It is a lot like pets. We have heard complaints, Mr. Speaker, that there was not an opportunity to consider an amendment regarding the health consequences to the mother. But in fact, Mr. Speaker, as I pointed out earlier, the minority chose not to exercise its right to offer a motion to recommit when this bill first came to the floor. That was the opportunity, Mr. Speaker, that the minority had to offer whatever it felt was appropriate to the debate.

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The previous question was ordered.

The SPEAKER pro tempore. The previous question was ordered.
The Clerk read the motion. Mr. CANADY of Florida moves to concur in each of the six Senate amendments to H.R. 1833.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida and the gentlewoman from Colorado [Mrs. SCHROEDER] each will be recognized for 30 minutes.

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

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

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida [Mr. CANADY]?

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

This is partial-birth abortion: Guided by ultrasound, the abortionist grasps the live baby’s leg with forceps. Mr. Speaker, then the baby’s leg is pulled out into the birth canal by the abortionist. The abortionist delivers the living baby’s entire body, except for the head, which is deliberately kept lodged just within the uterus. Then the abortionist jams scissors into the baby’s skull. The scissors are then opened to enlarge the hold in the baby’s skull. The scissors are then removed, and a suction catheter is inserted. The child’s brains are sucked out, causing the skull to collapse so that the delivery of the child can be completed.

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

The supporters of partial-birth abortion seek to defend the indefensible, by taking the hard truth of Roe and substituting religious, medical, psychological, and the woman’s age, relevant to this horrible procedure. Partial-birth abortions or anyone who directly performs a partial-birth abortion shall be subject to the provision of this section.

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

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

Third, the Senate amendment allows fathers to sue for damages only if the father was married to the mother at the time the partial-birth abortion was performed. The Senate amendment states that if H.R. 1833 is enacted into law with the Senate amendments, it will deter abortionists from partially delivering, and then killing, unborn children.

Unfortunately, Mr. Speaker, President Clinton has threatened to veto H.R. 1833 unless we make gutting changes to the bill. The President does not want to openly defend a procedure that 71 percent of the public says should be banned. Therefore, he is trying to deceive the American people by claiming he supports banning this, as he calls it, disturbing procedure while he has at the same time proposed an amendment that would gut H.R. 1833, making it totally meaningless.

Mr. Speaker, the President wants a bill that allows an abortionist to perform a partial-birth abortion whenever the abortionist says it is to prevent a serious adverse health consequence. The President wants to explicitly leave the definition of serious adverse health up to the abortionist. In Doe versus Bolton, the companion case to Roe versus Wade, the Supreme Court defined health in the abortion context to include physical, emotional, psychological, familial, and the woman’s age, relevant to the well-being of the patient.” Partial-birth abortions are currently being performed for such health reasons as the mother’s depression or young age. While Dr. Martin Haskell, a prominent practitioner of partial-birth abortion, stated that 80 percent of the partial-birth abortions that he performed from 1979 to 24 weeks gestative, Dr. James McMahon asserted: after 26 weeks, that is, 6 months, those pregnancies that are not flayed are still non-elective. They are interrupted because of maternal risk, rape, incest, psychiatric or pediatric indications. Dr. McMahon’s definition of non-elective is extremely broad.

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

Furthermore, Dr. McMahon told the subcommittee that he had performed more than 200 of what he called intact dilation and evacuation abortions. He attributed more than 1300 of these late-term abortions to fetal indications or maternal indications. The most common maternal indication was depression. This type of abortion is sometimes complicated that included pediatric pelvis, that is, youth, spousal drug exposure, and substance abuse.

It is never necessary to partially vaginally deliver a living infant at 20 weeks, that is, 4½ months or later, before killing the infant and completing the delivery in order to protect a mother's life or even her health.

During two extensive hearings in the Committee on the Judiciary on H.R. 1833, not one of the medical experts invited to testify by the bill's opponents could come up with a single circumstance that would require the use an abortion technique in which the infant was partially delivered alive and then killed. On the contrary, several physicians, including one well-known abortionist, have stated that partial birth abortion poses risks to the health of the mother.

Dr. Pamela Smith, the director of medical education for the Department of Obstetrics and Gynecology at Mr. Sinai Hospital in Chicago, has written: There are absolutely no obstetrical situations encountered in this country which require a partially delivered human fetus to be destroyed to preserve the health of the mother. Partial birth abortion is a technique devised by abortionists for their own convenience, ignoring the known health risks to the mother. The health status of women in this country will only be enhanced by the banning of this procedure.

Dr. Martin Haskell, himself, said of a partial birth abortion, "Among its advantages are that it is a quick surgical outpatient method that can be performed on a scheduled basis under local anesthesia."

The President and other proponents of partial birth abortion know that adding an exception for health of the mother to H.R. 1833 is unnecessary and would gut the bill, allowing partial birth abortion on demand. This is the question I would raise to the President and my colleagues who support such a demand: Is there ever an instance when abortion or a particular type of abortion is inappropriate? The vehement opposition of abortion rights supporters to H.R. 1833 makes their answer to my question clear: There is never an instance when abortion is inappropriate. For them the right to abortion is absolute, and the termination of an unborn child's life is acceptable at whatever time, for whatever reason, and in whatever way a woman or an abortionist so chooses.

To all my colleagues, I say this, Mr. Speaker: Look at this drawing. Open your eyes wide and see what is being done to innocent, defenseless babies. What we see here in this drawing is an offense to the conscience of human-kind. Put an end to this detestable practice. Vote in favor of the motion to concurd the Senate amendments to H.R. 1833.

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

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. CONyers], the esteemed ranking member of the committee.

Mr. CONYERS. Mr. Speaker, I rise to make observations about two members of the Committee on the Judiciary, and I respect all of the members on the committee. First, I have asked the gentlewoman from Colorado, PATRICIA SCHROEDER, to manage this bill, because she will long be remembered for her sensitivity and dedication on a subject that is so difficult for all of us to deal with.

The other Member whose attention I would draw the membership to is the gentleman from Florida [Mr. CANADY], the author of this measure. Mr. CANADY is not a doctor, has never been to medical school, and has created a misnomer that would make the title of this bill. There is no medical term called "partial birth abortion." It is not in the medical dictionary, the American College of Obstetricians and Gynecologists do not use the term and in fact, has come out very strongly against the bill. Mr. Speaker, assuming that we are not doctors, let us just talk about the law that we have a responsibility to deal with. Since the measure of the Gentleman from Florida was introduced, a Federal court in Ohio has spoken on a very similar measure and the Ohio Federal court has said very, very clearly that this procedure, the dilatation and extraction, or D and X procedure, which was banned by an Ohio statute, is unconstitutional. Similarly, this bill is unconstitutional.

I urge my colleagues to consider that Roe versus Wade, through the constitutional process, has protected a woman's right to choose, for over 20 years. This attempt to ban a class of medically appropriate abortions is not only very discouraging, it is unconstitutional.

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I think it is important that we talk about what this bill is and what it is not. The term abortion is used rather loosely around this body. Abortion, by definition, occurs before 20 weeks. This procedure is not used before 20 weeks. This procedure is used on viable infants, infants who are viable outside of the womb. So as we hear all the confusing dialogue tonight, it is important that everybody realize that infants, 22 weeks gestation, from the time of conception 22 weeks forward, which is actually less than 21 weeks, by normal count, those are viable infants by definition. Today if a baby is born at 22 weeks we do everything we can to save that baby.

So this bill is not about abortion, this bill is about eliminating the murdering of infants who are otherwise viable outside of the womb.

What is this bill? This bill eliminates a procedure that has been designed to be of benefit only to the abortionist. This is a procedure that might have an adverse outcome in terms of an indication under the present utilization of this procedure can in fact be delivered in a much more humane, much less traumatic, and much more beneficial way to both the infant and the mother. What this bill provides is the respect that a viable fetus deserves, an infant of 22 weeks.

Let us make no mistake about this, this procedure is utilized to terminate otherwise normal infants the vast majority at the time I would hate to be otherwise on that, but if you think an infant with a cleft palate is someone who needs to be terminated, if you think adolescent females, because they are pregnant, should qualify under this bill, if the President tells us to say, because of their adolescence or because of their age, should otherwise be an exception under this bill, then you do not in fact understand what this procedure is all about.

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

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

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

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

Now let me tell you why I hate this debate, why I hate this debate because this debate reminds me of my 30th birthday, and let me bring you to my 30th birthday. My 30th birthday was spent in intensive care, an intensive care in which I had been given last rites. I had a 15-day-old baby girl I had not seen and a 4-year-old boy that I was terrified I would not see again. I want to tell the Members, that is scrambling, man. We had doctors, we had everybody running around figuring out what in the world I was pregnant, this is just want to say to people in this Chamber, if you really think families in that situation want you, the U.S. Congress, to come in and tell them
which procedures their doctors may use and which ones they may not use. I think you are wrong. I think doctors think this is a zone of privacy and families think this is a zone of privacy, and that we should trust our doctors, although there are a few. Members here who trust Hamas more than they trust the Government. But I happen to trust my doctor in that instance a whole lot more than I trust you members of Congress. I want you to know it.

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

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

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

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

First, an Ohio court has issued a 100-page opinion setting forth, with great detail and care, the unconstitutionality of a similar proviso in the Ohio legislation. The central point of the court's analysis is the fact that under Roe versus Wade and later cases, the government cannot ban abortions that are necessary to preserve the life or health of the woman.

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

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

In the course of our committee's hearings on this bill, we heard heart-rending stories from four women whose families benefited from the procedures. This bill would ban any exception for the life or health of the woman's pregnancy. As I listened to these women's stories, it became obvious to me that, in many respects, this bill is not about abortion at all. These pregnancies were wanted pregnancies, and the women told us that their families loved and cherished the babies that God was giving to them, no matter what disabilities those babies might have.

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

So, in truth, the bill before us today is as much about safe motherhood as it is about abortion. 920, 800 women died for every 100,000 live births. In 1990, 10 women died for every 100,000 births. While the maternal mortality ratio in the United States has decreased dramatically, pregnancy-related complications and deaths remain an important public health concern.

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

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

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

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

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

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

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

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

THE ISSUE IS NOT ABORTION
(By Mary-Dorothy Line)

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

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

As practicing Catholics, when we have problems and worries, we turn to prayer. So, our whole family prayed. We were scared, but we are strong people and believe that God would not give us a problem if we could handle it. The baby was preg nant with our first child and we were extremely happy. 19 weeks into my pregnancy, an ultrasound indicated that there was something wrong with our baby. The doctor notices that his head was too large and contained excessive fluid. This problem is called hydrocephalus. Every person's head contains fluid to protect and cushion the brain, but if there is too much fluid, the brain cannot develop.

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No scissors were used and no one sucked out our baby’s brain as is depicted in the inflammatory ads supporting H.R. 1833. A simple needle was used to remove the fluid—the same fluid that killed our son—to allow his head to pass through the birth canal undamaged. This was not our choice—it was God’s will.

My doctor knew that we would want to have children in the future, even though it was the furthest thing from my mind at the time. He recommended the best procedure for me and our baby. Because the trauma to my body was minimized by this procedure, I was able to become pregnant again. We are expecting another baby in September.

I pray every day that this will never happen to anyone again, but it will, and those of us unfortunate enough to have to live this nightmare need a procedure which will give us hope for the future.

Congress needs to hear the truth. The truth does make a difference—when people listen. Last week, I testified at a hearing held in the Maryland legislature. A committee there was considering a bill similar to the one Congress in prepared to pass this week. In Maryland, they listened. And in Maryland, several conservative legislators joined in the 15-6 committee vote to reject this bill.

After seeing the callous way our tragedies are regarded by the proponents of H.R. 1833, I know the only hope to protect families lies with the experts in the medical community and with the families they affect. It is women’s health; not abortion and politics. I pray he is a good man. I am told he listens to the President of the United States. I am told he is a good man. I am told he listens to people. I hope he listens to us, to the truth, and not to the political propaganda. I pray he will make a decision he will be proud of. Women like me and families like mine. I pray he votes this bill.

Many people do not understand the real issue—it is women’s health; not abortion and certainly not choice. We must leave decision making regarding the type of medical procedure to employ with the experts in the medical community and an exercise in election year politics. I am told this bill clearly make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

Let it be recorded by history that Congress took a stand, not only against cruel medical practice, but for the life and death of women.

Mr. Speaker, I yield 3 1/2 minutes to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Speaker, I thank the gentleman from Florida for yielding time to me.

Mr. Speaker, I rise this evening in support of the amended version of H.R. 1833. The practice of partial-birth abortions should spark outrage in all of us. We, of this Congress, have a duty, a duty to protect children who might otherwise fall victim to this procedure. I believe we also have a duty to protect women from the scandalous falsehoods perpetrated by the opponents of this bill.

Those desperate to obscure the true nature of abortion and birth decisions claim that the anesthesia given to the mother prior to the procedure results in the death of the child in utero. Based upon this myth they argue that it is misleading to call the procedure a partial-birth abortion, and any concerns that the practice is harmful to the baby should be replaced. Extreme abortion advocates have trumpeted this mistaken notion with the complicity of the unquestioning media.

Mr. Speaker, I rely upon the authority of Dr. Norig Ellinson, president of the American Society of Anesthesiologists, who says this claim has “absolutely no basis in scientific fact.”

Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology, says it is crazy. The American Medical News reported in a January 1 article that “Medical experts contend the claim is scientifically unsound and irresponsible, untruthful.”

Mr. Speaker, the Senate amendments to the bill make an exception should the life of the mother depend on the employment of this procedure. I am satisfied that no woman will be harmed as a result of this legislation, and many children will be spared a particularly gruesome fate. To oppose this bill is to display the extremism in the defense of abortion rights that is beyond reason and without compassion.

In the immortal words of Abraham Lincoln:

Let it be recorded by history that this Congress took a stand, not only against cruel medical practice, but for the life and death of women.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia [Mrs. LOWEY], the distinguished cochair of the Caucus on Women’s Issues.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H.R. 1833.

Mr. Speaker, we are here today debating this extreme bill because the Republican leadership is absolutely committed to eliminating the right to choose. The pro-life majority in this House has restricted abortion rights throughout the last year—and this bill is yet another step on the road to the back alley. This legislation will criminalize abortion, harass doctors, and prevent women from getting the medical care they need.

Families facing a late-term abortion are families that want to have a child. These couples have chosen to become parents and are currently eliminating the pregnancy due to tragic circumstances. Terminating a wanted pregnancy at this stage is agonizing and deeply personal.

This procedure is not about choice, it is about necessity.

Let me tell you about Claudia Ades, who lives in Sanata Monica, CA. She heard about this bill, and called to ask me if there was anything she could do to defeat it. As Claudia said passionately, “This procedure saved my life and my family.”

Three years ago, Claudia was pregnant and happier than she had ever been in her life. However, 6 months into her pregnancy she discovered that the child she was carrying had severe fetal anomalies that made its survival impossible, and placed Claudia’s own life at risk.

After speaking to a number of doctors, Claudia and her husband finally concluded that there was no way to save the pregnancy. “This was a desperately wanted pregnancy,” Claudia said, “But my child was not meant to be in this world.”

But, in those tragic cases where families do hear this horrible news, who should decide? The one thing that I know for sure is that the decision should not be made by Congress. At that horrible, tragic moment, the Government has no place.

Now, the Republican leadership could have made this a better bill by including real life and health exceptions. Not the sham life exception that’s included in this bill—written by the anti-abortion extremist presidential candidate from Kansas who never met an abortion restriction that he didn’t support. President Clinton even indicated that he would sign the bill if it contained real exceptions. But the Republican leadership doesn’t want the President to sign this bill—they want him to veto it. This entire debate is a pay-off to the Christian Coalition and an exercise in election year politics.

Mr. Speaker, President Clinton’s veto pen is the only thing protecting American women from the back alley. H.R. 1833 is an extreme bill that will put the lives of American women at risk. I urge its defeat.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE], a member of the Committee on the judiciary.

Mr. GOODLATTE. Mr. Speaker, I thank the chairman for his fine work.

Mr. Speaker, today I rise in support of an eminently reasonable bill to ban a heinous procedure to partially deliver fully formed babies, and then kill them. The bill is reasonable, and has been made so by the constituents of the House. The majority of Americans wholeheartedly support this bill. Those who oppose this bill are the extreme ones.

Constitutionally, 288 of the Members of this House have voted to ban partial birth abortions. The bill before us today is identical except for three minor changes—all of which I support:
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It still allows an exception to the ban in order to save the life of the mother, and now provides in those cases that the prosecution must prove that there was no other alternative available to save the mother's life, rather than placing the burden of proof on the physician. It clarifies that only the physician who performs the abortion may incur civil liability under the bill.

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

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

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

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

Mr. Speaker, we are clearly here dealing with a political issue. We have one of Mr. Speaker's say the purpose of it is to give the President something to veto. The President has said, amend this bill and he will sign it. Amend it to say that if the particular procedure is deemed necessary by a doctor to save the life of the mother, he may perform this legitimately.

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

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

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

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

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

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

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

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

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

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

This amendment is regrettable. It is unfortunate. I have some sympathy with those that disagree with my view on the issue of choice, about the idea that it should not be easy and it should not be a quick decision, and abortion should not be a method of birth control. We are not talking about that here because in these cases the mother, there is not a medical emergency. We save the baby but something happened and an emergency may occur. We, again without a bit of knowledge of what is actually the best medical procedure, are imposing something here, and that is simply wrong.

I would say to my colleagues, resist this amendment. It is not going to be an issue in political campaigns, believe me. It is too arcane and too gruesome. Do the right thing. Rise to the occasion and vote down this awful amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, asked and was given permission to revise and extend his remarks.

Mr. ROEMER. Mr. Speaker, we hear now today from some of our colleagues that this is an issue of privacy and the U.S. Constitution on it. We vote on issues of speech, and that is very private. We vote on issues of prayer, and that is very private. We vote on issues of guns, and that is everywhere private. Certainly we should vote to ban this kind of procedure that takes the life of a partially delivered baby.

I hear some of my colleagues on this side of the aisle even say that this is a regrettable procedure, an unfortunate procedure. This is a gruesome and brutal procedure, and as we spend billions of dollars every single year on medicine and technology, certainly there is no room in our society for this kind of procedure. I continued to support this place in 1996, no matter what your view is as a pro-life or a pro-choice Member of Congress.

What are we voting on? A partial birth abortion is defined as a procedure in which a doctor partially delivers a life-threatening fetus before killing the fetus and completing the delivery. That is what we are voting on.

What have we added to this in chapter 74, section 1531? “This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, illness or injury.”

Finally, let me conclude by saying this issue should not divide pro-choice and pro-life. It should not divide women and men. It should not divide Democrats and Republicans. It is a brutal and inhumane procedure that should be banned, and I urge my colleagues to support this bill.

Mr. SCHUMER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Mrs. LOGREN], a distinguished Member of the Committee on the Judiciary.

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

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

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

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

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

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

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

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

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

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

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

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

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

As I walked to the floor this evening, it struck me how ridiculous and sad it is that in this great Chamber in this great Nation, we should even be debating this issue.

What we are talking about today is not the issue of abortion per se. That is a discussion for another time, and that time will come.

What we are talking about is a procedure that is positively medieval.

The issue of abortion is very emotional and I try to avoid using inflammatory rhetoric on the issue, because I have felt it didn’t further the debate.

But in this case murder is not too strong a term.

Partial birth abortion is murder, cold, grisly, and premeditated.

Partial birth is used on babies who are up to 9 months in the womb.

The ninth and final month.

At 9 months, what is the difference between a baby in the womb or a baby in the crib? One is just as helpless as the other.

And yet this procedure exists and is used at will. We have seen statements from abortionists that not only have they frequently performed this procedure, but they have often performed it in purely elective circumstances.

Can anyone argue that this chilling act is medically necessary?

The American Medical Association’s Council on Legislation voted unani mously to recommend that the AMA board of trustees endorse H.R. 1833.

Many council members agreed that, “the procedure is basically repulsive.”

To condone the practice of partial birth abortion is to discard and disregard every shred of morality that we as human beings should embrace.

Mr. Speaker, I strongly urge my colleagues to take a stand against this evil procedure known as partial birth abortion and vote for H.R. 1833.

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

Mrs. MEYERS of Kansas. Mr. Speaker, we know that after the 24th week, only 0.1 percent of all abortions are performed. 0.1 percent. There are two or three procedures that are used, meaning that this particular procedure is used in only a portion of that 0.1 percent.

Of these procedures, all are more terrifying than this one. But if a woman is carrying a fetus which has a severe abnormality or if the woman has a severe health condition which threatens her health if she continues to carry the fetus, one of these procedures must be used. The bill itself states that there are circumstances in which no other procedure will suffice.

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

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

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

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

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

Woman and their doctors need to make these decisions, not the Congress. Like the Wilsons, the family needs to make this decision with their doctors, not the Congress.

I urge my colleagues to oppose the conference report on H.R. 1833.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, children, however dependent, are not property and no child is ever a throw-away. A pregnancy is not a disease. Yet partial-birth abortions treat a partially delivered child as a tumor, as a wart, as a disease to be destroyed.

Even if you have a doubt, I say to my colleagues concerning the humanity of an unborn child, can you not resolve that doubt in the baby’s favor when the infant is half delivered?

Mr. Speaker, for the first time ever, Democrats and Republicans will send to the President a bill that says “no” to the horrific procedure that literally sucks the brains out of a baby’s head. To me, this refers to no kind of fiction. It is the reality of this horrendous child abuse.

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

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

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

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

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

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

(Mrs. MINK of Hawaii asked and was given permission to revise and extend her remarks.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

What right have we here in Congress on this floor to say to this family that you should have risked mom's life and ignored your doctor's advice? By what authority do we tell these women that they should have risked mom's life and the life of their child? This is really tragic, tragic that the per-
if it were your daughter, would you not want her life and reproductive hopes and dreams protected? Of course you would. Do not do this shortsighted, mean-spirited, terrible thing to women in our Nation.

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

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

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

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

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

Mr. SANDERS. Mr. Speaker, I know that there are some Members of Congress who believe they know everything about everything, but maybe once in awhile Members of this body might want to show a little humility. We are discussing a procedure which, as I understand it, is used in 0.01 percent of abortions, a situation which occurs only under the most tragic circumstances.

Day after day we hear from our conservative friends about how the big, bad Government should leave people alone and get off of the backs of people. I would urge our conservative friends to heed that advice on this occasion. This is a tragic circumstance. Let the woman, let her family, let the physician make that decision, not the politicians in Congress.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. VOLKMER].

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

Mr. VOLKMER. Mr. Speaker, I rise today in strong support of H.R. 1833, the Partial Birth Abortion Ban Act. Today's battle for the rights of the unborn differs from previous prolife and proabortion debates. Yes, this debate today will not stop all abortions. It will only stop one procedure, the partial birth abortion. It brings to light the fact that when a woman and her unborn child have this type of procedure, that only the woman leaves the operating room.

Mr. Speaker, I think we are all forgetting one thing: A third trimester baby has a chance of living; if it was allowed to be born without interference. I urge my colleagues who might otherwise not support a prolife piece of legislation to support this legislation, which simply and narrowly protects against partial birth abortions.

This debate is not about a woman's right to choose, because there are other options. This debate today is about putting an end to a procedure that kills a child just a few inches from full birth.

Mrs. SCHROEDER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BECERRA] a distinguished member of the Committee on the Judiciary and also the spouse of a distinguished physician.

Mr. BECERRA. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, I am confused. The debate I am hearing from that side has nothing to do with the medical procedure and is trying to ban. I continue to hear people talk about how we are conducting abortions on babies that otherwise would be able to survive; if the pregnancy were to go to term, the baby would have a living baby. When it happens, the debate is that it is a high-risk obstetrician-gynecologist who deals specifically with women who have difficult pregnancies, has said, this is not a procedure where you are talking about a fetus that will go to term and where you will have a healthy baby born. This is a procedure that is used when it is fairly clear that the baby has no chance to live, and to allow the pregnancy to go to term would jeopardize the health and perhaps the life of the woman. So it seems like this debate is not really on point.

Now, let me read something that came from the American College of Obstetricians and Gynecologists, those doctors that are asked to perform these types of procedures and to protect the women involved.

They state:

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

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

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

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

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

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

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

We have heard about pain. We have heard about everything through those hearings. The anesthesiologists who testified said that there is pain in everything. There is pain in birth. If so, we are just going to outlaw anything that is painful, we are going to be a very mean society. They are saying what happened is what happened. The advocates were misstating anesthesiology procedures. That is possible, because people here are not doctors.
be willing to make this explanation. It is much too important for America's families.

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

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

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

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

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

I am not the only one who finds this procedure horrifying. The American Medical Association and the executive council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother, however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly completely deliver the baby, only to suck the life out of the child.

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

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. Hyde], chairman of the committee on the judiciary.

The SPEAKER pro tempore (Mr. ROGERS). The gentleman from Illinois is recognized for 5 minutes.

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

Mr. HYDE. Mr. Speaker, I listened with great intensity to the debate this evening. It is an important debate. I heard the gentleman from Vermont talk about humility, and he is absolutely right. You do not deal with people's lives in a sense of arrogance at all. But at the same time, if you believe you are right, if you are convinced that you possess the truth and you remain silent, you become the accomplice of liars and forgers. I just describe the failure to consider the unborn, and I listened to all of the impassioned remarks of my friends on the other side, they never talk about the unborn. It is the woman, it is her family, it is her doctor, but the little tiny infant in the shadows, the absent person, the invisible person is the unborn, and that is a failure of imagination. That is a compassion deficit.

Mr. Speaker, I guess you have to be healthy, and I guess you have to be public rather than private, and you have to be... Mr. Speaker, I yield the balance of my time to the gentleman from Vermont.

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with certain exceptions. The author performs the procedures on selected patients through 26 weeks LMP.

The author refers for induction patients falling into the following categories: previous C-section over 22 weeks; obese patients (more than 20 pounds over large frame ideal weight); twins over 21 weeks; patients 26 weeks and over.

DESCRIPTION OF DILATION AND EXTRACTION METHOD

Dilation and extraction takes over three days. Briefly, the procedure can be described as follows: dilation; more dilation; real-time ultrasound visualization; version (as needed); intact extraction; fetal skull decompression; removal; cleaning; recovery.

Day 1—Dilation

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

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

Day 2—Dilation

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

Day 3—The Operation

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

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

The surgeon introduces a large grasping forceps, such as a Bierer or Hen, through the vagina and one of the forceps is inserted into the head of the uterus. Based upon his knowledge of fetal orientation, he moves the tip of the instrument carefully towards the fetal lower extremity. When the instrument appears on the sonogram screen, the surgeon is able to visualize the lower extremity, then the torso, the hands, and the head. The surgeon then forces the scissors into the cervix and evacuates the skull contents. With the cather still in place, he applies traction to the fetus, removing it completely from the patient.

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

Recovery

Patients are observed a minimum of 2 hours following surgery. A pad check and vital signs are performed every 30 minutes. Patients with minimum bleeding after 30 minutes are encouraged to walk about the building or offered transportation.

Intravenous fluids, pitocin, and antibiotics are available for the exceptional times they are needed.

ANESTHESIA

Lidocaine 1% with epinephrine administered intra-cervically is the standard anesthesia. Nitrous-oxide/oxygen/analgesic is administered nasally as an adjunct. For the Dilapan insert and Dilapan change, 2cc’s is used in 2 equidistant locations around the cervix. For the surgery, 2cc’s is used at 6 equidistant spots.

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

MEDICATIONS

All patients not allergic to tetracycline analogues receive doxycycline 200 mgm by mouth daily for 3 days beginning Day 1. Patients with any history of gonorrhea, chlamydia or pelvic inflammatory disease receive additional doxycycline, 100 mgm by mouth with 8 hourly doses for 7 days.

Patients allergic to tetracyclines are not given prophylactic antibiotics.

Ergotrate 0.2 mgm by mouth four times daily for 3 days is dispensed to each patient.

Pitocin 30 IU intramuscularly is administered upon removal of the Dilapan on Day 3. Rhogam intramuscularly is provided to all Rh negative patients on Day 3.

Ibuprofen orally is provided liberally at a rate of 100 mgm per hour from Day 1 onward. Patients with severe cramps with Dilapan dilatation are provided Phergan 25 mgm suppositories rectally every 4 hours as needed.

Patients allergic to Ibuprofen can use Ketorolac orally in order to sleep during Dilapan dilation.

Patients with a hemoglobin less than 10 gdl prior to surgery receive packed red blood cell transfusions.

FOLLOW-UP

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

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

All patients are asked to return for check-up three and six months after surgery.

THIRD TRIMESTER

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

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

I am here today to take issue with the previous testimony related to partial birth abortions. Mr. Chairman, members of the subcommittee, my name is David Birnbach, M.D., and I am presently the director of obstetric anesthesia at St. Luke’s-Roosevelt Hospital Center, a teaching hospital of Columbia University College of Physicians and Surgeons in New York City. I am also president-elect of the Society for Obstetric Anesthesia and Perinatology, the society which represents my subspecialty.

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I often use spinal and epidural anesthesia in pregnant patients. I also administer general anesthesia to these patients and, on occasion, have needed to administer huge doses of general anesthesia in order to allow surgeons to perform cardiac surgery or neurosurgery.

In addition, I must admit that I am also especially qualified to discuss the effects of mater- nally administered anesthesia on the fetus, because I am one of only a handful of anesthesiologists who has administered anesthesia to a prenatally developing human fetus. When performing cesarean surgery, thus allowing me to watch the fetus as I administered general anesthesia to the mother. A review of the experiences that my associates and I had while administering general anesthesia to a mother while a surgeon operated on her unborn fetus was published in the Journal of Clinical Anesthesia vol. 1, 1989, pp. 363–367. In this paper, we suggested that general anesthesia provides several advantages to the fetus who will undergo surgery and then be replaced in the womb to continue to grow until mature enough to be delivered. Safe doses of anesthesia to the mother most certainly did not cause fetal demise when used for these operations. Despite my extensive experience with providing general anesthesia to the pregnant patient, I have never witnessed a case of fetal demise that could be attributed to an anesthetic. Although some drugs which we administer to the mother may cross the placenta and affect the fetus, in my medical judgment fetal demise is definitely not a consequence of a properly administered anesthetic. In order to cause fetal demise it would be necessary to give the mother dangerous and life-threatening doses of anesthetics. This is not the way we practice anesthesiology in the United States.

Mr. Chairman, I am deeply concerned that the previous congressional testimony and the widespread publicity that has been given this issue will cause unnecessary fear and anxiety in pregnant patients and may cause some to unnecessarily delay emergency surgery. As an example, several newspapers across the United States have stated that anesthesia causes fetal demise. Because this issue has been allowed to become a “controversy” several of my patients have recently expressed concerns about anesthesia, having seen newspaper or heard radio or television coverage of this issue. Evidence that patients are still receiving misinformation regarding the fetal effects of maternally administered anesthesia can be seen by review of an article that a pregnant patient recently brought with her to the labor and delivery floor. In last month’s edition of Marie Claire, a magazine which many of my pregnant patients read, an article about partial birth abortions was published. In addition to discussing the effects of anesthesia on the fetus, the article also included a number of scientific articles which demonstrate the fetal safety of currently used anesthetics.

Two, Dr. Koplick has stated that the “massive” doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered “massive” doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

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

My responses to these statements are as follows:

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

Two, Dr. Koplick has stated that the “massive” doses used by Dr. McMahon are responsible for fetal demise. This again, is incorrect and there is not scientific or clinical data to support this allegation. I have personally administered “massive” doses of narcotics to intubated critically ill pregnant patients who are being treated in an intensive care unit. I am pleased to say that the fetuses were born alive and did well.

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

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

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

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

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

By Diane Gianelli

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

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

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

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

The controversial procedure, done in second- and third-trimester pregnancies, in- volves an abortion in which the provider, according to the bill, “partially vaginally delivers the living fetus and then proceeds to decompress its skull, ...
series of legislative attempts to chip away at abortion rights. But of the procedure in question he says, "You really can't defend it. I'm not going to tell somebody else that they should do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure can be lethal for the women and that without this procedure women would have died. "I would dispute any statement that this is safe to use," he said.

Turning the fetus to a breech position is "potentially dangerous," he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, MD, director of medical education, Department of Obstetrics and Gynecology at the University of Cincinnati Hospital, added: "more concern - cervical incompetence in subsequent pregnancies caused by three days of forcible dilation of the cervix and uterine rupture caused by rotating the fetus within the womb."

There are absolutely no obstetrical situations encountered in this country which require a procedure that has been described as being used only to save the life of the mother or the baby."

Dr. Smith wrote in letter to Canady.

The bill has its defenders. The procedure is a "well-recognized and safe technique by those who provide abortion care," Lewis H. Koplik, MD, an Albuquerque, N.M., abortion specialist in a procedure that appeared in the Congressional Record.

The risk of severe cervical laceration and the possibility of damage to the uterine artery by a sphere fragment of calcification is virtually eliminated. Without the release of thromboplastic material from the fetal central nervous system into the maternal circulation, coagulation problems, DIC [disseminated intravascular coagulation], does not occur. In skilled hands, uterine perforation is almost unknown," Dr. Koplik said.

Bruce Ferguson, MD, another Albuquerque abortion provider, said in a letter released to Congress that the ban could impact physicians performing late-term abortions by other techniques. He noted that there were "many abortions in which a portion of the fetus was dead before the cervix was being dilated. Sometimes the membranes rupture and it takes a very small superficial incision to kill a fetus in utero when the membranes rupture." "So in my case, I would say probably about a third of those are definitely dead before I actually start to remove the fetus. And probably the other two-thirds are not," said Dr. Harrell.

In a letter to Congress before his death, Dr. McMahon stated that medications given to prevent the mother's immune system from rejecting the fetus, and "there is neurological fetal demise." But Watson Bowes, MD, a maternal-fetal specialist at the University of North Carolina, Chapel Hill, said in a letter to Canady that Dr. McMahon's statement "suggests a lack of understanding of maternal-fetal pharmacology.** * Having cared for pregnant women who for one reason or another required surgical procedures in the second trimester, I have frequently sedated or anesthetized for procedures, and the fetuses did not die."

NEXT MOVE IN THE SENATE

At AMNews press time, the Senate was scheduled to debate the bill. Opponents were lining up to tack on amendments, hoping to get the measure or send it back to a committee where it could be watered down or rejected.

In a statement about the bill, President Clinton did not use the word "veto." But he said he "cannot support" a bill that did not provide an exception to protect the life and health of the mother. Senate opponents of the bill say they will focus on the fact that it does not provide such an exception.

The bill does provide an alternative course of action for a physician who provides this type of abortion if he or she reasonably believes the procedure was necessary to save the life of the mother and no other method would suffice.

But Rep. Patricia Schroeder (D, Colo.) said that "it is very, very significant." She proposed an amendment that would criminalize medical procedures that may be necessary to save the life of a woman," said spokesman Alice Kirkman of the American Medical Association. "AMA has chosen to take no position on the bill, although its Council on Legislation unanimously recommended support. At AMNews press time, the council noted that although the board considered seriously the council's recommendations, it ultimately decided to take no position, because it had concerns about some of the bill's language and about Congress legislating medical procedures.

Meanwhile, each side in the abortion debate is calling news conferences to announce how necessary or how ominous the bill is. Opponents highlight poignant stories of women who have elected to terminate want- ed pregnancies because of major fetal anomalies.

Rep. Nita Lowey (D, N.Y.) told the story of Claudia Ames, a Santa Monica woman who had had five children and had saved her life and her family.

Ames told Lowey that six months into her pregnancy, she discovered the child suffered from severe anomalies that made its survival impossible and placed Ames' life at risk.

The bill's backers were "attempting to exploit one of the greatest tragedies any family can ever face by using graphic pictures and sensationalized language and distortions," Ames said.

Proponents focus on the procedure's cruelness. Frequently quoted is testimony of a nurse, Brenda Shafer, RN, who witnessed three of these procedures in Dr. Haskell's clinic and called it "the most horrifying experience of my life."

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet." Afterwards, she said, "I threw that into a pan and I saw the baby move. "I still have nightmares about what I saw.""

Dr. Haskell says if the bill becomes law, he expects it to have "virtually no significance" clinically. But on a political level, "it is very, very significant.""

The bill's about politics," he said, "it's not about medicine."

Mrs. VUCANOVICH. Mr. Speaker, I submit the following material for inclusion in the RECORD:

[From Cincinnati Medicine, Fall 1993]

2ND TRIMESTER ABORTION

(An interview with W. Martin Haskell, MD)

Last summer, American Medical News ran a story on abortion specialists. Included was W. Martin Haskell, MD, a Cincinnati physician who introduced the D&X procedure for second trimester abortions. The Academy received several calls requesting information about D&X. The following interview provides an overview.

What motivated you to become an abortion specialist?

A: I stumbled into it by accident. I did an internship in anesthesia. I worked for a year in family practice in a rural area. I was doing anesthesiology for two years in general surgery, then switched into family practice to get board certified. My intentions at that time were to go into emergency medicine. I discovered there was an abundance of really good surgeons here in Cincinnati. I didn't feel I'd
make much of a contribution. I'd be just another good surgeon. While I was in family practice, I got a part-time job in the Women's Center. Over the course of several months, I learned a lot of things there could run a lot better, with a much more professional level of service—not necessarily in terms of medical care—in terms of counseling, the physical facility, patient flow, and in the quality of people who provided support services. The typical abortion patient spends less than ten minutes with the physician who provides the abortion. Frequently, she has visited the clinic only once in her life. They might be in the facility for three hours. When I talked to other physicians whose patients were referred here, I saw problems that had troubled me the whole time I was there. There was an opportunity to improve overall quality of care, and make a contribution. I own the center now.

Q: Back in 1979 when you were making these decisions, did you consider yourself prochoice?
A: I've never been an activist. I've always felt that no matter what the issue, you prove your convictions by your hard work—not by yelling and screaming.

Q: Have there been threats against you?
A: Not directly. Pro-life activist Randall Terry recently said to me that he was going to do everything within his power to have me tried like a Nazi war criminal.

Q: A recent American Medical News article stated that the medical community hadn't really established a point of fetal viability. Why not?
A: Probably because it can't be established with uniform certainty. Biological systems are highly variable. The generally accepted point of fetal viability is around 24-26 weeks. But you can't take a given point in fetal development and apply that 100 percent of the time. You never happen that way. If you look at premature deliveries and survival percentages at different weeks of gestation, you'll get 24-week fetuses with some survival rate. The fact that you get some survivors demonstrates the difficulty in defining a point.

Q: Most women who get abortions end pregnancies during the first trimester. Who is the typical second-trimester patient?
A: I don't know that there is a typical second-trimester abortion. But if you look at the second trimesters (most babies are born between the ages of 19 and 29) they tend to be younger. Some are older. The typical thing that younger women is that they have never realized they were pregnant because they were continuing to bleed during the pregnancy. The other thing we see with older women are deformations such as Down's Syndrome. These are being diagnosed much earlier now than they used to be. We're seeing a lot of genetic diagnoses with ultrasound and amniocentesis at 17-18 weeks instead of 22-24 weeks. With the teenagers, anybody who has ever worked with or had teenagers can appreciate how unpredictable they are. They have adult minds but a lot of time they don't have adult behavior. So their reaction to problems tends to be much more emotional than an adult's might be. It's a question of maturity. So even though they may have been educated about all kinds of issues in reproductive health, when a teenager becomes pregnant, depending upon her relationship with her family, the amount of peer support she has—every one is a highly-individual case—sometimes they delay until they can no longer continue. Yet, they finally do get out. Sometimes it's money: It takes them a while to get the money. Sometimes it's just denial.

Q: Do you think more information about abstinence and contraceptives would decrease the number of teenage pregnancies?

A: I grew up in the sixties and nobody talked about contraception with teenagers in the sixties. But today, though it may be controversial in some areas, there's a lot being done to teach the high school curricula. I think a lot more is being done, but the bottom line is we're still just human—with human emotions, and parents, and family problems, and trying to figure out how to get the skills, without it happening to them. It can't happen to me. So education helps a lot, but it's not going to eliminate the problem. You can teach a person the skills, but you can't tell them what to do and how to feel. I'll tell you what they need.
judge declared the law unconstitutional in a preliminary injunction last month.

On the federal level, the bill faces a presidential veto threat and the measure passed the House by a 2-to-1 ratio, proponents do not have enough Senate votes to override a veto.

The debate about anesthesia causing fetal death has been repeated by many of the bill's opponents, including the National Abortion Federation, the National Abortion and Reproductive Rights Action League, and members of Congress. A recent Planned Parenthood "fact sheet" on these late-term abortions aims to "prove" that "the fetus dies from an overdose of anesthesia given to the mother intravenously."

The distinction of when fetal death occurs is crucial, because the bill would ban only procedures in which the fetus was killed after being partially delivered alive through the birth canal. If it could be proved that the fetuses died inside the womb—from anesthesia or any other cause—the abortion would not fall under the proposed law.

After reading the anesthesia-kills-fetuses claims in the Loeb paper, the American Society of Anesthesiologists issued a press release denouncing it. And in testimony before the Senate, Norig Ellison, MD, president of the society, did not take account of the evidence on the bill—called Dr. McMahon's statements "entirely inaccurate."

He added that he was "deeply concerned" that the publicity given to Dr. McMahon's claims "may cause pregnant women to delay necessary and perhaps even life-saving medical procedures, totally unrelated to the right to an abortion procedure, due to misinformation regarding the effect of anesthetics on the fetus."

In fact, claims of maternal concern have already surfaced. Dr. Birnbach said he has already had patient raise questions. And Rep. Tom Coburn, MD, an Oklahoma Republican who still delivers babies when he goes home on weekends, said he just had a patient refuse epidural anesthesia during childbirth after hearing those claims. Dr. Coburn is a co-sponsor of the bill.

Dr. Ellison, vice chair of the Dept. of Anesthesiology at the University of Pennsylvania School of Medicine in Philadelphia, testified that the bill "ignore[d] anesthesiology's" role in "anesthesia given to the mother, why can't the doctor simply deliver the head as well, without killing the baby?"

Another recurring theme at both the hearings during the ensuing debate about the procedure centers around fetal pain. Specialists in this procedure claim the fetus feels no pain for a variety of reasons, but usually because they say fetuses lack the neural development necessary to perceive pain, or if they are capable of feeling pain, anesthesia given to the mother prevents the perception of pain in the fetus.

Robert J. White, MD, PhD, professor of neurosurgery at Case Western University in Cleveland, testified on the topic before Congress last summer. "There are published scientific studies that demonstrate that by the 20th week, many of the neuronal pathways that sense pain have already started to develop," he said. "Anesthesia to the connections of the cortex and the thalamus are well under way. There is no way to argue with impunity that pain reception is not possible."

Michael J. Murray, MD, an anesthesiologist at the Mayo Clinic in Rochester, Minn., and president of the Minnesota Medical Assn., agrees.

In fact, he said, physicians doing fetal surgery inject narcotic fentanyl and muscle relaxants, supposed to provide adequate pain relief, even though the mother is already anesthetized, "because what they get from the mom is not enough." He added that "there is a significant body of clinical studies on perinatal delivery indicating that those who were given opioids had much better outcomes than those who were just given muscle relaxants."

The bottom line for many anesthesiologists, regardless of their position on abortion: Women should not be concerned about questions of claims thrown out in the heat of the debate.

"Women who need anesthesia for emergency surgery during pregnancy or who require labor should take heart in the knowledge that both they and their babies will do just fine," Dr. Birnbach said. Rep. MANCAY of Florida. Mr. Speaker, I submit the following material for inclusion in the Reciprocity.

March 27, 1996.

THE SMITH-DOLE SENATE AMENDMENT PROTECTS THE LIFE OF THE MOTHER

DEAR COLLEAGUE: This is in response to a March 27 letter from Reps. Nita Lowey and Nancy J. Johnson, which ran under the misleading headline, "The Dole Amendment Endangers Women's Lives."

As initially introduced in the House on Nov. 1, 1995—with 286 votes—HR 1833 contained an "affirmative defense" provision that pro-
tected a doctor if he showed that he "reasonable believed" that a partial-birth abortion procedure was necessary to save a mother's life. These sorts of "affirmative defense" exceptions are found in most federal criminal statutes. However, opponents of HR 1833 distorted the legal effect of the "affirmative defense" mechanism. Therefore, in his "affirmative defense" provision that was the prime sponsor, Sen. Bob Smith (who for some curious reason is not mentioned in the Lowey-Johnson letter) and Sen. Dole offered an amendment that "shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, illness, or injury; Provided, That no abortion procedure would suffice for that purpose."

Senator Barbara Boxer—the leading Sen-
te opponent of HR 1833—immediately en-
dorsed the Smith-Dole Amendment, which was adopted 98-0. Here is what Senator Boxer said on the floor of the Senate: And now here we have it. Here we have it, an excep-
tion now for life of the mother. I think that is progress. I think that is progress, because when we started, there was no exception. It is progress, because it says the National Abor-

This is what the American Medical News put es-

As to our colleagues' other objections: let's keep in mind that a partial-birth abortion involves the almost complete delivery of a living baby, who is then killed. Now, if the entire baby has been delivered alive, except for the head, and the mother, why can't the doctor simply deliver the head as well, without killing the baby?

The Smith-Dole Amendment endorses the National Abortion and Reproductive Rights Action League (who has done over 1,000 partial-birth abortions in a tape-recorded interview, Dr. Haskell's answer was both candid and chilling: "The point here is you're attempt-
ing to do an abortion . . . not to see how do I manipulate the situation so that I get a live birth, instead."

(There are rare cases in which a baby suffers from severe hydrocephaly—head enlargement caused by pressure in the skull—so that without intervention, both vaginal delivery and a Caesarian could pose risks to the mother. In those cases, accord-

More than 100 doctors, nurses, and midwives are assembling in Washington next week to press for abortion access to women. This is the latest in a chain of protests by HR 1833 opponents to "revive" the life-of-mother issue are merely another reflection of their refusal to come to grips
with the uncomfortable fact—which is amply documented in the writings and validated statements of partial-birth abortion practitioners—that the overwhelming majority of partial-birth babies have nothing to do with life-threatening complications of pregnancy, but are (in the words of Dr. Martin Haskell) "purely elective."

Sincerely,

HENRY J. HYDE,
Chairman.

"FETAL DEATH" OR DANGEROUS DECEPTION?

The effects of anesthesia during a partial-birth abortion

The administration of anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology.

Despite such authoritative statements, this medical misinformation is still being disseminated by a few exasperables:

ABORTION ADVOCATES

KATE MICHELMAN OF THE NATIONAL ABORTION RIGHTS ACTION LEAGUE (NARAL)

One of the leading proponents of the "anesthesia or fetal death" myth is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOX-AM in St. Louis on Nov. 2, 1995, Ms. Michelman said: the other side grossly distorted the procedure. There is no such thing as a "partial-birth." That's, that's a term made up by people like these anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. But, it is, before the procedure begins, the anesthesia that they give the woman already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really a disservice to the public to say this.

DR. MARY CAMPBELL OF PLANNED PARENTHOOD

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833, Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?

A: The fetus dies from an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is then increased by four to fivefold to affect the fetus. The mother gets the anesthesia for each insertion of the dilators, twice a day. This induces brain death in a fetus in a matter of minutes. Fetal demise therefore occurs at the beginning of the procedure while the fetus is still in the womb.

THE NEW YORK DAILY NEWS

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so it will fit through the birth canal. The anesthesia given to the woman kills the fetus and speeds up the procedure. By the way, the word "partial-birth" is a misnomer. But you won't hear that from the anti-abortion extreme. It would have everybody believe the fetus is dragged alive from the womb of a woman just weeks away from birth. Not true. (Editorial, Dec. 15, 1995)

USA TODAY

"The fetus dies from an overdose of anesthesia given to its mother." (Editorial, Nov. 3, 1995)

THE ST. LOUIS POST-DISPATCH

"The fetus usually dies from the anesthesia administered to the mother before the procedure begins." (Op-Ed piece, Nov. 3, 1995)

SYNDICATED COLUMNIST ELLIOTT GOODMAN

 Syndicated columnist Ellen Goodman wrote in mid-November that, if one relied on statements by supporters of the bill, "You wouldn't even know that anesthesia ends the life of such a fetus before it comes down the birth canal."

THE TRUTH

"Medical experts contend the claim is scientifically unsound and irresponsible, unnecessarily worrying pregnant women who need anesthesia." (American Medical News, January 1, 1996)

"I am deeply concerned, moreover, that widespread publicity may cause pregnant women to ignore the risks and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation generated by the fears of anesthetics on the fetus." (Dr. Norig Ellison, November 17, 1995, testimony before Senate Judiciary Committee)

"Drugs administered to the mother, either local anesthesia administered in the paracervical area or sedatives/analgesics administered intramuscularly or intravenously, will provide relief from pain to the fetus." (Dr. Norig Ellison, November 22, 1995, letter to Senate Judiciary Committee Chairman Mr. SALMON, Mr. Speaker, I submit the following material for inclusion in the RECORD:"

AMEERICAN MEDICAL NEWS, PUBLISHED BY THE AMA, CHICAGO, IL, JULY 11, 1995.

Hon. CHARLES T. HASKELL, Chairman, Subcommittee on the Constitution, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Bldg, Washington, D.C.

DEAR REPRESENTATIVE CANADY: We have received your July 7 letter outlining allegations of inaccuracies in a July 5, 1993, story in American Medical News, "Shock-tactic ads target late-term abortion procedure." You noted that in public testimony before your committee, AMNews is alleged to have quoted physicians out of context. You also noted that one such physician submitted testimony contending that AMNews misrepresented his statements. We appreciate your offer of the opportunity to respond to these accusations, which now are part of the permanent subcommittee record. AMNews stands behind the accuracy of the report cited in the testimony. The report was complete, fair, and balanced. The comments and positions expressed by those interviewed and quoted were reported accurately and in context. The report was based on extensive research and interviews with experts on both sides of the abortion debate, including interviews with two physicians who perform the procedure in question.

We have full documentation of these interviews, including tapes recordings and transcripts. Enclosed is a transcript of the contested quotes that relate to the allegations of inaccuracies made against AMNews. Let me note that in the two years since publication of our story, neither the organization nor the physician who complained about the accuracy to your committee has contacted the reporter or any editor at AMNews to complain about it. AMNews has a longstanding reputation for balance, fairness in reporting, including reporting on abortion, an issue that is as divisive within medicine as it is within society in general. We believe that the story in question comport entirely with that reputation.

Thank you for your letter and the opportunity to clarify this matter.

Respectfully yours,

BART BOLSEN, Editor.
The abortion practitioners themselves will admit the majority of their late-term abortions are elective, he said. "People like Dr. Haskell are just trying to teach others how to do it more efficiently."

NUMBERS GAME

Accurate figures on second- and third-trimester abortions are elusive because a number of states don't require doctors to report abortion statistics. For example, one-third of all abortions are said to occur in California, but the state has no reporting requirements. Dr. McMahon or the Institute estimates there were nearly 168,000 second- and third-trimester abortions in 1988, the last year for which figures are available. They do have more concealed in the 16- to 20-week period, with 10,660 at week 21 and beyond, the institute says. Estimates were based on national age, as opposed to last menstrual period.

There is particular debate over the number of third-trimester abortions. Former Surgeon General C. Everett Koop estimated in 1984 that 4,000 are performed annually. The abortion federation puts the number between 200 and 500. Dr. McMahon said the probably Koop's numbers are more correct.

Dr. Haskell said he performs abortions "up until about 25 weeks" of gestation, most of which are elective. Dr. McMahon does abortions through all 40 weeks of pregnancy, but he won't do an elective procedure after 26 weeks. About 80% of those he does after 21 weeks are nonelective, he said.

MIXED FEELINGS

Dr. McMahon admits having mixed feelings about the procedure in which he has chosen to specialize.

"I have two positions that may be internally inconsistent, and that's probably why I fight with this all the time," he said.

Dr. Haskell, however, says whatever qualms he has about third-trimester abortions are "only for technical reasons, not for emotional reasons of fetal development."

"I think it's important to distinguish the two," he says, adding that his cutoff point is somewhere between 25 and 26 weeks. "You're talking about viability. Roe v. Wade, the Supreme Court decision that legalized abortion. The decision said that point usually occurred at 28 weeks but may occur earlier, even at 24 weeks. Viability is generally accepted to be "somewhere between 25 and 26 weeks," said Dr. Haskell. "It just depends on who you talk to."

"We don't have a viability law in Ohio. In New York they have a 24-week limitation. The decision said Dr. Hayat can say, 'I'm not a trailblazer or activist trying to constantly press the limits,'" Dr. Haskell said. "I've been called that. Somebody tells me I have to use 22 weeks, that's fine. ... I'm not a trailblazer or activist trying to constantly press the limits."

CAMPAIGN'S INTRICACIES DEBATED

Whether the ads and brochures will have the full impact abortion opponents intend is yet to be seen.
Congress has yet to schedule a final showdown on the bill. Although it has already passed through the necessary committees, supporters are reluctant to move it for a full House vote until they are sure it can win.

In fact, House Speaker Tom Foley (D, Wash.) said he intends to bring it to a vote under a “closed rule” procedure, which would prohibit consideration of amendments.

But opponents are lobbying heavily against Foley’s plan. Among the amendments they wish to offer is one that would allow, but not require, states to restrict abortion—except to save the mother’s life—after 24 weeks.

Mr. SMITH of New Jersey. Mr. Speaker, I submit the following material for inclusion in the RECORD:

PARTIAL-BIRTH ABORTIONS: BEHIND THE MISINFORMATION

(By Douglas | son, NRLC Federal Legislative Director)

NOTE: The Partial-Birth Abortion Ban Act (HR 1833) has been approved in slightly different versions by the U.S. House of Representatives (Nov. 1, 1995, on a vote of 289-130) and by the U.S. Senate (Dec. 7, 1995, on a vote of 58-42). It is anticipated that the House will approve the Senate-passed bill on March 27 and send it to President Clinton soon thereafter. President Clinton will veto the bill because he believes the Senate amendment shares the view of many that it would represent an erosion of a woman’s right to choose.” White House Press Secretary Mike McCurry said on December 20, 1995.

Opponents of the bill have disseminated an extraordinary amount of misinformation regarding the partial-birth abortion procedure and this is evidenced by the small number of statements that contradicted the past writings and recorded statements of doctors who have performed thousands of partial-birth abortions. Some of this misinformation has been adopted and widely disseminated by some journalists, columnists, editorialists, and lawmakers. This fact sheet addresses some of these issues.

WHAT IS THE PARTIAL-BIRTH ABORTION BAN ACT (HR 1833)?

The Partial-Birth Abortion Ban Act (HR 1833) is a national ban on the partial-birth abortion procedure, except in cases (if there are any) in which the procedure is necessary to save the life of a mother.

The bill specifically defines a “partial-birth abortion” as “an abortion in which the person performing the abortion vaginally delivers a living fetus before killing the fetus and completing the delivery.” [emphasis added] Abortionists who violate the law would be subject to both criminal and civil penalties, but no penalty could be applied to the woman who obtained the abortion.

The bill is aimed at a procedure that has often been utilized by Dr. Martin Haskell of Dayton, Ohio; by the late Dr. James McMahon of Los Angeles; and by others. This procedure is generally used beginning at 20 weeks (4½ months) into the pregnancy, is “routinely” used to 5½ months, and has often been used even during the final three months of pregnancy.

The Los Angeles Times accurately and succinctly described this abortion method in a June 16, 1995 news story:

“The procedure requires a physician to extract a fetus, feet first, from the womb and through the birth canal until all but its head is exposed. Then the tips of surgical scissors are inserted through the open skull, and a suction catheter is inserted through the opening and the brain is removed.

In 1992, Dr. Haskell wrote a paper (“Dilation and Extraction for Late Second Trimester Abortion”) that described in detail, step-by-step, how to perform the procedure. Nothing was written in the literature that was more explicit, or that resulted in the procedure being performed. Dr. Haskell wrote, “Among its advantages are that it is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia.” Dr. Haskell also wrote that he “routinely performs this procedure on all patients 20 through 24 weeks LMP (i.e., from last menstrual period) with certain exceptions” (i.e., from 4½ to 5½ months), these “exceptions” involving complicating factors such as being more than 20 pounds overweight.

Dr. Haskell also wrote that he used the procedure through 26 weeks [six months] “on selected patients.” [p.28]

As originally passed by the House on November 1, 1995, HR 1833 would place a national ban on use of the procedure on all patients 20 through 24 weeks LMP (see last menstrual period) with certain exceptions. One of these exceptions is that the abortion would ever be blocked by the law.

Similar “affirmative defense” exceptions are found in literally dozens of federal criminal laws. Nevertheless, after bill opponents distorted this provision, NRLC endorsed and the Senate unanimously adopted the Smith-Dole Amendment, which provides that the ban “shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder.”

Senator Barbara Boxer (D-Cal.), the lead Senate opponent of the HR 1833, immediately endorsed the Smith-Dole Amendment, saying:

And now here we have it. Here we have it, an exception now for life of the mother. I think that is progress, because when we started there was no exception. It was an affirmative defense. [Congressional Record, Dec. 5, 1995, p. S 18005]

Under the Smith-Dole Amendment, an abortionist could not be convicted of a violation of the law unless the government proved, beyond a reasonable doubt, that the abortion was not covered by this exception. (In addition, of course, the government would have to prove, beyond a reasonable doubt, all of the other elements of the offense—namely, that the abortionist “knowingly”-—partly removed a baby from the womb, that the baby was still alive, and that the abortionist then killed the baby.)

In a Jan. 30, 1996, interview with Cardinal Anthony Bevilacqua of Philadelphia, President Clinton acknowledged that the Senate had added a life-of-the-mother exception.

WHAT FURTHER CHANGES DOES PRESIDENT CLINTON DEMAND IN THE BILL?

In a February 28, 1996 letter to certain Members of Congress, the President insisted that abortionists must be permitted to use the procedure, not only to save a mother’s life, but also whenever they assert that the procedure is necessary to prevent unspecified “severe physical consequences” that the_Boxer Amendment amounted to a re-statement of the status quo. After the Boxer Amendment was defeated by only a two-vote margin (51 to 49), NRLC endorsed Alan Guttmacher Institute said, “We were almost able to kill the bill.” (Congressional Quarterly Weekly Report, Dec. 9, 1995, page 3728)

President Clinton—a Yale Law School graduate who once taught constitutional law—understands very well that with respect to abortion, “health” is a legal term of art. In Roe v. Wade, the Supreme Court defined “health” (in its opinion context) to include “all factors—physical, mental, psychological, familial, and the woman’s age—relevant to the well-being of the patient.”

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It is impossible to know how many other abortionists have adopted the procedure, without choosing to write articles or grant interviews on the subject. Both Haskell and McMahon are trying to inform the public and other abortionists of the merits of the procedure. That is why Haskell wrote his 1992 institutional paper. For years, Mr. McMahon was on the case to him. The Cedar Sinai Medical Center in Los Angeles.

There are at least 164,000 abortions a year after the first three months of pregnancy, and about 200,000 annually later than six months, according to the Alan Guttmacher Institute (New York Times, July 5 and November 6, 1995), which is an arm of Planned Parenthood. These numbers should be regarded as minimums, since they are based on voluntary reporting to the AGI.

For what reasons are partial-birth abortions typically performed?

Some opponents of HR 1833, such as NARAL and the Planned Parenthood Federation of America (PPFA), have persistently disseminated claimed that the procedure is employed only in cases involving extraordinary threats to the mother of grave fetal anomalies. Regrettably, more than a few reporters, commentators, and members of Congress have uncritically embraced such claims and disseminated them as "facts." For example, PPFA said in a press release that the procedure is "done only in cases when medics are sure that is in danger of cases of extreme fetal abnormality." (Nov. 1, 1995) But (as PPFA well knows), this claim is consistent with the writings and recorded statements of doctors who have performed thousands of these procedures, or with documents gathered by the House and Senate judiciary committees.

Dr. Haskell wrote that he "routinely performed this procedure on all patients 20 weeks and more who more than 20 pounds overweight, have twins, or have certain other complicating factors." In 1993, after NRLC's publicizing of Dr. Haskell's paper engendered considerable controversy on Medical News, the official newspaper of the AMA—conducted a tape-recorded interview with Dr. Haskell concerning this specific abortion method, in which he said:

And I'll be quite frank: most of my abortions are elective in that 20-24 week range. * * * In my particular case, probably 20% of these procedures are for genetic reasons. And the other 80% are purely elective.

In testimony in a lawsuit in 1995, Dr. Haskell testified that women come to him for partial-birth abortions with "a variety of conditions. Some medical, some not so medical." Among the "medical" examples he cited was "agonophobia" (fear of open places).

Moreover, in testimony presented to the Senate Judiciary Committee on November 17, 1995, ob/gyn Dr. Nancy Romer of Dayton (the city in which Dr. Haskell operates) testified that her own patients had gone to Haskell's clinic for abortions "well beyond" 4½ months into pregnancy, and that "none of these women had any medical illness, and all three had normal fetuses."

Brenda Pratt Shaffer, a registered nurse who observed Dr. Haskell use the procedure to abort in 1993, testified that one little boy had Down Syndrome, while the other two babies were completely normal and their mothers were healthy. (Nurse Shaffer's testimony before the House Judiciary subcommittee, with associated documentation, is available on request to NRLC.)

Dr. Shaffer was a 34-year veteran of the Cedar Sinai Medical Center in Los Angeles. She has performed for what he called "maternal indications." Of these, the largest single category of "maternal indication"—39 cases, or 22% of the total—said the women were "depressed." (Other "maternal indications" included "spousal drug exposure" and "substance abuse.") Dr. McMahon's self-selected sample of 175 cases in which he had used the procedure included 27 cases in which he had said he had acted because a mother had indicated she was desperate.

Of this sample, 32 cases (22%) were for maternal "depression," while another 16 were for fetal indications: "fetal indications are then withdrawal which results in reduction of the head of a fetus with certain procedures which are standard of care, such as cholecoentesis (removal of fluid from the enlarged head of a fetus with the most severe form of hydrocephalus) are made.

In such a procedure a needle is inserted with ultrasound guidance through the mother's abdomen into the uterus and then into the enlarged ventricle of the brain (the space containing cerebrospinal fluid). Fluid is then withdrawn which results in reduction of the size in the head so that delivery can occur. This procedure is not intended to kill the fetus and, in fact, is usually associated with the birth of a live infant.

Is the baby alive when she is pulled feet-first from the womb?

Yes, in most cases the baby is alive until the end of the procedure. American Medical News reported in 1993, after conducting interviews with Drs. Haskell and McMahon, that the doctors "told AM News that the majority of fetuses aborted this way are alive until the end of the procedure." On July 11, 1995, American Medical News submitted the transcript of the tape-recorded interview with Haskell to the House Judiciary Committee. The transcript contains the following exchange:

AM: Medical News: Let's talk first about whether or not the fetus is dead beforehand.
In testimony before the Senate Judiciary Committee on November 17, 1995, Dr. Norig Ellison, president of the 34,000-member American Society of Anesthesiologists (ASA), said that such a term "has absolutely no basis in scientific fact." On behalf of the ASA, Dr. Ellison testified that regional anesthesia (used in many partial-birth abortions) "virtually has no effect on the fetus. General anesthesia has some sedating effect on the fetus, but much less than on the mother; and certainly anesthesia would not kill the baby," Dr. Ellison testified. (In March 1996, Dr. Dr. Ralph Albee of Columbus, Ohio, testified that he had no cases reported in the medical press and that not one anesthesiologist had contacted ASA to express any disagreement.) In testimony before the House Judiciary Constitution Subcommittee on March 21, 1996, Dr. David J. Birnbach, president-elect of the Society for Obstetric Anesthesia and Perinatology, testified, "I have never witnessed a case of fetal demise that could be attributed to an anesthetic... . In order to cause fetal demise, it would be necessary to give the mother massive doses and life-threatening doses of anesthetics." According to Prof. David H. Haskell, professor of obstetrics and gynecology at Washington University in St. Louis on Nov. 2, 1995, Ms. Goodman wrote in November that, based on her review of the literature, and the testimony of a number of experts, syndicated columnist Ellen Goodman insisted that the unborn babies are killed by the procedure. She listed among the "advantages" of the procedure that it "is a quick, surgical outpatient method that can be performed on a scheduled basis under local anesthesia." [emphasis added] According to Prof. Haskell, who has done over 1,000 partial-birth abortions, and who authored the instructional paper that was the basis for the 

Dr. Haskell: No it's not. No, it's really not. A percentage are for various numbers of reasons. Some just because of the stress—intrauterine stress during, you know, the two days that they are being dilated and the membranes rupture and it takes a very small superficial incision to kill a fetus in utero when those membranes are broken. And so in my case, I would think probably about a third of those are definitely are [sic] dead before I actually start to remove the fetus. And probably another third of those are probably not. In an interview quoted in the Dec. 10, 1999 Dayton News, Dr. Haskell again conveyed that the scissors thrust is usually the lethal act: "It's not even a question to me that it's the scissors that go through the skull... . it destroys the brain tissue sufficiently so that even if it (the Fetus) falls out at that point, it's definitely not alive." Dr. Haskell: No it's not. No, it's really not.

DOES ANESTHESIA GIVEN TO THE MOTHER KILL THE BABY? DOES THE BABY FEEL PAIN DURING THE PROCEDURE?

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In short, it is a misguided notion of objectivity for the any journalist to denigrate the term for a criminal offense that has been adopted and explicitly defined by the U.S. House of Representatives, in favor of a undefined term recently manufactured by the very special-interest that would be "regulated" by the legislation.

[In his 1992 institutional paper, Dr. Haskell referred to the method as "dilation and extraction" or "D&amp;X"—noting that he "coined the term "dilation and extraction" which does not appear in medical dictionaries or databases.]

ARE THE FIVE LINE DRAWINGS OF THE PROCEDURE CIRCULATED BY NARLC ACCURATE, OR ARE THEY HEDGING?

American Medical News (July 5, 1993) interviewed Dr. Martin Haskell and reported: Dr. Haskell said the drawings were accurate "for illustrative purposes, or photographs or a video recording of the procedure would no doubt be more vivid but not necessarily more instructive for a non-medical person who is trying to understand how the procedure is performed.

On November 1, 1995, Congresswoman Patricia Schroeder (D-Colo.), arguement that Congress should not attempt to ban a specific abortion technique should maintain its legality because it is sometimes employed to prevent an infant with a severe but treatable malformation, partial birth abortion is a "variant" of Cesarean section in the interest of maternal health, which includes a licensed physician from performing the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison. This bill generally would ban anyone (including a licensed physician) from performing a procedure generally called "infibulation," or "female circumcision.

(Some physicians perform the procedure in response to requests from immigrants from certain countries, based on the rationale that those involved otherwise will probably obtain the procedure from persons without medical training.) The bill provides a penalty of up to five years in federal prison.

The following material for inclusion in the RECORD:

MOUNT SINAI HOSPITAL MEDICAL CENTER Chicago, IL, October 28, 1995.

Honor. CHARLES CANADY, Chairman, Subcommittee on the Constitution, House Committee on the Judiciary, Washington, DC.

DEAR CONGRESSMAN CANADY: I have reviewed the Partial-Birth Abortion Ban Act (HR 1833, S. 939) and the related materials that you submitted to me. Your bill would ban the use of the "partial-birth abortion" method, which you define as "a form of child abuse. But then, so too is subdural hematoma, a birth injury in which the brain is pierced by the obstetrician's forceps and suction catheter to remove the brain of the fetus. This results in collapse of the fetal skull to facilitate delivery of the fetus. From this description there is nothing misleading about describing this procedure as a "partial-birth abortion," because in most of the cases the fetus is partially born while alive and then dies as a direct result of the procedure (brain aspiration) which allows completion of the birth.

As regards when fetal death occurs during this procedure: Although we have never witnessed this procedure, it seems likely from the description of the procedure by Dr. Haskell that many if not all of the fetuses involved in this procedure are alive until the scissors and the suction catheter are used to remove brain tissue. Dr. Haskell, explicitly contrasts his procedure with two other late abortion methods that do induce fetal death prior to removal of the fetus (these alternative methods being intra-amniotic infusion of urea, and rupture of the membranes and severing of the umbilical cord). Also, Doctor Haskell, in an interview with Diane Gianelli of American Medical News that the majority of the fetuses aborted this way are stillborn at the end of the procedure. This is consistent with the observations of Brenda Shafer, R.N. who, in a letter to Congressman Tony Hall, described partial-birth abortions performed by Dr. Haskell which she observed.

Footnotes follow at end of Article.
Moreover, in a document entitled “Testimony Before the House Subcommittee on the Constitution”, June 23, 1995. Dr. James McMahon states that narcotic analgesic medications given to the mother in late pregnancy constitute a “medical coma” in the fetus, and he implies that this causes “a neurological fetal demise.” This statement suggests a lack of understanding of normal fetal physiology. It is a fact that the distribution of analgesic medications given to a pregnant woman results in blood levels of these drugs which are less than those in the mother. Having cared for pregnant women for one reason or another required surgical procedures in the second trimester, I have observed that they were often heavily sedated or anesthetized for the procedures, and the fetuses did not die.

Dr. Dru Carlson, a maternal/fetal medicine specialist from Cedars-Sinai Medical Center in Los Angeles, writes that she has personally observed Dr. McMahon perform this procedure. In a letter to Congressman Henry Hyde she described the procedure and wrote that after the fetal body is delivered, it is removal of cerebrospinal fluid from the brain that causes instant brain herniation and death.5 This statement clearly suggests that the fetus is alive until the suction device is inserted into the brain. It is unheard of whether the fetus experiences pain during this procedure: Dr. McMahon states that the fetus feels no pain through the entire series of procedures.6 Although it is true that medications given to the mother will reach in the fetus and presumably provide some degree of pain relief, the extent to which this renders this procedure pain free would be very difficult to document. I have performed in-utero procedures on fetuses in the second trimester, and in these situations the response of the fetuses to pain would be very difficult to suggest that they are capable of experiencing pain. Further evidence that the fetus is capable of feeling fetal pain is the response of extremely preterm infants to painful stimuli. As regards viability of preterm infants in the second trimester of pregnancy: I have several premature infants born at 24 weeks gestation actually survive. The chance for survival at 25 weeks’ gestation is 10-15%; one week later—at 26 weeks—the chances of survival at that gestation is 25-30%. A survival rate of 50% is achieved only in live births at 27 or more weeks’ gestation.” These figures are outdated and misleading. In a recent study from the National Institute of Child Health and Human Development Neonatal Network, survival was documented in a large number of premature infants born at the seven participating institutions. Survival at the neonatal survival was 23 percent and at 24 weeks’ gestation survival was 34 percent. As you can see in Figure 3 in the enclosed article, the percentage of fetal survival varies from a high of 10 percent to a high of 57 percent. This data applies to infants born without major congenital defects.

I trust this information will be helpful.

Respectfully,

WATSON A. BOWES, JR., M.D.
Professor.

FOOTNOTES

1. Haskell M. Dilatation and extraction for late second trimester abortion at the National Abortion Federation Risk Management Seminar, Dallas, Texas, September 23, 1992.


8. National Abortion and Reproductive Rights Action League. The Myth of “Abortion on Demand”. (Date not listed)


Mr. Speaker, today I rise to discuss H.R. 1833, the Partial-Birth Abortion Ban Act. During the course of the debate, gory and graphic descriptions are going to be used to exaggerate and manipulate emotions to obscure the real issues. In fact, the title itself is misleading. This is not about abortion, it is about women and their families facing a tragic situation. Women who chose to have a dilation and extraction or a dilatation and evacuation preformed late in their pregnancy, do so only as a last resort. These surgical procedures are rarely ever utilized. Fewer than 500 a year are performed. These procedures are used in the case of desired pregnancies gone tragically wrong due to severe fetal anomaly or severe risk to the health or life of the mother.

Under H.R. 1833, Congress would intrude into the lives of Coreen Costello, Mary-Dorothy Line and other women by denying them surgical procedures which clearly demand individualized procedures to conceive more children. H.R. 1833 says to American women: your health and fertility mean nothing to us. This bill flagrantly violates women’s rights and demotes them to second class citizens.

The Supreme Court ruled in the cases of Roe v. Wade, and Planned Parenthood v. Casey that if a woman’s life or health is endangered, late term abortions can not be banned. Yet even as amended by the Senate, H.R. 1833 does not have a genuine life exception. Procedural ban does not apply as a physical disorder, illness or injury. In addition, H.R. 1833 also does not provide an exception for when the mother’s health is at serious risk. The language in H.R. 1833, under legal scrutiny, clearly violates the Supreme Court’s rulings since it does not provide life or health exceptions. This bill prevents women from receiving the safest possible medical care in the rare instances when such care is called for in the most trying of personal circumstances and anguish.

This bill is an example of the impossibility of writing a law of general application for situations which clearly demand individualized professional judgement in consultation with the parties personally effected. To interfere in such conditions is an affront to moral sensibility and it disregards the profound consequences both physicians and their patients must resolve.

Mr. POSHARD. Mr. Speaker, I rise today in strong support of the ban on partial birth abortions, and urge my colleagues to follow suit in passing this important legislation. I sincerely believe this late-term abortion procedure goes beyond the usual scope of debate we in the House have heard on the issue of abortion. This ban is not only about respecting life, it’s about using humane and ethical medical practices. In fact, a number of pro-choice Members of this body joined in supporting this ban when it first was conducted by the House because of the nature of the procedure.

As amended by the Senate, this bill continues to allow for such a procedure should the life of the mother be endangered by a physical disorder, illness, or injury. So let us not argue today about the health and well-being of our prospective mothers, because this bill protects...
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those very rights. To include an exception for the health of a mother versus her life, does nothing more than allow this procedure to continue to be used as an elective form of abortion.

For this reason, the Partial Birth Abortion Ban Act denies the support of every Member of Congress, regardless of your stance on the issue of abortion.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in opposition to H.R. 1833. In 1973, and more recently in 1992, the Supreme Court held that a woman has a constitutional right to choose whether or not to have an abortion. H.R. 1833 is a direct attack on the principles established in both Roe versus Wade and Planned Parenthood versus Casey.

H.R. 1833 is a dangerous piece of legislation which would ban a range of late-term abortion procedures that are used when a woman’s health or life is threatened or when a fetus is diagnosed with severe abnormalities incompatible with life. Because H.R. 1833 does not use medical terminology, it fails to clearly identify which abortion procedures it seeks to prohibit, and as a result may prohibit physicians from using a range of abortion techniques, including those safest for the woman.

H.R. 1833 is a direct challenge to Roe versus Wade (1973). This legislation would make it a criminal offense for a particular medical method utilized primarily after the 20 week of pregnancy. This legislation represents an unprecedented and unconstitutional attempt to ban abortion and interfere with physicians’ ability to provide the best medical care for their patients.

If enacted, such a law would have a devastating effect on women who learn late in their pregnancies that they are carrying have severe, often fatal, anomalies.

Woman like Coreen Castello, a loyal Republican and former abortion protestor whose baby had a lethal neurological disease; Mary-Dorothy Liner, a conservative Republican who discovered her baby had severe hydrocephalus; Claudia Ades, who had to terminate her pregnancy in the sixth month because her baby was riddled with fetal abnormalities due to a fatal chromosomal disorder; Vicki Wilson, who discovered at 36 weeks that her baby’s brain was growing outside her head; Tammy Watts, whose baby had no eyes, and intestines developing outside the body; and Vikki Stella, who discovered at 34 weeks that her baby had nine severe anomalies that would lead to certain death. These are not elective procedures. These are the women who would be hurt by H.R. 1833—women and their families who face a terrible tragedy—the loss of a wanted pregnancy.

In Roe, the Supreme Court established that after viability, abortion may be banned by the States as long as an exception is provided in cases where a woman’s life is in danger. This is the best course of treatment. The creation of fetuses incompatible with life must be able to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to receive appropriate genetic counseling and more focused prenatal care and testing in future pregnancies. Often, in these cases, the knowledge of a woman can have another child in the future is the only thing that keeps families going in their time of tragedy.

Political concerns and religious beliefs should not be permitted to take precedence over the health and safety of patients. The determination of the medical profession on the effectiveness of particular medical procedures must be left to the medical profession, to be reflected in the state of care.

In passing H.R. 1833, this Congress would set an undesirable precedent which goes way beyond the scope of the abortion debate. Will we someday be standing here debating the validity of a triple bypass or hip replacement procedure? Aren’t these dangerous and unpleasant procedures?

The legislative process is ill-suited to evaluate complex medical procedures whose importance may vary with a particular patient’s case and with the state of scientific knowledge. The women and families who seek late term abortions are already severely distressed. They do not want an “extreme” abortion technique. Tammy Watts told us that she would have done anything to save her child. She said, “If I could have given my life for my child’s I would have done it in a second.”

Unfortunately, however, there was nothing she could do. For Tammy Watts and other women like her, a late term abortion is not a choice it is a necessity. We must not compound the physical and emotional trauma facing these women by denying them the safest medical procedure available.

This bill unravels the fundamental constitutional rights that American women have to receive medical treatment that they and their doctors have determined are safest and medically best for them. By seeking to ban a safe and accepted medical technique, members of Congress are intruding directly into the practice of medicine and interfering with the ability of physicians and patients to determine the best course of treatment. The creation of felony penalties and Federal tort claims for the performance of a specific medical technique would mark a dramatic and unprecedented expansion of congressional regulation of health care.

H.R. 1833 contains no exception for the needs of women whose lives are at risk.

This bill is bad medicine, bad law and bad policy. Women facing late term abortions due to risks to their lives, health or severe fetal abnormalities incompatible with life must be able to make this decision in consultation with their families, their physicians, and their God. Women do not need medical instruction from the Government. To criminalize a woman who seeks to use a procedure which he or she deems to be safest for the mother is tantamount to legislating malpractice. I urge my colleagues to defeat this dangerous legislation.

Mrs. SMITH of Washington. Mr. Speaker, this evening the House is voting on the partial birth abortion ban legislation. As a nation, we have created a veil of silence when it comes to the reality of abortion procedures. It is easy to be pro-choice when one can claim ignorance about the ways and means of abortion; whether it is a saline abortion, dilation and extraction, or suction, just to name a few.

Tonight, we are talking about a particular procedure commonly referred to as the “partial
birth abortion." The very use of the word "birth" should be a clue as to how this procedure is performed. By inducing a "breach" birth, and I would like to note that I was a "breach" baby, a doctor is able to deliver a baby feet first and while the child's head is still in the uterus, the surgical scissors cut the base of the baby's skull and remove the brain tissue, thus collapsing the skull and then finishing the delivery of a now dead baby. We are tainting a young life as it enters the world, only to collapse its skull and end its life. I used to be pro-choice, but I am confident that I would have changed my views years earlier had I been aware of the truly horrid nature of abortion. Had I known that this procedure was being performed, my decision to choose life would have been that much simpler. As a mother and grandmother, it is mind boggling to imagine having labor induced, to be giving birth, only to have the opportunity to be a mother stopped in midstream. One mother, Brenda Pratt Shafer, is a nurse who witnessed this procedure. In her own words, she has stated that she "had often expressed strong pro-choice views to my two teenage daughters." However, upon witnessing the partial delivery and death of a baby, she realized that it is easy to be pro-choice when one does not understand what abortion is all about.

Some will say that this procedure is only used on children who would otherwise have serious birth defects or other abnormalities. The testimony of the doctors who have performed this procedure say otherwise. One such doctor, Martin Haskell of Ohio, has stated that 80 percent of abortions he has performed using this procedure were elective. Furthermore, as Americans, what is our life ethic if we continue down this slippery slope of wanting only the "perfect" child? I am fearful that as we increasingly hear terms like "gender selection" and the like, we will be banishing more innocent lives to a grisly death. As a mother, I know that there are no "perfect children." Health alone does not make the perfect child. If nothing else, the parents of a marooned baby may only have a few hours or days or weeks the opportunity to bond with their child and then say "good-bye."

Banning this procedure does not mean that other forms of abortion are acceptable. However, I challenge my colleagues in the House and Americans everywhere to justify the partial birth abortion. I ask my colleagues tonight to face the facts and accept this procedure for what it is. Many of us would like to turn the other way and have found ourselves angrily that we are being "forced" to look at first hand the graphic nature of this act. I can only respond by saying that man's inhumanity to man is never pleasant. It is necessary to understand what we are up against.

Mr. Speaker, it is critical to protect women's health and preserve the ability of these women to have future healthy pregnancies. H.R. 1833 prevents women from receiving the safest medical care in the rare cases when a wanted pregnancy has gone tragically wrong. Under Roe versus Wade and later reaffirmed in Planned Parenthood versus Casey the Supreme Court explicitly declared that States can ban late term abortions, unless the woman's life or health is endangered, and the facts are such that no other course is so. As passed by the Senate, and earlier by the House, H.R. 1833 is a direct constitutional challenge to both Roe and Casey because it fails to provide a health exception.

Mr. Speaker, we must not be misled by the Senate-anti-abortion majority to purporting to be a "life exception." As drafted, the "life exception" language is so narrowly crafted that a doctor would still risk criminal prosecution to perform this procedure. It is important to note that the Senate, by a narrow margin, rejected a true "life exception" amendment that would have protected women who face life and health threatening pregnancies.

Mr. Speaker, since the House has considered this bill, public debate on the issue has strayed. The House acted to ban a specific abortion procedure and jail doctors after only brief debate and a prohibition on all amendments. When the far-reaching effects of this legislation were more fully debated both in the Senate and in the news media the bill passed by only a thin margin. The Senate's statements of the bill's proponents both in Congress and in anti-choice movements make it clear that H.R. 1833, far from being a moderate measure, is in fact the first step in an ambitious strategy to use the new congressional anti-choice majority to overturn Roe. I ask my colleagues to stop that from happening.

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

It makes me shudder to think that somehow, perhaps in this country, there are other little pre-born human beings 7 months old in their mothers womb that are going to be subject to this brutal, horrible procedure known as a partial birth abortion.

I am not the only one who finds this procedure horrifying. The American Medical Association's Legislative Council unanimously decided that this procedure was not "a recognized medical technique" and that "this procedure is basically repulsive." This is especially true when you realize that 80 percent of these types of abortion are done as a purely elective procedure. It is important to note that this bill does make exception for this type of abortion if it is necessary to save the life of the mother however, this is an exception that will have to be used rarely.

I think we can all agree that it is inhuman to begin the birthing process and nearly complete the delivery of the baby, only to suck the life out of the child.

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

Mr. ZELIFF. Mr. Speaker, I rise today in support of the conference report to H.R. 1833, the Partial Birth Abortion Ban Act, which will prohibit the use of a single medical procedure in the performance of abortions. I do believe that this particular procedure is unnecessary and a particularly cruel method of ending a late term abortion. I believe no to one procedure (with exemptions for life-threatening situations) in this case is appropriate, and does not affect the reproductive rights of women with regard to the Roe v. Wade decision, which I support. Enactment of this legislation will not in itself impact on those Constitutionally-guaranteed rights.

But let me be clear, Mr. Speaker, that I will not support a strategy in this body to slowly dismantle reproductive rights under Roe v. Wade piece by piece, and I will oppose further measures that are part of such a strategy. Having an abortion is a right as guaranteed under the Constitution and upheld by the Supreme Court. To embark on a congressional strategy aimed at slowly striking down that right is not only wrong-headed, it is backhanded to the American people support the right to choose and that fact would make any effort in this House to further restrict the right to choose an effort without the support of the American public.

In sum, Mr. Speaker, while I support this legislation today I will not continue to support an effort to slowly anti-choice forces to slowly dismantle the constitutional rights of women in the county.

Mr. STOCKMAN. Mr. Speaker, I raise in support of the motion and ask you insert this information into the Record.

Fetal Death? Or Dangerous Deception? The Effects of Anesthesia During a Partial-Birth Abortion

The claim that anesthesia given to a pregnant woman kills her fetus/baby before a partial-birth abortion is performed has "absolutely no basis in scientific fact," according to Dr. Norig Ellison, the president of the American Society of Anesthesiologists. It is "crazy," says Dr. David Birnbach, the president-elect of the Society for Obstetric Anesthesia and Perinatology. Despite such authoritative statements, this medical misinformation is still being disseminated. Here are a few examples:

Abortion Advocates

Kate Michelman of the National Abortion Rights Action League (NARAL). One of the leading proponents of the 'anesthesia myth' is Kate Michelman, president of the National Abortion Rights Action League (NARAL). For example, in an interview on "Newsmakers," KMOV-TV in St. Louis on Nov. 2, 1995, Ms. Michelman said:

The other side grossly distorted the procedure. There is no such thing as a 'partial-birth.' That's that a term made up by people like those anti-choice folks that you had on the radio. The fetus—I mean, it is a termination of the fetal life, there's no question about that. And the fetus, is, before the procedures, the anti-abortion groups that they give the women already causes the demise of the fetus. That is, it is not true that they're born partially. That is a gross distortion, and it's really quite an insensitive thing to say this.

Dr. Mary Campbell of Planned Parenthood

Prior to the November 1, 1995, House vote on the bill, Planned Parenthood circulated to lawmakers a "fact sheet" titled, "H.R. 1833: Medical Questions and Answers," which includes this statement:

"Q: When does the fetus die?"
"A: The fetus dies of an overdose of anesthesia given to the mother intravenously. A dose is calculated for the mother's weight which is 50 to 100 times the weight of the fetus. After the anesthesia is administered to the mother, each insertion of the dilators, twice a day. This induces death in the fetus in a matter of minutes. Fetal demise therefore occurs at the same time the procedure while the fetus is still in the womb."

The Press

The New York Daily News

The fetus is partially removed from the womb, its head collapsed and brain suctioned out so the uterus will fit through the birth canal. The anesthesia given to the woman kills the fetus before the full procedure takes place. But you won't hear that from the anti-abortion extremists. They believe in death of the fetus. They could not care less for the health of the mother. They are only interested in the number of fetuses saved. They don't care that the mother lives."
### CONGRESSIONAL RECORD - HOUSE

**March 27, 1996**

**REPRESENTATIVE OF INDIA**

Mr. FOWLER of Florida for, with Mr. Stokes against.

Mr. MYERS of Indiana changed his vote from "nay" to "yea." So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule I, the chair will now put the question on each motion to suspend the rules on which further proceeding were postponed on Tuesday, March 26, 1996, in the order in which that motion was entertained.

Votes will be taken in the following order: House Resolution 379, by the yeas and nays; and House Concurrent Resolution 102, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote.

---

**ANNOUNCEMENT OF MASSACRE OF KURDS BY IRAQI GOVERNMENT**

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, House Resolution 379.

The Chair read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York [Mr. GIULIANI] that the House suspend the rules and agree to the resolution, House Resolution 379, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 22, as follows:

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So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROGERS). Pursuant to the provisions of clause 5 of rule 1, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional motion to suspend the rules on which the Chair had postponed further proceedings.

EMANCIPATION OF IRANIAN BAHAI COMMUNITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 102.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 102, on which the yea and nay are ordered.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 23, as follows:

[Roll No 96]

YEAS—408

Abercrombie  Ackerman  Ackley  Ackroyd  Ackerman  Bach  Backlund  Bakes  Baker  Baker (LA)  Balmaceda  Ballenger  Barcenas  Barcenas  Barden  Barr (NE)  Barrett (WI)  Barth  Barlow  Bartlett  Bartlow  Bass  Bass  Batterman  Beckett  Bechler  Bechler  Benten


REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3136, CONTRACT WITH AMERICA ADVANCEMENT ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-500) on the resolution (H.R. 3136) providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens’ Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3103, HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT OF 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104-501) on the resolution (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, which was referred to the House Calendar and ordered to be printed.
Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104-282) on the resolution (H. Res. 353) waiving points of order against the conference report to accompany the bill (H.R. 2554) to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.

Mr. GOSS, from the Committee on Rules submitted a privileged report (Rept. No. 104-293) on the resolution (H. Res. 354) waiving points of order against the bill to modify the operation of certain agricultural programs, which was referred to the House Calendar and ordered to be printed.
order of the House, the gentleman from California [Mr. FARR] is recognized for 5 minutes.

Mr. FARR of California. Mr. Speaker, it is with deep sorrow that I rise today to salute a man who, without question, represents the best of California: creativity and American ingenuity. David Packard, who revolutionized both the computer industry and modern-management practices died Tuesday in Palo Alto, CA. He was 83.

For anyone familiar with computers in the 20th century, the name Hewlett-Packard is synonymous with innovation, and with excellence. Founded in 1939 in a Palo Alto garage by Mr. Packard and his good friend William Hewlett, the company is now a recognized leader in its field, employing more than 100,000 workers. The "HP Way," Mr. Packard's standard for corporate practices and employee relations, is commonly cited as one of the best by business experts.

In creating his company, Mr. Packard said, "Get the best employees, stress the importance of teamwork, and fire them up with the will to win." Though many in business may take such words lightly, for Mr. Packard, they represented the only way to succeed.

There were no conventional offices at Hewlett-Packard, not even for the most senior engineers. To stress collaboration and creativity, employees were grouped together in close proximity where they could freely exchange ideas. This respect for the HP employee also applied in a number of other ways. Hewlett-Packard was among the first in the business world to provide catastrophic medical coverage, flexible work hours and decentralized decision-making.

David Packard also took a keen interest in his global community and was a generous philanthropist. He established the Foundation for 1875 to support community organizations, education, health care, conservation, population projects, the arts, and scientific research.

But while the Nation and the world are remembering David Packard for his business and industrial achievements, the people of the Monterey Bay are remembering David Packard as an ocean pioneer—our nation's Jacques Cousteau. He recently said that he spent his entire business life in the technology field, and in my industrial career I have seen my share of revolutions in human understanding. I now realize that the ocean is the most important frontier we have.

David Packard used his scientific vision and $55 million to help his daughter Julie develop and open the Monterey Bay Aquarium—the world's best example of top science education as good business. David took his vision a step further with the State of the Art marine lab at Menlo Park to lead the new deep ocean exploration technologies. All told, David and his late wife Lucile donated over $450 million to scientific research, education, health care, conservation and the arts. On a personal note, let me just say that I will sorely miss the many contributions of David Packard. A good family friend, he was one of those few people who talk about only that which touches our hearts, but also inspires our minds. David was one of a kind. My thoughts and prayers go out to his four children, David, Nancy, Susan and Julie, his colleagues and his many, many friends.

TRIBUTE TO DAVID PACKARD

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

Mr. McNINNS. Mr. Speaker, I have just heard the gentleman from California [Mr. FARR] speak, and I want to say with some great deal of pride that Mr. Packard was born in my home state of Colorado. He was indeed a fine, fine gentleman and certainly a leader in our country and a leader in business.

THE STRENGTH OF FAMILY AND RELIGION

But I wanted to speak tonight to my colleagues about a couple of things that over the weekend inspired me about family and about duty to our country. Over the weekend I had an opportunity to visit with a very good friend of mine. His name is Jake. Jake is about 20 years old. He is a young man who was one of the people who in this country is about one of our kids. I think I call him a kid; he is a young man. But this young man wants to go into this society and continue in this society and accomplish things that he has dreamed of all of his life.

I was particularly pleased to visit with him this weekend because his friend, her name is Kara, and he is intending to propose to her tonight. Jake and Kara, I think, are good examples of the young people that we have in this country, of the assets that we have. I will come back to youth in just a minute.

The second event I went to this weekend was in Pueblo, CO. Pueblo is called the home of heroes. In Pueblo, CO, we have had four of our people, four citizens from Pueblo, who have won the United States Medal of Honor.

This weekend I got to be the guest at the Medal of Honor dinner, which we do have here in this area that we have. We have 18 Medal of Honor winners, people who gave it their all and then there with young people who are excited about the future of this country. I, too, share their excitement, and I, too, share the privilege of being able to sit with 18 Medal of Honor winners.

INTRODUCTION OF THE NATIONAL INFRASTRUCTURE DEVELOPMENT ACT OF 1996

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

Mr. ABERCROMBIE. Mr. Speaker, I yield to the gentleman from Connecticut [Ms. DeLauro].

Ms. DeLAURO. Mr. Speaker, I thank the gentleman from Hawaii for yielding.

Mr. Speaker, today I am reintroducing the National Infrastructure Development Act, which I first introduced at the end of the 103rd Congress. This bill will create more than 250,000 jobs, and help mend our Nation's crumbling infrastructure. I am pleased to be joined by Democratic Leaders Dick Gephardt, Vic Fazio, and David Bonior, who have lead countless job creation efforts in this country. During this time of debate over the role of our Federal Government, I am proud to bring to this floor a bill that shows that Government can work for America.

At a time when jobs are disappearing and when we face intense international
competition from abroad we badly need to create new jobs and make the investments in our roads, bridges, airports, and sewers to make our Nation more competitive.

I want to remind Americans that since the election of President Clinton, the economy has continued to grow. Nearly 8 million jobs were created since his election; the unemployment rate has fallen from 7.3 percent to 5.5 percent; and, the Federal deficit has been cut in half—reducing interest rates and increasing purchasing power. Yet, despite this good economic news, there are too many regions of the country where job growth remains slow, wages are stagnant, and people are hurting financially. Although the unemployment rate continues to decline in my home State of Connecticut, the continued threat of job loss is damaging the economic security of many families. The Federal Government must help identify new markets, and expand opportunities for these hardworking Americans.

The National Infrastructure Development Act meets the needs of America by providing the financing mechanism needed to construct roads, bridges, sewers, schools, and airports. My bill works by leveraging a limited public investment in infrastructure to attract private capital investors. In particular, this legislation targets the pension community and other institutional investors. Together, these investors represent $4.5 trillion in investment potential.

Investments in infrastructure create good, high paying jobs, and enable businesses to perform at full capacity. With a small Federal investment, the National Infrastructure Development Act will improve our Nation's infrastructure and create 250,000 jobs.

A public investment in infrastructure will succeed in spurring private sector investment. Evidence, are already seeing private sector investors beginning to finance major infrastructure projects, such as toll roads. Further, a number of American pension plans are looking overseas to countries like China, where infrastructure investments are common. The United States must make private sector infrastructure investments even more attractive in this country.

My bill will make domestic infrastructure investments more attractive by investing in and insuring infrastructure projects through a government sponsored corporation. The National Infrastructure Corporation—or NIC—would be funded by an annual $1 billion government investment over a 3-year period. Construction or repair of schools, toll roads, airports, bridges, sewage treatment facilities, and clean-water projects are potential NIC investments.

Many states and cities could borrow from the NIC, or be insured by the NIC for infrastructure projects. These projects would be sound investments for pension funds. In return, these investments would strengthen the U.S. economy, and improve our Nation's infrastructure. Over time, the NIC itself would be a solid investment for pension funds. The goal of this legislation is for private investors to eventually buy the Corporation from the Federal Government, repaying the taxpayer's original investment.

In addition, my bill would enable cities or states to offer bonds to pension funds for infrastructure construction. These bonds, called Public Benefits Bonds, would be attractive investments for pension funds because the bonds enable them to pass on tax benefits to their pensions.

To be clear, the National Infrastructure Development Act is not intended to replace the traditional means of funding infrastructure projects. Federal and State assistance will still be needed to fund highways and mass transit projects, sewers, and other infrastructure projects. My bill in only by leveraging $30 billion annual shortfall of funds that are available for infrastructure projects. The NIC will supplement, not supplant, traditional methods of financing domestic infrastructure development.

In my view, the NIC will enable states to make better use of Federal funds they currently receive for these projects by using a small Federal investment to leverage large private investments. More infrastructure will be funded as a result of this legislation.

The National Infrastructure Development Act builds on President Clinton's goals for improving this Nation's infrastructure. The administration has enabled 32 States to construct 70 projects using a variety of innovative financing techniques. In addition, the Department of Transportation is completing a competition for 11 States to be able to establish State infrastructure banks that have a function similar to the National Infrastructure Corporation. Fifteen States entered this competition, and another 5 States wrote to express interest in entering future competitions.

This Congress has already given its approval of these efforts. The fact that so many States are looking for innovative financing methods should send a clear signal to this Congress that we must do more to meet these national infrastructure needs. The National Infrastructure Development Act achieves this objective.

This is a good government bill that benefits every American. American workers benefit through good jobs. Under traditional government transportation infrastructure investment programs, every billion dollars invested creates 35,000 to 50,000 new jobs. Under my bill, every dollar in Federal investment will result in $10 of actual construction. So each billion dollars in Federal Investment will create 240,000 to 300,000 good jobs over a 3-year period. That is better than traditional methods of financing do.

American businesses benefit from reliable infrastructure. Businesses depend on airports, roads, wastewater treatment facilities, and clean water projects. Stronger infrastructure will aid economic expansion. American taxpayers benefit from better modes of transportation for fewer tax dollars, and better environmental quality.

Pension investors benefit because they can look for investment opportunities in the United States instead of overseas.

Every Member of Congress knows that Federal resources are scarce. The National Infrastructure Development Act will fill a major funding gap with a short term, limited investment and re-build our Nation's infrastructure. Private investors need the opportunity to invest in America, and the Federal Government can work in partnership with the private sector.

This partnership will help us rebuild our country's aging infrastructure, create great jobs, and promote good investments.

I urge my colleagues on both sides of the aisle to closely examine this bill. Now is the time for us to move this important piece of legislation.

Mr. GEPHARDT. Mr. Speaker, I am pleased to join Congresswoman DELAUR to cosponsor the National Infrastructure Development Act.

A fundamental governmental function is to create an economic environment conducive to growth and the creation of new opportunities and good jobs. No aspect of this function is more important than investing in the human and physical capital of the country. To prosper, our country needs to invest in upgrading our public works and transportation systems. With the growing importance of high value added industry and just-in-time manufacturing, a strong transportation system is more vital to economic growth than ever. Unfortunately, we face a $300 billion backlog in transportation investment alone. According to recent studies, our national investment in transportation falls $17 billion short of the amount needed just to maintain current levels of performance.

During the 1980's, real Federal investment in infrastructure fell 16 percent. As the Federal Government reduced its investment, greater burdens fell on the states and municipalities. And many of them—not just inner cities or small towns but suburbs as well—have been unable to meet their needs. The result: falling productivity and a diminished quality of life. People spend hours in traffic jams instead of in offices or at home with their families. Traffic congestion now costs drivers in our largest cities $40 billion per year. And long-promised road improvements needed to lower accident and fatality rates remain undelivered.

While we have made some progress in recent years, numerous studies document the need for additional investment. Bringing our roads, bridges and highways to current, safety standards would require a doubling of the current highway program. The Bipartisan Commission to Promote Investment in America's Infrastructure reported that America's total investment shortfall in its infrastructure amounts to between $40 billion and $80 billion per year. At the same time, Federal investment programs are limited. As discretionary spending caps are lowered, the Federal capital investment program will come under enormous pressure.
The purpose of the National Infrastructure Development Act is to increase the public works investment critical to our long-term economic growth. It does so by using innovative financing and techniques already used in the private sector to encourage more investment in our nation’s infrastructure. As we in Congress look for better ways to leverage Federal resources, the NIC is a prime example of how the Federal Government can provide initial financial and significant in-kind resources to build new infrastructure and strengthen our old and outdated infrastructure. To that end, I look forward to working with Representative Rosa Delauro to bring this legislation to the country’s attention and make it a priority in Congress.

NIKE’S RACE TO THE BOTTOM

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

Mr. McIntosh. Mr. Speaker, I rise today to give my report from Indiana. Every weekend Ruthie and I travel around my district and often meet amazing people, individuals who are truly defining who we are and truly defining the backbone of our community.

These are good people, taking responsibility for the future of our community. I like to call them Hoosier heroes. Today I want to praise leaders of the Stop the Violence movement in Anderson, IN, who have come together to help their community. With their persistence and dedication, they have created a very special group called Stop the Violence. Members of the community like Garrett Williams, Rev. Ray Wright, and Al Simmons have joined with schoolteachers and students at the Shadeland Elementary School. They were fed up with gangs and drug dealers and the violence in their streets, and they came together and said, “Stop the Violence now.” They marched through their streets wearing purple ribbons, purple T-shirts, and a purple ball cap to symbolize peace in our community.

They sent a message to the drug dealers. They were not going to take it anymore. Today, the Stop the Violence movement, which is spearheaded by Rudy Porter in the mayor’s office, sends a message to the schoolchildren of Anderson: You do not have to carry guns, you do not have to fight with your classmates, you do not have to buckle under to the pressure of drug dealers to be cool.

Stop the Violence gives schoolchildren and parents hope. They give our entire Nation hope, and I am proud to have been able to march with Rudy and those students, and I wish all Americans could witness the pride and joy that came from those children’s faces as they set out to stand up to the criminals and drug dealers who roam their streets.

They said no. No more violence, no more drugs, no more crime. Hoosier heroes like Rudy Porter and Stop the Violence Committee give us hope that America’s best days are indeed yet to come.

That is why I would like to commend not only Rudy, but also the schoolteachers, Karen Crawford and Freddie Williams, and a principal at Shadeland School, Sharon Taylor Martin, who cares deeply about her children. And let us not forget the children, the children in Shadeland School, whose small, tiny voices spoke the loudest of all. You made us proud. You are all Hoosier heroes.

If every community in America had Hoosier heroes like Rudy Porter and the schoolteachers and the leaders of the Stop the Violence movement, our young people would get a message from us, a message loud and clear, we care about you, we have not forgotten who you are.

Thank you, Mr. Speaker. That is my report from Indiana for today. God bless.
over $250 million a year in advertising to sell you, the consumer, the message that they are a good American corporate citizen. Nike has virtually bought off the entire American sporting world. Just look at how many college basketball teams, athletes in the NCAA basketball tournament, even high school athletes being paid have been paid to wear Nike’s trademark, the Gold Swoosh. Your people across this Nation are literally killing people to acquire Nike products.

The truth of the matter is, Nike does not pay its workers exceedingly low wages in this country, not one. It has shut down all its U.S. production while siphoning off billions of dollars in this marketplace through sales. But it employs 75,000 workers in places like Indonesia and China, hidden from view of the news media of this country. And they pay their workers exceedingly low wages, 10 cents an hour in China, 20 cents an hour in Indonesia, work them 7 days a week, under complete control of those employed by the contractor. For example, the shoes cost only $6 to make and ship to the United States from Indonesia, we end being asked to pay up to $150 a pair.

So it is fair game to ask who is benefiting from this kind of production system? Is it not the American worker who is no longer employed making Nike shoes. Is it not the worker in Indonesia or China who earns poverty wages. Finally, it is not the American consumer, who is being gouged to pay outrageous prices for Nike.

As Hakeem Olajuwon, the star basketball player from the Houston Rockets courageously pointed out when he refused to endorse Nike shoes, he said, I saw the prices go from $40 to $90, to $150, and in full cognizance that people were dying for these shoes, including inner-city kids, the kids that Nike was targeting with their inner-city role models. There is one sports figure with a conscience in this country. Thank God for that.

We American workers and consumers could do one better. We could stop buying Nike shoes until Nike pledges allegiance again to the workers of this country and to its producers around the world. Is it not time we put a little bit of conscience back into corporate America?

Mr. Speaker, I include for the RECORD the New York Times article.

[From the New York Times, March 16, 1996]

AN INDONESIAN ASSET IS ALSO A LIABILITY

(Edward A. Gargan)

SERANG, Indonesia—Many days Tongris Situmorang and his wife, Nursimi, went on strike. They told us not to demand anything but get an improvement in the food. But I have sued to get my job back.

Low wages are a big attraction for foreign companies doing business in Asia as high labor standards in industrialized nations make the manufacturing of many consumer goods uneconomical. Like a wave washing over Asia, labor-intensive factories have swept such industries and low standards have risen from Hong Kong, Taiwan and South Korea, across Asia to China, Vietnam and Indonesia.

And across the Pacific, businesses in developing economies are feeling pressure from workers like Mr. Situmorang to lift wages. As strikes and worker-organizing attempts have increased here, the Government has taken a harsher line by cracking down on workers with police and military force.

For some companies, like Levi Strauss, worker complaints, were enough to prompt it to leave Indonesia two years ago. But others, like Nike, whose shoes are made in 35 plants across the region, find it too high for Indonesia.

For the Indonesian Government, the long-term solution may be to find manufacturers that can support higher wages. “Our strategy is to improve our products so we are not producing products that are made in China, Vietnam, India or Bangladesh,” said Tunghi Ariwibowo, the powerful Minister of Industries and Trade. “We cannot compete on wages with them."

More than 200 turn out Nike shoes here, shoes that often sell in stores in Asia, Europe and North America for perhaps $100 a pair. Nike and thousands of other manufacturers have been lured to set up business in Indonesia by the low wages—and the assurance that the Government will tolerate no strikes or independent unions.

Yet even at a little more than $2 a day, there is a widespread sense in Government circles that even that is too high for Indonesia to stay competitive.

As the factories try to hold down wages—wages the Government admits provide only 93 percent of the earnings required for subsistence for one person—and worker complaints and with the increase in labor agitation have come harsher crackdowns by the Government.

A spokesman for Nike in the United States, Donna Gibbs, said she was not aware of Mr. Situmorang’s case or of the detention and interrogation of workers for a week. However, when pressed, she said, “Our information is that workers were not held for a week.”

All the plants that manufacture Nike shoes in Asia, Ms. Gibbs said, are owned by subcontractors. Each subcontractor is required to adhere to a code of conduct drawn up by Nike, she said, and managers from Nike are involved in the daily oversight of subcontractors’ operations, including not simply quality control matters, but the treatment and working conditions of the labor force.

Nike’s code of conduct, Ms. Gibbs said, requires compliance with all local laws, the prevention of forced labor, compliance with local safety and health, and provisions of workers insurance. She said she was unaware of 13- and 14-year-old girls working at the Nike plant here.

“Certainly we have heard and witnessed abuses over time,” she said “and typically what happens is that we ask the contractor to rectify the situation and if it is not resolved we can terminate the business.”

Ms. Gibbs said Nike has four to six subcontractors in Indonesia, a number that varies. Nike says it pays subcontractors the minimum monthly wage was 115,000 rupiah, about $52.50, although the average workers pay 297 strikes last year, although it did not provide the number of workers involved. Independent labor organizers insist the actual number is far higher.

“The number of strikes is increasing,” said Leily Sianipar, a labor organizer in nearby Tangerang. “Most factories don’t actually pay the minimum wage. Garment factories should pay 4,600 rupiah each day, but there is usually underpayment. So there are strikes. We try to organize workers. The factory owners use the police and the military to crack down. They try to intimidate the workers.”

The Indonesian Government recognizes only one Government-sponsored union, the Federation of All Indonesian Workers Union. But union workers and labor activists maintain that the Government union does nothing to represent Indonesia’s 40 million workers.

“Since they don’t come from the bottom, and they aren’t elected by the workers, there is no hope for the Government union,” said Indera Nababan, the director of the Social Communication Foundation, a labor education group sponsored by the Communion of Churches of Indonesia. “I don’t think over 10 years there has been any considerable change. The workers have no rights here to argue for their rights.”

Not far from the Nike factory here, Usep, a 23-year-old, leaned against the cement wall of the tiny room he shares with his 19-year-old wife, Nursumi. Together, said Mr. Usep, who like most Javanese has only one name, the couple earn about $10 a day—or $2 a month. Of that, they must pay about $23 for the 6-foot-by-6-foot cement room they live in, with the remainder for their food and other needs.

“A single bare bulb dangles from the ceiling, its dim glare revealing a plain bed, a single chair, a little table and a small cabinet. Their room, one of a dozen in a long cement building, is provided with one container of water daily. If they want more water, each just pays 100 rupiah."

“Of course we’re not satisfied with this,” Mr. Usep said, his words coming quietly. “We
Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about some of these issues.

Mr. KINGSTON. Larry King Live, March 27, 1996

CONGRESSIONAL RECORD — HOUSE

March 27, 1996

COMPARING 103D CONGRESS TO 104TH CONGRESS

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

Mr. KINGSTON. Mr. Speaker, I have a couple of topics we wanted to talk about tonight, and have with me my colleague from Arizona [Mr. HAYWORTH], and we may have others joining us.

But what we were going to do is talk about some of the difference between the 103d Congress, the Congress that was here in 1993 and 1994, and contrast that with the current Congress that was elected and began to serve January 3, 1995.

If you look back 2 years ago, which was my first term in Washington, and think about the changes in 1993 the President had just passed the largest tax increase in the history of the country and then moved around and tried to nationalize our health care system.

At the same time, the bureaucracy did not want to get left out of the action, and OSHA, the Occupational Safety and Health Administration, came up with a proposal that said if you smoke in your own house and you have a domestic employee, then you must have a smoke ventilator in your own kitchen.

The EEOC, meanwhile, came out with a proposal that the most dangerous hazards in the workplace today is religious symbols. So if you were working at a Ford plant and you had a "Jesus saves" T-shirt on, or if you had a necklace that had a Star of David, that was offensive. EEOC decided that this had gone religious symbols in the workplace. That was the kind of thing that we had going on in the 103d Congress.

Now, contrast that with the 104th Congress. We have a Congress that has cut staff by one-third, reduced its operating expenses by $67 million, and put Congress and all of its Members under the same workplace laws as the private sector.

Instead of debating whether we reform welfare, we are debating how to reform welfare; instead of debating whether we balance the budget, we are debating how to balance the budget. And when the crisis with Medicare came that was pointed out to us by a group of doctors in this Congress, this Congress did the responsible thing and acted to protect and preserve it.

This Congress, Mr. Speaker, is night and day compared to that that was the 103d Congress. But we have our critics. A lot of the criticism comes from the press and its allies over at the White House, Mr. Clinton. What we were going to do tonight is talk about some of the criticism.

Education, apparently Republicans do not have children, we do not care if they get educated or not. Seniors, apparently we all came from test tubes and none of us have moms or dads and we do not care what happens to their Social Security or Medicare, according to the press and its allies over at the White House.

But what is really going on with these issues, Mr. Speaker? We want to talk a little bit about the environment tonight, we want to talk a little bit about taxes and the middle class, and we will continue through a series of discussions to talk about some of these other issues.

I will yield the floor to my friend from Georgia at this time.

Mr. HAYWORTH. I thank my friend from Georgia. I am heartened by the fact that other colleagues from the majority join us tonight to talk about a variety of topics.

Mr. Speaker, the gentleman from Georgia is absolutely correct. There could not be a greater difference in Government than the difference that exists between the 103d Congress, held captive by the proponents of big Government, and now an increasingly more decentralized planning and more decentralization and more taxation and more and more spending, and those of us now in the majority in the 104th Congress, unafraid to do anything.

Mr. HAYWORTH. My friend from Georgia offers the attribution. And if he would continue to yield, we would know that the President has had to propose a budget for the first time in 7 years, and that is the same after we have moved to do simple things, to our founders, an approach typified in the first act this Congress passed, which simply said this: Members of Congress should allow the same tax laws every other American lives under.

Indeed, as my friend from Georgia pointed out, with a litany of progress on a variety of issues, there is one inescapable fact that we confront at this juncture in the second session of the 104th Congress, and that is the criticism, the carping, the blaming, of liberals, both in this city and nationwide, of the powerful special interests who have as their mission in life the maintenance of the welfare state, the maintenance and enhancement and growth of centralized planning; those disciples of big Government who now would criticize the new commerce in this new majority and paint our agenda, indeed, our contract for America, a somehow being extreme.

Mr. Speaker, it is time to point to this simple fact: The only thing extreme about the agenda of the new majority is the fact that it makes extremely good sense.

I take, for example, the comments of my friend from Georgia, who talked about the fact that in the wake of the 1992 election the incoming President, as one of his first acts, chose to propose and this Chamber approved by 75 votes, the largest tax cut in American history. Emboldened by that victory, our friend at the other end of Pennsylvania Avenue worked in secret to devise a plan of government, that is to say, socialized medicine.

The American people said "Enough," and in November 1994 gave this new Congress a mandate.

Mr. Speaker, I can vouch as one who watched with interest my colleague from Georgia and my other colleagues here who served in the 103d Congress and served valiantly to point out the absurdity of the extremism of those who always endorse the liberal welfare state, I saw with my eyes their valiant efforts.
since he is a physical fitness buff, the budget that the gentleman at the other end of Pennsylvania Avenue now advocates to try and bring our budget into balance would be akin to me saying I need to go on a diet. I think we can all acknowledge the fact that I think about going to lose 50 pounds over the next 2 months, but I am going to lose 2 of those pounds in several weeks’ time, and I will save the 48 remaining pounds for the final 2 days of the diet. It just does not work.

Theoretically, you can write down numbers on a sheet of paper, but what this new majority has offered is a clear, commonsense plan to bring this budget into balance in 7 years, which this President vetoed; a clear, commonsense plan to reform welfare as we know it, which this President vetoed; and now yielding to my friend from Georgia, I would gladly listen to his points.

Mr. KINGSTON. Mr. Speaker, I think it is important really when we do have a dialog to be factual about it. We have been accused of cutting student loans, and yet our budget calls for increasing student loans from $24 to $36 billion. We have been accused of cutting Medicaid, and yet our budget calls for an increase from $89 to $124 billion. Of course, we have been accused of cutting Medicare, but our budget goes from $180 billion to $290 billion. I think it is important that when we talk about this that we divide the facts from the rhetoric.

Now, one of the things that we have been trying to do with our reforms is to balance things, and I know our friend from Michigan [Mr. EHLERS] is here, and we wanted to talk about yes, there are things we are trying to fix, but we are not trying to destroy things, specifically in the environment. I do a lot of camping, and I plan to continue to do a lot of camping. I have 4 children, and my 12-year-old daughter last week was contemplating with me. My 10-year-old son is coming along, and I want that environment there for them. I want there to be plenty of species out there. I want the endangered species to be protected. I want private property rights to be protected as well.

Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970’s under a Republican administration.

Let me yield to the gentleman from Michigan.

Mr. EHLERS. Thank you very much. I appreciate the gentleman yielding me time, and I would like to take a few moments to talk about some Republican ideas on the environment.

As the gentleman correctly pointed out, Mr. Speaker, I really get offended when the President accuses us of trying to gut environmental legislation when the Clean Water Act, the Endangered Species Act, and the Environmental Protection Agency all were created in the early 1970’s under a Republican administration.

Mr. Speaker, I am giving this not to brag about my accomplishments but to point out that people who think the environment is a Democrat issue and not a Republican issue are sorely mistaken. We have different approaches perhaps, but I believe that we can accomplish a great deal in the environment by working together.

Mr. KINGSTON. I want to emphasize what the gentleman is saying by pointing out that President Theodore Roosevelt started the National Park System, and, of course, he was a great Republican at the time.

Mr. EHLERS. He was a great Republican, and also started in some ways the political meaning of the term conservationist. I always love to point out to my friends that the root word for conservation is the same as the root word for conservator, and any true conservative should be an environmentalist, because it is important for all of us to conserve what we have for the advantage of future generations.

During my time in the political arena and working on environmental issues, I have learned some lessons which I just want to share with my colleagues here. First of all, the environment is extremely important. I can perhaps draw an analogy to something that we discuss here an awful lot: The balanced budget. We approach this, as Republicans, from the standpoint that we want to protect this economy, this Nation for our children and grandchildren. It is simply not right for us to continue to live in debt and expect our children and grandchildren to pay that debt. We want to leave them a promising future and not a huge debt. Well, that is also true of the environment. That is one of the reasons I am a confirmed environmentalist.

It is absolutely wrong for us to leave a polluted country to our children and grandchildren and to other future generations. We have to give them the same resource opportunities that we inherited from our ancestors. We have to give them the same clean environment that we inherited from those who came before us. That is why the environment is very important to me. I want my children and grandchildren and their grandchildren to inherit a clean country, a clean planet, and to be able to use the resources to use and enjoy this planet.

Mr. Speaker, another lesson I have learned is that energy, energy and energy use, are probably the single most important component of the environment. Not everyone realizes this. But once you begin adding the sources of pollution, where does it come from? A lot of it is from improper use of energy or inefficient use of energy, and that is something this Congress has to spend
more time and energy on, just recognize the importance of energy and working on the efficient use of energy.

Now, let me make it clear, I am not here talking about energy conservation. Some people confuse those. Somehow they think that this is a matter of being dark, they are helping the environment. Well, that may be true, but it certainly is an uncomfortable way to save the environment. What I am talking about is simple, common-sense efficiency of use of energy which can result in very serious problems. But, of course, of the right kind, protecting the consumer above everything else, but also utilizing the technology for our advantage and not against it.

Mr. EHLERS. Thank you very much. I appreciate that comment, because that is precisely what has happened. Am I certainly not arguing for putting toxic materials in food or using the wrong fertilizers or anything like that. I am simply saying that our laws have to keep up with scientific changes, and I think you demand a tolerance, as we did originally with the Delaney clause, it is a mistake, because there is no such thing in this life as zero risk.

Mr. Speaker, that leads to my next point, and that is, we have to learn as a nation to prioritize, to decide what is good and what is bad, and recognize, everyone has to recognize that there are certain risks to every part of life. For example, it is commonly assumed by many that natural is good. Something that is artificial is bad. That is not necessarily true. For example, peanut butter. Perhaps I should not mention this in the hearing of those who are from Georgia. But peanut butter is a fairly carcinogenic material, and the lab tests have shown that. And if we truly enforce the Delaney clause, we would probably have to ban peanut butter.

Mr. KINGSTON. I do want to ask how you people in Michigan consume peanut butter. I would like to know more about that.

Mr. EHLERS. Well, in fact, everyone consumes peanut butter, and that is why it has not been banned. It is a food staple for so many people. I am simply pointing out that what we have to do is analyze the risks in every situation and prioritize the risks. There is a great deal of concern, of course, in our Nation about toxic waste, but yet, if you analyze in a hard-headed manner what really are the environmental risks we have today, what is the highest environmental risk, you are likely to find that there are many things other than improper disposal of waste that are higher up on the list.

For example, urban sprawl with its destruction of habitat, and destruction of habitat of course is key in the endangerment of species. And that leads to something my colleague from Maryland sitting here is an expert on, the Endangered Species Act. These are all very, very complex issues. We have to look at all aspects of these and recognize precisely what the problems are, and what the dangers are, and what this leads to, as my final point in this list before I summarize, and that is what we need is common sense regulation. That is something I have stood for throughout my legislative career.

It is very easy to adopt what is called the command and control approach where you simply say something is bad, let us regulate it out of existence. If you do that with benefits and the costs, you can go down a very dangerous path, dangerous both in terms of health and our economy.

What we, what I, typically did in the Michigan Senate, when we encountered a problem, I would get representatives gathered. I would get scientists together, environmentalists, industrialists, everyone possible, get a representative group together, sit down in a room and pound it out, week, after week, educate each other about the problem and come up with a solution.

Mr. Speaker, frankly, that is what I believe that we have to have the Congress doing as well. That really results in a good communication which gives the maximum return on laws and the maximum return on the investment of time and energy as well as money.

Mr. KINGSTON. If the gentleman would yield, I wanted to illustrate that on a true case that happened in Riverside, CA, where the residents in a neighborhood were not allowed to dig fire trenches because it would endanger kangaroo rat habitat. And so fire breaks were not dug, and a fire came. Thirty homes were destroyed, but, in addition to that, over 20,000 acres of kangaroo rat habitat was destroyed.

Clearly, using what you are saying, common sense approach, this certainly does not benefit the home owners, but it also defeated the whole objective, which was to protect the rat.

So we can clearly, without endangering the animal, we can clearly have more flexibility of the law and get away from the command and control which leaves out common sense.

Mr. EHLERS. Let me give an example, too, that occurred in Michigan.

Years ago it was discovered that the Kirtland's warbler in Michigan was an endangered animal. Everyone loved the Kirtland's warbler, a wonderful bird, beautiful song. It was endangered because of some very peculiar mating habits. This bird is very selective about its habitat for mating. It would yield, I wanted to illustrate that...
Mr. Speaker, we are here talking about the need on the part of the House of Representatives to try to make some improvements in the environment. I want to say a few things.

Mr. Speaker, we are here talking about a number of issues, one of which is policy relating to environmental issues. To the gentleman from Arizona, the gentleman from Georgia, I think, all discussed the direction that we need to move in. The gentleman from Michigan said we need to protect the environment. There is no one in this room that wants to dirty the air, and I do not think there is anybody in this room that says the water is too clean, and I do not think there is anybody in this room that says we are protecting the species that we are able to enjoy in the wild so that in years to come they will become extinct.

But there is a way that we can go about doing this in a fundamental way. We can engage more people into the process, and in the long run and in the short run, I believe, we will be more successful.

A hundred years from now, and I am sure that there are people out there listening, Mr. Speaker, that knew people that were alive in 1896. And we will know people that will know people in 2096. I am not sure any of us will know people that are alive in 2096, but our great grandchildren, perhaps our grandchildren, perhaps a new generation of people that will be alive in the year 2096. So a hundred-year time span is not very long. And for us to protect the resources that we have right now, I think, is crucially important so that future generations will be able to enjoy the blessings that we have inherited.

Now in order to do that I do not think you can do that from a centralized authority like the Federal Government. We have been accumulating more and more responsibility with the States and the local governments and even private citizens. So, we create environmental legislation which is important for a lot of reasons.

For example, about 40 percent of the pollution problem in the Chesapeake Bay, where I come from, the Chesapeake Bay watershed; I live on the eastern shore of Maryland; about 40 percent of the problem in the Chesapeake Bay is air deposition. That means that there is very little you can do about that, and about 60 percent of that air pollution which pollutes the Chesapeake Bay from the air is from automobiles.

We are increasing the number of cars every year; we are increasing the number of people that live in the watershed every year. So we have to begin to find solutions to problems that are difficult to solve because very often, if not always, the problems are as a result of increased population.

The way we do that, I think, is to begin cooperating and consulting with these environmental pieces of legislation, with the State government, with the local government and private citizens developing policies that can actually work. Future generations will not care who cleaned up the pollution, or even who polluted. The fact is they are going to live with what we do.

One other comment about clean air and environmental issues. The Republicans are taking with causing gridlock in Washington, with causing partisan politics in Washington, especially when it relates to environmental issues. I would just like to send this message, and that is gridlock. Arguments in Washington are not bad. You do not see the North Koreans arguing. You do not see gridlock in Cuba. What you see here in Washington is an argument that does not move forward. These arguments are actually bringing out more information. In fact, I would say that the people with the most credibility in Washington right now are not the ones who have long years behind them. They are not the powerful committee chairmen that might have been elected in the 1950’s. We do not hate that anymore.

Mr. Speaker, the people with the most power in Washington are those that have the ones with the credibility, and people with credibility are people with information. If we can begin to share information from Member to Member and develop legislation so that we can begin the realization that, “One nation under God, with the States, have consultations to do the best that we can with environmental legislation, then I think we are going to move forward to protect the environment.”

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield on that point, first of all, I have the utmost respect for my colleague from Maryland. We serve together on the Committee on Resources. It is not secret that we may not agree on every single jot and tittle with reference to policy.

Yet at the same time I am heartened by the fact that the gentleman from Maryland, as well as my friend from Michigan and my friend from Georgia, all recognize this central theme, that it is not centralization of power or a one-size-fits-all philosophy that oft times is outdated with reference to new technologies that develop, but, instead, technologies that develop should be a spirit of conciliation, a spirit of cooperation and the notion that is really quite common sensical when you think about it, the acknowledgment that Phoenix is not the same as Philadelphia, that Montgomery is not the same as Grand Rapids, MI, that Savannah, GA, may not be the same as St. Louis, MO. There are different issues that confront us all.

So in that spirit even while there may be some disagreements on how we get to a cleaner environment, how we recapture for the American people the true spirit of conservation, let us start with that premise, and also what the gentleman from Arizona talked about, and that is the sense of balance that must be there, preservation of the environment, a true spirit of conservation, and at the same time a preservation, if you will, of the fragile rural nature. We recognize this, for example, in the Sixth District of Arizona.

So it is a challenge. It is not easy to face up to many of these questions, although common sense will rule the day, I believe, and we will ultimately come to some agreements. But let us also categorically reject even amidst the gridlock that my friend from Maryland talked about this need on the part...
of some within this body and at the other end of Pennsylvania Avenue to try and demonize those who will take another approach, indeed along the same lines of the school lunch debate, really the school lunch scare, and with reference to the mediscare debate, we have yet to starve children in the streets or the elderly thrown in the streets. And by the same token, I do not believe the vast majority of Americans are turning on their taps and drinking sludge.

So let us articulate up front that, while there may be some slight differences in approaches, the bottom line remains true for members of the new majority. We want to find constructive, common sense solutions that preserve the environment, that preserve the economy and do exactly what the gentleman from Maryland talks about, offers an environment to generations yet unborn that is clean and that may be used, not only for emotional well-being, but for economic well-being for that is the challenge we face in the last decade of the 20th century.

So I am heartened by my friend’s remarks and look forward to working with him, even acknowledging some differences along the way. I yield to my friend from Georgia.

Mr. KINGSTON. What is important though is we bring our laws up with our technology and bring our laws up with other levels of government to realign that when the Environmental Protection Agency started in the very early 1970’s, it was just about the only and certainly the premier environmental protection agency in the country. Today in Georgia, in Maryland, in Michigan, and Arizona you have narrow rows. You have your own Environmental Protection Agency, which probably is about 10, 15 years old at this point.

Mr. Speaker, I had the honor to speak to the Association of State Environmental Protection Divisions a couple of months ago. I was a little bit worried because I was afraid that, well, I do not know if I am walking into a lion’s den or not. They said, “We are ready. We can handle this.” We can probably do a better job of attacking pollution cleanup because we are closer to the sites, we can work with turning, or the State legislative, we can get it turned around. Do not run from it, but do not get in our way, either.” I think that is important.

Mr. EHLERS. Mr. Speaker, if the gentleman will yield, I would just like to correct a little distortion, and especially commend the gentleman from Maryland [Mr. GILCHREST], who is, I believe, without doubt, the wetlands expert of the Congress. He knows a great deal about it, and has made some very important contributions to that.

As I mentioned earlier, Mr. Speaker, I have been involved in the founding of the West Michigan Environmental Council. That group plus another group were instrumental in making Michigan the leader in writing State laws, in many cases before any other State or the Federal Government had. We wrote a wetlands law in Michigan over two decades ago, and that is the only State that has been delegated authority by the EPA to administer its own wetlands law, and is not subject to Federal wetlands law.

It has always puzzled me why other States do not take the same course, precisely as the gentleman from Maryland pointed out, each State is often better able to judge the situation within their State. Michigan is a very wet State. We are surrounded by Great Lakes, we have many inland lakes, we have many wetlands, and we have developed a wetlands law that works very well. I do not want to imply that it is without trouble and without dispute, but I can tell the Members from my experience in working with that and slogging through the disputes along with the laws and working with the people, we managed to work things out.

Mr. Speaker, I was astounded when I came to Washington and discovered the antagonism toward the EPA in most of the parts of this country regarding to wetlands. I think part of it is, as the gentleman from Arizona mentioned, we have tried to pass one-size-fits-all legislation, and certainly the wetlands requirements in South Dakota and Arizona are different from those in Michigan and in Maryland. I think it is important for us to recognize that. It is also important for the States to take on that responsibility, as Michigan has done in passing its own wetlands law.

Similarly with takings laws, that is a real legal morass, and I regret the takings legislation that passed this body earlier this year, because I think, again, it was an attempt to be a one-size-fits-all, and it certainly did not fit Michigan. We worked with that for years with the wetlands law, with the Sand Dune Protection Act. We have come to a reasonable working arrangement on that, and keep working on trying to improve it.

Again, realize that the real objective is to protect the environment and work in a common-sense fashion that works, that gets the job done. When you were talking about clean water and clean air a moment ago, I was reminded, when I was moving here to Michigan, in 1966, the Grand River, which was a beautiful river flowing right through downtown, was filthy. No one would swim in it. No one boated on it. No one would think of catching fish from it. Now the river is clean enough so it has become a major fishing attraction. People boat on the river, and some even dare to swim in the river.

So we have made considerable progress in the past couple of decades, I think the progress we have made. We should never forget that. We have cleaned up most of the biological pollutants in the water and in the air. Now we are working on the chemical pollutants. It is a much tougher problem and much more scientific in nature. We have to, as I said earlier, use good science to do that.

Mr. KINGSTON. Mr. Speaker, as the gentleman points out, though, the need for honesty and integrity in the debate is so important. We have a Superfund bill we have been trying to get reauthorized now for 2 years, and while we are speaking, only about five of the national prioritized sites have been cleaned up, after 15 years and $25 billion of Superfund law. It is broken. Let us fix it. There is going to be a little bit of disagreement between the manufacturers in the private sector and the environmental community, but I would suspect there is still 75 percent or 80 percent of the issue that could be moved forward right now.

Mr. Speaker, I am very frustrated by the fact that in Washington, we always have to have this debate from both sides of any issue, “The sky is falling,” and the other side wants to accelerate these things.

I now the gentleman from Maryland has been in the very center of some of these things.

Mr. GILCHREST. Mr. Speaker, the gentleman from Georgia is correct about the Superfund situation. I think this Congress has begun the process of resolving the vast differences in that piece of legislation that we have as our priority spending the money on cleanup costs rather than litigation costs.

I would like to mention just one thing to the gentleman from Michigan. I know Michigan has assumed the enforcement of the Federal wetlands regulations, and Maryland is about to do the same thing. I would like to make a comment on wetlands, the Endangered Species Act, and these other pieces of environmental legislation are sometimes very emotionally discussed.

In the State of Maryland, as a result of the Chesapeake Bay improving and having clean water, much of that is attributed to wetlands filtering out a good deal of the nitrogen that comes in as a result of farming, or filters out a variety of other pollutants that get into the groundwater and spawning areas for fish, but wetlands is key to the economic boom here is about $2 billion worth of tourism, commercial fishing, recreational fishing, hunting, boating that comes to the State of Maryland as a result of the type of environment we have, so wetlands regulations help us to manage our resources.

The Endangered Species Act, which in the State of Maryland is actually stricter than the Federal Endangered Species Act, that might cause some alarm for some people, but for the State of Maryland, it assumes that our rural areas, through certain management tools on the Federal, State, and
local level, when we work in a pretty cooperative consulting fashion, ensures that our number one industry, or number one and number two industries in the State of Maryland are fishing, tourism, and agriculture. To save these particular industries, we need to work together and not apart.

We do need to recognize the differences in a regional way, but people in Louisiana want clean water, as the people in Maryland want clean water, so it is the consulting process. It is getting involved from all the different levels, including elected officials getting involved in the consulting process.

I just want to close with this one point, Mr. Speaker. I read recently a book from a Montana mayor, and I can’t remember his name, the mayor of Missoula, Montana, wrote a book about community and place, and how we can reconcile the difference, especially that seem to become political differences. The essence of the book, without going into the detail, I would recommend the people to read, it is called “Community and the Politics of Place,” I think that is the name of it. But the essence of the book is, he said that America used to be a frontier. People used to be able to go to Washington, DC, and did not like the way it was. If they had religious differences or had any kind of quarrel or wanted to seek adventure, they could go to the frontier that seemed endless. Now America does not really have a frontier and that is filling up with people, and we are a prosperous Nation, so the next frontier will be the frontier that is based on our ability to consult, to cooperate, to use our intellectual skills to manage the limited resources that we have so that they will still exist for future generations. We cannot do that and argue.

My son told me a couple of years ago when he was in high school, when he sort of was getting ready to look at the world and get involved, he told me that it is like two people in a big truck driving down the highway at 90 miles an hour, and the highway ended at a huge precipice, a 10,000-foot drop, and the people were not only not paying attention to where they were going, they were arguing.

So if we are going to be legislators that are going to deal with the problem of the Nation, we have to, together, set the example so we can cooperate here and disseminate that sense of policy to the rest of the country.

Mr. EHLERS. Mr. Speaker, if the gentleman will continue to yield, I simply wanted to comment that I agree wholeheartedly with that. I think, getting back to the theme of what we have been talking about, we are simply trying to demonstrate that we are Republicans trying to develop a responsible approach to the environment here.

I appreciate the comments that have been made. I thank the gentleman from Maryland especially for his views on wetlands, and obviously, it is very similar to Michigan. There is just one minor correction, by the way. Michigan has its own wetlands law, whereas Maryland and New Jersey will administer the Federal wetlands law.

It was interesting, when I was in office there I heard a lot of complaints about the legislator proposed repealing the Michigan wetland law. The two groups that argued the most against that were the sportsmen, who think the wetlands law is wonderful, because Michigan has giant hunting and fishing and so forth, and business. They said, “We know this law. It works for Michigan. We do not want to be under the Federal law.” That shows how each State can design the law that accomplishes the goals better than we can with a one-size-fits-all approach from Washington.

I think we have to set a minimum standard, but encourage the States to go beyond that. As Republicans who are talking the devolution of power, of letting the people in the communities have a say, I think this fits in beautifully with that.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, I will conclude with a couple of thoughts. One is that I simply want to make this point that I think it transcends almost every debate we have here, and it is a philosophical point of view that I think rings true with the majority of the American people.

As you relate to us the experiences of Michigan, as our colleague from Maryland relates the experiences in his State, certainly none among us would argue that certain time in our history, the Federal Government has played a genuinely worthwhile role in serving as a catalyst to deal with some dramatic issues, but history does not occur in a vacuum. Therefore the challenge for us at this juncture in our history is to ask this question: Who do we trust? Do we trust the American people, do we trust local officials, elected by the people close to home, officials elected to State government, who have grown up in the last 25 years to confront these problems, or do we always and forever turn these problems over to Washington bureaucrats to offer a Washington solution which may fit Washington, DC, but which might not fit Washington State? that is the essence of the debate that we have on a variety of topics.

I want to thank the gentleman from Michigan for especially that distinction yet again when it comes to environmental legislation, the true meaning of conservation, and what it will mean to protect and preserve the environment as we move into the next century.

Mr. EHLERS. Mr. Speaker, if we simply say, Mr. Speaker, we need both. Take clean air, for example. We have to have a Federal law, because the transport across distances is so huge, but we also need it to regulate this is applied locally, and do it in a commonsense fashion. Only with everyone working together are we truly going to achieve a clean environment.
Mr. Speaker, we need to make a change. We have taken a look at priorities and we see that clearly, in the wake of these expenditures, Washington's priorities have totally gotten out of whack.

Mr. KINGSTON. What is so important is that the average family in the 1960’s paid 3 percent and today pays 24 percent in Federal income taxes. When you add in the other taxes, State and local taxes, the average middle-class family pays about 23 percent taxes. We have had an opportunity to talk to a driver with UPS, United Parcel Service, in my district. He said, “My wife works. She teaches school and has a good job, and I get a lot of overtime driving this truck. We have got three kids, and at the end of the month we do not have anything because it goes into washers and dryers and taxes and regulations and so forth.”

That is the story of the middle-class American family today. All they are doing is working for the government. Then we turn around and make them fill out a tax form that is absurd, which is 1040 long.

Mr. Speaker, you are on the Committee on Ways and Means. I bet you most Members of Congress cannot even fill out their own tax form. I believe that is real important. If we cannot do it, who are we kidding about what do we expect of the American people?

Mr. HAYWORTH. If my friend would yield, there is something fundamentally wrong when the average American family pays more in taxes than on food, shelter and clothing combined. There is something wrong when Washington sends its resources to pay for food, shelter and clothing for illegal aliens.

You remember in 1993 that the Clinton tax increase was only going to be a tax on the rich and the seniors who were wealthy. Well, I do not think the House of Representatives really realized what they were doing. I will say this, and I need to say this so that I can go home to my bride in California this weekend.

The fact is that she showed me one individual and talked to one individual who was a classic example of the so-called tax on the rich. This person made less than $14,000 a year, but because he happened to be a Latino who had very strong religious beliefs, he did not divorce his wife, was not married, and filing separate. Eighty-five percent of his Social Security is being taxed.

You remember in 1993 they told those of my colleagues who were here, this is only a tax on the wealthy Social Security recipients; it is not on the poor. I think that that is one issue that is important that we all consider the fact that giving automatic citizenship to children of illegal aliens is a problem we need to address. My bill, H.R. 1363, will address that, and we hope to work on that in the very near future.

The underlying discontent that has been there for two decades have come forward, and we see it in the Republican primaries. It is interesting that at least since the early 1980’s many of us have been pointing to this un-American phenomenon where the stock market does well and people do poorly. Somehow or other it never caught on. There has been some attention paid to it as it affects men because the manufacturing sector has been so decimated and it continues to increase. We see that the country is beginning to recognize that something different is happening, it is important that we look at all of those of whom something different is happening, and that is why I choose to raise it in relation to women.

As a former chair of the Equal Opportunity Employment Commission, I have long had an interest in discrimination against women. More is at work here than simple discrimination, however. It is at work here. We are not talking about the nature of our economy itself, some historic changes that are underway that reflect upon the kinds of jobs that are being produced and who gets those jobs.

The effect is felt in the widest gap in incomes we have seen since we have been keeping these records. We need to look at how this phenomenon affects women in particular because with the change in the economy there have been the greatest changes in women in the work force.

I want to point to a bill I have introduced, the Fair Pay Act, which in its
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own way is to the 1990’s or seeks to be to the 1990’s what the Equal Pay Act was to the 1960’s. This body in 1963 passed the Equal Pay Act in order to close the wage gap between men and women, and the Equal Pay Act clearly has not been the final word for its limited mandate. Essentially, it was to look at people doing the same job and being paid differently for it. Some progress has been made, partly because of the Equal Pay Act, so that we have seen a 62 percent gap now to something like a 71 percent gap. That is the good news until we hear the bad news.

The bad news is that the closing of the gap itself reflects an alarming decrease in male wages as well as the new presence of highly educated women or highly skilled women in entry-level positions only. In other words, the average woman is just where she was. The average woman is experiencing what the average man is, stagnant or declining wages. But at entry levels, highly educated women like doctors and lawyers make the same as men, although those women have a gap that develops within their profession after the entry level.

I am this evening interested in the average woman, the silent worker out there every day. The Fair Pay Act is directed specifically to her and to part of what she is experiencing, a very good job about raising the minimum wage. Here is a subject covered with my mythology. If we are going to talk about women workers, we must talk about the minimum wage. Indeed, if we are going to talk seriously about welfare reform or the Nation’s wealth. Who are we talking about when we talk about a minimum wage worker? Some Americans would say, well, I think you are talking about a bunch of teenagers working at McDonald’s. But, the minimum wage worker is a white woman over 20 years of age, likely to live in the South, who has not had the opportunity to attend college and who works in a retail trade, agriculture, or service job. That is who the minimum wage worker is. She is your aunt and your young friend who has just graduated from high school.

Most minimum wage workers are women; 5.75 million women are paid between $4.25 and $5 per hour. That means 27 percent of all hourly paid female workers earn the minimum age and only the minimum wage. Most female minimum wage workers are not teenagers. They are adults. And when we say women are earning the minimum wage, we are talking about girls, most certainly the guardians of poor children. Often, most often, these minimum wage workers are women who are raising the poor children.

Now, Mr. Speaker, am I not here talking about the favorite subject of this body, deficit reduction. The minimum wage will add not 1 cent to the United States deficit. What it will do is take 300,000 children immediately out of poverty. 58 percent, almost 60 percent, of minimum wage workers are women. Nearly half of full-time jobs, and the statistics will show that many, if not most, of the others wished they could get full-time jobs, but of part-time minimum wage jobs 15 percent are black, 44 percent are Hispanic. What would we do, what would I have us do? Simply to raise the minimum wage to $5.15 per hour. Is there anybody in this body who would think that is too much for them to earn or too much for anyone they know to earn, too much for any constituent of theirs to earn? It would not have to come in one fell swoop. It could go to $4.70 an hour by July 5 this year and to $5.15 an hour by July 1, 1997.

Understand who we are talking about when we say they minimum wage worker. We are talking about the traditional way in which we have set a marker of what it means to be an American below which you shall not be forced to work. We are talking about a person who works typically 40 hours a week, 52 weeks a year, and earns $8,840. The impact of lifting the minimum wage would be that immediately 300,000 people, we are talking about at the national level, would receive a tax credit, thanks to legislation passed by this body, if we do not cut it terribly much, and there are proposals to cut it, but today that worker would receive a tax credit of $3,400 if you are a single wage earner; $5,100 if you are a family of four. That worker would receive a tax credit, thanks to legislation passed by this body.

That is the good news until we hear the bad news. That worker is so poor, that worker, single wage earner in a family of four, that she could collect food stamps worth $3,516. She would nevertheless still have $650 in payroll taxes after qualifying for benefits and paying her payroll taxes. This family ends up $834 below the poverty line.

This is America, my friends. We cannot continue to send people to work every day, working hard, working in work you do not want to do and I do not want to do, and have them come home below the poverty line. That is dangerous. You are hearing the rumblings of it out there in the Republican primary. Answer the call now.

In every State there will be large percentages that will benefit from an increase in the minimum wage. In my own city, a fairly small percentage, 7.8 percent, would benefit, and as I look at what would happen in some of the States, I am simply amazed. Idaho, almost 14 percent of the workers would benefit. In Louisiana, almost 20 percent of the workers would benefit. In Michigan, 10.5 percent; in Mississippi, 17 percent of the workers would benefit. In North Dakota, 18.2 percent of the workers would benefit.

I see my good friend and colleague from Georgia, Representative McKinney, here. In Georgia, 11.9 percent of the workers would benefit. Very substantial percentages all across the United States, regardless of sex, regardless of your preconceptions about the place, regardless of whether you think of it as a poor State or a rich State, that you have proportionally the population that would immediately benefit from a raise from the minimum wage, not 1 cent added to the deficit, a sharing of income of the kind
today has been typical in the United States that as companies become more prosperous there is a greater sharing of the profits with the workers. That is what has not been happening. That is why we are having a growing income gap.

The number of African-Americans who would benefit is important to note. Seventeen percent of all hourly paid African-American workers are minimum wage workers, and most of these low-wage workers are female. Twenty-one percent of all hourly paid Latino workers are minimum wage workers. And Latino women are especially likely to be paid very low wages; 25 percent of hourly paid Latino women earn at the minimum wage.

Now, I want to examine the critique of an increase in the minimum wage that is most often made, and that is that you reduce job opportunities. The answer is that that is not the case. I refer to nearly two dozen independent studies that have found that the last two increases in the minimum wage had an insignificant effect on employment. The Nobel Laureate economist Robert Solow recently told the New York Times that the evidence is weak, and I am quoting him: "The fact that the evidence is weak suggest that the impact on jobs is small." Prof. Richard Freeman of Harvard said the following: At the level of the minimum wage in the late 1980s, moderate legislative increases did not reduce employment and were, if anything, associated with higher employment in some locales. We remember the 1980s, do we not, when there was a plethora of minimum wage jobs breaking out all over in this country? Minimum wage seems not to do what the conventional wisdom tells us. Kind of look at the facts. We have got to look at the studies.

There is also the myth that the blow will be to small businesses. First of all, 90 percent of workers in small business already earn more than the current minimum wage. Do not think that people in small businesses are simply looking for the cheapest labor they can find. They are looking for the best labor they can find. They have got to be the people who give them the biggest bang for the buck. But in any case, the law does not apply to businesses that do not have annual sales in excess of $500,000. That pays many people in the present minimum wage. Indeed, half of minimum wage workers work in firms with more than 100 employees. That is cheating workers.

What this means is, we are giving a break to moderate and larger employers, because we are allowing them to hire people at minimum wage and keep more of the profit for themselves and they pass that on to us, ladies and gentlemen, because those people qualify for supplemental welfare, those people qualify for the supplemental benefits, food stamps and the rest. So go right ahead the way you are doing it, because what is means you are doing wrong is what is going to pay the present minimum wage is you are subsidizing that employer yourself. That is us, we, the taxpayers.

That is us, we, the taxpayers. Let them pay for the labor. Business is doing well. President Clinton has had an extraordinary effect on the stock market because of the way in which he has reduced the deficit. That is one of the factors that is yielding large gains in the stock market.

Where are those gains reflected in the pay envelope of the minimum wage worker? Why should the taxpayers subsidize the worker with food stamps or other supplements, rather than have the employer, who has profited from that worker pay? Let that employer pay.

This line is stark enough so that even without it being a big poster, I think I will make my point that a higher minimum wage does not cost jobs. This is the job level in 1991. This is the job level in 1996 since the last minimum wage increase. What we are seeing here is it has been an extraordinary rise in jobs.

By the way, many of these are part-time, temporary, low-wage jobs. Whatever happened to the notion that if you raise the minimum wage, you will not make jobs? This is what has not been proved. This is the myth that is helping to sustain the minimum wage.

This is the myth that means the taxpayers are supplementing people who should be paid for their labor by the companies, almost all of them larger companies, or certainly medium-sized companies, almost all of them larger companies, or certainly medium-sized companies, almost all of them larger companies, almost all of them larger companies, almost all of them larger companies, almost all of them larger companies, almost all of them larger companies.

Let me take a pause now, because I am very pleased to welcome the gentlewoman from Georgia, who always does her homework, and who has joined me in this special order.

I yield to the gentlewoman from Georgia, Representative CYNTHIA MCKINNEY.

Ms. MCKINNEY. Thank you very much. I certainly want to commend you for the role that you play in terms of being a role model for the newer leadership. I just want to say thank you for your leadership.

I have got some posters that I think punctuate what you have said. Here I have a chart that shows how from 1970 to 1995 the wages of men have decreased. The wages of women increased, and then began to decrease. The gap that was closing between men and women was basically because the wages of men were dropping.

Then, of course, as you have pointed out, the income gap. We have not seen the kind of income gap that we are experiencing now since the days just prior to the Great Depression. We see that the top 25 percent receive more than 95 percent of the income growth. The other 75 percent of Americans receive less than 5 percent of the income growth. Meanwhile, the top 5 percent of American families got more than 40 percent of America's growth.

Just as you so correctly pointed out about the impact that the President's policies have had on the deficit, the decrease in the deficit, and Wall Street, Wall Street sizzles, and Main Street fizzes.

I have another chart. Again, as you so correctly point out, the subsidies, the social safety net that we have painstakingly constructed or woven, is now in peril because there are some corporations that are getting rich not paying their workers what they are worth. What we have seen here just in terms of the corporate income tax is that corporate income taxes have gone down. Of course, corporate income taxes have had to take up the slack.

In the previous special order we had one of our colleagues discussing about the diet that he was on, trying to lose 50 pounds, and he was going to lose 2 pounds and then the other 48 pounds for the last 2 days of the diet.

Well, I think that is about the way the Republicans have run this ship of state, because they in their budget put off the hard decisions until the out years. But the Progressive Caucus has come up with a budget plan that does not put off the hard decisions into the off years. It goes right in by cutting defense spending and cutting corporate welfare. We demonstrate that you can have a downward trend, a steady downward decline in the deficit, if you make the hard choices, and you make them early.

So basically I would just say that when the economy is bad, nothing else is good. The work that you have put together with the legislation will improve the lives of working women all over this country.

I come from a family where my mother worked. She worked for 40 years, and she says, you know, she has been a nurse. I am a single female head of household, and I am a working woman. I suspect that if my son grows up and marries, as I suspect that he will, he will also marry a working woman. We just want to make sure that the leadership of this country is aware and sensitive of the needs of working women, and that is what your legislation provides for.

I would also say, as the only one in the delegation that day we were elected, we had written to come to our office for issues that ranged from access to credit, to child support enforcement, to sexual harassment, and
even something as simple as a role model who showed to them that, yes, it could be done.

So just as we plead with our colleagues to make sure that the plight of working women is not forgotten, we plead with ourselves, and I commend you for your legislation and the work that you do as a role model for the rest of us.

Ms. NORTON. I want to thank the gentlewoman from Georgia indicated that women were in fact beginning to improve, and that is true. But women have now been caught in the spiral that has dragged men’s wages down, and that is why we have really got to step up and take notice.

Until the 1970’s women came into the work force drawn there by rising real wages. In order words, they came into the work force because they could earn more money and they were drawn to the work force by virtue of the lure of greater income.

Since the 1970’s, there has been sluggish wage growth. Still they come. They come because they must. They even come though the wage gap for them, for the average one of them, is not closing.

Now it is very interesting, in the 1980’s we did see a rather precipitous narrowing of the wage gap. It is not altogether clear why, but we do know this, that 50 percent of the gap remains unexplained. We believe that possible explanations may be occupational segregation, jobs versus careers, what I mean by a career job is in fact or tells in fact the story of declining power, low paid, poor benefits of the 19th century.

That conversion is itself remarkable. The conversion I speak of is in the economy itself, which has prepared the way to accept women workers.

In the 1960’s three-quarters of all the nonfarm job creation was in services. That is a lot. But by the 1970’s, 80 percent of all the nonfarm job creation was in services. By the 1980’s, 100 percent of all the net job growth was in the services. Four out of every five women workers.

What do I mean by a service job? Because what I mean by a service job is in fact or tells in fact the story of declining and low wages.

Mrs. Speaker, the interesting thing is, women have become the indispensable new workers who are fodder for the new economy. The last time the country needed the kind of labor supply we have gotten from women in the last two decades were, No. 1, at the time of the great immigration from Europe in the late 19th and early 20th century and No. 2, at the time the black workers in the South left and came North. Today, instead of asking workers to come from Europe or Asia to the United States, and of course there are many millions who come, instead what we are saying is, look at your own household and send a worker out for the new economy. If you are going to send a worker out for the new economy from your own household, the new worker should not being paid what that new worker is worth.

Listen to your constituents now. Hear the cry. I say to my colleagues on the other side of the aisle, listen to your own primary. I never thought I would live to see a Republican sound like a labor Democrat, but I think that is what I heard Pat Buchanan sounding like. Now, that is not his tradition, and that is not the way he has run his political life, but I do think he heard something out there. We all better listen to it.

Whenever we have listened, we have found a remedy. This is not susceptible to yesterday’s ideology or even tomorrow’s. This is a new problem in the United States. When wages are low, the economy is bad. When wages are high, the economy is good. What is this new phenomenon? The economy is good and wages are low. Should not work that way?

Mr. Speaker, one of the things we can do, if it is working that way, is to look at the minimum wage, which has simply lost its value, and say pay people a little more to work. If you do not, you bring down the work force. Of course, my friends get up on the House floor and say why do they not work? If it does not pay to work, how can we expect people to work? This is America at the turn of the century. This is a country that must not send people to work only to have them come home poor. That is what is happening.
Economists tell us that there are a number of explanations for the low wages of women in particular. Typically, we are told that a reason for these low wages is crowding or concentration in traditional women's occupations. There may be some merit to this, but recent studies look to other answers. There was crowding in men's occupations. They had low skills, and yet in manufacturing, they had high wages. Why? My friends, the economists say it was because they were unionized. When the company would not share the profits, men went out and unionized. Women have not done that, and that may be part of the reason the economists tell us that they have not been able to extract a fair share of the profit of their labor from their employers.

We are also told that a reason is low capital investment in the industries in which women work. Even though we may not find the real answer any time soon, we can look for a real answer very soon. We cannot allow the United States to become a place where you develop a permanent working class or, God forbid, what appear to be the case in many of the inner cities, a permanent underclass of white people, who never move up. Those would be the homeless, the people who are chronically or constantly unemployed. A greater and greater proportion of our population falls into this category. This has never been that kind of European-class society. It has been a society where, however poor you were, you could look forward to being better off than your father. You may have been poor, but not as poor as he was. So there was steady progress, and a man could live to see his son or daughter go to college. Today, people go to college on college loans and come back home to live because they cannot afford to strike out on their own, the way their parents did.

Mr. Speaker, this is a new America. This is not our America. We do not have all the answers to this America, but we do know this. Surely one of the answers, not maybe, but one of the answers surely is to give back at least some of the value to the minimum wage. It will have an effect, not only on those low-income workers, but it will have something of a ripple effect on the economy as a whole. You will know that these women are going to respond not in a radical way to say we hear you and we believe that many of you who are saying you want to work and do work; who is a responsible mother and a tax-paying citizen, pushed up against an impossible wall to

Mr. Speaker, I have come to the floor this evening to talk about women's wages in particular, and that is not because I think the problem of men's wages is any better. In fact, it is worse. Men have fallen out of the labor force at an astounding rate because of the decline in the manufacturing sector. Men have experienced an extraordinary reduction in their annual wages over the last quarter of a century. Among other things, any welfare reform bill we pass will come back to hit us in the face because the people on welfare will come back to claim other benefits because they will not be able to earn enough to pay the rent and to put food on the table. So I come forward this evening to talk about women's wages in particular because I do not intend for women to be lost in this debate. Because if you do not speak up for women, they surely will be lost in this debate. The Woman's Health Equity Act we are debating in the health debate before we spoke up, as we did today when we introduced the Women's Health Equity Act. Before we spoke up about breast cancer and osteoporosis and, for that matter, clinical trials for women with heart disease, before we spoke up, they got lost in the health debate. We do not intend them to be lost now that the country has heard some voices that say we work every day and it is getting worse. People who are working every day to say I hear you and I believe that many on both sides of this body hear them. They heard it on the other side in their primary. We hear it on this side, as well. Doing something about it through the minimum wage as a first step, is a good-faith way to say we hear you. We are going to respond not in a radical departure from what we have always done, but in the tradition that we have always used, in an increase in the minimum wage that will give you a small raise that is descriptive of many other people in my district and throughout the United States.

Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, because she only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 hours and the year, her total income is $8,000 a year. After taxes her take home pay is $7,710.

She shares an apartment with her sister; Betty's share of the rent is $250 a month or $3,000 a year. Of course she needs child care. Although she is on several lists for the few subsidized child care slots in the area, there are needier cases than hers—women who have even less income. So she pays something nominal, $100 a month, $1,200 a year to members of families who are able to pay. Her share of the utilities, telephone, and garbage comes to $55 or $60 a month. Her job is 5 miles from home and she uses public transport. She can't afford the monthly pass, so she pays $1.25 per trip which adds up to $625 a year. Her food comes to $900 a year; supplementary medical care $299 a year; incidentals, $600 a year. Total: $7,710 a year. This income is augmented by the Earned Income Tax Credit which is under attack.

We are citizens of the United States and are indeed blessed and fortunate to be in a land of agricultural wealth, with human and other resources of which we are justifiably proud. Although we suffer natural calamities—floors, droughts, and earthquakes—we are large enough so that by pooling our national resources we have been able to absorb such shocks better than most nations. We have indeed been blessed to not be in permanent drought as is an increasing band of land in the sub-Saharan region or in the frozen tundra of Russia. We are a wealthy nation.

When we address the economic condition of women, the jobs that they do and have, and the wages that they receive in relation to the general pool of wage earners. Some of us have been deeply concerned by the deteriorating economic status of the vast majority of workers, citizens, in this country. Although this fall from economic grace began about 16 years ago, the cumulative effects of this steady drop are now beginning to be painfully felt by the majority of job holders.

The experience and story of one of my constituents, whom I shall call Ms. Mason, is descriptive of many other people in my district and throughout the United States. Ms. Mason has one pre-school child. She works in a produce market and tries to work at least 40 hours a week, 50 weeks a year, because she only get about 32 hours of work a week. She gets more than the minimum wage, $5 an hour. Her wage is a bit higher because the San Francisco bay area is one of the most expensive places to live in the United States. When she is lucky and works a steady 50 hours and the year, her total income is $8,000 a year. After taxes her take home pay is $7,710.

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What does the 104th Congress say to her? This is what we can say: American workers need a raise. American workers, who are among the world’s most efficient and productive, need to have some sense that they can learn, work, and make a living wage. This Nation needs its workers, and the economy needs their work and needs their buying power.

In this Congress, I am proud to be a co-sponsor of three bills raising the minimum wage. Mr. SANDERS’ H. R. 363 which raises the minimum wage to $5.50, and Mr. SABO’s H.R. 619, which raises the minimum wage to $6.50 an hour. It is clear from the rosie picture of our economy that the growth is on the increasing the bellowed back of our increasing pool of low-paid workers—a disproportionate share of whom are women.

Franklin D. Roosevelt understood the experience, the lives, the misery of the people struggling to find work and income in the 1930’s. As Roosevelt led this country to victory by successfully calling on our sense of national pride, by calling on our sense of fairness and democracy, our sense of justice, he was proud to declare in 1944, and much of the Nation shared with him declare, his Economic Bill of Rights.

Section 2 of this declaration states the U.S. policy of “The right to earn enough to provide for a living.” Space limits prevent me from quoting the other sections which gave Americans in 1944 and later, such a sense of empowerment and self-respect, empowerment and self-respect that we are now losing, and with it our sense of pride in ourselves and each other.

Twenty three years after the 104th Congress can say and have said that we can make a living wage and that there can be jobs at decent wages for all who want to work and can work. This statement is embodied in H. R. 1050, A Living Wage, Jobs for All Act, which I was proud to introduce with 22 cosponsors; among them ELEANOR HOLMES NORTON.

It will represent a new contract with our people—one that answers Geraldine Mason and Susan Casavant as to how they can have pride in their work and equitably in the benefits of our wealthy Nation.

During the 104th Congress many of the ideas can be developed, improved upon, sharpened, critiqued, and openly discussed around the country in public meetings, and by the end of the year brought together into a whole legislative package to be reflected in a new budget for the 105th Congress.

I respectfully urge my distinguished and hard-working colleagues to join me in developing a process which will give our citizens new opportunities for economic security and which will hold out hope for women that they can be made full partners in this economic security.

Ms. JACKSON LEE of Texas. Mr. Speaker, I would like to thank my colleagues in the Women’s Caucus for calling attention to the issue of women fair and the difficult work they have done to celebrate this year’s Women’s History Month celebration. I am delighted to participate in this discussion of women, wages, and jobs, because it is an issue that has become increasingly important to us all, as women, and now an integral part of the American work force.

First of all, let me commend the millions of women who juggle the dual role of homemaker and breadwinner, as well as those who choose homemaking as a career—for in our society every woman has a crucial role to play.

From the beginning of time, women have performed tasks which were crucial to the economic and social development of our society.

At one time, we were only allowed to become cooks, nurses, seamstresses, and hairdressers, yet today we have expanded our roles to include doctors, lawyers, judges, administrators, and yes we have conquered the sciences as well. And so I say to the women of America, “you’ve come a long way.”

Yes, we have come a long way and I serving in the 104th Congress bear witness to that fact, yet we have so much farther to go.

On Friday March 8th, women across the globe celebrated International Women’s Day. A day which was set aside to mark the beginning of the struggle for equality and rights for women in every country. It was a day marked with celebration and protest. Celebration for the many economic, social, and political obstacles we have successfully overcome, and protest for the ongoing inequalities and barriers that continue to deny us full participation in society.

In America, Women’s Day went literally without notice. Did we fail to recognize this day because we have conquered all the obstacles or is it because we have fallen down on the job?

Mr. Speaker, I submit to you that in spite of the strides that have been made, until we eradicate pay inequalities, the glass ceiling, sexual discrimination and the myriad of other problems facing working women, our battle is far from over.

A recent report from the U.S. Department of Labor’s Glass Ceiling Commission shows that women represent over half of the adult population and nearly half of the work force in America. Women comprise half of the work force, yet we remain disproportionately, clustered in traditional blue collar “scale” jobs with lower pay and fewer benefits. These studies show that women who make the same career choices as men and work the same hours as men often still advance more slowly and earn less.

Women remain underrepresented in most nontraditional professional occupations as well as in college and law schools. College graduates

Women make up 23 percent of lawyers but only 11 percent of partners in law firms, women are 48 percent of all journalists, but only 6 percent of the top jobs in journalism, women physicians earned 53.9 percent of the wages of male physicians, women are only 8.6 percent of all engineers, women are 4.8 percent of airline pilots; and in dentistry, women are over 93.9 percent of hygienists, but only 10.5 percent of dentists.

The report found that although the pay gap for women narrowed significantly in fields such as computer analysts, it widened in others. They show that in 1993 women earned only 72 percent of the wages paid to men. The wage gap is worse for women of color. White women earn 72 cents per every dollar made by white men while African-American women earn 64 cents and Latino women earn a mere 54 cents.

Mr. Speaker, working women in this country have been fighting for equal pay for equal work for over 20 years now, and although the gap is closing, it is not happening at the rate any of us should be pleased with. When this
government exposes civil or human rights violations in other countries, we are quick to impose sanctions to encourage people to remendy their behavior, yet when companies within our own borders continue to violate these same rights, we turn our heads, and say, “those are not our problems.” Well, how long will it take before working mothers can actually support their children, without the extra assistance from family, or government.

In closing, I would thank to Rep. Norton for allowing me the opportunity to speak on this issue.

**GENERAL LEAVE**

Ms. Norton. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous material on the subject of my special order.

The SPEAKER pro tempore (Mr. Collin of Georgia). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

**REPUBLICAN PRIMARIES**

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

Mr. Hunter. Mr. Speaker, I rise this evening to talk about a couple of Republican Presidential candidates who are not winning the polls and have not just won in California and other States. Of course, the gentleman who has done that is Bob Dole. But I wanted to talk a little bit tonight about two friends, because I think that they have a great deal to offer the Republican Party and to the Nation, and I think it would be very unwise for our party and for the leadership that will be emerging from the convention in my hometown in San Diego to ignore either these candidates or the many millions of people whom they represent.

Mr. Speaker, those two candidates are my great friend and near-seat mate from California [Mr. Dornan], who sits on the Armed Services Committee with me, and whom I have endorsed for President, and another good friend, Pat Buchanan who has made a very spirited run at the Presidential nomination and not quite made it, but, nonetheless, has, I think, touched a nerve with many, many Americans and attracted many Americans to his agenda.

Let me start off by saying, Mr. Speaker, that I listened to my father in those days, when Pat was denounced as someone who would get us into nuclear war, and was unfit to serve in the White House, and was supposed to be a very dangerous person. After he concluded an excellent career in the Senate, he was then regarded by the same pundits and liberal media people as a, quote, conservative statesman, but in those days he was bashed and ended his career.

And I noticed that Pat Buchanan has taken a lot of bashing, and I think very unfairly, because I look at his positions with respect to free trade. He opposes President Clinton, so there is something wrong with that position from the liberal media standpoint. He supports the right to life of unborn children, a traditional Republican opinion and position, and of course that is opposed by the liberal media. He supports a strong military, and of course that is opposed by the liberal media which watched with dismay as President Reagan’s strong military posture dismantled the Soviet Union and ended the Cold War.

Mr. Speaker, on a personal note Pat and Shelly are wonderful people. They are fine people, they care about the Nation, they have great compassion for their fellow Americans. And to see the media come out and imply that Pat Buchanan was anti-Semitic, and when you ask why they thought that, they said, well, it is the way they pronounce terms like Goldman Sachs. I thought, my gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican position of fair trade, not free trade. Remember that, when John Kennedy offered his gosh, we live in an age where the media can denounce somebody and call them names because of the way they pronounce a word. I have not seen McCarthyism, but I guess that is probably as close as we will come in these times.

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So, Pat Buchanan has a great deal to offer the Republican Party. He really has the traditional Republican position of fair trade, not free trade. Remember that, when John Kennedy offered his...
Mr. Hunter, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Canady of Florida) and to include extraneous matter:)

Mr. Burton of Indiana.
Mr. Shuster.
Mr. Lewis of California in two instances.

(The following Members (at the request of Mr. Farr of California) and to include extraneous matter:)

Mrs. Meek of Florida.
Mr. Underwood.
Mr. Hamilton in three instances.
Mr. Wise.
Mr. Hinchey.
Mr. Posharrow.
Mr. Sabo.
Mrs. Schroeder.
Mr. Franks of New Mexico.
Mr. Bryant of Texas.
Mr. Hall of Texas.

(The following Members (at the request of Mr. Hayworth) and to include extraneous matter:)

Mr. Roberts.
Mr. Horn.
Mr. Baker of California.
Mr. Franks of New Jersey.
Mr. Solomon.
Mr. Walsh.
Mr. Fox of Pennsylvania.
Mr. Martinu.
Mr. Mckeen.

(The following Members (at the request of Mr. Hunter) and to include extraneous matter:)

Mr. Ramstad.
Mr. Hastings of Washington.
Mr. Gillmor.
Ms. Velázquez.
Ms. Danner.
Mr. Kolbe.
Mrs. Morella.
Mr. Hall of Texas.
Mr. Barcia.
Ms. Slaughter.
Mr. Hostetler.

ADJOURNMENT

Mr. Hunter. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, March 28, 1996, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2301. A letter from the Under Secretary for Acquisition and Technology, Department of Defense, transmitting a report on laboratories designated as eligible to participate in the Department's Laboratory Revitalization Demonstration Program, pursuant to Public Law 104-106, section 2892(d) (110 State, 590), to the Committee on National Security.

2302. A letter from the Secretary of Labor, transmitting a report entitled "Core Data Elements and Common Definitions for Employment and Training Programs," pursuant to Public Law 102-367, section 404(a) (106 Stat. 1038), to the Committee on Economic and Educational Opportunities.

2303. A letter from the Secretary of Energy, transmitting the Department's annual report for the strategic petroleum reserve, covering calendar year 1995, pursuant to 42 U.S.C. 6240(a), to the Committee on Commerce.

2304. A letter from the Assistant Legal Adviser for Treaties, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b, to the Committee on International Relations.

2305. A letter from the Administrator, U.S. Small Business Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 2512(c)(3), to the Committee on Government Reform and Oversight.

2306. A letter from the Secretary, Naval Sea Cadet Corps, transmitting the annual audit report of the Corps for the year ended December 31, 1995, pursuant to 36 U.S.C. 1101(39) and 1103, to the Committee on the Judiciary.

2307. A letter from the Secretary of Transportation, transmitting a study on innovative financing available under the Airport Improvement Program, pursuant to 49 U.S.C. 47101 note, to the Committee on Transportation and Infrastructure.

2308. A letter from the Deputy Administrator, General Services Administration, transmitting a building project survey report for Research Triangle Park, NC, pursuant to 40 U.S.C. 610(b), to the Committee on Transportation and Infrastructure.

2309. A letter from the Chairman, Pension Benefit Guaranty Corporation, transmitting the 21st annual report of the Corporation, which includes the Corporation's financial statements as of September 30, 1995, pursuant to 29 U.S.C. 1308; jointly, to the Committee on Economic and Educational Opportunities and Ways and Means.

2310. A letter from the Secretary of Transportation, transmitting notification of the actions the Secretary has taken regarding security measures at Hellenikon International Airport, Athens, Greece, pursuant to 49 U.S.C. 47907(d)(3); jointly, to the Committees on Transportation and Infrastructure and International Relations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. Shuster: Committee on Transportation and Infrastructure. H.R. 842. A bill to provide off-budget funding for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; with an amendment (Rept. 104-499 Pt. 1). Ordered to be printed.

Mr. Solomon: Committee on Rules. House Resolution 391. Resolution providing for consideration of the bill (H.R. 3136) to provide for enactment of the Senior Citizens' Health Insurance Protection Act, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104-500). Referred to the House Calendar.

Mr. Goss: Committee on Rules. House Resolution 392. Resolution providing for the consideration of the bill (H.R. 3136) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance and to establish the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit (Rept. 104-500). Referred to the House Calendar.

Mr. Solomon: Committee on Rules. House Resolution 393. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2854) to modify the operation of certain agricultural programs (Rept. 104-502). Referred to the House Calendar.

Mr. Linder: Committee on Rules. House Resolution 394. Resolution waiving points of order against the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104-503). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 842. Referall to the Committee on the Budget extended for a period ending not later than March 29, 1996.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and subsequently referred as follows:

By Mr. Martinu (for himself, Mr. McCollum, Mr. Hyde, and Mr. Schumacher):

H.R. 3166. A bill to amend title 18, United States Code, with respect to the crime of false statement in a Government matter; to the Committee on the Judiciary.

By Mr. Baker of Louisiana (for himself, Mr. Kanjorski, Mr. McCollum, Mr. Bachus, Mr. King, Mr. Hayworth, Mr. Chrysler, Mr. Creameans, Mr. Fox, Mr. Metcalf, Mr. Weller, Mr. Lafalce, Mr. Ortio, and Mr. Bentens):

H.R. 3167. A bill to reform the Federal Home Loan Bank System, and for other purposes; to the Committee on Banking and Financial Services.

By Ms. Delauro (for herself, Mr. Gephardt, Mr. Bonior, and Mr. Fazio of California):

H.R. 3168. A bill to facilitate efficient investments and financing of infrastructure projects and new job creation through the establishment of a National Infrastructure Development Corporation, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Banking and Financial Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 3169. A bill to amend the Job Corps program under the Job Training Partnership...
Act to ensure a drug-free, safe, and cost-effective job corps, and for other purposes; to the Committee on Economic and Educational Opportunities.

By Mr. LANTOS of California, Mr. MURPHY, Ms. VELAZQUEZ, Mr. TORRINGTON, Mr. WISE, Mr. ANESTY, Mr. HUNTSOM, Ms. DELAURO, Mr. EURICE, Mr. BROWN of California, Mr. MOSS, Mrs. COMINSKI, Mr. BALDACCI, Mrs. SCOTT, Ms. DE MELLO, Mr. BROWN of Florida, Mrs. CUNNINGHAM, Mr. WELDON, Mrs. RUSSELL, Mr. JACOBS, Mr. SANDERS, Mr. FOX, Mr. BAUMANN, Ms. GIBSON, Mr. JARVIS, Mr. SNYDER, Mrs. MILLER of Kentucky, Mr. CONEY, Mr. RUSSELL, and Mr. BURKE:

H.R. 3177. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

H.R. 3178. A bill to promote greater equity in the delivery of health care services to American women through expanded research on women's health issues and through improved access to health care services, including preventive health services, to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ENGEL, for himself, Mr. MOLINARI, Mr. LANTOS, Mr. PORTER, Mr. TORRINGTON, Mr. MORAN, Ms. KELLY, Mr. BONORI, Mr. MILLER of California, and Mr. ROHRBACHER:

H. Con. Res. 155. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on International Relations.

H. Con. Res. 156. Concurrent resolution expressing the sense of the Congress regarding research on the human papillomavirus and its relation to cervical cancer; to the Committee on Commerce.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Senate of the State of Kansas, relative to amending the Federal Food, Drug and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. SENSENBRENNER (for himself and Mrs. ORRIN H. HATCH)

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. SEVENAHD and Mr. ROBERTS:

H.R. 3175. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. SULLIVAN:

H.R. 3179. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. SLAUGHTER (for herself, Mrs. MORELLA, Ms. LOWEY, Ms. BERNICE JOHNSON of Texas, Ms. EDDIE, Mr. JOHNSTON of Florida, Mrs. CLAYTON, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. DE LAURO, Mr. ESHOO, Ms. FURSE, Ms. HARMAN, Ms. JOHNSON of Connecticut, Mrs. KELLY, Mrs. KENNELLY, Ms. LOFGREN, Ms. MCKINNEY, Mrs. MALONEY, Mrs. MEEK of Florida, Mrs. MEEKS of Kansas, Mrs. MINK of Hawaii, Ms. NORTON, Ms. PELOSI, Ms. RIVERS, Mrs. ROUKEMA, Mrs. ROYBAL-ALLARD, Mr. SCHROEDER, Mrs. THURMAN, Ms. VELAZQUEZ, Ms. WATERS, and Ms. WOOLSEY):

H.R. 3178. A bill to modify various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELAZQUEZ:

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. GEJDENSON:

H.R. 3175. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAFFER and Mr. ROBERTS:

H.R. 3179. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. SULLIVAN:

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. SULLIVAN:

H.R. 3179. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Ms. DELAURO:

H.R. 3177. A bill to permit various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELAZQUEZ:

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. GEJDENSON:

H.R. 3175. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. SHAFFER and Mr. ROBERTS:

H.R. 3179. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Mr. SULLIVAN:

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. SULLIVAN:

H.R. 3179. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.

By Ms. DELAURO:

H.R. 3177. A bill to permit various Federal health programs to make available certain services to women who are members of racial or ethnic minority groups, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, the Judiciary, Agriculture, International Relations, Veterans' Affairs, Economic and Educational Opportunities, National Security, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. VELAZQUEZ:

H.R. 3176. A bill to amend the Public Health Service Act to provide for programs to facilitate the development and approval of new drugs and biologics; to the Committee on Commerce.

By Mr. GEJDENSON:

H.R. 3175. A bill to repeal the consent of the Speaker that all bills may be considered as having been referred to the Committee on the Judiciary, and for other purposes; to the Committee on the Judiciary.
H. Res. 374: Mr. CAMP, Mr. FRELINGHUYSEN, Mr. COBLE, Mr. HUNTER, Mr. PORTER, Mr. MARTINI, Mrs. CUBIN, Mr. NETHERCUTT, Mr. CALVERT, Mr. EHRLICH, Mr. HANCOCK, Ms. NCNULTY, Mr. SMITH, Mr. GORE, Mr. GREEN of Pennsylvania, Mr. WELDON of Pennsylvania, Mr. TRAFICANT, and Mr. YATES.

H. Res. 378: Mrs. MEYERS of Kansas, Mr. ENGLISH of Pennsylvania, Mr. BATeman, Mr. WOLF, Ms. NORTON, Mr. DELLUMS, Mr. CALVERT, Mr. BERNMAN, and Ms. PELosi.

PETITIONS, ETC.

Under clause 1 of rule xxii, petitions and papers were laid on the Clerk’s desk and referred as follows:

69. The SPEAKER presented a petition of the Transportation Policy Board of the Abilene Metropolitan Planning Organization, Abilene, TX, relative to the issues of appropriate taxation and adequate provision of transportation infrastructure, which was referred jointly, to the Committees on Transportation and Infrastructure and the Budget.

AMENDMENTS

Under clause 6 of rule xxiii, proposed amendments were submitted as follows:

H.R. 3013
OFFERED BY: Mr. DINGELL
AMENDMENT No. 2: Strike all after the enacting clause and insert the following:

SECTION 1 SHORT TITLE
This Act may be cited as the ‘‘Health Insurance Reform Act of 1996’’.

TITLE I—HEALTH CARE ACCESS, PORTABILITY, AND RENEWABILITY
TABLE OF CONTENTS OF TITLE
Sec. 100. Definitions.
Sec. 101. Guaranteed availability of health coverage.
Sec. 102. Guaranteed renewability of health coverage.
Sec. 103. Portability of health coverage and limitation on preexisting condition exclusions.
Sec. 104. Special enrollment periods.
Sec. 105. Disclosure of information.

SUBTITLE B—INDIVIDUAL MARKET RULES
Sec. 110. Individual health plan portability.
Sec. 111. Guaranteed renewability of individual health coverage.

Sec. 112. State flexibility in individual market reforms.

Sec. 113. Definition.

SUBTITLE C—COBRA CLARIFICATIONS
Sec. 121. Cobra clarification.

SUBTITLE D—PRIVATE HEALTH PLAN PURCHASING COOPERATIVES
Sec. 131. Private health plan purchasing cooperatives.

SUBTITLE E—APPLICATION AND ENFORCEMENT OF STANDARDS
Sec. 141. Applicability.
Sec. 142. Enforcement of standards.

CONGRESSIONAL RECORD—HOUSE H2951
March 27, 1996
(2) HEALTH PROMOTION AND DISEASE PREVENTION.—Nothing in this subsection shall pre-
vent an employee health benefit plan or a health plan issuer from issuing pre-
mium requirement, modifying otherwise applicable copayments or deductibles in return for adherence to programs of health pro-
motion and disease prevention.

(3) APPROPRIATE CAPACITY LIMITS.—

(I) IN GENERAL.—Subject to paragraph (2), a health plan issuer offering a group health plan may cease offering coverage to group purchasers under the plan if—

(A) the health plan issuer ceases to offer coverage to any additional group purchasers; and

(B) the health plan issuer can demonstrate to the applicable certifying authority (as de-
defined in section 142(d)), if required, that its financial or provider capacity to serve previ-
ously covered participants and bene-
ficiaries (and additional participants and benefici-
aries who will be expected to enroll be-
cause of their affiliation with a group pur-
chaser or such previously covered partici-
pants or beneficiaries) will be impaired if the health plan issuer is required to offer cov-
erage to additional group purchasers.

Such health plan issuer shall be prohibited from offering coverage after a cessation in offering coverage under this paragraph for a 6-month period or until the health plan is-
surer determines that it has ade-
quately capacity, whichever is later.

(2) FIRST-COME-FIRST-SERVED.—A health plan issuer offering a group health plan is only eligible to exercise the limitations pro-
duced in paragraph (1) if the health plan issuer offers coverage to group purchasers under such plan on a first-come-first-served basis or other basis established by a State to ensure a fair opportunity to enroll in the plan and avoid selection.

(e) CONSTRUCTION.—

(1) MARKETING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to prevent a State from requiring health plan issuers offering group health plans to ac-
tively market such plans.

(2) INVOLUNTARY OFFERING OF GROUP HEALTH PLANS.—Nothing in this section shall be construed to require a health plan issuer to involuntarily offer group health plans in a partic-
ular market. For the purposes of this paragraph, the market shall be determined by the large employer market or the small em-
ployer market (as defined under applicable State law, or if not so defined, an employer with not more than 50 employees).

SEC. 103. PORTABILITY OF HEALTH COVERAGE AND LIMITATION ON PREEXISTING CONDITION EXCLUSIONS.

(a) IN GENERAL.—An employee health bene-
fit plan or a health plan issuer offering a group health plan may impose a limitation or exclusion of benefits relating to treat-
manship of a preexisting condition based on the fact that the condition existed prior to the coverage of the participant or beneficiary under the plan only if—

(1) the limitation or exclusion extends for a period of not more than 12 months after the date of enrollment in the plan; and

(2) the limitation or exclusion does not apply to an individual who, within 30 days of the date of birth or placement for adoption (as determined under section 609(c)(3)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1102(3)), was covered under the plan; and

(3) the limitation or exclusion does not apply to a pregnant of the date of enrollment in the plan.

(b) CREDITING OF PREVIOUS QUALIFYING COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (4), an employee health benefit plan or a health plan issuer offering a group health plan shall provide that if a participant or beneficiary is in a period of previous qualifying coverage as of the date of enrollment under such plan, any period of exclusion or limitation of cov-

erage with respect to a preexisting condition shall be reduced by 1 month for each month in which the participant or beneficiary was in a period of previous qualifying coverage. With respect to an individual described in subsection (a)(2) who maintains continuous coverage, there shall be no limitation of benefits relating to treatment of a preexisting condition may be applied to a child within
the child's first 12 months of life or within 12 months after the placement of a child for adoption.

(2) DISCHARGE OF DUTY.—An employee health benefit plan shall provide documentation of coverage to participants and beneficiaries who coverage is terminated under the plan. Pursuant to regulations promulgated by the Secretary of Labor, the employee health benefit plan shall provide documentation to a participant or beneficiary that includes the following information:

(A) the dates on which the participant or beneficiary was covered under the plan; and
(B) the benefits and cost-sharing arrangement available to the participant or beneficiary under such plan.

An employee health benefit plan shall retain the documentation provided to a participant or beneficiary under subparagraphs (A) and (B) for at least the 12-month period following the date on which the participant or beneficiary ceases to be covered under the plan. Upon request, an employee health benefit plan shall provide a copy of such documentation or such participant or beneficiary within the 12-month period following the date of such ineligibility.

(3) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with fewer than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(B) the provisions of such group health plan relating to preexisting conditions; and
(D) the provisions of such group health plan relating to any preexisting condition provision; and

(D) the provisions of group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information submitted to the Secretary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

3. AFFILIATION PERIODS.—With respect to preexisting conditions, such plan may impose an affiliation period if such individual, participant, or beneficiary enrolling in an employee health benefit plan; or

(a) by inserting `102(a)(1),` and inserting `102(a)(1) that is not a material reduction in covered services or benefits provided,` and inserting `and modifying the following new sentences: `{If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, the description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.`,

(b) PLAN DESCRIPTION AND SUMMARY.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (8)—

(A) by striking `102(a)(1),` and inserting `102(a)(1) that is not a material reduction in covered services or benefits provided,` and inserting `and modifying the following new sentences: `{If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, the description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.`,

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting `102(b)(1),` and inserting `102(b)(1) that is not a material reduction in covered services or benefits provided,` and inserting `and modifying the following new sentences: `{If there is a modification or change described in section 102(b)(1) that is a material reduction in covered services or benefits provided, the description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.`,

(3) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with fewer than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(B) the provisions of such group health plan relating to preexisting conditions; and
(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information submitted to the Secretary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

3. CONSTRUCTION.—Nothing in this section shall be construed to preclude State reporting and disclosure requirements to the extent that such requirements are not pre-empted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).

(b) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—(1) IN GENERAL.—Section 104(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)(1)) is amended in the matter following subparagraph (8)—

(A) by striking `102(a)(1),` and inserting `102(a)(1) that is not a material reduction in covered services or benefits provided,` and inserting `and modifying the following new sentences: `{If there is a modification or change described in section 102(a)(1) that is a material reduction in covered services or benefits provided, the description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.`,

(2) PLAN DESCRIPTION AND SUMMARY.—Section 102(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(b)) is amended—

(A) by inserting `102(b)(1),` and inserting `102(b)(1) that is not a material reduction in covered services or benefits provided,` and inserting `and modifying the following new sentences: `{If there is a modification or change described in section 102(b)(1) that is a material reduction in covered services or benefits provided, the description of such modification or change shall be furnished to participants not later than 60 days after the date of the adoption of the modification or change. In the alternative, the plan sponsors may provide such description at regular intervals of not more than 90 days. The Secretary shall issue regulations within 180 days after the date of enactment of the Health Insurance Reform Act of 1996, providing alternative mechanisms to delivery by mail through which employee health benefit plans may notify participants of material reductions in covered services or benefits.`,

(3) DISCLOSURE OF INFORMATION TO PARTICIPANTS AND BENEFICIARIES.—(1) IN GENERAL.—In connection with the offering of any group health plan to a small employer (as defined under applicable State law, or if not so defined, an employer with fewer than 50 employees), a health plan issuer shall make a reasonable disclosure to such employer, as part of its solicitation and sales materials, of—

(B) the provisions of such group health plan relating to preexisting conditions; and
(C) the provisions of such group health plan relating to any preexisting condition provision; and

(D) descriptive information about the benefits and premiums available under all group health plans for which the employer is qualified.

Information shall be provided to small employers under this paragraph in a manner determined to be understandable by the average small employer, and shall be sufficiently accurate and comprehensive to reasonably inform small employers, participants and beneficiaries of their rights and obligations under the group health plan.

(2) EXCEPTION.—With respect to the requirement of paragraph (1), any information submitted to the Secretary and trade secret information under applicable law shall not be subject to the disclosure requirements of such paragraph.

3. CONSTRUCTION.—Nothing in this section shall be construed to preclude State reporting and disclosure requirements to the extent that such requirements are not pre-empted under section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144).
may seek assistance or information regarding their rights under this Act and title I of the Health Insurance Reform Act of 1996 with respect to health benefits that are not offered as part of a health plan. after “benefits under the plan”.

**Subtitle B—Individual Market Rules**

**SEC. 110. INDIVIDUAL HEALTH PLAN PORTABILITY.**

(a) **LIMITATION ON REQUIREMENTS.**—

(1) **IN GENERAL.**—Except as provided in subsections (b) and (c), a health plan issuer described in paragraph (2) may not, with respect to an applicable individual (as defined in subsection (b)) desiring to enroll in an individual health plan—

(A) deny or limit coverage to such individual, or deny enrollment to such individual based on the health status of the individual; or

(B) impose a limitation or exclusion of benefits otherwise covered under the plan for the individual based on a preexisting condition unless such limitation or exclusion could have been imposed if the individual remained covered under a group health plan or employee health benefit plan (including providing credit for previous coverage in the manner described in subtitle A).

(2) **HEALTH PROMOTION AND DISEASE PREVENTION.**—Nothing in this subsection shall be construed to prevent a health plan issuer offering group health plans from establishing premium discounts or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) **HEALTH PLAN ISSUER.**—A health plan issuer described in this paragraph in a health plan to individuals or renews individual health plans.

(b) **PREMIUMS.**—Nothing in this subsection shall be construed to affect the determination of a health plan issuer as to the amount shall be construed to affect the determination of a health plan issuer as to the amount.

(c) **EXCEPTIONS.**—Nothing in this subsection shall be construed to prevent a health plan issuer offering group health plans to group purchasers offering group health plans to group purchasers under this title from excluding coverage of preexisting conditions.

**SEC. 111. GUARANTEED RENEWABILITY OF INDIVIDUAL HEALTH COVERAGE.**

(a) **IN GENERAL.**—Except as provided in subsection (b), the provisions of sections 110 and 111 of this title shall apply to each individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

(b) **APPLICATION TO INDIVIDUAL PLANS.**—Nothing in this subsection shall be construed to affect the determination of a health plan issuer offering an individual health plan that a health plan issuer may not provide for the issuance of any individual health plan in the State involved during the 5-year period beginning on the date of the discontinuation of the last plan not so renewed.

**Subsection C—Market Reentry.**

**SEC. 112. MARKET REFORMS.**

(a) **IN GENERAL.**—With respect to any State law or program that provides coverage for preexisting conditions except as defined in section 103(e) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(b) **DETERMINATION.**—

(1) **IN GENERAL.**—In making a determination under subsection (a), the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(c) **APPLICATION TO INDIVIDUAL PLANS.**—Nothing in this subsection shall be construed to prevent a health plan issuer from discontinuing an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan and in offering such plan to individuals in part, through arrangements with providers.

**SEC. 113. STATE FLEXIBILITY IN INDIVIDUAL MARKET REFORMS.**

(a) **IN GENERAL.**—With respect to any State law or program that provides coverage for preexisting conditions except as defined in section 103(e) that were covered under the individuals' previous group health plan or employee health benefit plan for individuals described in sections 110 and 111.

(b) **DETERMINATION.**—

(1) **IN GENERAL.**—In making a determination under subsection (a), the Secretary of Health and Human Services determines, after considering the criteria described in subsection (b)(1), in consultation with the Governor and Insurance Commissioner or chief insurance regulatory official of the State, that such State law does not achieve the goals of providing access to affordable health care coverage for those individuals described in sections 110 and 111.

(c) **APPLICATION TO INDIVIDUAL PLANS.**—Nothing in this subsection shall be construed to prevent a health plan issuer from discontinuing an individual health plan that arranges for the financing and delivery of health care services to individuals covered under such health plan and in offering such plan to individuals in part, through arrangements with providers.
(a) In General.—As used in this title, the term “individual health plan” means any contract, policy, certificate or other arrangement or agreement offered to an individual by a health plan or entity providing or offering health benefits (such as provider and hospital benefits) and that is not a group health plan under section 2(6).

(b) Arrangements Not Included.—Such term does not include the following, or any combination thereof:

(1) Coverage for accident, or disability income insurance, or any combination thereof.

(2) Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act).

(3) Coverage issued as a supplement to liability insurance.

(4) Liability insurance, including general liability insurance and automobile liability insurance.

(5) Workers’ compensation or similar insurance.

(6) Automobile medical payment insurance.

(7) Coverage for a specified disease or illness.

(8) Hospital of fixed indemnity insurance.

(9) Short-term limited duration insurance.

(10) Credit-only, dental-only, or vision-only insurance.

(11) A health insurance policy providing benefits only for long-term care, nursing home care, or both, which is a long-term care insurance policy as defined under section 1251.

(12) A health insurance policy providing benefits only for a health care provider or hospital, or any combination thereof.

Subtitle C—COBRA Clarifications

SEC. 121. COBRA CLARIFICATIONS.

(a) Public Health Service Act.—

(1) In general.—Section 602(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended—

(A) in clause (i), by striking “or” at the end thereof;

(B) in clause (ii), by striking the period and inserting “, or”; and

(C) by adding at the end thereof the following new clause:

“Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this section.”

(2) Election.—Section 605(1)(C) of the Public Health Service Act (42 U.S.C. 300bb-3)(C) is amended by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the initial 18-month period of continued coverage under this title”.

(3) Notices.—Section 606(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1166(3)) is amended by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the initial 18-month period of continued coverage under this part”.

(4) Birth or Adoption of a Child.—Section 607(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(3)) is amended by adding at the end thereof the following new flush sentence:

“Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continued coverage under this part.”

(5) Internal Revenue Code of 1986.—

(A) In general.—Section 4980B(f)(2)(B) of the Internal Revenue Code of 1986 is amended—

(A) in paragraph (1), by striking “or” and inserting “and”; and

(B) by striking the end thereof and inserting “.”

(B) Election.—Section 4980B(f)(2)(A) of the Internal Revenue Code of 1986 is amended—

(A) in subsection (a), by striking “at any time during the initial 18-month period of continued coverage under this section”; and

(B) in subsection (b)(1), by striking “at the time of a qualifying event described in section 603(2)” and inserting “at any time during the initial 18-month period of continued coverage under this section”.

(6) Effective Date.—The amendments made by this section shall apply to qualifying events occurring on or after the date of enactment of this Act for plan years beginning on or after December 31, 1996.
section becomes effective, each group health plan (covered under title XXII of the Public Health Service Act, part 6 of subtitle B of title I of the Employee Retirement Income Security Act, and section 489 of the Internal Revenue Code of 1986) shall notify each qualified beneficiary who has elected continuation coverage under such title, part, or section of the amendments made by this section.

**Subtitle D—Private Health Plan Purchasing Cooperatives**

SEC. 131. PRIVATE HEALTH PLAN PURCHASING COOPERATIVES.

(a) DEFINITION.—As used in this title, the term ‘health plan purchasing cooperative’ means a group of individuals or employers that, together and in accordance with this section, form a cooperative for the purpose of purchasing individual health plans or group health plans offered by health plan issuers. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not underwrite a cooperative.

(b) CERTIFICATION.—

(1) IN GENERAL.—If a group described in subsection (a) desires to form a health plan purchasing cooperative in accordance with this section, the group appropriate to the area in which the cooperative is domiciled, may enter into cooperative agreements for the purpose of certifying and overseeing the operations of such cooperatives. For purposes of this section, a health plan purchasing cooperative shall be considered to be domiciled in the State in which most of the members of the cooperative reside.

(2) STATE REFUSAL TO CERTIFY.—If a State fails to implement a program for certifying health plan purchasing cooperatives in accordance with the standards under this title, the Secretary shall certify and oversee the operations of such cooperative in such State.

(3) INTERSTATE COOPERATIVES.—For purposes of this section a health plan purchasing cooperative operating in more than one State shall be certified by the State in which the cooperative is domiciled. States may enter into cooperative agreements for the purpose of certifying and overseeing the operation of such cooperatives. For purposes of this section such cooperative may be considered to be domiciled in the State in which the cooperative is domiciled.

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—Each health plan purchasing cooperative shall be governed by a Board of Directors. Each such board shall be responsible for ensuring the performance of the duties of the cooperative under this section. The Board shall be composed of a board cross-section of representatives of employers, employees, and individuals participating in the cooperative. A health plan issuer, agent, broker or any other individual or entity engaged in the sale of insurance may not hold or control any right to vote with respect to a cooperative.

(2) LIMITATION ON COMPENSATION.—A health plan purchasing cooperative may pay such compensation, other than reimbursement for expenses incurred by members in the performance of their duties as members of the Board.

(3) CONFLICT OF INTEREST.—No member of the Board of Directors (or family members of such members) nor any management personnel of the cooperative may be employed by, be a consultant of, be a member of the board of directors of, be affiliated with an agent of, or otherwise be a representative of any health plan issuer, health care provider, or agent or broker. Nothing in the preceding sentence shall limit a member of the Board from purchasing coverage offered through the cooperative.

(d) MEMBERSHIP AND MARKETING AREA.—

(1) MEMBERSHIP.—A health plan purchasing cooperative may establish limits on the maximum size of employers who may become members, and may determine whether to permit individuals to become members. Upon the establishment of such membership requirements, the cooperative shall notify each employer (or employee) residing within the area served by the cooperative who meet such requirements as to whether such member is a specified size of an area开车 base, or on another basis established by the State to ensure equitable access to the cooperative. The cooperative may provide reimbursement or other benefits to members of the Board of Directors (or family members of members in the performance of their duties).

(2) MARKETING AREA.—A State may establish rules regarding the geographic area that must be served by a health plan purchasing cooperative. With respect to a State that has not established such rules, a health plan purchasing cooperative operating in the State shall define the boundaries of the area to be served by the cooperative, except that such boundary shall be based on the basis of health status of the populations that reside in the area.

(e) DUTIES AND RESPONSIBILITIES.—

(1) IN GENERAL.—A health plan purchasing cooperative shall—

(A) enter into agreements with a multiple unaffiliated health plans, direct or indirect, that the requirement of this subparagraph shall not apply in regions (such as remote or frontier areas) in which compliance with such requirement is not feasible;

(B) enter into agreements with employers and individuals who become members of the cooperative;

(C) participate in any program of risk-adjustment or reinsurance, or any similar program, that is established by the State;

(D) prepare and disseminate comparative health plan materials (including information about cost, quality, benefits, and other information concerning group health plans and individual health plans offered through the cooperative);

(E) actively market to all eligible employers and individuals residing within the service area;

(F) act as an ombudsman for group health plan or individual health plan enrollees.

(2) PERMISSIBLE ACTIVITIES.—A health plan purchasing cooperative may perform any other functions as necessary to further the purposes of this title, including—

(A) collecting and distributing premiums and performing other administrative functions;

(B) collecting and analyzing surveys of enrollee satisfaction;

(C) charging membership fee to enrollees (such fees may not be based on health status) and charging participation fees to health plan issuers; and

(D) cooperating with (or accepting as members) employers who provide health benefits directly to employees, and

(E) negotiating with health care providers and health plan issuers.

(f) LIMITATIONS ON COOPERATIVE ACTIVITIES.—A health plan purchasing cooperative shall not—

(1) perform any activity relating to the licensing of health plans or health care providers;

(2) assume financial risk directly or indirectly on behalf of members of a health plan purchasing cooperative relating to any group health plan or individual health plan;

(3) establish eligibility, continuation of eligibility, enrollment, or premium contribution requirements for participants, beneficiaries, or individuals based on health status; and

(4) operate on a for-profit or other basis where the legal structure of the cooperative permits profits to be made and not returned to the members of the cooperative, except that a for-profit health plan purchasing cooperative may be formed by a nonprofit organization—

(A) in which membership in such organization is not based on health status; and

(B) that accepts as members all employers or individuals on a first-come, first-served basis, subject to any established limit on the maximum size of and employer that may become a member; or

(5) perform any other activities that conflict or are inconsistent with the performance of its duties under this title.

(f) LIMITED PREEMPTIONS OF CERTAIN STATE LAWS.—

(1) IN GENERAL.—With respect to a health plan purchasing cooperative that meets the requirements of this section, State fictitious group laws shall be preempted.

(2) HEALTH PLAN ISSUERS.—

(A) RATING.—With respect to a health plan issuer offering a group health plan or individual health plans to small employers, that accepts as members all employers or individuals who participate in a health plan purchasing cooperative that meets the requirements of this section, State premium rating requirement laws, except to the extent provided under subparagraph (B), shall be preempted unless such laws permit premium rates negotiated by the cooperative to be less than rates that would otherwise be permitted under State law, if such rating differential is not based on differences in health status or demographic factors.

(B) EXCEPTION.—State laws referred to in subparagraph (A) shall not be preempted if such laws—

(i) prohibit the variance of premium rates among employers, plan sponsors, or individuals that are members of the cooperative;

(ii) prohibit a percentage increase in premium rates for a new rate period that is in excess of that which would be permitted under State rating laws.

(C) BENEFITS.—Except as provided in paragraph (D), a health plan purchasing cooperative operating in the State may purchase or reinsure health plans on the basis of health status, except that such State rating laws shall be preempted.

(D) EXCEPTION.—In those States that have enacted laws authorizing the issuance of alternative benefit plans to small employers, health plan issuers may offer such alternative benefit plans through a health plan purchasing cooperative that meets the requirements of this section.

(h) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) require that a State organize, operate, or otherwise create health plan purchasing cooperatives;

(2) otherwise require the establishment of health plan purchasing cooperatives;

(3) require individuals, plan sponsors, or employers to purchase group health plans or individual health plans through a health plan purchasing cooperative;

(4) require that a health plan purchasing cooperative be the only type of purchasing arrangement permitted to operate in a State.

(5) confer authority upon a State that the State would not otherwise have to regulate health plan issuers or employer health benefit plans, or
(6) confer authority up a State (or the Federal Government) that the State (or Federal Government) would not otherwise have to regulate group purchasing arrangements, coalitions of local or similar entities that do not desire to become a health plan purchasing cooperative in accordance with this section.

(i) APPLICATION OF ERISA.—For purposes of enforcement only, the requirements of parts 4 and 5 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1138, and 1140) shall apply to group health plans purchasing cooperative as if such plan were an employee welfare benefit plan.

Subtitle E—Application and Enforcement of Standards

SEC. 131. APPLICABILITY.

(A) CONSTRUCTION.—

(1) ENFORCEMENT.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan offered by a health plan issuer shall be deemed to be a requirement or standard imposed on the health plan issuer. Such requirements or standards shall be enforced by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements or standards of this title pursuant to an enforcement plan meeting the standards of this title for the State involved; and

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards imposed under this title be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title.

(B) LIMITATION.—Except as provided in subsection (c), the Secretary shall not enforce the requirements or standards of this title as they relate to health plan issuers, group health plans, or individual health plans. In no case shall a State enforce the requirements or standards imposed under this title be enforced with respect to the health plan issuer by the State insurance commissioner for the State involved or the official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) PREEMPTION OF STATE LAW.—Nothing in this title shall be construed to prevent a State from establishing, implementing, or continuing in effect standards and requirements—

(A) more prescribed in this title; or

(B) related to the issuance, renewal, or portability of health insurance or the establishment or operation of group purchasing arrangements consistent with, and not in direct conflict with, this title and provide greater protection or benefit to participants, beneficiaries or individuals.

(b) ENSURE CONSTRUCTION.—Nothing in this title shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001). (c) CONTINUATION.—Nothing in this title shall be construed as requiring a group health plan or an employee health benefit plan to be provided to a particular participant or beneficiary in excess of those provided under the terms of such plan.

SEC. 191. ENFORCEMENT OF STANDARDS.

(a) EMPLOYEE HEALTH CARE ISSUERS.—

(A) IN GENERAL.—A requirement or standard imposed under this title on a group health plan or individual health plan issued, sold, renewed, or offered for sale or offered in such a manner as provided for under sections 502, 504, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1138, and 1140), and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2) shall apply to any information required by the Secretary to be disclosed and reported under this title.

(B) FAILURE TO IMPLEMENT PLAN.—In the case of the failure of a State to substantially enforce the standards and requirements set forth in this title, each health plan issuer operating in such State shall be subject to civil enforcement as provided for under sections 502, 504, and 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132, 1134, 1136, and 1140). The civil penalties contained in paragraphs (1) and (2) of section 502(c) of such Act (29 U.S.C. 1132(c) (1) and (2) shall apply to any information required by the Secretary to be disclosed and reported under this title.

(c) APPLICABLE CERTIFYING AUTHORITY.—As used in this title, the term ‘applicable certifying authority’ means—

(1) health plan issuers, the State insurance commissioner or official or officials designated by the State to enforce the requirements of this title for the State involved; and

(2) an employee health benefit plan, the Secretary.

(d) REGULATIONS.—The Secretary may promulgate such regulations as may be necessary or appropriate to carry out this title.

(e) TECHNICAL AMENDMENT.—Section 508 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1138) is amended by inserting “and under the Health Insurance Reform Act of 1996” before the period.

Subtitle F—Miscellaneous Provisions

SEC. 193. COVERAGE AVAILABILITY STUDY.

(a) IN GENERAL.—The Secretary of Health and Human Services, in consultation with the Secretaries of the State officials, shall prepare and submit reports, in accordance with this section.

(b) EVALUATION OF AVAILABILITY.—Not later than January 1, 1998, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning—

(1) an evaluation of this experience of States, expert opinions, and such additional data as may be available, of the various mechanisms used to ensure the availability of affordable, comprehensive health care to employers purchasing group coverage and to individuals purchasing coverage on a non-group basis; and

(2) whether standards that limit the variation in premiums will further the purposes of this Act.

(c) EVALUATION OF EFFECTIVENESS.—Not later than January 1, 1999, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report, concerning the effectiveness of this title in improving the availability of reasonably priced health coverage to employers purchasing group coverage and individuals purchasing coverage on a non-group basis.

SEC. 192. EFFECTIVE DATE.

Nothing as otherwise provided for in this title, the provisions of this title shall apply as follows:

(1) With respect to group health plans and individual health plans, such provisions shall apply to plans offered, renewed, in effect, or operated on or after January 1, 1997.

(2) With respect to employee health benefit plans, on the first day of the first plan year beginning on or after January 1, 1997.

SEC. 193. SEVERABILITY.

If any provision of this title or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this title and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE II—INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

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Sec. 231. Repeal of bad debt reserve method for thrift savings associations.


EXCEPT as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Increase in Deduction For Health Insurance Costs of Self-Employed Individuals

Sec. 201. Increase in Deduction for Health Insurance Costs of Self-Employed Individuals

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

“(1) ALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—In the case of an individual who meets the meaning of section 401(c)(1), there shall be allowed as a deduction under this section an amount
equal to the applicable percentage of the amount paid during the taxable year for insurance which constitutes medical care for the taxpayer, his spouse, and dependents."

(B) EFFECTIVE DATE. The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

Subtitle B—Revenue Offsets

CHAPTER 1—TREATMENT OF INDIVIDUALS WHO EXPATRIATE

SEC. 211. REVISION OF TAX RULES ON EXPATRIATION.

(a) IN GENERAL. Subpart A of part II of subchapter N of chapter 1 is amended by inserting after section 877 the following new section:

"SEC. 877A. TAX RESPONSIBILITIES OF EXPATRIATE.

(a) General Rules. For purposes of this subsection—

(1) Mark to market. Except as provided in this subsection, all property of a covered expatriate to which this section applies shall be treated for purposes of the expatriation date for its fair market value.

(2) Recognition of gain or loss. In the case of any sale under paragraph (1), the amount of gain or loss recognized in respect of such property for the taxable year of the sale to the extent otherwise provided by this title, except that section 1083 shall not apply (and section 1092 shall apply) to any such loss.

(3) Exclusion for certain gain. The amount which would (but for this paragraph) be includible in the gross income of any individual by reason of this section shall be reduced (but not below zero) by $500,000. For purposes of this paragraph, allocable expatriation gain taken into account under subsection (b) of section 38(a) and treated in the same manner as an amount required to be includible in gross income.

(4) Property to continue to be taxed as United States citizen. (A) In general. If an expatriate elects the application of this paragraph—

(i) this section (other than this paragraph) shall not apply to the expatriate, but

(ii) the expatriate shall be subject to tax under this title, with respect to property to which this section would apply but for such election, in the same manner as if the individual were a United States citizen.

(B) Limitation on amount of estate, gift, generation-skipping transfer taxes. The aggregate amount of taxes imposed under subtitle B with respect to any transfer of property by reason of an election under subparagraph (A) shall not exceed the amount of income tax which would be due if the property were sold for its fair market value the time before the time of the transfer or death (taking into account the rules of paragraph (2)).

(c) REQUIREMENTS. Subparagraph (A) shall not apply to an individual unless the individual—

(i) provides security for payment of tax in such form and manner, and in such amount, as the Secretary may require,

(ii) consents to the waiver of any right of the individual under any treaty of the United States which would preclude assessment or collection of any tax which may be imposed by reason of this paragraph, and

(iii) complies with such other requirements as the Secretary may prescribe.

(2) Election. An election under subparagraph (A) shall apply to all property to which this section would apply but for the election and, once made, shall be irrevocable.

(3) Allocation. The Secretary may allocate the basis of any property determined in accordance with this section and, once so allocated, the basis is irrevocable. An election under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1), shall only apply to property described in the election and, once made, is irrevocable.

(4) Election to defer tax. (A) In general. If the taxpayer elects the application of this subsection with respect to any property—

(i) no amount shall be required to be included in gross income under subsection (a)(2) with respect to the gain for such property for the taxable year of the sale, but

(ii) the taxpayer’s tax for the taxable year in which such property is disposed of shall be treated as deferred tax.

Except to the extent provided in regulations, subparagraph (B) shall apply to a disposition whether or not gain or loss is recognized in whole or in part.

(5) Deferred tax amount. (A) In general. For purposes of paragraph (1), the term ‘deferred tax amount’ means, with respect to any property, an amount equal to the sum of—

(i) the difference between the amount of tax paid for the taxable year described in paragraph (1) and the amount which would have been paid for such taxable year if the election under paragraph (1) had not applied to such property,

(ii) any amount which is allocable to the amount described in clause (i) determined for the period—

(I) beginning on the 91st day after the expiration date, and

(II) ending on the due date for the taxable year described in paragraph (1), by using the rates and method applicable under section 6621 for underpayments of tax for such period.

For purposes of clause (ii), the due date is the date prescribed by law (determined without regard to extension) for filing the return of the tax imposed by this chapter for the taxable year.

(B) Allocation of losses. For purposes of subparagraph (A), any losses described in subsection (a)(2) may be allocated ratably among the gains described in subsection (a)(2)(A).

(6) Security. (A) In general. No election may be made under paragraph (1) with respect to any property unless adequate security is provided with respect to such property.

(B) Adequate security. For purposes of subparagraph (A), security with respect to any property shall be treated as adequate security if—

(i) it is a bond in an amount equal to the deferred tax amount under paragraph (2)(A) for the property, or

(ii) the taxpayer otherwise establishes to the satisfaction of the Secretary that the security is adequate.

(7) Waiver of certain rights. No election may be made under paragraph (1) unless the taxpayer consents to the waiver of any right under any treaty of the United States which would preclude assessment or collection of any tax imposed by reason of this section.

(8) Dispositions. For purposes of this subsection, a taxpayer making an election under this subsection with respect to any property shall be treated as having disposed of such property—

(A) immediately before death if such property is held at such time, and

(B) at any time the security provided with respect to the property fails to meet the requirements of paragraph (6) and the taxpayer does not correct such failure within the time specified by the Secretary.

(9) Elections. An election under paragraph (1) shall only apply to property described in the election and, once made, is irrevocable. An election may be made under paragraph (1) with respect to an interest in a trust with respect to which gain is required to be recognized under subsection (f)(1).

(C) Covered expatriate. For purposes of this section—

(i) in general. The term ‘covered expatriate’ means an expatriate—

(A) whose average annual net income tax (as defined in section 38(c)(1)) for any period of 5 taxable years ending before the expatriation date is greater than $100,000, or

(B) whose net worth as of such date is $500,000 or more.

If the expatriation date is after 1996, such $300,000 and $500,000 amounts shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 38(c)(3) for such calendar year by substituting ‘1995’ for ‘1992’ in subparagraph (B) thereof. Any increase under the period shall be rounded to the nearest multiple of $1,000.

(2) Exceptions. An individual shall not be treated as a covered expatriate if—

(A) the individual—

(i) became at birth a citizen of the United States and a citizen of another country and,

(ii) as of the expiration date, continues to be a citizen of, and is taxed as a resident of, such other country, and

(iii) has been a resident of the United States (as defined in section 7701(b)(2)(A)(i)) for more than 5 taxable years during the 15-taxable year period ending during the taxable year during which the expatriation date occurs, or

(B) the individual’s relinquishment of United States citizenship occurs before such individual attains age 18½, and

(i) the individual has been a resident of the United States (as so defined) for not more than 5 taxable years before the date of relinquishment.

(2) Property to which this section applies. For purposes of this section—

(A) in general. Except as otherwise provided by the Secretary, this section shall apply—

(i) to any interest in property held by a covered expatriate on the expiration date the gain from which would be included in the gross income of the expatriate if such interest had been sold for its fair market value on such date in a transaction in which gain is recognized in whole or in part, and

(ii) to any interest in a trust to which subsection (f) applies.

(2) Exceptions. This section shall not apply to the following property—

(A) United States real property interests.

Any United States real property interest (as defined in section 897(c)(1), other than whether or not a United States real property holding corporation which does not, on the expiration date, meet the requirements of section 897(c)(2).

(B) Interest in certain retirement plans.

(i) in general. Any interest in a qualified retirement plan (as defined in section 401(a)(3), other than any interest attributable to contributions which are in excess of any limitation or which violate any condition for tax-favored treatment.

(ii) Foreign pension plans.

(i) in general. Under regulations prescribed by the Secretary, interests in foreign
"(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, which, where applicable, is the later of—

(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate of such covered expatriate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(A) Qualified trust.—The term ‘qualified trust’ means a trust—

(i) which is organized under, and governed by, the laws of the United States or a State,

(ii) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation,

(iii) vested interest means any interest which, as of the expatriation date, is vested in the beneficiary.

(iv) nonvested interest.—The term ‘nonvested interest’ means, with respect to a beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(IV) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(3) Determination of beneficiaries’ interest in trust.—

"(A) Determinations under paragraph (2).—For purposes of paragraph (1), a beneficiary’s interest in a trust shall be based upon all relevant facts and circumstances, including the terms of the trust instrument and any letter of wishes or similar documents, the historical treatment of distributions, and the existence of and functions performed by a trust protector or any similar advisor.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any taxable year during which any prior sale is treated under subparagraph (a)(i) as occurring, or

(ii) any taxable year prior to the taxable year in which the interest was acquired.

"(D) Allocable Expatriation Gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust in the amount of such interest in the trust after the beneficiary’s vested interest in the trust is treated as follows:

(i) the lesser of—

(A) the allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(B) any amount that such interest in the trust is allocable to such interest in the trust.

(ii) the aggregate allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(iii) any other beneficiary of the trust.

"(IV) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, estate, or other entity, or any person, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(iii), there is hereby imposed a tax equal to the lesser of—

(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, which, where applicable, is the later of—

(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate of such covered expatriate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(A) Qualified trust.—The term ‘qualified trust’ means a trust—

(i) which is organized under, and governed by, the laws of the United States or a State,

(ii) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation,

(iii) vested interest means any interest which, as of the expatriation date, is vested in the beneficiary.

(iv) nonvested interest.—The term ‘nonvested interest’ means, with respect to a beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(IV) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any taxable year during which any prior sale is treated under subparagraph (a)(i) as occurring, or

(ii) any taxable year prior to the taxable year in which the interest was acquired.

"(D) Allocable Expatriation Gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust in the amount of such interest in the trust after the beneficiary’s vested interest in the trust is treated as follows:

(i) the lesser of—

(A) the allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(B) any amount that such interest in the trust is allocable to such interest in the trust.

(ii) the aggregate allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(iii) any other beneficiary of the trust.

"(IV) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, estate, or other entity, or any person, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(iii), there is hereby imposed a tax equal to the lesser of—

(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, which, where applicable, is the later of—

(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate of such covered expatriate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(A) Qualified trust.—The term ‘qualified trust’ means a trust—

(i) which is organized under, and governed by, the laws of the United States or a State,

(ii) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation,

(iii) vested interest means any interest which, as of the expatriation date, is vested in the beneficiary.

(iv) nonvested interest.—The term ‘nonvested interest’ means, with respect to a beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(IV) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any taxable year during which any prior sale is treated under subparagraph (a)(i) as occurring, or

(ii) any taxable year prior to the taxable year in which the interest was acquired.

"(D) Allocable Expatriation Gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust in the amount of such interest in the trust after the beneficiary’s vested interest in the trust is treated as follows:

(i) the lesser of—

(A) the allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(B) any amount that such interest in the trust is allocable to such interest in the trust.

(ii) the aggregate allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(iii) any other beneficiary of the trust.

"(IV) Constructive ownership.—If a beneficiary of a trust is a corporation, partnership, trust, estate, or other entity, or any person, or a covered expatriate holding an interest in a qualified trust dies, then, in lieu of the tax imposed by subparagraph (A)(iii), there is hereby imposed a tax equal to the lesser of—

(i) the tax determined under paragraph (1) as if the expatriation date were the date of such cessation, disposition, or death, which, where applicable, is the later of—

(ii) the balance in the tax deferred account immediately before such date.

Such tax shall be imposed on the trust and each beneficiary of the trust shall be entitled to recover from the covered expatriate or the estate of such covered expatriate the amount of such tax imposed on the other beneficiary.

"(G) Definitions and special rules.—For purposes of this paragraph—

"(A) Qualified trust.—The term ‘qualified trust’ means a trust—

(i) which is organized under, and governed by, the laws of the United States or a State,

(ii) with respect to which the trust instrument requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation,

(iii) vested interest means any interest which, as of the expatriation date, is vested in the beneficiary.

(iv) nonvested interest.—The term ‘nonvested interest’ means, with respect to a beneficiary, any interest in a trust which is not a vested interest. Such interest shall be determined by assuming the maximum exercise of discretion in favor of the beneficiary and the occurrence of all contingencies in favor of the beneficiary.

"(IV) Adjustments.—The Secretary may provide for such adjustments to the bases of assets in a trust or a deferred tax account, and the timing of such adjustments, in order to ensure that gain is taxed only once.

"(B) Special rule.—For purposes of subparagraph (A), there shall not be taken into account—

(i) any taxable year during which any prior sale is treated under subparagraph (a)(i) as occurring, or

(ii) any taxable year prior to the taxable year in which the interest was acquired.

"(D) Allocable Expatriation Gain.—For purposes of this paragraph, the allocable expatriation gain with respect to any beneficiary’s interest in a trust in the amount of such interest in the trust after the beneficiary’s vested interest in the trust is treated as follows:

(i) the lesser of—

(A) the allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(B) any amount that such interest in the trust is allocable to such interest in the trust.

(ii) the aggregate allocable expatriation gain with respect to such interest in the trust determined without regard to such interest being held by the beneficiaries,

(iii) any other beneficiary of the trust.
"(I) the methodology used to determine that taxpayer's trust interest under this section, and

"(II) if the taxpayer knows (or has reason to know) that an expatriate beneficiary of such trust is using a different methodology to determine such beneficiary's trust interest under this section.

"(g) TERMINATION OF DEFERRALS, ETC.—On the date any property held by an individual is treated as sold under subsection (a), notwithstanding any other provision of this title—

"(1) any period during which recognition of income or gain is deferred shall terminate, and

"(2) any extension of time for payment of tax shall cease to apply and the unpaid portion of such tax shall be due and payable at the time and in the manner prescribed by the Secretary.

"(h) IMPOSITION OF TENTATIVE TAX.—

"(1) IN GENERAL.—If an individual is required to include any amount in gross income under subsection (a) for any taxable year, there is hereby imposed, immediately after the expatriation date, a tax in an amount equal to the amount of tax which would be imposed if the taxable year were a short taxable year ending on the expatriation date

"(2) DUE DATE.—The due date for any tax imposed by paragraph (1) shall be the 90th day after the expatriation date.

"(3) TAX.—Any tax paid under paragraph (1) shall be treated as a payment of the tax imposed by this chapter for the taxable year to which subsection (a) applies.

"(4) DEFERRAL OF TAX.—The provisions of subsection (b) shall apply to the tax imposed by this subsection to the extent attributable to gain recognized by reason of the section of this chapter.

"(i) COORDINATION WITH ESTATE AND GIFT TAXES.—(A) a copy of any such statement, and

"(B) the mailing address of such individual

"(j) RESIDENCE.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(1) to prevent double taxation by ensuring that—

"(A) appropriate adjustments are made to basis and gain recognized by reason of subsection (a) and the exclusion provided by subsection (a)(3), and

"(B) any gain by reason of a deemed safe harbor election under regulations (a) of an interest in a corporation, partnership, trust, or estate is re¬duced to reflect that portion of such gain which is attributable to an interest in a trust which a shareholder, partner, or beneficiary is treated as holding directly under subsection (f)(3)(B)(ii), and

"(2) which provide for the proper allocation of the information required by subsection (a)(3) to property to which this section applies.

"(k) CROSS REFERENCE.—

"For Income tax treatment of individuals who become United States citizens, see section 7701(a)(47)."

"(b) INCLUSION IN INCOME OF GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.—

Section 102 (relating to gifts, etc. not included in gross income) is amended by adding at the end the following new subsection:

"(d) GIFTS AND INHERITANCES FROM COVERED EXPATRIATES.ÐSubsection (a) shall not exclude from gross income the value of any property acquired by gift, bequest, devise, or inheritance from a covered expatriate after the expatriation date. For purposes of this subsection, any term used in this subsection which is also used in section 877A shall have the same meaning as when used in section 877A.

"(e) DEFINITION OF TERMINATION OF UNITED STATES CITIZENSHIP.—Section 701(a) is amended by adding at the end the following new paragraph:

"(47) TERMINATION OF UNITED STATES CITIZENSHIP.—An individual shall not be treated as a United States citizen before the date on which the individual's citizenship is treated as relinquished under section 877A(e)(3)."

"(f) CONFORMING AMENDMENTS.—

"(1) Section 877 is amended by adding at the end the following new subsection:

"(f) APPLICATION.—This section shall not apply to any individual who relinquishes within the 90-day period ending on or after February 6, 1995, United States citizenship on or after February 6, 1995.

"(2) Section 2102(c) is amended by adding at the end the following new paragraph:

"(3) CROSS REFERENCE.—For credit against the tax imposed by subsection (a) for expiration tax, section 877A(ii).

"(3) Section 2501(a)(3) is amended by adding at the end the following new sentence: "For credit against the tax imposed under this section by reason of this paragraph, see section 877A(i)."

"(4) Paragraph (10) of section 7701(b) is amended by adding at the end the following new sentence: "If an individual has relinquished his United States citizenship after February 6, 1995, and before the date of the enactment of this Act, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(A) to prevent double taxation by ensuring that—

"(a) the amendment made by subsection (c) shall not apply,

"(b) the amendment made by subsection (d) shall not apply prior to the expiration date, and

"(c) the other amendments made by this section shall apply as of the expatriation date.

"(4) DUE DATE FOR TENTATIVE TAX.—The due date under section 877A(h)(2) of such Code shall in no event occur before the 90th day after the date of the enactment of this Act.

"SEC. 6039F. INFORMATION ON INDIVIDUALS EXPATRIATING.—

"(a) REQUIREMENT.—

"(1) IN GENERAL.—Withholding any other provision of law, any expatriate (within the meaning of section 877A(e)(3)) shall provide a statement which includes the information described in subsection (b).

"(2) TIMING.—(A) CITIZENS.—In the case of an expatriate described in section 877A(e)(3)(A), such statement shall be—

"(i) provided not later than the expatriation date (within the meaning of section 877A(e)(2)), and

"(ii) provided to the person to whom referred to in section 877A(e)(3).

"(B) NONCITIZENS.—In the case of an expatriate described in section 877A(e)(3)(B), such statement shall be provided to the Secretary in the case of an individual who returns a tax return for chapter 1 for the taxable year during which the event described in such section occurs.

"(3) OTHER INFORMATION.—Information required under subsection (a) shall include—

"(1) the taxpayer’s TIN.

"(2) the mailing address of such individual’s principal foreign residence.

"(3) the foreign country in which such individual is residing.

"(4) the foreign country of which such individual is a citizen.

"(5) in the case of an individual having a net worth of not less than the dollar amount applicable under section 877A(c)(1)(B), information describing the assets and liabilities of such individual, and

"(6) such other information as the Secretary may prescribe.

"(C) PENALTY.—Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year during any portion of which such failure continues in an amount equal to the greater of—

"(1) 5 percent of the additional tax required to be paid under section 877A for such year, and

"(2) $1,000, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

"(D) INFORMATION TO BE PROVIDED TO SECRETARY.—Notwithstanding any other provision of law—

"(1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—

"(A) a copy of any such statement, and

"(B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a), together with the Secretary's copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and

"(2) the Federal agency primarily responsible for administering the immigration laws (within the meaning of section 7701(b)(8)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each
calendar quarter, the Secretary shall publish in the Federal Register the name of each individual relinquishing United States citizenship (within the meaning of section 877(a)(2)) to whom the Secretary receives information under the preceding sentence during such quarter.

(e) Exemption.—The Secretary may by regulation exempt an individual from the requirements of this section if the Secretary determines that receiving this section to such individuals is not necessary to carry out the purposes of this section.

(b) Clerical Amendment.—The table of sections for this part is amended by inserting a new section 6039F after section 6038A.

(c) Effective Date.—The amendments made by this section shall apply to individuals to whom section 877A of the Internal Revenue Code of 1986 applies and whose expatriation date (as defined in section 877A(e)(2)) occurs on or after February 6, 1995, except that no statement shall be required by such amendments before the 90th day after the date of enactment of this Act.

CHAPTER 2—FOREIGN TRUST TAX COMPLIANCE

SEC. 6048. INFORMATION WITH RESPECT TO FOREIGN TRUST.

(a) General Rule.—(1) Except as provided in paragraph (2), all returns required to be filed by a United States person for a foreign trust shall be treated as a United States person's tax return for purposes of section 668.

(b) Time and Manner of Filing Return.—(1) An information return required under section 668 to be filed with respect to any foreign trust shall be filed not later than the due date prescribed under section 6632 for the return with respect to a domestic trust treated as a foreign trust for purposes of section 668.

(c) Special Rule.—If a trust is a United States person under section 668, the trustee of the trust shall be treated as the person responsible for filing all required returns with respect to the trust for the purposes of this subchapter.

(d) Failure to File Return.—If a return required to be filed by a United States person with respect to a foreign trust is not filed, a penalty of 10 percent of the gross amount of all distributions of the foreign trust received by the United States person during the taxable year of the United States person shall be imposed on the United States person.

(e) Exemption.—The Secretary may by regulation exempt any class of individuals from the requirements of this section if the Secretary determines that receiving this section to such individuals is not necessary to carry out the purposes of this section.

(f) Effective Date.—The amendments made by this section shall apply to returns required to be filed after the date of enactment of this Act.
"(1) the United States person referred to in such section shall be liable for the penalty imposed by subsection (a), and
"(2) subsection (a) shall be applied by substitution for "25 percent"—
"(c) Gross Reportable Amount.—For purposes of subsection (a), the term 'gross reportable amount' means—
"(1) the gross value of the property involved in the event (determined as of the date of the event) in the case of a failure relating to section 6048(b)(1), and
"(2) the gross value of the portion of the trust's assets at the close of the year treated as owned by the United States person in the case of a failure relating to section 6048(a),
"(3) the amount of the distributions in the case of a failure relating to section 6048(c),
"(d) Reasonable Cause Exception.—No penalty shall be imposed by this section on any failure which is shown to be due to reasonable cause and not due to willful neglect.
The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the required information is not reasonable cause.
"(e) Deficiency Procedures Not to Apply.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).
"(f) Conforming Amendments.—
"(1) Paragraph (2) of section 6724(d), as amended by sections 11940 and 11945, is amended by striking "or" at the end of subparagraph (U), by striking the period at the end of subparagraph (V) and inserting ", or", and by inserting the following new subparagraph:
"(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements).
"(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking the item relating to section 6046 and inserting the following new item:
"Sec. 604 Information with respect to certain foreign trusts.
"(3) The table of sections for part I of subchapter B of chapter 68 is amended by striking the section relating to section 6677 and inserting the following new item:
"Sec. 6677. Failure to file information with respect to certain foreign trusts.
"(g) Effective Dates.—
"(1) Reportable Events.—To the extent related to subsection (a) of section 6046 of the Internal Revenue Code of 1986, as amended by this section, the amendments made by this section shall apply to reportable events (as defined in such section 6048) occurring after the date of the enactment of this Act.
"(2) Grantor Trust Reporting.—To the extent related to subsection (b) of such section 6048, the amendments made by this section shall apply to reports of United States persons beginning after the date of the enactment of this Act.
"(3) Reporting by United States Beneficiaries.—To the extent related to subsection (c) of such section 6048, the amendments made by this section shall apply to distributions received after the date of the enactment of this Act.

SEC. 222. MODIFICATIONS OF RULES RELATING TO FOREIGN TRUSTS HAVING ONE OR MORE UNITED STATES BENEFICIARIES.

(a) Treatment of Trust Obligations, etc.—
"(1) Paragraph (2) of section 670a is amended—
"(i) by striking subparagraph (B) and inserting the following:
""(B) Transfers at Fair Market Value.—To any transfer of property to a trust in exchange for consideration of at least the fair market value of the transferred property, the value of the consideration other than cash shall be taken into account at its fair market value."

"(2) Subsection (a) of section 679 (relating to foreign trust having one or more United States beneficiaries) is amended by adding at the end the following new paragraph:
""(3) Certain Obligations Not Taken into Account Under Fair Market Value Exceptions.—
""(A) In General.—In determining whether paragraph (2)(B) applies to any transfer by a person described in subparagraph (C), there shall not be taken into account—
""(i) except as provided in regulations, any obligation of a person described in subparagraph (C), and
""(ii) to the extent provided in regulations, any obligation which is guaranteed by a person described in subparagraph (C)."
""(B) Treatment of Principal Payments on Obligation.—Principal payments by the trust on any obligation referred to in subparagraph (A) shall be taken into account on and after the date of the payment in determining the portion of the trust attributable to the property transferred.
""(C) Person Described.—The persons described in this subparagraph are—
""(i) the trust,
""(ii) any grantor or beneficiary of the trust, and
""(iii) any person who is related (within the meaning of section 672) to any grantor or beneficiary of the trust.
""(D) Transfers to Charitable Trusts.—Subsection (a) of section 679 is amended by striking "section 404(a)(4) or 404A and inserting "section 404A(h)(3)(B)(i)"
""(E) Other Modifications.—Subsection (a) of section 679 is amended by adding at the end the following new paragraphs:
""(4) Special Rules Applicable to Foreign Grantor Who Later Becomes a United States Person.—
""(A) In General.—If a nonresident alien individual has a residency starting date within 5 years after directly or indirectly transferring property to a foreign trust, this section shall apply as if such individual transferred to such trust on the residency starting date an amount equal to the portion of such trust attributable to the property transferred by such individual to such trust in such transfer.
""(B) Treatment of Undistributed Income.—For purposes of this section, undistributed net income for periods before such individual's residency starting date shall be taken into account in determining the portion of the trust which is attributable to property transferred by such individual to such trust but shall not otherwise be taken into account.
""(C) Residency Starting Date.—For purposes of this paragraph, an individual's residency starting date is the residency starting date determined under section 7702(b)(2)(A).
""(5) Outbound Trust Migrations.—If—
""(A) an individual citizen or resident of the United States transferred property to a trust which was not a foreign trust, and
""(B) such trust becomes a foreign trust while such individual is alive,
then this section and section 6048 shall be applied as if such individual transferred to such trust on the date such trust becomes a foreign trust of the same corporation.
""(6) Regulations.—Section 679 is amended by adding at the end the following new paragraph:
""(7) Special Rule Where Grantor is Foreign Person.—If—
""(8) Certain United States Beneficiaries Disregarded.—A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trusts if such beneficiary has, while such individual is alive, become a United States person more than 5 years after the date of such transfer.

(b) Technical Amendment.—Subparagraph (W) of section 6724(b)(1) is amended to read as follows:
""(W) section 6048(b)(1)(B) (relating to foreign trust reporting requirements)."

(c) Regulations.—Sections 679 is amended by adding at the end the following new paragraph:
""(2) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(d) Regulations.—The amendments made by this section shall apply to transfers of property after February 6, 1995.
"(A) for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

(B) such trust has a beneficiary who is a United States person to whom such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift or otherwise to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

(6) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing that paragraph (1) shall not apply in appropriate cases;

(7) TRANSITIONAL RULE.—If—

(a) in General.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6039F the following new section:

SEC. 6039G. NOTICE OF GIFTS RECEIVED FROM FOREIGN PERSONS.

(a) In General.—If the value of the aggregate foreign gifts received from a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds $10,000, such United States person shall furnish (at such time and in such manner as the Secretary may prescribe) such information as the Secretary may require relating to each foreign gift received during such year.

(b) Foreign Gift.—For purposes of this section, any amount received from a person other than a United States person which the recipient treats as a gift or bequest shall be taken into account as the owner of any portion of a trust if the United States person ceases to be treated as the owner of such portion to the extent such gift or bequest is excluded from taxable gifts under section 2503(b).

(8) EFFECTIVE DATE.—Except as provided by section 6039G, the amendments made by this section shall apply to amounts included in the gross income of any taxable year beginning after December 31, 1996; to amounts included in the gross income of any taxable year beginning after December 31, 1996, which is in effect on September 19, 1995.

The preceding sentence shall not apply to any foreign gift to which the Secretary may prescribe applicable to carry out the purposes of this Act in taxable years ending after such date.

(9) TREATMENT OF LOANS FROM FOREIGN TRUSTS.—In the case of any loan from a foreign trust to any other person, the amount of such loan shall be treated as received from such person in trust for the account of the foreign trust and shall be treated as a foreign gift for each period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

(10) TRANSITIONAL RULE.—If—

(A) in General.—The applicable number of years with respect to a distribution is the number determined by dividing—

(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, and

(ii) the aggregate undistributed net income,

the quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

(B) PRODUCT DESCRIBED.—For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

(i) the undistributed net income for such year, and

(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not including the taxable year of the distribution).

(11) UNDISTRIBUTED INCOME YEAR.—For purposes of this subsection, the term 'undistributed income year' means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

(12) DETERMINATION OF UNDISTRIBUTED NET INCOME.—Notwithstanding section 666, for purposes of this subsection the accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undiscounted income years.

(13) PERIODS BEFORE 1996.—Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

(A) by using an interest rate of 6 percent, and

(B) without compounding until January 1, 1996.

(14) ABUSIVE TRANSACTIONS.—Sections 666(a) and 666(b) are amended by inserting after paragraph (6) the following new paragraph:

(7) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.

(15) TREATMENT OF LOANS FROM FOREIGN TRUSTS.—In the case of any loan from a foreign trust to any United States person, any amount which is transferred to such United States person is excluded from income of such United States person to the extent such amount is included in the aggregate undistributed net income of such foreign trust

(16) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent avoidance of such purposes.

(17) TREATMENT OF LOANS FROM FOREIGN TRUSTS.—In the case of any loan from a foreign trust to any United States person, any amount which is transferred to such United States person is excluded from income of such United States person to the extent such amount is included in the aggregate undistributed net income of such foreign trust.

(18) ABUSIVE TRANSACTIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent avoidance of such purposes.
"(A) CASH.—The term 'cash' includes foreign currencies and cash equivalents.

(B) RELATED PERSON.—

(i) IN GENERAL.—A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 31(b)(1) is applied as if the family of an individual includes the spouses of the members of the family.

(ii) ALLOCATION.—If any person described in paragraph (1)(D) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations described by the Secretary.

(C) EXCLUSION OF TAX-EXEMPTS.—The term 'United States person' does not include any entity exempt from tax under this chapter.

(D) TRUST NOT TREATED AS SIMPLE TRUST.—Any trust which is treated under subtitle E of subchapter C of chapter 1 of subtitle A of the Code is not a simple trust."

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(31) FOREIGN ESTATE OR TRUST.—The term 'foreign estate' or 'foreign trust' means any estate or trust other than an estate or trust described in section 7701(a)(30)(D).

(E) CONTROLLED GROUPS.—In the case of a trust which is a member of any controlled group of corporations described in section 568(b)(1)(i) or any other group of corporations related to such trust by reason of the code described in section 595(c), the term 'controlled group of corporations' includes any such group, and the term 'related trusts' includes any such group of related trusts.

(F) SPECIAL RULE FOR TRUSTS WHICH BECOME SMALL BANKS.—In the case of a bank (as defined in section 585(c)) the term 'controlled group of corporations' includes any such group of related trusts.

(G) CONTROLLED GROUP OF CORPORATIONS.—In the case of a controlled group of corporations described in section 568(b)(1)(i) or any other group of corporations related to such trust by reason of the code described in section 595(c), the term 'controlled group of corporations' includes any such group, and the term 'related trusts' includes any such group of related trusts.

(H) CONTROLLED GROUP OF CORPORATIONS.—In the case of a controlled group of corporations described in section 568(b)(1)(i) or any other group of corporations related to such trust by reason of the code described in section 595(c), the term 'controlled group of corporations' includes any such group, and the term 'related trusts' includes any such group of related trusts.

(I) IN GENERAL.—Section 1491 (relating to bad debt reserves) is amended by adding at the end the following new section:

"(ii) the operating balance of the reserve for bad debts as of the beginning of such taxable year shall be the balance taken into account under subparagraph (A)(i) (determined after the application of clause (i) of this subparagraph).

The preceding sentence shall not apply for purposes of paragraphs (5) and (6) or subparagraph (A)(ii) of this subsection.

(2) RECAPTURE OF PRE-1988 RESERVES WHERE TAXPAYER CEASES TO BE BANK.—If, during any taxable year beginning after December 31, 1995, a taxpayer (as defined in section 585(b)(2)) ceases to be a bank, the reserve required to be taken into account under section 1494(b)(1) after December 31, 1995, shall not be subject to the recapture requirements of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in the subsection.

(3) ENFORCEMENT.—The amendments made by this paragraph (v) shall be enforced only if such loan is incurred in acquiring, constructing, or improving the property described in such paragraph.

(4) SUSPENSION OF RECAPTURE IF RESIDENTIAL LOAN REQUIREMENT MET.—

"(A) IN GENERAL.—In the case of a bank which meets the residential loan requirements of this paragraph (v), no adjustment shall be taken into account under paragraph (1) for such taxable year, and

"(B) RESIDENTIAL LOAN REQUIREMENT.—A taxpayer meets the residential loan requirement of this subparagraph if the principal amount of the residential loans made by the taxpayer during such year by reason of subparagraph (A) is not less than the base amount for such year.

"(C) BASE AMOUNT.—For purposes of this paragraph, the term 'residential loan' means a loan described in clause (v) of section 7701(a)(19)(C) but only if such loan is incurred in acquiring, constructing, or improving the property described in such clause.

(5) CONTINUED APPLICATION OF FRESH START UNDER SECTION 585 TRANSITIONAL RULES.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(6) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(7) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(8) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(9) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(10) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(11) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(12) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(13) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(14) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(15) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(16) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(17) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(18) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(19) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(20) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(21) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,

"(ii) the following rules apply after the date of the enactment of this Act:

(22) TAXABLE YEARS FOLLOWING THE YEAR IN WHICH THE FRESH START RULES APPLY.—In the case of a taxpayer to which paragraph (1) applied and which was not a large bank (as defined in section 585(c)(2)) for its first taxable year beginning after December 31, 1995,
"(B) TREATMENT UNDER ELECTIVE CUTOFF METHOD.—For purposes of applying section 585(c)(4)—

'(1) the balance of the reserve taken into account under subparagraph (B) thereof shall be reduced by the balance taken into account by such taxpayer under paragraph (2)(A)(ii) of this subsection, and

'(ii) no amount shall be includable in gross income by reason of such reduction.

'(A) SUSPENDED RESERVE INCLUDED AS SECTION 585(c) ITEMS.—The balance taken into account by a taxpayer under paragraph (2)(A)(ii) of this subsection and the supplemental reserve shall be treated as items described in section 585(c).

'(A) CONVERSIONS TO CREDIT UNIONS.—In the case of a taxpayer to which paragraph (1) applied which becomes a credit union described in section 501(c) and exempt from taxation under section 501(a)—

'(A) any amount required to be included in the gross income of the credit union by reason of this subsection shall be treated as derived from an unrelated trade or business (as defined in section 513), and

'(B) for purposes of paragraph (3), the credit union shall not be treated as if it were a bank.

'(B) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out this subsection and subsection (e), including regulations providing for the application of such subsections in the case of acquisitions, mergers, spinoffs, and other reorganizations.

(B) CONFIRMING AMENDMENTS.—

(1) Subsection (d) of section 50 is amended by adding at the end the following new sentence: "Paragraphs (1)(A), (2)(A), and (4) of the section 46(e) referred to in paragraph (1) of this subsection shall not apply to any taxable year beginning after December 31, 1995."

(2) Subsection (e) of section 52 is amended by striking paragraph (1) and by redesignating paragraph (2) and (3) as paragraphs (1) and (2), respectively.

(3) Subsection (a) of section 57 is amended by striking paragraph (4).

(4) Section 246 is amended by striking subsection (f).

(5) Clause (i) of section 290(e)(1)(B) is amended by striking "or to which section 593 applies".

(6) Subparagraph (A) of section 585(a)(2) is amended by striking "other than an organization to which section 593 applies".

(7)(A) The material preceding subparagraph (A) of section 593(e)(1) is amended by striking "by a domestic building and loan association or an institution that is treated as a mutual savings bank under section 593(b)" and inserting "by a taxpayer having a balance described in subsection (g)(2)(A)(ii)".

(B) Subparagraph (B) of section 593(e)(1) is amended to read as follows: "then out of the balance taken into account under subsection (g)(2)(A)(ii) (properly adjusted for amounts charged against such reserves for taxable years beginning after December 31, 1987)."

(B) TREATMENT UNDER ELECTIVE CUT-OFF.--The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(3) SECTION 595 IS HEREBY REPEALED.

(4) SECTION 596 IS HEREBY REPEALED.

(5) The table of sections for part II of subchapter H of chapter 1 is amended by striking the items relating to sections 595 and 596.

(C) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1995.

(2) SUBSECTION (b)(7).—The amendments made by subsection (b)(7) shall not apply to any distribution with respect to preferred stock if—

(A) such stock is outstanding at all times after October 31, 1995, and before the distribution, and

(B) such distribution is made before the date which is 1 year after the date of the enactment of this Act (or, in the case of stock which may be redeemed, if later, the date which is 30 days after the earliest date that such stock may be redeemed).

(3) SUBSECTION (b)(8).—The amendment made by subsection (b)(8) shall apply to property acquired in taxable years beginning after December 31, 1995.

(4) SUBSECTION (b)(10).—The amendments made by subsection (b)(10) shall not apply to any residual interest held by a taxpayer if such interest has been held by such taxpayer at all times after October 31, 1995.
The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. Thurmond].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Father, You created us to soar, to mount up with wings like eagles. We realize that it is not just our aptitude, but our attitudes that determine our attitude. Our attitudes are the outward expression of our convictions congealed in our character. People read what is inside by what we project in our attitude.

Help us to express positive attitudes based on a belief that You are in control and are working out Your purposes. We want to allow You to love us profoundly so our attitude will exude vibrant joy. May Your peace invade our hearts so our attitude will reflect an inner security and calm confidence. We long to have the servant attitude of affirmation of others, of a willingness to listen to their needs and of a desire to put our caring into practical acts of kindness.

Lord, if there is any false pride that makes us arrogant, any selfishness that makes us insensitive, any fear that makes us overly cautious, any insecurity that makes us cowards, forgive us, and give us the courage to receive Your transforming power in our hearts. All this is so our attitude to others may exemplify Your attitude of grace toward us. In Your transforming power, Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The President pro tempore, the able acting majority leader, Senator Lott of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

ORDER OF PROCEDURE

Mr. LOTT. I ask unanimous consent that the time between now and 10:30 be equally divided between the two leaders or their designees.

The President pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. LOTT. Also, Mr. President, for the information of all Senators, following the debate and the establishment of a quorum, there will be a cloture vote on the pending Murkowski amendment to H.R. 1296, the Presidio legislation. Senators should be alerted that the vote will occur at approximately 10:40 this morning. If cloture is invoked on that substitute, it is still the hope that we may complete action on H.R. 1296 during today’s session. If cloture is not invoked, it may be the intention of the majority leader to begin consideration of either the line-item veto conference report or the farm bill conference report.

Senators should be reminded that additional rollover votes can be expected during the day. And again to emphasize that point, we are hoping we will soon have an agreement, working with the Democratic leader, we can announce with regard to the conference report to accompany S. 4, the line-item veto bill, but we are not prepared to do that at this time. So we will have debate between now and 10:30 equally divided, and then we will have the vote at 10:40.

I yield the floor, Mr. President.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wish the Chair a good day.

PRESIDIO PROPERTIES ADMINISTRATION ACT

The Senate resumed consideration of the bill:

Pending:

Murkowski modified amendment No. 3564, in the nature of a substitute.

Dole (for Burns) amendment No. 3571 (to amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana.

Dole (for Burns) amendment No. 3572 (to amendment No. 3571), in the nature of a substitute.

Kennedy amendment No. 3573 (to amendment No. 3572), to provide for an increase in the minimum wage rate.

Kerry amendment No. 3574 (to amendment No. 3573), in the nature of a substitute.

Dole motion to commit the bill to the Committee on Finance with instructions.

Dole amendment No. 3563 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof "to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill.”

Dole amendment No. 3564 (to amendment No. 3563), in the nature of a substitute.

Mr. MURKOWSKI. I am not going to take too long because I know many of my colleagues want to speak on the issues affecting welfare and Medicaid. But I do want to express my disappointment with the Democratic leadership and my colleagues on the other side of the aisle who have effectively killed a major and important park and conservation measure. As a matter of fact, the parks bill that we debated for some 7 hours the day before yesterday now can no longer be discussed, there is no additional time for debate because the measure now has, out of necessity, been set aside.

Let us look realistically at what this action is costing the general public relative to its parks and specific areas of importance. Including the Presidio, which was in this parks package. The package included the ability to provide

(continued on page S2907)
Mr. KYL. Mr. President, I commend the chairman of the Senate Energy and Natural Resources Committee for the statement he just made and for the effort he has brought to the floor to get this important legislation through. I join him in regretting it has not been possible. I, too, hope in the future it will be possible.

The WAlnut Canyon NationAl MonumEnt  
BOUNDARY MODIFICATION

Mr. President, I rise today to speak in favor of the omnibus lands bill, an amendment in the nature of a substitute to H.R. 1296. This bipartisan legislative package includes the President's request and more than 50 other park and public lands bills, all of which have already been reported by the Energy and Natural Resources Committee. The vast majority of these bills are

The situation was simple. If the Senator from New Jersey on their measure, as well as colleagues on both sides of the aisle, I recognize for what it was, and that was a giant compromise. While working with my friend from New Jersey and the Senators from California on their measures, as well as colleagues on both sides of the aisle, I appreciate the fact that the other side has decided, evidently, for the political opportunism associated with the realization that we have the AFL-CIO come out and publicly endorse the Clinton administration and indicated its willingness to raise some $35 million to defeat Members on this side of the aisle who are running. Evidently, that was the momentum to put the minimum wage on the park bill. I also appreciate the fact that the people of Utah are the real victims in this, in a sense, because it is their State that is in jeopardy with regard to the amount of wilderness. I commend the Senator from Arizona.

I do not think any of us at that time anticipated that the effort would be lost by attaching a minimum wage amendment to the parks package. I repeatedly tried to get time to break the threatened filibuster but there was no support on the other side of the aisle. Utah wilderness is a recent addition to the Senate Calendar, as is the Presidio. All the other measures have been effectively killed because the Senators from New Jersey are now prevailing. The United States Senate, and that is to pass this important legislation forth he has brought to the Senate floor Natural Resources Committee for the Utah wilderness. The issue was all or nothing with some of the opponents. They felt that 2 million acres added to the wilderness designation in Utah was inadequate; it should be 5 or 6 million acres. The citizens of Utah—the legislature, the Governor, the entire Utah delegation—felt that 2 million acres was a horse trade event, that this kind of package would have made that determination on a clear and unrestricted vote had not some Members seen fit yesterday to attack the minimum wage amendment to this package—the minimum wage is an important issue, but it simply does not belong on this park's package—and as a consequence the parks package has been set aside.

It will come up another day, but I wish to express my disappointment, and I do believe that the Senators who have worked so hard to try to bring this package together.

I am disappointed also in the media because they failed to recognize the importance of this package. But I wish to at least have the Record reflect why we had that package before us.

The Senator from California and the Senator from New Jersey, both have indicated that somehow it was the fault of the majority that the package was lost. I believe, and that it was unfair, some suggested awful, that they were forced to vote on Utah wilderness and other measures if they wanted to see their measures enacted. In other words, they wanted Utah wilderness out of it. Yet they knew that the House would simply not accept the package unless Utah wilderness was in it.

Let the Record reflect that it was the objections on the other side of the aisle that have held each and every one of these bills up for some year or thereabouts. This was the right of the individual Senator, but I think it is disingenuous for him and other Senators on the Democratic side to suggest we were holding these measures. We simply recognized the reality and pleaded with the various Senators on both sides, Senate and House, to work together because there was something in this for everyone; every State was affected in some manner or form, and we would either all gain something meaningful or we would simply lose the effort.

I do not think any of us at that time anticipated that the effort would be lost by attaching a minimum wage
not controversial and deserve to be passed as part of this package.

I realize a few of the provisions in this legislation are controversial. Most notable is the title addressing Utah wilderness. The groups involved have worked for many years to strike a balance; modifying the controversial hard release language. The people of Utah have wrestled with wilderness for over 20 years at a cost of $10 million. This issue needs to come to closure.

I also want to speak about an issue closer to home: Walnut Canyon. On November 9, 1995, the Energy and Natural Resources Committee held a hearing on this legislation and on December 6, the committee voted unanimously in favor of reporting the legislation to the full Senate. As the legislative process, this issue has had the full support of the House, the Senate, and the affected communities in Arizona.

This legislation, introduced by Senator HATCH and BENNETT, is based on the consensus reached last year among interested parties, including the city of Flagstaff, the Coconino County Board of Supervisors, the Grand Canyon Trust, the National Parks and Conservation Association, the Hopi Tribe, the Navajo Nation, the National Park Service, the Forest Service, and numerous private individuals. I read this list only because I am proud that such diverse parties in Arizona could come together to support this important endeavor.

S.231 is similar to the original legislation drafted last session by Representatives Karan English and Bob STUMP, who deserve a great deal of the credit for bringing the parties together. This session, Representative J.D. HAYWORTH introduced a House companion bill, H.R. 562, which was approved by the House by an overwhelming vote of 371 to 49. I hope that we are able to match that here in the Senate.

Walnut Canyon National Monument is an Arizona treasure that we must protect. This legislation will expand the boundaries by exchanging Park Service land for Forest Service land, adding approximately 1,200 acres to the monument. Currently, the monument encompasses numerous Sinaguan cliff dwellings and associated sites. Walnut Canyon includes five areas where archaeological sites are concentrated around natural promontories extending into the canyon, areas that party archaeologists referred to as forts. Three of the five forts are within the current boundaries of the monument, but the other two are located on adjacent lands administered by the Forest Service. By exchanging Park Service for Forest Service land, the two outside forts will be within the monument and receive the protection that those resources need and deserve. It is a simple and commonsense way to make the monument whole.

Mr. President, again, I urge my colleagues to partisans differences aside and pass the omnibus parks bill. Mr. President, I support the omnibus lands bill before the Senate today. I speak as one of the few Senators without a single item in this large package. Let me focus for a moment on the most controversial component of this omnibus lands bill, the Utah Public Lands Management Act.

As a member of the Energy and Natural Resources Committee, I have followed the divisive political debate that has raged for decades over the question of how much land in the State of Utah should be designated as wilderness. This debate has now spilled outside the boundaries of the Utah delegation and the State they represent. It is now a national debate in many ways outside their camp tribal. As a Senator who has seen this same thing happen in my own State, I can appreciate the difficulties of my colleagues from Utah.

I have also followed the Bureau of Land Management's designation of 1.9 million acres as suitable for wilderness designation. The bill before us, which recommends 2 million acres for designation, reflects the technical information gathered by BLM as well as input from over 75 formal public meetings and over 2,000 written statements.

Over the past two decades, our thinking about natural resource management has evolved, resulting in more flexible and cooperative roles for government at all levels—Federal, State, and local. I look forward to the future with an irrevocable choice between wilderness or the bulldozer do us all a disservice.

None of the provisions in these lands' wilderness potential. Nothing is set in stone. Nothing would prevent a future Congress from passing legislation to add land to or withdraw land from this plan.

Those who depict this wilderness designation process as though we are faced with an irreconcilable choice between wilderness and the bulldozer do us all a disservice.

Even for those lands never designated as wilderness, all is not lost for preservationists. There are a host of BLM land classifications designed to protect the natural and cultural attributes of public lands, existing and existing uses. Releasing the 1.2 million acres not selected for wilderness designation provides BLM's land managers, working together with local communities, greater management flexibility while insuring continued resource protection. These other protective designations include the following:

Areas of critical environmental concern;
Outstanding natural areas;
National landmarks;
Research natural areas;
Primitive areas; and
Visual resource management class areas.

Mr. President, I have seen a fair number of wilderness bills become law during my three decades on the Energy and Natural Resources Committee. Since 1964, Congress has enacted 88 laws designating new wilderness areas. Congress has added acreage to existing areas. We now have a system that includes 630 wilderness areas encompassing 104 million acres in 44 States.
The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader Dole last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands.

I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the federal government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma City bombing victims, and help for flood-damaged communities. In another week we have our backs to the wall to simply get veterans' benefits into the mail. Recently, the Senate has not been the deliberative body that it opened to the world. It has opened gateways and beautiful lands to powerlines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national treasure in the Senate.

The Utah lands provision is simply unacceptable. It does not protect enough land, the American public opposes it, and it sets bad prece- dents for wilderness designation. It opens up unique and beautiful lands to powerlines, dams, pipelines, mining, and other uses, it compromises the heritage of our children, and it achieves all this only by ransoming every other national treasure in the Senate. The proponents of Utah lands language cannot buy public approval at any price. I wrote to Majority Leader Dole last week to make this point perfectly clear. Senators, including this Senator who wants very much to see some of the associated measures pass, will not stoop to pass a so-called wilderness bill that leverages politics against the priceless beauty of remote Utah canyon lands. I am frustrated by the high-stakes games being forced upon the Senate. One week we have our backs to the wall to finish a late farm bill so that farmers can begin planting. Another week we have our backs to the wall to finish a late appropriations bill so that the federal government can stay open. Last summer we were forced to adopt a salvage rider in order to get peace in the Middle East, relief to Oklahoma City bombing victims, and help for flood-damaged communities. In another week we have our backs to the wall to simply get veterans' benefits into the mail. Recently, the Senate has not been the deliberative body that Washington, Jefferson, Hamilton, and others envisioned for the greatest nation in the world. The Senate should consider legislation on its merits. If a bill fails Senate approval, it fails. If it fails a veto override, it fails. Our Constitution sets the rules, and they have served us well for 200 years.

I think the political parties back together for reasonable debates on responsible environmental policy. Conservation is as Republican as Richard Nixon and as Democrat as Jimmy Carter. Environmental protection is supported by Americans of all political stripes. I have worked with former Senator Bob Stafford in Vermont to restore the tradition of bipartisanship on environmental issues. I just received a letter from the organization Republicans for Environmental Protection asking Senator Dole to strip the Utah provisions from the bill. It is wrong for any party to charge down a path of exploitation and environmental abuse, and I urge the Senate to reject this amendment.

My children, and many of the children of my colleagues, will live most of their lives in the next century. We are in a position to decide what the next century will look like. Yes, we got here first. Just as the first explorers made resource decisions centuries ago, we now face similar decisions about the fate of our natural resources. Just as the native Americans and first European settlers decided to protect public lands as a condition of a land purchase from the federal government, the Senate has the duty to require that future land purchases be made with the understanding that they will be preserved as wilderness until their designation.

I urge the Senate to reject the Utah lands provision. Mr. SARBANES. Mr. President, I rise today to add my voice to those requesting that S. 884, title XX of the pending substitute amendment, be removed from the Presidio bill and be considered as freestanding legislation. Mr. President, on Monday the Senate began consideration of H.R. 1296, legislation developed with the assistance of the California delegation creating a Presidio trust to manage property at Presidio, San Francisco. The Presidio, a former Army post overlooking San Francisco Bay, was recognized by the Congress in 1972 as a national treasure and was slated for inclusion in the National Park System upon its cessation from military use.

The substitute amendment before us, the omnibus parks and recreation bill, contains—in addition to the Presidio bill—approximately 32 public lands titles, many of which have been reported out by the Senate Resources Committee with bipartisan support. However, one title of this amendment, title XX, the Utah Public Land Management Act, does not enjoy the same bipartisan support, and is preventing the Senate from completing action on the underlying Presidio legislation in a timely manner.

The Utah Public Land Management Act contains a number of provisions which would have a profound impact on the existing and future wilderness designations. On March 27, 1996, the Wilderness Act of 1964 defined a wilderness as land where, "in contrast to those areas where man and his works dominate the landscape, is hereby recognized as an area where the earth and the community of life are untrammeled by man, where man himself is a visitor who does not remain." And I would note that the bill includes the Sterling Forest Preservation Act, which Senator Bradley and I strongly support.

Unfortunately, the real goal of the pending substitute amendment is to undermine the wilderness bill. And I would note that the bill includes the Sterling Forest Preservation Act, which Senator Bradley and I strongly support. Unfortunately, the real goal of the pending substitute amendment is to undermine the Wilderness Act of 1964, which would allow us to move forward from. I take particular note of the long-standing conservation and environmental abuse, and I urge the Senate to correct its course.
allow uses on these lands that will destroy lands with significant ecological and scientific value.

Mr. President, I oppose including S. 884 in this omnibus lands bill, and will support an effort to remove that title in its entirety. The following is a list of the provisions in the underlying legislation, which are truly noncontroversial. But we ought to have a separate, open, and honest debate on those provisions that are controversial.

Mr. President, I have heard from more people—both in New Jersey and from out West—about the Utah wilderness bill than perhaps any other public lands issue. By an overwhelming margin, people have urged me to support Utah wilderness, and to oppose S. 884 as written.

Who are these people who visit my office, write me letters, stop me in the halls? They are people from New Jersey who understand what it means to live in the most densely populated State in the nation. People who understand what it means to live in a State still reeling from the legacy of pollution from the industry, and who value open space, beautiful natural resources, and clean fresh air.

New Jerseyans know that once land is destroyed by extensive development, it may never return as it was. At best, it takes a very long time to recover.

I’ve heard it said on the floor of this Senate that the only people who oppose S. 884 are the Eastern elites. Well, Mr. President, these so-called elites from New Jersey are really ordinary people who care about their environment and their Nation’s natural resources. They care because they know what it’s like to be without.

But, Mr. President, not everybody opposed to S. 884 is from New Jersey. Take the mayor of Springdale, UT. He visited me a year ago to explain how his community benefits more from preserving the wilderness than from activities that would alter or destroy it. As the mayor explained, recreation and its associated businesses provide for a sustainable and growing economy. By contrast, he said, resource extraction does not.

I’ve also heard from a fourth generation Utah native, the past president of the Salt Lake City Rotary Club, a Mormon, and father of four children who urged me not to get involved in this issue.

He told me that recreational and other commercial enterprises depend on the wilderness. And that these businesses are critical to the economic vitality of the State of Utah and to Utah’s quality of life. He also told me that preservation is crucial to his peace of mind.

Mr. President, it is true that these lands are all in Utah. But they are also national lands that contribute to the entire country. We need to have a great canoelogical significance, and they provide scientific and educational treasures, as well as a growing recreation business. That is why I care.

I also care very much about title XVI of the bill, the Sterling Forest Preservation Act. Let me talk a little about Sterling Forest and why its preservation is so important.

This bill designates the Sterling Forest as a National Wilderness Area, to acquire $15 million to acquire land in the Sterling Forest area of the New York/New Jersey Highlands region.

This would preserve the largest pristine private land area in the most densely populated region in the United States. It also would protect the source of drinking water for 2 million New Jerseyans.

Mr. President, the Highlands region is a 1.1 million acre area of mountain ridges and valleys. The region stretches from the Hudson to the Delaware Rivers and consists primarily of forests and farmlands. The Forest Service, in a 1992 study, called the Highlands, “a landscape of national significance, rich in natural resources and textile traditions.”

Unfortunately, the Highlands region faces an increasing threat of unprecedented urbanization. Perhaps the most immediately threatened area is Sterling Forest.

Located within a 2-hour drive for more than 20 million people, the 17,500-acre tract of land on the New York side is owned by a private company that has mapped out an ambitious plan for development.

The community that this corporation plans to develop will have a negative impact on drinking water for one-quarter of New Jersey residents. It also threatens the local ecosystem and wildlife, the nationally designated Appalachian Trail, and the quality of life of residents of the New York-New Jersey metropolitan area.

I will not describe this proposed project in detail.

But suffice it to say that one cannot build this development without creating more than 14,000 housing units and 8 million square feet of commercial and light industrial space, and release 5 million gallons of treated wastewater into a pure environment, without a significant impact.

My concern about the project’s effect on New Jerseyans’ drinking water is not new. We have known for some time that this development will destroy valuable wetlands, which filter and purify the water supply, and watersheds, which supply one quarter of New Jersey’s residents with drinking water.

The proposal calls for three new sewage treatment plants to accommodate the development. These plants will discharge 5.5 million gallons of treated wastewater each day into the watersheds.

Compounding matters will be nonpoint source pollution generated by runoff from roads, parking lots, golf courses, and other development activities. This runoff carries pollutants such as fertilizers, salt, and petroleum products, among others. Together these pollutants pose a serious threat to drinking water, which is why there is so much concern in New Jersey.

I am not alone in my opposition to the proposed development. Residents from the nearby communities also oppose it. Based on testimony delivered during local public hearings, the development plan will impose $21 million in additional tax burdens on surrounding communities. On the other hand, under the management scenario proposed by this bill, a park would generate revenue.

The only viable management option for this important ecosystem is preservation. And that is what is proposed in this legislation.

The bill would provide critical protection for the forest. But it does not impose the heavy hand of the Federal Government on the local community or on the owner of the property. The funds authorized in this bill represent a fraction of the total funding needed to purchase the forest. The rest would come from other public entities, such as the States of New Jersey and New York, and private parties.

I also would note that the legislation specifically requires a willing buyer-willing seller transaction—if the company determines that it is in its best interest to sell, it doesn’t have to.

Furthermore, the Federal Government would be relieved of the significant costs associated with forest management, law enforcement, fire protection, and maintenance of the roads and parking areas under an agreement with a respected bi-State authority.

These provisions have the support of the local communities, the two States, and regional interests. They are cost effective and reasonable. And they are environmentally responsible.

Senator Bradley and I have worked on this bill for years now, and we are pleased to note that last June, the bill passed as part of H.R. 400, now pending in the House. We have heard many expressions of support from the Speaker of the House for preserving Sterling Forest, and we anxiously await passage of H.R. 400.

Unfortunately, including Sterling Forest in this bill only serves to, in the words of the Sterling Forest Coalition, “hold Sterling Forest hostage to S. 884.” The people of New Jersey do not support this omnibus lands bill as written, and I share their view.

Let me quote from a letter I received yesterday from the Highlands Coalition, a leading organization with membership in Connecticut, New York, and New Jersey:

The Title XX of this bill, the Utah Public Lands Management Act... is anathema to environmental principles and must not be connected to Sterling Forest funding. The amount of acreage it would set aside as Wilderness in southern Utah is meager compared to the vast array of citizens in Utah and surrounding States would like to see. The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Parks bill must be amended to delete in its entirety the...
Mr. President, letters like this help show how our Nation's wilderness areas meet national interests. I ask unanimous consent that the text of the letter from the Highlands Coalition be printed in the RECORD.


Mr. President, letters like this help show how our Nation's wilderness areas meet national interests. I ask unanimous consent that the text of the letter from the Highlands Coalition be printed in the RECORD.

The President directs us to the Highlands Coalition, with membership organizations representing more than 300,000 people in New York, New Jersey and Pennsylvania, who have been working for over 5 years for the preservation of the Sterling Forest in New York as public lands. New York, New Jersey and a private foundation have committed between $20 and $30 million for this purpose, but we need federal matching funds. Over the past three years various bills have been introduced in both the House and the Senate that would provide federal funding, but none of these has yet been signed into law. Now, another bill containing provisions for Sterling Forest, the Omnibus Public Lands Management Act, has been introduced in the Senate.

The Title XX of this bill, the Utah Public Lands Management Act introduced by the Utah Senators, as S. 884, is anathema to environmental principles and must not be connected to Sterling Forest funding. The amount of acreage it would set aside as Wilderness in southern Utah is staggering compared to what the majority of citizens in Utah and surrounding states would like to see. Further, key provisions would allow development in designated federal Wilderness areas in Utah, thus threatening the integrity of the entire National Wilderness Preservation system.

The preservation of Sterling Forest must not be at the cost of environmental degradation elsewhere in the United States. The Omnibus Public Lands Management Act is non-transparent and its effects on the environment have not been assessed. If this bill is not so amended, we ask you to vote against the entire Omnibus Public Lands Management Act.

Sincerely,

WILMA E. FREY
Coordinator

Mr. LAUTENBERG. I also ask unanimous consent to have printed in the RECORD an editorial from a newspaper in New Jersey, the Bergen Record, who editorialized, "Sterling Forest is too important to this region's well-being to become a hostage of partisan politics."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PROMISES, PROMISES—UTAH LAND GRAB WOULD HURT STERLING FOREST

Is this crazy or what? At a time when many congressional Republicans are trying to project a more moderate approach on environmental issues, some of their brethren are pressing for an omnibus public-lands bill that is anathema to conservationists and a stumbling block to saving Sterling Forest.

It's time for the GOP leadership, House Speaker Newt Gingrich and Senate Majority Leader Bob Dole to get on the same page and push for legislation that saves important resources without sacrificing others.

The omnibus environmental bill, which is expected to come to a Senate vote as early as this week, includes $17.5 million toward the purchase of Sterling Forest. But it also includes a provision that would open 20 million acres of southern Utah to forestry, mining, and other commercial interests. That's unacceptable.

Interior Secretary Bruce Babbitt has said, rightly, that if this omnibus bill were to become law, "it would be at the cost of environmental degradation and would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas."

At a time when the owners of the land are moving ahead with their plans to build 13,000 housing units and 8 million acres of commercial development on the mountainous tract, such a setback at the federal level would be disastrous.

Just last month, Mr. Gingrich stood in a clearing near Sterling Forest and pledged that Congress would pass a bill to save the land without sacrificing any environmentally sensitive land in the process. The only sure way to do that is for Mr. Gingrich to push forward with an existing Sterling Forest bill, HR-400.

This bill has already passed the Senate. And, Mr. Clinton has indicated he would sign it. Now, Mr. Gingrich keeps back- ing his word. Sterling Forest is too important to this region's well-being to become a hostage of partisan politics.

As for the other public-lands legislation, the Republicans would be wise to jettison the Utah land giveaway. That would sink one small example of the special provisions included in this package. If this bill were to become law, it would be the first of over 100 wilderness bills to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on the 140,000 acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

Even if these issues were resolved, I still have grave concerns stemming from the unique management and land exchange provisions. If this Utah wilderness bill were to become law, the Nation would effectively have two wilderness systems, Utah and the rest of the Nation. It would in effect result in a brand of wilderness that would be so different, that current BLM regulations, which are appropriate for all other BLM wilderness areas, would have to be substantially altered just to accommodate the unique provisions of this bill.

Most startling is the fact that it appears the Secretary of the Interior would in Utah have less authority to control access in and around wilderness areas than nonwilderness areas. How can this be if wilderness is defined as protected public lands?

One small example of nonconformity is the bill's special provisions for facilities within wilderness areas. Section 2003(d) provides:

"Nothing in this title shall affect the capacity, operation, maintenance, repair, modification or replacement of municipal, agricultural, livestock, or water facilities in existence on the date of the enactment of this Act." There is no qualification to this paragraph. Conceivably, projects could be expanded without any regard to impacts to wilderness values. This is only one small example of the special provisions included in the language of this bill.

In the past, wilderness laws have generally deferred to the access provisions of the President and allow the rest of the bills to be considered and passed on their own merit. Mr. BINGAMAN, Mr. President, I rise to express my concerns with the current language of the Utah wilderness bill. First of all, any of the opposed legislation being attached to a large group of largely noncontroversial bills that are very important.

I do support passage of a Utah wilderness bill. However, I cannot support this bill. This bill largely precludes future designations of BLM wilderness in Utah; substantially alters the definition of wilderness; and may result in an unfair land exchange value between the United States and the State of Utah.

I am opposed to the hard release language the bill contains. If this bill were to become law, it would be the first of over 100 wilderness bills to contain hard release language. I agree that lands not included in this bill should generally be released to standard multiple use provisions, but I do not agree that BLM should be precluded from ever considering future wilderness designations on the 140,000 acres of public land in Utah. I believe the soft release language that the Bush administration supported is the appropriate route.

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In the past, wilderness laws have generally deferred to the access provisions
of the Wilderness Act of 1964. This practice provides a measure of consistency throughout the wilderness system. The proponents of this Utah wilderness bill have strayed so far from the vision of the original framers of the Wilderness Act that an amendment that type of wilderness would, in effect, be established. I do not support this establishment of an alternative version of wilderness.

Even if this bill did not contain these nonconformities, I would still have concerns with the land exchange provisions that would provide a unique means to establish the value of Federal lands to be exchanged to the State of Utah. These provisions would give a significant advantage to the State of Utah that no other State has enjoyed in its wilderness bills.

I support passage of a Utah wilderness bill. However, I believe the bill must not preclude future designations of wilderness; substantially alter the definition of wilderness; nor provide for unfair exchange values between the United States and the State of Utah.

Mr. FEINGOLD. Mr. President, I rise today to express my deep concerns about a measure, known as S. 884, the Utah Public Lands Management Act, which is part of the omnibus package now before the Senate.

I believe that it is critically important to make my colleagues aware that this omnibus package is not simply a means to clear small measures on the docket of the Energy and Natural Resources Committee. Among its provisions is a measure which decides the fate of 22 million Federal owned acres of land in southern Utah. It designates a portion of the acres as wilderness and leaves vast areas free for development. This is one of the few times this session that the Senate will have the opportunity to engage in a dialog over what should happen to these and other Federal lands.

The Utah provisions contained in the measure currently before the Senate are controversial provisions. Both Utah and national newspapers have been a hotbed of debate over the question of how much wilderness to protect and the process used to develop the bill. I also know that many citizens in my State are deeply concerned about aspects of this bill which would fundamentally change the way the Federal Government manages public lands, which all Americans own. Wisconsin residents, who care deeply about the Federal lands in Utah as well as Federal land policy in general have written to me and urge significant changes in this measure.

Mr. President, a major concern about the measure currently before the Senate relates to the hard release language in the Utah provision which affects the future ability of the BLM to designate additional wilderness. As the BLM is currently managing 3.2 million acres in Utah as wilderness, the provisions of the sub-stitute amendment relating to Utah would designate approximately 2 million acres as wilderness. They further require that any lands not explicitly designated by the bill as wilderness will be managed for multiple-use. Therefore, even if BLM finds in the future that lands are suitable and in need of protection, no additional lands could be designated as wilderness. The Senate has never passed a bill containing such language before, and such language is a significant departure from the tenets of the 1964 Wilderness Act.

The key protection wilderness designation offers the lands in southern Utah is protection from certain kinds of development—but not from the use of the lands. Activities allowed in wilderness areas are: foot and horse travel; hunting and fishing; backcountry camping; float boating and canoeing; guiding and outfitting; scientific study; educational programs; livestock grazing, not all you can already be established; control of wildfires and insect and disease outbreaks; and mining on pre-existing mining claims.

Prohibited activities, according to the 1964 Wilderness Act include: use of motorized or mechanized personal property, such as all-terrain vehicles; roadbuilding, logging, and similar commercial uses; staking new mining claims or mineral leases; and new reservoirs or powerlines, except where authorized by the President as being in the national interest.

The magnificence of the wildlands that are at stake in this debate cannot really be done justice in words, Mr. President. As my colleague from New Jersey, Mr. BRADLEY, has already shown the Senate, they include starkly beautiful mountain ranges rising from the desert floor in western Utah with ancient bristlecone pine and flowered meadows. Some areas are arid and austere, while in others the leafy slopes speckled with pinyon pine and juniper trees. Other areas support habitat for deer, elk, cougars, bobcats, bighorn sheep, coyotes, birds, reptiles, and other wildlife. These regions hold great appeal to hikers, hunters, sightseers, and those who find solace in the desert's colossal silence.

These BLM lands are truly remarkable American resources of soaring cliff walls, forested plateaus, and deep canyons that encompass the sculpted canyon country of the Colorado Plateau, the Mojave Desert, and portions of the Great Basin.

Some in this body may think it strange that a Senator from Wisconsin would speak on behalf of wilderness in Utah. The issue of and debate over Utah wilderness protection, Mr. President, has been one of which I have been aware since the time I joined the U.S. Senate, and many of my constituents believe that the lands of southern Utah are the last major unprotected vestige of spectacular landforms in the lower 48 States—of the caliber of lands so many nationwide already hold dear, such as Yellowstone, the Grand Canyon, and the Arctic National Wildlife Refuge. I have received more constituents mail—over 600 pieces in all—from Wisconsin residents concerned about wilderness lands in Utah. I have written letters to all my other environmental issue in this Congress—including many critically important issues to my state such as clean water, safe drinking water, the protection of endangered species, and Superfund reform. A man from Wisconsin, Mr. FEINGOLD, writes about the lands of Utah:

These resources are national treasures that make our country great, and once they are gone they are lost forever.

A woman from Beloit added in her letter:

I live in Wisconsin but my real home is the natural world. . . . most voters do not concur with the irrevocable destruction that would result from (this measure) becoming law. Please do all you can to be a voice for wilderness—not only in Wisconsin but in the fragile and gorgeous West.

One of the most poignant testimonial came from an Eau Claire resident:

I have not had a lot of experience writing letters to my elected representatives. However, it appears that the current priorities in Washington are shifting away from conserving towards a destructive, greed-oriented approach, under the guise of economic growth and development of public lands. Given this climate, I feel I must write to express my opinion. I have had the opportunity to visit much of the West over the past 30 odd years on annual family vacations. This is truly a unique land without rival anywhere else in the world. My family and I have learned to love and respect this region and we feel that it must be protected in its natural form. I strongly urge you to oppose any compromise Utah lands bill that does not include a strong vision of conservation for future generations.

Mr. President, I read from some letters from Wisconsin residents because I think it is critical for us to understand that the importance of protecting these lands in Utah extends beyond the borders of that State. Many Americans enjoy and treasure this area, just as they do other great American wilderness areas and it is the responsibility of all members of the Senate to be concerned about the fate of this national treasure.

I have been personally touched by these appeals from residents of my state who recognize the importance of this issue to my constituents, on October 11, 1995 I circulated a small paperback book containing essays and poems by 20 western naturalist writers reflecting their thoughts on the protection of wilderness in Utah to all members of the Senate. The book, entitled “Testimony,” was released on September 27, 1995. It is modeled after the late author Wallace Stegner’s 1960 Wilderness Letter to the Kennedy administration which was a critical benchmark document in the developing and eventual passage of the 1964 Wilderness Act. In his 1960 Wilderness Letter, Wallace Stegner said “something will have
gone out of us as a people if we let the remaining wilderness be destroyed."

Mr. President, those words are echoed and reverberated by these western writers as they describe the legislation now before the Senate and its affect on Utah.

The paperback was compiled during August 1995. The selections represent the opinions of the authors, written in direct response to the measure currently before Senate which would affect public lands management in Utah. The book includes writings by individuals such as: Terry Tempest Williams, Utah native and author of five books; T.H. Watkins, editor of Wilderness magazine; N. Scott Momaday, winner of the 1992 Pulitzer Prize for "Maiden of Dawn"; and Mark Strand, former Poet Laureate of the United States. 1,000 copies of the book were printed for distribution on the Hill, and I now understand that the writers intend for this work to produce a small booklet and the printing costs were covered by a donation from a nonprofit foundation.

I distributed this book because I felt it was important for all members of the Senate to have a copy of this book to review in making a decision that so profoundly affects future of such a spectacular area.

One of the pieces in the Testimony book that most caught my attention. Mr. President, was a selection by Stephen Trimbel. Steve Trimbel is a writer who has published work through Milkweed Press in Minnesota for the general public. The writers donated their work to produce this small booklet and the printing costs were covered by a donation from a nonprofit foundation.

I want to recount a story, one perhaps several of members of the Senate may remember, from 1967, when the Senate Subcommittee on Parks and Recreation held hearings on Senator Howard Nelson's plan to create the Apostle Islands National Lakeshore.

A man named John Chapple, a newspaperman from Ashland, WI, testified at those hearings. Mr. Chapple, who spent much of his life around the Apostle Islands, related the story of a time when he and his 10-year-old son were out in a 14-foot motorboat on the waters around the Apostle Islands:

On one occasion, the water was very rough, and I pulled our little boat onto a sand beach so that we could sit out some minutes before the motor. Three men came walking out. 'Don't you know this is a private beach?' they said. 'You are not supposed to land here.'

That stung, and it still stings.

Twenty-five men with fortunes could tie the Apostle Islands up in a knot and post 'keep out' signs all over the place.

The beauty that God created for mankind would not be available to mankind anymore. These islands, with their primeval power to truly recreate, to reinvoke, to inspire mankind with a love of peace and beauty . . . must be preserved for all the people for all the time and not allowed to fall into the hands of a few.

When the Senate acted to protect this area of northern Wisconsin, they heard the voices of Wisconsinites like Mr. Chapple who knew the value of peace and beauty and of preserving our natural heritage. Though those words were spoken by mankind nearly 20 years ago, about an entirely different landscape, they almost sound like an adendum to Steve Trimbel's story about southern Utah canyons, which is included in a new testimony.

In places like the Apostle Islands and southern Utah, Wisconsinites have found opportunities to develop a consciously sympathetic relationship to the rest of the world, so that we may...
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better live in it. These natural places are a confluence for the things we value in Wisconsin.

The parallels between the Apostle Islands in my State and southern Utah, interestingly go even further than the emotion that the landscapes evoke among the people of my State. Along the Apostle Island National Lakeshore’s shoreline there are the wonderful rust colored sandstone cliffs. These sandscapes serve as staging areas for birds following their ancient paths of migration, and to many visitors to the sea caves sculpted by centuries of wind and water at Apostle Island National Lakeshore near Bayfield.

In the case of the Apostle Islands, how does the Senate respond, Mr. President? And what does it tell us about the stewardship and attention we should pay here in the Senate to southern Utah. In 1967, Senator Nelson was leading the effort that led to President Nixon's signing, on September 26, 1970, of the legislation that established the Apostle Islands National Lakeshore—only a few months after the first Earth Day.

Many of my constituents are concerned that perhaps there isn’t that kind of momentum in this body any more. As their letters reflect, they believe that there is a concerted campaign to undermine landmark environmental legislation, such as the Clean Water Act, and to curtail or end the Federal protection of endangered species and their habitats. They express frustration that the Senate is responding to efforts to persuade Americans they cannot afford further environmental protection, that the idea of protecting our natural heritage is somehow an affront to the American ideal of rugged individualism.

As we consider this measure we must be mindful of Wallace Stegner’s words I quoted earlier, of the need to act carefully on these issues in community and with sympathy and responsibility for our place in the great scheme of things.

I feel that it is exceedingly important to be actively engaged in discussing alternatives for the management of signifcant areas. So, as I said before, I urge my colleagues to be committed to do so in Utah, and I urge them to oppose the inclusion of the Utah measure in this Omnibus package.

The Utah wilderness provisions in the legislation prior to the Senate action have several major weaknesses.

The first major concern is the “under protection” of areas that are suitable for wilderness designation. The bill would protect only 2 million acres in contrast to the 5.7 million protected in a competing bill, H.R. 1500, introduced in the House of Representatives and the 3.2 million acres currently being managed by BLM as wilderness pending congressional designations.

Mr. President, as other Senators have discussed, the review of public lands in Utah to determine their wilderness potential has had a long and contentious history. The BLM’s initial inventory of 3.5 million acres of the 1976 Federal Land Policy and Management Act, known as FLPA, identified 5.5 million acres of land as having potential wilderness values. Subsequent stages of that process resulted in 2.6 million acres of land being designated as wilderness study areas [WSA’s] a designation which is a precursor to wilderness designation. Utah environmental interests challenged the 2.6 million designation, urging that about 700,000 acres be reinventoried. That has resulted in the BLM ultimately provided WSA status to 3.2 million acres—the management situation under which BLM is currently operating.

Controversies over the inventory have resulted in disagreement over how much wilderness to designate in Utah. Concerns over BLM’s survey lead citizen groups to continue to conduct field based research to determine the wilderness values of other sensitive areas. These citizen group surveys lead to the development of alternative legislation to the proposal included in the omnibus package, which has been introduced in the other body by a Representative from New York, [Mr. HINCHELY]. That legislation, H.R. 1500, America’s Red Rock Wilderness Protection Act, would set aside 5.7 million acres of land as wilderness—evidence more than the BLM is currently protecting as WSA’s.

In addition to current congressional proposals, there have been previous administrative attempts to resolve the wilderness question in Utah. In 1991, the Bush administration recommended to Congress that 1.9 million acres be protected as wilderness. The proposal before us today has a similar acreage figure, only it recommends designation for different areas. However, the Interior Department now believes that the lands in Utah designated as wilderness in this amendment would be significantly altered short, the meaning of “wilderness” designation would be significantly altered in this bill for these lands. The legislation is full of these exceptions to standard wilderness management protocol.

For example, under section 2002 of the amendment, roads would have to be maintained to a much greater extent than is provided for in the Wilderness Act. Access by bicycles, motorcycles, trucks, sport utility vehicles, and heavy equipment is guaranteed at any time of the year for water diversion, irrigation facilities, communication facilities, and other devices. In addition, any other structures located within the designated wilderness areas. This type of unrestricted vehicular use is currently not allowed on lands now managed by BLM, or on many other parcels of Federal land, regardless of whether or not they are designated as wilderness. Creating an exemption to allow such activities within wilderness areas raises the question, Mr. President, what is the purpose of extending a special designation such as “wilderness” if we do so with so many holes that the designation is essentially meaningless or that the lack of such a designation would actually be more protective. As I said before, this bill would allow activities in a federal land that would not be permitted on other non-wilderness Federal lands.

Another example of the way this legislation would undermine the management of wilderness areas is included in section 2006 on military overflights. This section includes special language preempting the Wilderness Act and permitting low level military flights and the establishment of new special use areas over wilderness. This language sets a precedent for allowing such activities, precedent which is of great concern to the citizens of my State. I have been involved, along with concerned Wisconsin citizens, in monitoring the recently proposed expansion of low level flights by the Air National Guard in Wisconsin. The path of these low level flights would cross extremely ecologically sensitive areas in my State, and the existence of those areas has been instrumental in forcing the National Guard to take a more careful look at the planning of any such flights.

The third area of concern, which I highlighted earlier in my remarks, is the hard release language. This language, if enacted, would set an unacceptable precedent for the National Wilderness System. None of the more than 100 wilderness bills already enacted is consistent with the Wilderness Act. In the past, more than half of the release has been proposed only for lands formally studied by a Federal agency for designation as wilderness but released
from the WSA study status by Congress. The language in this amendment goes even further. Mr. President, it applies to all the 22 million acres of BLM lands in Utah not just the 3.2 million WSA acres.

The final area of concern is the land exchange embodied in the Utah wilderness portion of this bill. This legislation mandates that State lands within or immediately adjacent to designated wilderness areas be exchanged for certain Federal lands now owned by BLM. Such lands to be exchanged are explicitly designated in this legislation, such as the 3,520 acres that would be given to the Water Conservancy District of Washington County, Utah for the construction of a reservoir. Other areas are not explicitly designated. The State is allowed under this measure to choose from a pool of Federal lands in different areas. As others have discussed, the Dutch-owned mining company, Andalex Resources is currently moving forward in the Federal permit process to develop a coal mine on lands which the State is interested in acquiring. This exchange has significant fiscal consequences.

First, the Interior Department believes that the 3,520 acres would be of approximately equal value. More importantly, should the lands have been permitted for mining under Federal ownership, the taxpayers would receive the return for all such mining activities. CBO determined that the net income to the Federal Government of the lands being transferred to the State of Utah would amount to an average of almost $500,000 annually over the next 5 years, or approximately $2.5 million in Federal receipts. In contrast, the Federal receipts anticipated from the lands being traded to the Federal Government in exchange would amount to about $33,000 per year or a mere $165,000 over the same period. In comparative terms, Mr. President, for every $1 that the Federal Government gives in the lands it exchanges with Utah it only gets back 7 cents.

All of these concerns, Mr. President, have led the Secretary of the Interior, Mr. Babbitt to announce on March 15, 1996 that he would recommend that the President veto this omnibus package unless the Utah provisions were removed. That is a step that the Senate should take. If the Utah provisions remain in this bill as currently drafted, the bill deserves to have the Federal permit to the President veto document put to the floor in an effort to get them passed yet again and to get them signed by the President.

It seems we are in a campaign mode now. Everyone is focused on the Presidential election. It does not seem like it was just 4 years ago that President—candidate then—Bill Clinton was going around the country saying we need to end welfare as we know it. People might ask what has happened in the last 4 years? The President seemed to be committing himself to ending welfare as we know it. Yet, during the first 2 years of his administration, when the Democrat Party controlled the House and Senate, nothing was done. When Republicans finally came in and it was part of the Contract With America, however, something did get done. We passed bills for welfare reform, and they not only reformed the essence of the welfare program to put more focus on people working, on providing incentives to families, and to reducing the costs of welfare, but also returned much of the decisionmaking to the States under the theory that the people who would benefit would have more connection with the specific people on welfare and would know better how to run the programs for the benefit of the people in their individual States.

We, therefore, passed a Balanced Budget Act that included significant welfare reform and sent that bill to the President on November 17. He vetoed the bill on December 6 and said that he wanted a different welfare bill. So we sent him another welfare bill. This time the Senate voted on a separate welfare bill, and the vote was 87 to 12. That is about as bipartisan as you can ever get in the U.S. Senate. Yet the President rejected that as well. In fact, in his State of the Union speech he said, "I will sign a bipartisan welfare bill if you will send it to me." We have already done that by a vote of 87 to 12. Democrats and Republicans alike understood the need for real welfare reform, and would send it to him. But it still was not good enough.

So, the Nation's Governors got together, Democrats and Republicans, and unanimously agreed on welfare reform and on Medicaid reform, which I will speak to in just a moment. Initially, it seemed like we had an opportunity, not only to get the legislation passed through the House and Senate— that would be fairly easy—but to get the President to sign it, which is required if it become law. But now, once again, it appears the President will not take yes for an answer, or he got cold feet, or something, because now Secretary Shalala, for example, is saying she does not really like the idea of a block grant.

As everybody knows, the block grant is fundamental, it is essential, it is the central point here of our Medicaid and welfare reform. In other words, instead of having Washington decide what to send the States, it went directly from the States for them to take the decision how best to operate the program in their State with a few general national guidelines, the rest of the decisions being made at the State level. So, once again, we proposed a specific idea, this time with all of the Nation's Governors in support. The administration is still saying no. It makes you wonder whether this President is really committed to welfare and Medicaid reform. We are, once again, debating the same issue that was debated 4 years ago, about which we all thought we were in agreement.

Let me quickly turn to Medicaid because the majority leader also indicated that he thinks, and I agree, that we need to have these two issues both sent to the President for reform because they both involve the same general element of return of control to the State. Medicaid is growing at roughly 10 percent annually. This is the program of health care for our indigent citizens. Obviously, without reform, that program is going to be in trouble. As a matter of fact, the Federal Government will spend over $1 trillion between 1996 and 2002 on Medicaid. Without reform, the States will spend $688 billion of their own money on Medicaid between 1996 and the year 2002. This represents 8 percent of the States' non-Federal revenue and an increase of 225 percent between 1990 and the year 2002. Obviously, this system must be reformed.

The legislation that we put together recognizes that there is a need for Federal support, there is a need for Federal involvement, but the States can run these programs. My own State of Arizona was the first to get a waiver and, from the very beginning, it ran a program it calls ACCESS, which provides medical services to the poor and has done so at a cost that the State of Arizona could afford. The bottom line of the reform that we have put together on Medicaid—and here, again, the Governors have been in agreement on this—is that the program will continue to grow not as fast as it has in the past, because the States would be given more latitude to run the programs on their own.

Total Federal and State spending of Medicaid under these programs we have designed would, over the next 7 years, be at least $1.36 trillion. The Federal portion of this amount would exceed $780 billion. Federal spending for Medicaid would increase at an average annual rate of 5 percent, between 1996 and the year 2002. It would grow from over $157 billion in the year 1996 to at least $220 billion in the year 2002, which represents an increase in spending of more than 40 percent, Mr. President. That is not a cut, lest anybody suggest that it is.

The key, as I said, is to allow the States greater flexibility to restructure the benefits of Medicaid to suit their own State's beneficiaries. Again, the National Governors Association has reached an agreement on Medicaid and other welfare programs.

The point of our comments this morning is to try to stress the fact that the Congress has been willing, the
Mr. KYL. Finally, Mr. President, on behalf of the leader, I ask unanimous consent that the quorum be waived with respect to the cloture vote this morning on the Murkowski substitute amendment; and further, that Senators have until 10:30 this morning in order to file second-degree amendments to the substitute in accordance with rule XXII.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KYL. Finally, Mr. President, on behalf of the leader, to simply announce that Senators should be alert that the cloture vote will be at approximately 10:30 this morning.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

AMERICANS CONDEMNED TO FUTURES WITH NO HOPE

Mr. COVERDELL. Mr. President, I think you can't do justice to the remarks of my good colleague from Arizona. I do not know of any issue in the country for which there is more unanimity or agreement than the current status of our welfare programs.

You can go to any community, any State, any region, any city, and, as I said, there is a unanimity that this program has failed.

Sometimes in the discussions, we fail to acknowledge what that means. What that means is that hundreds of thousands of Americans have been condemned to stunted futures with no hope, no real education, no real prospects for opportunity in a life as we have come to know to be synonymous with being an American.

You can do anything as long as it is different and it would be better. Every statistic that we have endeavored to improve with these massive welfare programs, with the exception of one piece of data, is worse today and not just a little worse, but dramatically so. Every condition of the target of the welfare programs is worse, not better. We have higher teenage pregnancies, fewer children in two-member households, we have less scores in our education programs. It is all worse.

What makes it even more difficult to comprehend is that we have spent more of the Treasury of America on the War on Poverty than on the Second World War, the First World War, Vietnam, Korea, and the Persian Gulf combined. We, essentially, prevailed on those battles, but we have lost the war on poverty. That means that there are millions of Americans today for whom the future is bleak, and we owe our fellow citizens more than this condemnation that we have created in our own country.

To put in context a response, a contemporary response, the President of the United States went to the American people in 1992 and, in his successful bid for the Presidency, said, "This condition must stop. This condition must come to an end. Welfare as we know it will not continue." He was elected President. He had a majority in the House and the Senate, and in the 103d Congress, the Clinton Congress, nothing happened. Welfare, as we know it, is as it is—unchanged.

Then we come to the 104th Congress and this new majority, and an extensive Welfare Reform Act was passed in the House and in the Senate and sent to the President, the President who had promised the American people that he would end welfare as we know it. Instead, what he ended was welfare reform in the dark of the evening when he vetoed the Welfare Reform Act, which he has now done twice.

So you have to begin to get the picture that we are putting all our eggs in one basket when you were in charge of the Congress and then you vetoed welfare reform twice subsequently, there may be a lack of interest in true welfare reform.

He is running political advertising as we speak today in the Nation's capital, and that advertising says that he is for welfare reform. I only suggest to the American people, at least to this point, there is a massive difference between the rhetoric and the words of the campaign and the actions and the deeds of governments, because we are today going into the final year of this administration, and there is no welfare reform, there is only a record of blocking the President, the President who has now done twice.

The bill that went out of the Senate had over 80 votes, Republican and Democrat. He claimed it should be bipartisan. It was, but still vetoed, stopped.

At the end of the day—and I am going to turn to the Chair—at the end of the day, this is all about American citizens. I do not think history is going to look very kindly on America for what it did to these people across our land, mostly in our large cities. They are virtual ghettos, prisons from which escape is almost impossible, and that should guide our actions. These programs should be changed if we care about our fellow citizens.

Mr. President, I yield the floor. I will be able to take your post for a moment. I know you want to make some remarks as well.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from Oklahoma.

GETTING OUT FROM UNDER THE REDTAPE OF THE FEDERAL GOVERNMENT

Mr. INHOFE. Mr. President, a few weeks ago, the freshman class of the U.S. Senate made a trip around the United States to talk to different groups, different gatherings. We went all the way from Philadelphia to Knoxville, to Minneapolis, to Cheyenne, WY. One of the things we talked about, probably more than anything else, was welfare reform, changing the system as we have come to know it since the 1960's.

The Senator from Missouri, Senator Ashcroft, was with us during this. He came up with some evidence from the State of Missouri that I thought was quite remarkable. Talking about the administration of the Medicaid program, how they have been able to file and get out from under the redtape of the Federal Government.

The year prior to their being able to administer the Medicaid Program with the amount of money that they had, they reached some 600,000 families throughout the State of Missouri. The next year, or the year following the year that they were able to take over the total jurisdiction and control and administration and control the redtape of the Federal Government—and this was done, I might add, under a Democrat administration, a Democrat director of the department of human services for the State of Missouri—they were able to use that same amount of money and reach 900,000 families. In other words, 50 percent more services were given to families just by eliminating the unnecessary trip and expense and redtape of the Federal Government.

I believe it has been our policy to get as many of these things back to the local level. Having served myself in the State legislature, having served as a mayor of a major city, Tulsa, OK, for three terms, I can tell you that the closer you can get to the people at home, the better a program will be administered.

On welfare, we spent some time looking at the welfare system. The President, when he ran for President, when Bill Clinton ran for President of the United States, he had a pretty good welfare reform system. In fact, the welfare reform system that
he advocated during the time that he ran for President of the United States had work requirements, had elements in it that were precisely the elements of the welfare reform package that passed the House of Representatives and then passed the Senate by a vote of 87 to 12. It was a shock to everyone, even on his own side of the aisle where 60 percent of the Democrats voted to support this, when he came out and vetoed it. I would like to think that America woke up during the demagoguery of the Medicare reform. I know that many—

The PRESIDING OFFICER. The Chair notifies the Senator that his time has expired.

Mr. INHOFE. Mr. President, I ask unanimous consent for 1 additional minute. The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. One minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, let me just comment that many editorial writers around the country that normally are more of a liberal persuasion came out and rallied in favor of the Republicans and the fact that we recognized that we have a system that was going into bankruptcy. I ask unanimous consent that these be printed in the Record, the two editorials from the Washington Post that made this very clear. The names of the editorials are “MEDAGOGUES” and “MEDAGOGUES, Cont’d.”

The last sentence of the second editorial reads, “The Democrats have fabricated the Medicare-tax cut connection because it is useful politically. It allows them to attack and duck responsibility, both at the same time. We think it’s wrong.” And America thinks it’s wrong.

These being no objection, the editorials were ordered to be printed in the Record, as follows:

[From the Washington Post, Sept. 18, 1995]

MEDAGOGUES

Newt Gingrich and Bob Dole accused the Democrats and their allies yesterday of conducting a campaign based on distortion and fear to block the cuts in projected Medicare spending that are the core of the Republican effort to balance the budget in the next seven years. They’re right; that’s precisely what the Democrats are doing—it’s pretty much all they’re doing—and it’s crummy stuff.

There’s plenty to be said about the proposals the Republicans are making; there’s a legitimate debate to be had about what ought to be cut from Medicare and how it is cut to the elderly generally. But that’s not what the Democrats are engaged in. They’re engaged in demagoguery, big time. And it’s wrong.

Mr. BRADLEY. Mr. President, I address the Chair.

The PRESIDING OFFICER. Mr. Bradley addressed the Chair.

Mr. BRADLEY. Mr. President, I have no objection, but I would like to, if I could, get a few housekeeping measures out of the way. First, so that the Record can clearly reflect who is doing what to the bills that are before us at this moment, this is a bill that contains 35 titles. Every Senator should know that the Senator from New Jersey would not oppose moving 30 of those titles now, pass them by voice vote. I do not oppose them. I do not have holds on them. They can be moved now. If they are not moved now, someone does have a hold on them. It is not me.

I also make the other point that the distinguished chairman alluded to saying that these bills in this package have been on the calendar for over a year. Well, maybe so. On, have been. But all of them. Indeed, there are some bills in this package that have not even been reported from the Energy Committee. There was no vote in

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Mr. BRADLEY addressed the Chair. The PRESIDING OFFICER (Mr. INHOFE). The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I thank the Chair.
the Energy Committee on at least 6 or 7 of these bills. They were added on the floor into this big package without them ever being reported out of the Energy Committee or having a hearing in this Congress. Some had a hearing in the last Congress, but it is in a big deal. They should be reported out of the committee, but they were not.

The other point is, the Senator from New Jersey has indeed not held all bills. The distinguished Senator from Alaska alluded to the fact that a bill that he, Senator Lugar, was interested in moved without any problem. So let us get that housekeeping matter out of the way first. We could move almost 30 titles by voice vote.

Let us get to the real issue here, which is the Utah wilderness bill, which is one of the titles, which is the title that I strongly oppose. Why do I oppose this? This is the most important public lands bill since the Alaska land bill of 1980. This is the most important public lands bill since the Alaska bill over 15 years ago.

What are we talking about here? We are talking about declaring a part of Utah wilderness. There are two areas in question. One is the basin and range area around the town of Sleepy Valley and Salt Lake City, an area of salt flats and small mountain ranges. The writer John McPhee says that “Each range here” in the basin range “is like a warship standing on its own, and the Great Basin is a broad ocean of loose sediment with these mountain ranges standing in it as if they were members of a fleet without precedent.” So one of the areas we are talking about is this unique area, basin and range.

The other area we are talking about is the great Colorado Plateau in south ern Utah. The part of Utah that Harold Ickes, the first Secretary of the Interior during the administration of Franklin Roosevelt, said almost the whole of the State of Utah should be a national park, that almost the whole part of that southern part of Utah should be a national park.

It is a vast plateau and canyonlands of incredible beauty, vast plateaus like the Kaiparowits Plateau or the Dirty Devil Wilderness, some of the most remote and rugged landscapes in the West. Yet some of the most interesting records of those who inhabited this land before America—before Europeans ever set foot in what is now United States land—are also located in this section of Utah, and the remains of the great Anasazi, who were here long before the first European set foot on this continent. All of this vast beauty is in southern Utah.

It is a genuine wilderness: Remote, rugged, deep-cut canyons that are sandstone cut, with deep rivers. It is the place of Zion and Bryce and Canyonlands. It is unique. It deserves wilderness designation.

We are on the floor of the Senate the Utah wilderness bill. What is the problem with the Utah wilderness bill? Well, too little land is protected as wilderness; and too few protections are given to that land. In addition, the inventory process, the process by which the Bureau of Land Management determined which areas should qualify as wilderness, was flawed from the beginning.

In the State of Utah, there are 22 million acres under the control of the Bureau of Land Management. Under the bill before the Senate, 2 million of these acres—2 million of those acres—will be set aside as wilderness. That is all, 2 million acres.

Now, there are too few protections, as well. Just take the vast Kaiparowits Plateau, a plateau of juniper forests, trees that have been there long before the first European set his foot forth on the United States. It is a vast wilderness, one of the most vast wildernesses in the lower 48 States. Under this bill, about 50,000 acres of that plateau will be transferred to the State of Utah, an area for which a Dutch company is already negotiating to put a gigantic coal mine—and I emphasize mine—in the heart of that wilderness.

What about Dirty Devil? There, of course, the area that is excluded will be set aside for tar sands development. The legislation also would allow new mining operations. One quip you hear is that if you thought that in the Colorado Plateau this issue was settled in the 1960’s when the dams that were proposed at Dinosaur Monument were defeated because the people of this country realized that the “lands really needed time and standing still needed to be protected, should not be blocked by a dam with another lake going up the Canyonlands and destroying both the record of human habitation and the possibility of walking in the Canyonlands.

What else? Well, roads and motor vehicles are allowed to an unprecedented extent in areas which are wilderness.

Also, you give the State the right to designate which areas it wants without regard to the ecological sensitivity, and with great concern that the lands that the Federal Government would exchange with the State will not be of equal value. In fact, in the Interior Department’s comment on this bill, as embodied in the report, the Deputy Assistant Secretary for Land and Minerals Management, Sylvia Baca, says the following:

“The tracts proposed to be obligated by the State have high economic value for mineral development. The fair market value of these lands may be 5 to 10 times more than the value of the lands that would be transferred to the Federal Government. Despite the imbalance in favor of State, the bill provides for increased compensation to the State if encumbrances on Federal lands being transferred result in an imbalance, but not the other way around. This would only add to the inequality of values in this proposed exchange.”

Mr. President, if the coal mining development is not enough, if the tar sands development is not enough, if the oil exploration is not enough, then neither are the new dams not enough, if the roads and motor vehicles are not enough, if the kind of unequal value trade between State and Federal Government is not enough, what about this provision in the bill that sets aside the 2 million acres for wilderness, but attaches no water right to this wilderness land? These are areas that get 10 to 12 inches of rain a year in some parts of its beauty as southern Utah, but still a remarkably beautiful State with a very similar topography, when the Nevada wilderness bill passed, the authors of that bill made sure that there was water attached to that wilderness so that you would not have a wilderness, essentially, destroyed.

I think that the current version got rid of the suspenders approach. The previous versions of the bill as originally drafted said that in this wilderness there will be nonwilderness multiple uses only—that was dropped—and a substitute was offered that said “the full range of uses.” However, the existing amendment, the existing section of the bill, also says that “lands released shall not be managed for the purpose of protecting their suitability for wilderness designation.” This is a kind of belt and suspenders approach. The previous version of the bill as reported out had both belt and suspenders, two protections against further wilderness designation. The current version got rid of the suspenders but leaves the belt. It is still unprecedented in wilderness bills.

Mr. President, these are all serious flaws with this bill that need to be addressed that might be able to be addressed. The flawed process is what makes me doubtful.

I just a brief recapitulation: in 1964 the wilderness bill passed. What was the definition of wilderness in a 1964 bill? “A wilderness, in contrast with areas where man in his own works dominate the landscape, is hereby recognized as an area where the earth and the community of life are left un­disturbed by man and where man himself is a visitor who does not remain.” That was the definition of wilderness.

In 1976, that was applied to Bureau of Land Management lands about 280 million acres nationwide. And in 1976, 1977, the Bureau of Land Management was given 15 years to identify which areas under its control would qualify for wilderness, possibly, to inventory possible wilderness areas. But do you know what happened in Utah? In Utah, they completed it in one year. They inventoried all 22 million acres controlled by the Bureau of Land Management. At the end of that year, they
eliminated 20 million acres for consideration as wilderness. What was the basis upon which they eliminated these 20 million acres? It was that they lacked outstanding opportunities for solitude or primitive recreation why they were eliminated. In the fall of 1980, a representative of the Sierra Club toured a section of the Kaiparowits Plateau with the Utah BLM Director, Gary Wicks. Their helicopter touched down on the southern tip of Four-Mile Bench, which is part of the plateau.

She says:

We stood on the edge of as far as the eye can see. Incredibly beautiful, utterly wild land. And I would say, "Gary, why are you eliminating this from wilderness?" And he would say, "Because there are no outstanding opportunities for primitive recreation." And you would say, "And there are no outstanding opportunities for solitude either?" And Gary would say, "You are right. You can have solitude here, but it is not outstanding solitude." A man kept a straight face while he said that.

She concludes by saying, "If the helicopter left us there, we would have known what outstanding solitude was all about," because she would have been left in this vast wilderness, one of the most remote places of America, but it was on the basis that these lands did not provide sufficient solitude that they were eliminated from wilderness designation. That flies in the face of virtually everything.

Well, the 2.6 million acres were set aside out of the 22.5 million acres, under the control of BLM, and only 2.6 were set aside, a lot of Utah people got very upset. They filed petitions and they filed briefs; they((1991)) had 30 days in which to do that. And because of their efforts, it included 3.2 acres for wilderness. And since then, that is the amount of land in Utah today that had been managed as wilderness; 3.2 million acres are now being protected as if they were wilderness.

In 1991, BLM came up with its final suggestion—1.9 million acres. The Utah congressional delegation introduced its bill, which was 1.8 million. Two days ago on the floor, they modified it to 2 million acres. Well, there was another group of Utah residents that said this was kind of a hurried process, with helicopter flyovers, and only cutting out 2.6 million. So they said, "Let us do this scientifically," and they did that and came up with 5.7 million acres of Utah that should be wilderness. I do not know if it is 5.7. I am sure that there is some number lower than that which could preserve the wilderness areas. But I certainly know that 2 million acres is not enough and, particularly, with the language that is in this bill.

The real irony is that this is an attempt, while the protections for mining, coal, tar sands, oil exploration, dams, etc. cetera, in a State where only eight-tenths of one percent of the State is in mining in mining, in a State where only 2 percent of the State economic product is in mining. The future is not there. The future is in this beauty that is self-evident to anybody that comes to southern Utah or to the basin and range. The real irony is that the Senator from New Jersey, who comes from a State that is 89 percent urban, is making this argument in a State that is 87 percent rural. In one of the remotest sections of the West, the most urbanized area of America. People from this country are coming into the cities.

So I believe that this would even be in the long-term interest of the State. But that is not what this is about. The Utah economy is really not my province. It is my observation, as somebody who has looked at these issues. But what I want to preserve is the possibility for silence and the possibility for time that exists only in a wilderness.

I would like to read, in closing, just two things from a book prepared by several writers about the Utah wilderness. One is by John McPhee, who wrote in "Basin and Range" the following: "And taking in an area west of Salt Lake City, that geo logistic formation that has been stretching for several million years. Reno and Salt Lake City, 7 million years ago, were 60 miles closer together. They are 60 miles further apart today because the crust is moving. When it moves, the crust cracks, and up pops mountain ranges. These are the mountain ranges that we are trying to protect in the broader wilderness bill...

McPhee writes:

Supreme over all is silence. Discounting the cry of the occasional bird, the wailing of a pack of coyotes, silence—a great spatial silence—silence—pure in the Basin and Range. "No rustling of leaves in the wind, no rumbling of distant traffic, no chatter of birds or insects or children. You are alone with God in that silence. There in the white flat silence, I began for the first time to feel a slight sense of shame for what we were proposing to do. Did we really intend to invade this silence with our trucks and bulldozers, and after a few years leave it a radioactive junkyard?"

Another writer—this will be the final one—and I quoted him the other day—I am Charles Wilkinson. He was talking about taking his son into the Colorado Plateau. He says:

One long hike took us down into a narrow canyon branching off the Escalante River. The sandstone walls, smoldering red, thrust straight up. Shimmered pinyon and juniper, ferns and grasses around the springs, accent the color embedded in the canyon sides.

The Wingate Sandstone had been the rock of surrounding mountain ranges. During the Triassic, some 200 million years ago, water worked the mountains, wearing them into sand. Winds lifted the grains and piled them up as dunes on the desert floor. The sands hardened back into rock. Then the whole Colorado Plateau rose. That basin creased in this new canyon would have none of it, resolutely holding its ground against the upthrusting Wingate and younger formations on top of it, cutting down a canyon back to rock level. Much of the day we walked up to our calvies in the creek.

Not long ago we scoured this land as remote, desolate. The thinking led to the postwar Big Build-up and the coal plants, dams, and uranium mines. But today we know southern Utah, in the heart of the Colorado Plateau, for what it really is. The geologic events were so cataclysmic and so recent, and the frail soils so eloquent, that the Colorado Plateau holds more graphic displays of exposed formation than anywhere on earth. The dry air has preserved the ancient people’s durable and magical art, village ruins, and baskets to a degree found nowhere else.

Yet our society seems to lack the will to care for the Canyon Country. The Utah congressional delegation also wants to declare some fragments of the backcountry wilderness and then throw the rest open to development.

That would be so short-sighted, so contemptuous of time. The old images on the walls were made so long ago, the walls themselves even longer. Time runs out to the future, too: give our grandchildren, and those far down the line from them, the blessing of taking a daughter or son into the weaving, red side canyons, and taking in a land and range of knolldy.

Mr. President, this is about time and silence, and the chance for future generations to explore and understand this vast and beautiful wilderness.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, during the debate, the Senator from New Jersey provided us with his own subjects related to the proper management of our Nation’s public lands. I respect him for his positions, for his contribution to ensuring that one of this country’s many natural resources—our public lands—are properly managed to provide for the enjoyment of our people.

However, to be perfectly frank about it, he is just plain wrong when it comes to our bill to designate wilderness in Utah. I do not believe he has a full appreciation for the unique qualities of these small communities in my State have with maintaining all of this land as wilderness.

The longer Congress postpones action on the Utah Public Lands Management Act, the more economically strapped our small towns become. It stands to reason that you cannot take a primary resource out of circulation within an economy and expect that economy to flourish. The land resources in rural Utah are of the utmost importance to an economy whose major industries include mining, farming, and ranching.

My friend from New Jersey says our rural Utah counties can live off tourism dollars. Certainly, the tourism industry is vital to our State and important to the general welfare of our economy. But, it is not a panacea for the ills that plagued small town U.S.A. as the Senator pointed out yesterday.

To give two examples, since nearly one hundred designated wilderness study areas [WSA’s] by the BLM in San Juan County, UT—in Utah’s southwestern corner—tourism has only increased from 2
percent in 1985 to 5 percent in 1995. In Millard County, on the western half of Utah, BLM designated acres as WSA's. Guess what the impact to their tourism industry was? Good guess—zero.

In my opinion, these kinds of numbers are misleading. But, I would like to set his mind at ease. We must be doing a fairly decent job; for, after all, we have placed every single acre in BLM's inventory in a position, at least as far as the Senator from New Jersey is concerned, that each of them meet the wilderness criteria. That is a pretty decent record.

However, Senator Bradley should worry about one matter, which was not discussed in any great detail yesterday, and that is the presence of State school-trust lands purposes within the wilderness study areas. They are owned by the State of Utah on behalf of and for the benefit of Utah's school children—not New Jersey's school children, Utah's children.

These lands were endowed by the Federal Government to Utah's schools at the time Utah became a State—100 years ago. The Utah School Lands Trust is not a recent development.

But, with the selection of the WSA's, these trust lands have been unavailable for any major revenue producing activity since the WSA's were established due to the restrictions formally imposed on them by their neighboring lands.

The Utah State Legislature has made a commitment to improving the management of the trust lands. These trust lands must produce more revenue if the State of Utah is going to meet its challenge. The Utah School Lands Trust is not a recent development.

Two years ago, the legislature organized a new State body whose specific reason for being is to gain the greatest benefit from the school trust lands. This body, composed of private citizens, is serious about meeting the purpose for which they have been created, namely, to see that the trust lands produce. I remind my colleagues that wise investments are also part of good stewardship.

I'm sure my friend from New Jersey knows that the State has every legal right to access these lands and to utilize them for whatever purpose they can, consistent with Federal and State laws. But, if he should ever decide that, at some point down the road, the State is going to become so frustrated with Congress and this process that it will either sell a trust land section to a commercial entity or take steps to develop the land.

The fact that no one wants a disturbance of that kind in or around a wilderness area is precisely why the trust lands have not been fully developed to date.

Yet, the State cannot wait forever to develop the trust lands. The revenue from these lands is becoming increasingly important to our educational system. And, I am certain that these lands will be developed to benefit our schools if we don't pass this bill.

This is why our bill provides for an exchange of these lands. We want to get the trust lands out of the wilderness areas. We want to establish a unity of title so there is no commingling of management styles. We want to erase this threat forever. That can only happen with passage of our proposal.

By the way, the proposal my friend from New Jersey was championing yesterday that has been introduced in the House does not contain any reference to all the school trust lands contained within the areas designated by that bill. It does not indicate how trust lands in H.R. 1500 would be dealt with under the new title. And, they just happen to be going to remain as enclaves within designated areas. Given his concern for pristine wilderness, he should worry about what could happen in the absence of a land exchange.

But, let me say a few words. Senator Bradley, the Senator from New Jersey raised in his opening comments yesterday that need to be addressed. They are out in the public forum and deserve a brief response.

First of all, he said that our release language, while an improvement over the original language, was "a backdoor attempt to do what the original bill had intended to do but do it in a slicker way."

Mr. President, I went into detail yesterday as to what the intent of our release is and is not. There is no funny business here, no tricks, no backdoor attempt. We are stating the full intent behind our language in the light of day. It is simple and straightforward.

Nondesignated lands will slip back into the pool of normal BLM lands for continued management under BLM's existing authorities, special designations, and the host of Federal legislative authorities and policies. In other words, BLM will manage the land. Subsequently, they will be managed by the local BLM consistent with multiple uses defined in section 103(c) of the Federal Land Policy and Management Act and consistent with land use plans developed through section 202 of the same act. This language will allow the local BLM land managers, the "on-the-ground professionals," to manage nondesignated lands for their wilderness values and character utilizing existing BLM authorities to do so.

Our language asks the Federal manager to do his job, which is to manage the Federal lands in the best way possible. It is not up to that manager to decide if an acre of land should be deposited in the National Wilderness Preservation System—it is up to us. The land manager can use an existing authority to protect and preserve the pristine character of the area, or he does not.

And, if that concept bothers the Senator from New Jersey then he should go back and change FLPMA or introduce a bill that requires another round of studies and review by the BLM—that is, if he wants to spend another 17 years and another $10 million of taxpayer funds.

The release language was suggested by the ranking minority member of the Energy Committee. He said himself that he found the practice of managing land for a future designation as offensive as the prohibition on the practice of not managing it for its characteristics.

If we go along with the Senator from New Jersey then we should simply designate all 22 million acres in Utah as wilderness study areas and never derive any benefit from Utah's public lands. I do not understand why our language bothers the Senator from New Jersey so much. It is completely consistent with the scope and intent behind FLPMA.

Besides which, the BLM wilderness inventory had a beginning. It should also have an end, like this issue, and hopefully before Utah celebrates its 200-year birthday in 2096.

Second, the Senator indicated that "four million acres of Utah's red rock wilderness will be left open for development." He then went on to list several areas that fall into this category.

Several times yesterday it was asserted that the passage of our bill will lead to a massive immediate destruction of nondesignated lands. I do not know how many times I need to say this, but that statement is simply not true. In fact, it is offensive to me not only as one of the principal authors of this bill but as a Senator from Utah.

Our critics continue to conjure up images of bulldozers lined up to advance on these BLM lands. Those who rely upon such images to advance their case purposely ignore the desire—not to mention our entire State government—to protect these lands from inappropriate and destructive activities.

In addition, I mentioned the plethora of environmental laws and conservation regulations passed since 1964 that provide layer upon layer upon layer of protection for these lands. I will not go through the list again, but they are listed on the displayed chart.

This argument should not even be a part of this debate. Yet, it continues to be used in the propaganda and rhetoric of the elite special interest groups.
Unlike some, we have confidence in BLM’s professional land managers to continue making objective decisions on the future uses of these lands in accordance with the law.

By the way, I would like to remind Senator B. Ensign of a recent New Jersey case that we include in our proposal more than 16,000 acres in Fish and Owl Creek Canyon, more than 220,000 acres of the Kaiparowits Plateau, and more than 75,000 acres of the Dirty Devil area.

Also, let me surprise the Senator to know that more than 80 percent of the acreage in our proposal is located near or below Interstate 70, the highway that divides Utah in half. John Sieberling, the former representative, once said that if he had it his way, he would make a national park of all the land south of Interstate 70, and if the Senator from New Jersey had his way he make the entire area wilderness.

Let us be clear about this: our proposal protects Utah’s red rock wilderness.

This is clearly referenced the possible development of coal leases within the Kaiparowits Plateau by the State of Utah.

Yes, it is true that the State of Utah has identified these BLM lands—which are not currently within a wilderness area—let us be clear about that: they are not being managed as wilderness—as one of 25 tracts of land it desires to exchange with the Federal Government.

But, what the Senator did not say is that these leases are currently under suspension by the Department of Interior pending completion of an environmental impact statement that will determine if mining is ever going to be allowed in that area.

Once again, as he did yesterday, the Senator is second guessing the activities of BLM’s own personnel, only this time it deals with this EIS. He also accuses the State of Utah for mismanaging the land. This has been no determination that mining will ever occur there. While the coal is there, the ability to access it is still questionable.

If mining ever occurs in the manner described yesterday by Senator Bennett, the leases will be subject to every pertinent Federal environmental law, whether the leases become State or not. No matter what happens to the ownership of the land, the Federal permitting process has continued. And, since the lease holder will need to construct an access road to the site, build a power line to the site, and construct certain facilities all on BLM land, Federal permits for each of these items will be required. So, the big environmental special interest groups will have plenty of opportunities to appeal this project every step of the way.

Also, it is important to note that the site where the mine is projected to be located is fringed by BLM during its initial statewide review process. The area was rejected because it did not meet wilderness criteria. Let me tell the Senator from New Jersey why.

Because located within a 2-mile radius of the proposed site are 80 drill sites, 36 miles of roads, an airstrip, and several other surface disturbances symbolic of mining activity. Do not forget—this same site was initially mined by the Bald Mountain Mining Co. for 40 acres acquired for the mine site within the lease holders total leased area, half of it—more than 20 acres—has already been disturbed by mining activity. This site does not meet wilderness quality, but after seeing what is in some of the areas recommended by special interest groups, I can see why they were confused with this site.

This is not an issue about protecting wilderness value; this is an issue about preventing the responsible development of Utah’s largest coal reserves. But, nevertheless, this bill has nothing to do with whether or not this area will ever be mined.

Fourth, the Senator indicated our bill “denies a Federal water right to wilderness areas designated by this bill.”

The Senator from New Jersey has evidently not read the language carefully. It is true that our bill does not create a Federal reserved water right for areas designated by the Senator is because we do not want to preempt State water law or to go around the State water appropriation system. But, it does not mean that the Federal Government cannot acquire a water right for designated wilderness areas.

Utah water law follows the concept of the prior appropriation doctrine. It has been the basis for more than 90 years of State administration of surface waters. All major rivers and stream systems in Utah have water rights established under this principle. The result is a fine tuned system relying on diversions, return flow, red eversions, mingled with some storage reservoirs. Any new filing or alteration of the existing system—by literally sending ripples throughout the total system.

Unlike my colleague, we do not want to follow the typical Washington attitude that says we should preempt State law every time the Federal Government wants something from our States. Why can’t we have the Federal Government abide by State laws once in a while when performing a Federal task? The Federal Government can obtain a water right in the State of Utah, and here is how.

Under Utah State water law, one must put a water right to “beneficial” use. That is, it must be applied to the land, to home use, or to other consumptive uses in order to maintain the right.

However, there is an exception to the “beneficial” use requirement.

Two divisions within the Utah Department of Natural Resources—the Division of Water Rights and the Division of Wildlife Resources—can legally acquire a water right and leave a determined quantity of water in a stream—an “instream” flow, as it were—that then becomes that particular water right’s “beneficial” use.

Under our bill, the BLM is provided the ability to work cooperatively with these two State divisions to create an “instream” flow to avoid the potential dewatering of a wilderness area, in the unlikely event this occurs.

The process would be:

First, BLM acquires a water right from an upstream owner anywhere in the State—a rancher’s site, a municipality, a private company, etc. Second, the right is assigned or deeded—transferred—to one of the two State divisions previously mentioned.

Third, an instream flow.

In the fall of 1994, this occurred. The Division of Wildlife Resources acquired a water right from a private corporation and created an instream flow for wildlife purposes on 82 miles of the San Rafael River in central Utah.

The alternative to this language—an unqualified Federal reserve water right—would leave an ominous cloud over every existing water right in the State of Utah.

There is no expressed or implied Federal reserve water right in our language, but that does not in any way prevent the Federal Government from acquiring a water right following the proper State procedures.

Fifth, our language “permits the State of Utah to exchange State lands for Federal lands of approximate equal value.” The Senator from New Jersey doesn’t understand the value of the Federal lands involved may be greater in value than the State lands.

Last December, the committee adopted our proposal to establish an exchange process whereby the value of the lands involved in the exchange would be determined based on national appraisal standards. While the BLM thinks the Federal lands are 5 to 10 times greater in value than the State lands, the State of Utah thinks the Federal lands are greater in value than the wilderness areas. That is why the notion of a value, determined by recognized appraisers, and negotiated between the two parties, appears the soundest methodology to reconcile these differences. It does not matter, really, what either side is saying right now on the value question—it will be determined at a later time.

The universe of lands to be exchanged has been determined. Since the State of Utah has no choice at all to determine which lands it would trade to the Federal Government, it only makes sense to allow the State to determine which Federal lands it desires. It has identified 25 different parcels, ranging from speculative coal deposits to speculative natural gas to potential real estate development, and all in the name of benefiting Utah’s school children.

And, the Senator is not correct. The Federal Government does not have to approve the transaction. Once the State makes an offer of lands to be exchanged, the two parties will sit down
and conduct "good faith" negotiations on the various aspects of the trade. If a mutual decision is not reached, then the matter can be pursued in the courts.

Concern was expressed regarding our earlier language about the lack of involvement by the Secretary in crafting each exchange. I believe the language we have included in the substitute amendment remedies that situation and makes the Secretary a full player in this exchange should he desire to be involved.

And, finally, the Senator indicated that our proposal contains "broad exceptions to the Wilderness Act of 1964," meaning he believes we are rewriting the definition of wilderness by allowing certain activities and facilities to be undertaken within designated wilderness areas.

This criticism goes to the so-called special management directives contained in our proposal.

These special provisions really are not that special after all. There are plenty of examples of previous public lands legislation containing such provisions.

A Congressional Research Service report, completed last July, concluded that the directives in S. 884 are comparable or related to similar language in 20 existing public laws and over 40 separate statutes adopted by Congress since 1911.

What do these special management directives do? They allow those activities, based on valid existing rights and consistent with the Wilderness Act of 1964, to continue in areas designated as wilderness. They are included to address the potential "on-the-ground" conflicts that are unique to Utah's BLM lands, such as livestock grazing, the gathering of wood by Native Americans, and the presence of water facilities used for agricultural, municipal, and wildlife purposes, to name a few.

The critical point here is that these rights predate the designation of land as wilderness.

We are not rewriting the definition of wilderness. On the contrary, we are merely adhering to the principles of the 1964 Wilderness Act and the history of wilderness legislation in the past two decades. The Wilderness Act of 1964 does not abandon or ignore rights that predate wilderness designation, and practically every wilderness bill passed since the late 1970's contains special language to protect these rights and to address any site-specific conflicts that might arise in the exercise of these rights.

This language enables us to designate certain lands as wilderness that might be otherwise excluded under the 1964 act due to the conflict with valid existing rights.

But I would ask the Senator the following questions regarding his concerns for our special management directives.

Where was he when we passed the Okefenokee National Wildlife Refuge Wilderness Act, the Boundary Waters Canoe Area Wilderness Act, and the Florida Wilderness Act of 1984 that provided for the continued use of motorized boats or other watercraft in designated areas?

Where was he when we passed the already mentioned Boundary Waters Canoe Area Wilderness Act that provided for the continuation of snowmobile use in designated areas?

Where was he when we passed the Central Arizona Wilderness Act of 1992 that allowed the continued landing of aircraft and the future construction and maintenance of small hydroelectric generators, domestic water facilities, and related facilities in designated areas?

Where was he when we passed the Endangered American Wilderness Act of 1978 and our own Utah Wilderness Act of 1984 providing for sanitary facilities in designated areas?

Where was he when we passed the Colorado Wilderness Act of 1990 allowing motorized access for periodic maintenance and repair of a transmission line ditch in a designated area?

And, where was he when we passed the Colorado Wilderness Act of 1992 providing for the use, operation, maintenance, repair, modification, or replacement of existing water resources facilities located in designated areas?

The point is not to single out any of these laws as if we did not do, but to merely demonstrate that special management directives are designed to address the on-the-ground conflicts unique to the areas designated by these laws. That is what we are providing for in our bill—those situations that are unique to Utah's lands. It is, as my colleagues will note, typical of the way we have developed public land policy in this body.

I would also state for the record two other items:

One, the Senator continues to mention the provision in our bill that provides for the continued use of motorboat activities in designated areas. First, these activities are only allowed if they predate the designation. And, second, and most importantly, our language was modified in the committee to ensure that it was consistent with the 1964 act.

Also, he spoke of the language in our bill permitting low-level military overflights. Let me remind the Senator, but this language was provided to us by the Pentagon, and is nearly identical to similar language included in the California Desert Act. We have added language requested by the Air Force that recognizes Hill Air Force Base as the gateway to the Utah Test and Training Range, located in Utah's west desert area, that is the only training facility in the United States on which every aircraft in the Air Force inventory trains.

In closing, let me also say that our bill has been characterized as lacking large blocks of designated wilderness through which a traveler could wander from one time zone to another. Well, in our bill we may not extend any wilderness area beyond the mountain time zone, but it does have several large contiguous areas of spectacular wilderness all linked together in huge blocks of land. A visitor could never see another human being for days in these areas.

These areas include:

Desolation Canyon in central eastern Utah—through which the Green River flows—a total of 291,130 acres. This area may not cross any time zones, but it is located in three different counties. Fiftymile Mountain in south central Utah—as mentioned, this is on the Koaowits Plateau and consists of 125,623 acres.

North Escalante Canyons—this area, once pursued to become a national park, totals 101,896 total acres.

All reflective of Utah's premier scenic landscapes, and why we in Utah are not shy in stating that it took God 6 days to create Utah before he made the rest of the world with leftover parts.

Again, I urge the Senator from New Jersey to take another careful look at the facts and at the specific language in the substitute amendment. I think he will find reassurances there that this is a good bill for Utah and a good bill for the environment.

Mr. President, I have listened to this now for the past 3 days. I admire my friend from New Jersey. He is a fine person. He represents his State well.

But, he does not know anything about Utah. I think to think that the Governor of Utah, both Senators, all three Congress people, virtually everybody in the State legislature, everybody in the PTA, school districts across the State, and 300 Democrat and Republican leaders, political leaders, know just a little bit better, just a little bit more, about Utah than the distinguished Senator from New Jersey.

I have heard all of all I can bear to hear about the silence and time, and having respect for them. We understand that. In Utah, we know what silence and time is because we have experienced them throughout our entire
State. However, you do not get much silence and time in all of that low-lying sagebrush land along the highways which the other side has tried to put into this bill. They do not even know what wilderness is. We do. We have worked on it in Utah. We put through the 800,000-acre Forest Service bill in 1984. I was a major mover on that bill. It has been a very good bill. We did it because Utahns agreed on what should be done. We love our State.

To hear this, you would think that 20 million acres is going to be ripped up for shopping centers. The fact is that every one of those 20 million acres will be subject to all environmental laws, and rightly so, as far as we are concerned. But on this 20 million acres, you might be able to ride a bicycle, if you want to, which you cannot do in wilderness.

Let me just say this. I have gone all over Little Grand Canyon. I have been all over Box Elder, South, and Sam's Mesa; North Escalante Canyons; San Rafael Swell; Book Cliff; Sid's Canyon; Desolation Canyon—beautiful areas that we put into this wilderness bill. Without this wilderness bill, they will not be wilderness. We think they ought to be.

This business that we allow dams in this bill is misleading—they are not there. The polling data show that the majority of Utahns are for this bill, and once you explain to people in the polls what wilderness means no mechanization whatsoever, the support for those on the other side who are for 5.7 million acres drops off dramatically. But the majority are for our bill.

With regard to the value of lands to be exchanged, that is going to be negotiated under this bill. Nobody is going to rip off the Federal Government. But our school kids are dependent upon this bill, which is why we will negotiate the value of these school trust lands.

With regard to water, the Secretary can acquire water rights in the State through the State appropriation process. Can he not do that?

With regard to the release language, there is no binding of a future Congress whatsoever in this bill. If they want to do wilderness, they can do wilderness in Utah again. But they are going to have an uphill battle because people in Utah are tired of being pushed around.

With regard to the special management directives, I would say to my colleagues that every major wilderness bill since 1978 has contained similar directives to take care of conflicts. We provide for that as well. On-the-ground conflicts have to be resolved, and over 20 separate bills passed by this body in the past two decades have done that. This is not something new.

We have public process here. This matter has gone through two decades, hundreds of meetings, $10 million, and brought people together all over the State. The affected counties did not want any wilderness—zero. Then they agreed to 1 million acres. They brought them up to 2 million acres. The other side wants 5.7 million. One group wants 16 million acres in wilderness. The fact is we have 100 percent more acreage in this bill than the affected parties wanted and about 60 percent less than what these people on the other extreme want. That is what compromise is all about.

The fact of the matter is that this process has not been politicized. The Clinton administration came in and suddenly their BLM people started to decry all of the work that had been done through the years by other BLM people, and which was done in a reasonable and good way. They have politicized this process. There are volumes and volumes of data. The environmentalists have a 400-page book. We put the volumes and volumes of data here—two huge stacks this high—to show what we have gone through.

Have most of these people who are criticizing this bill even been to these places? The fact is most of them have not been there.

I ask unanimous consent for 1 more minute.

The PRESIDENT pro Tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, we have put the crown jewels of Utah wilderness in this bill. I happen to believe that when you have the whole congressional delegation, the Governor, the legislature, the schools, the farmers, and virtually every organization except the other extreme want. That is what compromise is all about.

The PRESIDENT pro Tempore. The President reserves the right to return to the Senate at any time he desires.

Mr. HATCH. Mr. President, we have the Cottonwood Basin, Dirty Devil, and Sam's Mesa; North Escalante Canyons; San Rafael Swell; Book Cliff; Sid's Canyon; Desolation Canyon—beautiful areas that we put into this wilderness bill. Without this wilderness bill, they will not be wilderness. We think they ought to be.

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March 27, 1996

CONGRESSIONAL RECORD – SENATE

S2925

UNANIMOUS-CONSENT AGREEMENT—S. 4

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany S. 4, the line-item veto bill, and that the reading be waived.

Mr. DASCHLE. Reserving the right to object. There does not appear to be any disagreement with regard to the Presidio bill itself. That bill has broad-based, virtually unanimous support, so it is my hope that we can pass at least that bill by unanimous consent.

So I ask unanimous consent to strip all amendments and motions and to pass the Presidio bill in its own right. The PRESIDING OFFICER. Is there objection?

Mr. MURKOWSKI. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. I hope we can resolve that matter. In light of the fact we need to continue to find ways in which to move the legislative agenda, I do not object to the majority leader’s request. The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report. The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 4), a bill to grant the power to the President to reduce budget authority, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to the consideration of the conference report. (The conference report is printed in the House proceedings of the RECORD of March 21, 1996.)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

PRESIDIO LEGISLATION

Mr. MURKOWSKI. Mr. President, in response to the minority leader’s unanimous consent request, obviously we are all sensitive to the merits of the Presidio. The California delegation has worked very, very hard on this. But as everyone in this body knows, this was a package that was put together with great commitment and great understanding that, indeed, in order for it to pass the Congress, it had to stay as a package.

Everybody knew that when we went in, and to suggest action by the U.S. Senate would be acceptable to the House everyone knows is unrealistic. So we are set with the reality here.

It is the intention of myself, as chairman of the Energy and Natural Resources Committee, to again pursue the package. It is the largest single environmental package that has come before the 104th Congress. We are all disappointed at the action that was taken by adding on the minimum wage amendment, but that was something that was seen fit by the majority to do, and we are left with this reality today, which is, indeed, unfortunate.

It is my intention to continue to pursue working with the Members who objected to the various aspects of the package, to somehow pursue it, in this legislative year. That is the pledge I want to make to the minority and the minority leader as well.

I want everybody to understand the rationale behind the objection. This would not have gone in the House as a freestanding Presidio bill. Everybody is aware of it.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, let me just say, the vote just cast had nothing to do with minimum wage. It had everything to do with simply one provision dealing with Utah wilderness. There was no understanding with regard to this package, as the distinguished Senator from Alaska has called it.

Obviously, each one of these bills merits consideration in and of its own right. There is no objection to the package were we to remove the Utah wilderness bill. That is what this vote was all about. But there is no disagreement whatsoever with regard to the Presidio bill on either side of the aisle, as I understand it, and to hold the Presidio hostage to all the other issues seems to me to be unfair.

I yield to the Senator from California for a brief comment and a question.

Mrs. BOXER. Yes, I do have a question. I have a comment as well. To my friend, Senator MURKOWSKI, who has worked hard with Members on both sides of the aisle here, the fact is the House has passed the Presidio as a freestanding bill.

Indeed, that is the bill we have marked up. So there is not any reason not to pass the Presidio as a freestanding bill. I would ask my leader on the Democratic side, since he is a cosponsor of the Presidio bill which Senator Feinsteinn and I have worked so hard on, and as well as Senator DOLE, he is the sponsor of the Presidio bill, will my leader give us his word that he will do all that he can to make this bill a reality? Because I would say to my friends on both sides, the Presidio is deteriorating? We need to get in there and make sure that that land is kept up. It is a priceless jewel. And we have such broad agreement. It just seems a pity that we would catch it up in these other debates.

Mr. DASCHLE. I answer to my friend from California in the affirmative. It is our desire to work with the delegation of California and others who are interested in maintaining the historic nature of this remarkable facility, that we pass the legislation this year. In has been a long, long effort, a tireless effort on the part of my two colleagues from California.

I hope we can successfully complete our work this year. It ought not be the case that we act to veto this reversal legislation that has nothing to do with the Presidio itself. I yield the floor.

Mr. DOLE addressed the Chair.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Let me yield to the Senator from Alaska.

Mr. MURKOWSKI. Mr. President, let me remind my colleagues of a fact that in the package there were about 53 individual items. The package was held up almost a year by a Member on the other side who refused to allow the individual issues to come up for action. That is a fact, and the Record will reflect that. Now we are faced with the reality of who is to blame for the failure of the package. I think the RECORD will reflect the reality that this was well on its way to successful consideration of cloture prior to the decision by the other side to put the minimum wage on it, which changed the complexion and the interpretation of the last vote. Many Members looked upon the last vote in actuality as a reference to support for the minimum wage and that it did not belong there. We all knew it.

So the responsibility has to be with the majority that chose to allow and support inclusion of the minimum wage on the largest environmental package of this session, the 104th Congress. That is, indeed, unfortunate. Let us be realistic and recognize where the responsibility lay. It lay in holding that package hostage for a year and it lay with the responsibility of putting the minimum wage on it. I thank the Chair, and thank the leader.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I understand it is all right with the Democratic leader if I obtain a consent agreement on the farm bill.

Mr. DASCHLE. That is correct.

Mr. DOLE. Let me do that while we also work out a time agreement on the line-item veto.

UNANIMOUS-CONSENT AGREEMENTS

Mr. DOLE. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of a concurrent resolution to be submitted by Senator LugAR, further, the resolution be considered agreed to, and the motion to table be laid upon its passage. That then, pursuant to the conference report to accompany H.R. 2854, the Agriculture Reform and Improvement Act, that the reading be waived, and there be 6 hours
of debate on the conference report to be divided as follows: Senator Lugar, 2 hours; Senator Leahy, 1 hour; Senator Daschle or designee, 3 hours; further, that immediately following the expiration of or yielding back of time, the Senate proceed to vote on the adoption of the conference report with no intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. Daschle. Reserving the right to object, and I will not object, I will only again point out to my colleague from Alaska that we would enter into a unanimous-consent agreement today for all of the package the Senator from Alaska requests to accept the bill. We will do it this morning. We can pass that bill by 11:15. It is now 11:14. So if the Senator from Alaska is prepared to drop the one controversial bill we will enter into an agreement today, unanimous-consent agreement, pass all the rest. If he is prepared to do that, I am prepared to do that right now.

But I have no objection to the request propounded by the majority leader having to do with the farm bill conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. Dole addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. Dole. Mr. President, let me add my hope that we can resolve the problem. I know there are a number of projects, including the Presidio, that the majority leader has put in this bill. Now and then we get things resolved around here. Maybe we can do this in the next few days. But we would like to do it in the interim, if we could, do the line-item veto and the farm bill conference report. That will give us some time, I pass on what the rest. If he is prepared to do that, I am prepared to do that right now.

Mr. Daschle. It is my understanding, Mr. President, that is correct, the Senator from West Virginia is prepared at some point to enter into a time agreement. We assume he will be on the floor shortly, and we can discuss the matter with him at that time.

Mr. Dole. Mr. President, let me indicate on this side of the aisle for the present time the Senator from New Mexico, Senator Domenici, will be the manager in charge of the time on this side for the line-item veto.

Mr. Bumpers addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. Bumpers. Mr. President, notwithstanding the unanimous-consent agreement, I ask unanimous consent that I be permitted to speak for 2 minutes on the cloture vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. Bumpers. Mr. President, I want to echo what our distinguished minority leader has said. There are over 50 pieces of park or public lands legislation in the bill on which we just refused to invoke cloture. I have two pieces of legislation that are very important to me. I received no pleasure in voting against them. I want my colleagues from Utah to know that they are my friends. I hope we can work something out with regards to this legislation. I yield the floor.

Mrs. Boxer addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. Boxer. Mr. President, do I need unanimous consent to speak for 1 minute?

The PRESIDING OFFICER. Yes.

Mrs. Boxer. Mr. President, I ask unanimous consent to speak for 1 minute on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. Boxer. Thank you for your patience.

I just feel for some of us here in the Senate, particularly the two Senators from California, feel it is an awfully difficult situation when you have worked so long and hard and there is the kind of bipartisan support that we have for the Presidio, from the majority leader, to the minority leader, to Senator Ben Nighthorse Campbell, who literally came in and saved the thing, to Senator Boxer for being there for us through all the ups and downs of this battle, and to see it all come down in a crashing blow because of another issue, is awfully difficult for all of us.

I do hope that we can work something out on Utah wilderness, either by saying that it will come up in another context on its own—it does deserve the attention on its own. I support what Senator Bumpers recommended, which is a high-powered meeting with the majority leader himself, a high-powered meeting to sit down with those who have taken such an interest in this, Senator Bradley and others, to try and resolve these differences and these problems.

I just want to say that we have a crown jewel of a national park in the Presidio, but if we do not quickly set up a trust and get to work making sure that there is upkeep, that the buildings are put to good and proper use, and that the income from those buildings go to repair the facilities and keep them pristine, we will lose this priceless jewel. I do not think anyone wants that to happen.

I was very pleased that Senator Daschle made a unanimous-consent request to pass Presidio on its own, because I think that we need to keep coming back to that point. There is no controversy there. I was heartened by the majority leader's comments that he is going to do what he can to make it happen. The clock is ticking on this priceless jewel. I hope we can reach across party lines as we did when we gained all the support to solve the
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Utah wilderness problem, pass this bill, without that attached to it.
I think we could all go home as Republicans and Democrats and be proud
of what we have done. Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for 2
minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I support the comments of my colleague
on the Presidio. I have lived all my life one block from the Presidio. I know it
well. The Presidio bill is predicated on something that is unique. It is a pri-
vate-public partnership whereby the more than 500 historic buildings and
the additional buildings would be leased out, with a hope that over a 15-
year-period it would be able to make public areas of the Presidio self-sup-
porting.

Having said this, I am hopeful that every Member of this body could real-
ize the longer it takes to get a bill, the more in jeopardy that plan becomes.
Because of the rains, because of the fact that many of these buildings are
now boarded up, they are subject to intrusion, to vandalism; they are subject
to the absence of an adequate policing authority on that 1,500-acre post. The
Presidio, by each day of delay, is placed in jeopardy.

I am also hopeful, and I address these remarks to the distinguished majority
leader, that he would be willing to be-
come a party to negotiations which I think can go on, on the subject of the
Utah wilderness, so that we might be
able to get an agreement that would be satisfac-
tory to the two Senators from Utah, as well. I think it is possible. I think
that every area is not the same as Yosemite or Yosemite. They have certain
unique characteristics which need to have attention, as well.

I am hopeful, Mr. Leader, that in the ensuing days, perhaps under your aus-
pice, there might be negotiations which could be carried out. At least we should
try and see if we cannot get some agreement which can either en-
able the package to move ahead as a package, or enable the Presidio, some-
things which my colleague just said, does have unanimous consent in this
body, to move ahead.

The PRESIDING OFFICER. The ma-
jority leader.

Mr. DOLE. Mr. President, I am happy to indicate for the record that I would
be pleased to try to be helpful in an ef-
fort to resolve the differences. Obvi-
ously, I have spoken because of the
Utah wilderness provision. The other
projects, I understand, are not particu-
larly controversial. I indicate that I
am happy to be of help, or to take the
leadership and try to bring people to-
gether. I have already spoken briefly to
the distinguished Senator from Alaska, Senator MURKOWSKI. It is the hope in
the next few days we can make some progress.

The PRESIDENT pro tempore. Without
objection my time is now so ordered.

Mr. DOLE. Mr. President, I understand the dis-
tinguished Senator from West Virginia is on his way to the floor. Hopefully, we can
have the agreement before we com-
ence the debate on the line-item veto
because debate is 10 hours in the agree-
ment. We would like to have it imme-
diately start taking affect. If we speak
for an hour or two beforehand, that
would be a great help.

The Senator from New Mexico will be here,
as will others who are interested in this
issue. Hopefully, we will use the full 10 hours, have a vote early this
evening, and then take up the farm bill
conference report tonight.

Mr. MCAIN. Mr. President, do I un-
derstand that we are awaiting the ap-
proval of the other side for the unani-
mous consent?

Mr. DOLE. Senator BYRD. Mr. MCAIN. If I could, Mr. Leader,
while we are waiting for Senator BYRD, I express my appreciation for the work
of Senator LOTT, who brought together some very different viewpoints on this issue.
He did, I think, a magnificent job in re-
conciling the differences that we had on this side of the aisle.

I also want to thank the Senators from Maine wants to address the Senate
with reference to the death of Senator Muskie.

Yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Sen-
ator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I will
ask unanimous consent that I may pro-
tect for an hour or two beforehand, that
I may proceed for 4 minutes as in morning busi-
ness.

The PRESIDING OFFICER. Without
objection, it is so ordered.

THE EPA STUDY ON ACID RAIN

Mr. MOYNIHAN. Mr. President, New
York State, or upstate New York, has
been shocked—I think that is a fair
term—and finds itself in near disbelief
to learn that the Environmental Pro-
tection Agency [EPA] has closed the
Ithaca station, which is part of a broad
network of monitoring stations that
collect data critical to understanding
the impact of acid rain on the Adiron-
dacks Preserve. This is little enough
institutional memory around Washing-
ton, but one should think the EPA
would know that the concern about
acid rain began with the disappearance
of trout from a number of lakes in the
higher Adirondacks. This was a puzzle
and, in the end, it was resolved by a fish
biologist at Cornell University, Dr.
Carl Scofield, who traced the cycle:
acid rain caused by increasingly acidi-

cified air released aluminum from the
granite surrounding the lakes. That
aluminum leached into the lakes and
was absorbed into fish gills. The fish
died.

In 1980, I obtained approval of legisla-
tion—the Acid Precipitation Act—
which was based on a bill I introduced
here in the Congress the year before.
My bill was incorporated as title VII
into the Energy Security Act of 1980—
Public Law 96±294—and directed the
EPA to study, over a 10-year period,
just what was going on—not to panic,
but to go screaming to high Heaven
that the ski areas were covered with awful
substances that would burn holes in
our children's heads, and things like
that—but just to say, "What is this?"
Ms. SNOWE. Mr. President, in order. The effort was to last for 10
years, at $5 million per year.

During the Reagan administration, as demand for action grew and knowl-
edge was needed, money was collected from research budgets around the
country, such that our project, in the end, became a half-billion dollar re-
search project, the largest of its kind. We ended up knowing more about this
subject than any of the other industri-
alized nations. It is a real enough sub-
ject, but if our understanding of it is to
progress confidently, we need more data, such as can be collected by nor-
mal scientific inquiry.

In the 1970 Clean Air Act amend-
ments—Public Law 101-549—we made
the best use we could of our research
on the subject. We called for large re-
ductions in emissions in the Middle
West. Winds blow those emissions to-
ward the Adirondacks, of course. And
just to see that we continued along this track, as the then-ranking mem-
er of the Committee on the Environ-
ment and Public Works—in the con-
ference committee on the bill—I in-
cuded certain provisions. One was de-
signed so that the lay person could un-
derstand what the EPA was doing. The other provision directed the EPA to compile and provide a registry of acidified lakes. Now, in Florida, that could be all lakes, of course; but it would not be in Pennsylvania or in New York. With the registry, over time, we would see how
many lakes were being added, how many were being subtracted; how
might we measure, essentially, the ef-
fact need it, or is it an obstacle to the
country? Let us look at a few other examples.

One day, as the story goes, the fresh-
man Senator from Maine decided he
just could not support the majority
leader on a particular issue. Now,
crossing the leader of your party is al-
ways risky, but that risk took on added
significance when the leader was Lynd-
don Baines Johnson. But possessing a
stubborn streak of downeast yankee
independence that perhaps only a fel-
low Mainer can understand, Ed held his
ground. He would not vote with the
majority.

So, in his typically forgiving—and
nonvindictive—way, LBJ promptly ap-
signed the freshman Senator his
fourth, fifth, and sixth committee
chairs.

From this rather dubious beginning, Ed Muskie landed a seat on the not-so-
choice Public Works Committee. The
rest, as they say, is history. It did not
take him long to leave his mark on Washington—or on the
water that stretches from the Allagash Wilderness
of Maine, to the Florida Everglades, to
the Redwood forests of California.

You see, growing up in western
Maine, Ed had developed a deep ap-
preciation for the environment. Thor-
oughly committed and visionary, Sen-
ator Muskie helped transform the Pub-
litigant, which allowed him to express
differences which avoided him to express
in very simple terms why it is so dif-
cult to achieve fiscal responsibility in the
Congress. “Members of Congress,”
he once said “have won reelection with a two-part strategy: Talk like Scrooge
on the campaign trail, and vote like
Santa Claus on the Senate floor.”

Ed brandished that incisive wit many
times in this very Chamber, Mr. Presi-
dent, and perhaps it was this humor,
along with his commonsense approach
to political life, that made Ed Muskie
so effective throughout his remarkable
career.

During his 21 years in the Senate, Ed
Muskie was known for his moderation
but he did not hesitate to tangle with
his colleagues when he felt passion-
ately about an issue. His reputation as
a fighter was established early in his
Senatorial career when he went head-
to-head with another giant of this body, Senator Lyndon B. Johnson.

One day, as the story goes, the fresh-
man Senator from Maine decided he
just could not support the majority
leader on a particular issue. Now,
crossing the leader of your party is al-
ways risky, but that risk took on added
significance when the leader was Lynd-
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Maine, Ed had developed a deep ap-
preciation for the environment. Thor-
oughly committed and visionary, Sen-
ator Muskie helped transform the Pub-
lic Works Committee and went on to
become the founding father of environ-
mental protection in America by spon-
soring both the Clean Air Act and the
Clean Water Act of 1972. These two
landmark pieces of legislation have
both produced enormous benefits to the
health and well-being of our Nation
and its people. It is his unwavering
commitment to environmental protec-
tion that is, perhaps, Ed Muskie’s sin-
gle greatest legacy to the American
people. He was indeed Mr. Clean.

With the news of his passing, my
thoughts went back almost 2 years ago
to the day—because Ed Muskie’s birth-
day is March 28. When Ed and Jane
Muskie, accompanied by their children
and grandchildren, came to celebrate
Ed’s 80th birthday at the Blaine House,
Maine’s executive mansion, as the
vegetables of my husband Gov. Jock
McClement and me. It was a great privi-
lege for us to give Ed and Jane and
their family an opportunity to come back
 to a place that held some of their
fondest memories. It was a very special
time for all of us. And they spent the
night. It was a truly honorable mo-
moment in my life.

That evening, Ed spoke passionately
about the opportunities he enjoyed as
a young man, and of the commitment
and dedication that his parents had to their family and their community. And he spoke of the love and devotion that his father—a Polish immigrant—had for his new Nation.

He spoke of how much his roots in the surround ME, meant to him. It was those deep roots, along with his strong sense of family, that gave Ed Muskie the foundation upon which he would stand as he became a leading figure in American political life. And he cherished his father’s roots, and that standpoint that he viewed it as America giving every opportunity to anybody who sought to achieve.

I was struck with a very real sense of history listening to his reminiscences during that visit. I do not think it was possible for any Maine politician, regardless of party affiliation, to have come of age during the Muskie era and not have been influenced in some way by his presence. He was that preeminent in the political life of my State.

Ed Muskie was a towering figure in every sense of the word. In his physical stature, in his intellect, in his presence on Capitol Hill, in the extent of his impact on the political life of Maine, and in the integrity he brought to bear in everything he did.

And Ed was thoroughly and proudly a Mainer, with the quiet sense of humor associated with our State. Each year, the distinguished senior Senator entertained guests at the Maine State Society lobster dinner at the National Press Club by rubbing the belly of a live lobster, causing it to fall asleep, something only a real Mainer would know how to do.

Personally, I will always remember and be grateful for the warmth, friendship, and encouragement that Ed Muskie gave me over the years. When I entered the U.S. House of Representatives, Ed was the dean of the delegation. We were congressional colleagues for only a year and a half, but our friendship lasted throughout the years. And when I was elected to the seat which he had held with such distinction, I was touched by his kindness, and grateful for his advice and counsel.

Throughout his life, he never failed to answer the call of duty. He answered the call from the people of Maine ** ** He answered the call from America’s rivers and streams ** ** And he answered a call from the President of the United States and a worried Nation when Senator Muskie became Secretary of State Muskie in a moment of national crisis.

Mr. President, 75 years before Edmund Muskie was born, another famous Mainer, Henry Wadsworth Longfellow, captured what I believe is the essence of the wonderful man we revere today. Longfellow wrote:

Lives of great men all remind us we can make our lives sublime,
And, departing, leave behind us footprints on the sands of time.

Ed Muskie’s footprints remain on those sands. They are there as a guide for those of us who would follow in his path. They are big footprints, not easily filled. But we would all do well to try.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we are still waiting for the distinguished senior Senator from West Virginia, although we can wait, I would like to ask consent that I be permitted to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FORMER SENATOR ED MUSKIE

Mr. DOMENICI. Mr. President, I cannot speak about Senator Ed Muskie without the depth of knowledge that Senator Snowe had of his background and his impact on his beloved State of Maine. But it has fallen to me to be, at every stage of my growth in the Senate, on a committee with Senator Muskie.

My first assignment was the Public Works Committee. I was the most junior Republican, and Senator Muskie was the third-ranking Democrat and chaired the Subcommittee on the Environment of the Committee. I remember that subcommittee. I saw in him a man of tremendous capability and dedication when he undertook a cause. He learned everything there was to learn about it, and he proceeded with that cause with the kind of diligence and certainty that is not so often found around here. There were various times during the evolution of clean water and clean air statutes in the country that we could go in one of two directions, or one of three. Senator Muskie weighed those heavily, and chose the direction and the course that we are on now.

No one can deny that Senator Muskie is the chief architect of environmental cleanup of our air and water in the United States. Some would argue about its regulatory processes, but there can be no question that hundreds of rivers across America are clean today because of Ed Muskie. There can be no doubt that our air is cleaner and safer and healthier because of his leadership. I would say that any person needs much more than that to be part of their legacy.

But essentially he took on another job, and a very, very difficult one—chair the Budget Committee of the U.S. Senate. It fell on me as a very young Senator to be on that committee. I have been on it ever since. I was fortunate to move up. He became chair in its earliest days.

I might say as an aside that the Chair would be interested in this. When we moved the President’s budget—$56 billion in those days—that was a big, big thing, and we had a real battle for it. He would take the Presidents—no matter which ones—on with great, great determination.

But I want to close by saying that one of the things I will never forget about him is that he saw me as a young Senator from New Mexico. I had a very large family. He treated them and knew them. On a number of occasions he personally said that he would very much like to make sure that we did not do things around here to discourage young Senators like DOMENICI from staying here. I think he was sincere, and I think that was the leader of the Senate and the leader of the country outside. I think he saw us with an awful lot of feeling ourselves up here in trying to establish rules that were very difficult, and he used to regularly say, “I hope this does not discourage you. We need to keep some of you around.”

So to his wonderful family and to all of those close to him, you have suffered a great loss, but I can say that his life has been a great legacy for the country. That ought to lend you in these days a little bit of consolation, because that legacy is great. Death is obviously inevitable. He accomplished great things before that day occurred. With that, I yield the floor.

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the pending business?

The PRESIDING OFFICER. The conference report on the line-item veto.

Mr. DOMENICI. Mr. President, for the information of the Senate, we have just discussed the matter of a unanimous-consent agreement with Senator Byrd, and he indicated he is not prepared to enter into that time agreement just now and would like to use the time and get a better feel for himself as to where we are. I have no doubts we will enter into a similar agreement to the one our majority leader indicated, but it will not be forthcoming at this point. I think that is fair statement.

Mr. President, I note in the Chamber the presence of Senator McCain. It is our prerogative as proponents of the conference to lead off, and I wonder if he would like to make a few opening remarks, and then I would make a few, and then perhaps we would yield the floor to Senator Byrd for his opening remarks.

Since there is no time agreement at this point, I yield the floor.

Mr. McCaIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from Arizona.

Mr. MCCAIN. Mr. mccain. Mr. President, I thank Senator from New Mexico for everything he has done on this issue. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank the Senator from New Mexico for everything he has done on this issue. The Senator from Arizona.
improve and to make more efficient, and indeed constitutional, this effort, and I am grateful for his continued support.

I also appreciate the very tough and very cogent arguments that he made while advancing the compromise which I think will prevail today. I never underestimate the persuasive powers of the Senator from West Virginia [Mr. BYRD]. I know he will come forward with a very strong and compelling and constitutionally and politically based opposition against what we are trying to do today. I will listen as always with attention and respect.

Mr. President, 1 year ago, the Senate began consideration of S. 4, legislation to give the President line-item veto authority. Ten years before that, I began my fight in the Senate to give the President this authority, and 120 years before that Representative Charles Faulkner of West Virginia introduced the first line-item veto bill. Hopefully, a 120-year battle may soon be won. I would like to outline the line-item veto measure agreed to by the conferees. It is a good agreement and a good line-item veto bill.

The conference report amends title X of the Congressional Budget Impoundment Control Act of 1974 to add a new part C comprising sections 1021 through 1027. In general, part C will grant the President the authority to cancel and hold any dollar amount of discretionary budget authority or any dollar amount of discretionary budget authority which is specifically defined in law for the following purposes: First, to provide discretionary budget authority; or second, to provide new direct spending; or third, to provide limited tax benefits contained in any law. Congress has the authority to delegate to the President the ability to cancel specific budgetary obligations in any particular law in order to reduce the Federal budget deficit.

While the conference report delegates these new cancellation powers to the President, these powers are narrowly defined and provided within well-defined specific limits.

Under this new authority, the President may only exercise these new cancellation powers if the Chief Executive determines that such cancellation will reduce the Federal budget deficit and will not impair any essential Government function or harm the national interest. In addition, the President must make any cancellations within 5 days of the enactment of the law which contains the items to be canceled and must notify the Congress by transmittal of a special message within that time.

The conference report specifically requires that a bill or joint resolution be signed into law prior to any cancellations from that act. This requirement ensures compliance with the constitutional stipulations that the President enact the underlying legislation presented by Congress after which specific cancellations are then permitted.

We intend that the President be able to use his cancellation authority to surgically eliminate Federal budget obligations. The cancellation authority does not permit the President to rewrite the underlying law, nor to change any provision of that law.

The terms “dollar amount of discretionary budget authority,” “item of new direct spending,” and “limited tax benefit” have been carefully defined in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to pay, or the specific tax benefit. “Item of new direct spending” does not permit the President to cancel by amount the entire dollar amount of new direct spending.

The President’s special cancellation message must be transmitted to the House of Representatives and to the Senate within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law. Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmission.

Upon receipt of the President’s special message, both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

Any such cancellation is reversed only if a bill disapproving the President’s action is enacted.

The conference report provides Congress with 30 calendar days of session to consider a disapproval bill under expedited procedures. A “calendar day of session” is defined as only those days during which both Houses of Congress are in session.

I wish to emphasize this point again. All fencing language is fully protected under this bill. The box-provision of the conference report has also been included to maintain a system of checks and balances in the President’s use of the cancellation authority. Any credit for money canceled will be dedicated to paying down the debt and will not simply cancel a particular dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit in order to increase spending in other areas.

The President’s special cancellation message must be transmitted to the House of Representatives and to the Senate within 5 calendar days—excluding Sundays—after the President signs the underlying bill into law.

Such special cancellation messages must be printed in the first issue of the Federal Register published after the transmission.

Upon receipt of the President’s special message, both Houses of Congress, each dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit included in the special message is immediately canceled. The cancellation of a dollar amount of discretionary budget authority automatically rescinds the funds. With respect to an item of new direct spending or limited tax benefit, the cancellation renders the provision void, such that the obligation of the United States has no legal force or effect.

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waived the point of order against such an item, the conference report intends that such legislation would no longer qualify for the expedited procedures.

In addition, should differencing House and Senate disapproval bills be passed and the President refuse to sign either of the conference reports in the Senate, the conference must include any and all 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.

Once a disapproval bill is passed by the Congress, it is assumed the President would veto it. The President would have to use his constitutional veto authority to do so and could not cancel any part of a cancellation disapproval bill. The Congress would then have to muster a two-thirds vote to override the veto and force the President to spend the money.

Mr. President, there was considerable debate in both Houses about exactly what the President may veto. In the original version of both S. 4 and H.R. 2, the President was given enhanced rescission authority. This would have allowed the President to veto the entire budget. As I have described, the President's authority would give the President too much power and might result in too much power shifting to the Executive. The compromise developed by the conference returns to the idea of a line-item veto—in other words, the President can cancel any line.

Let me get a chart here, and demonstrate it very quickly. This is a chart that is very familiar to the conference, I might add, since we used this during our debate and discussions.

The bill also allows the President to line-item veto—or cancel—new direct spending provisions in law. When the President vetoes these provisions, he is effectively exercising the obligation to pay the new benefits.

The bill also allows the President to line-item veto any targeted, or limited, tax benefits if those benefits effect 100 million. This is the actual language from the report, which calls for $49,846,000 for special grants for agricultural research. That is fundamentally what this line-item veto does. So that what is in the report language affects the original bill.

I was disappointed that the conference was not able to keep the Feingold-McCain emergency spending amendment. However, I have been assured by the Senate conference committee that they would be willing to meet with our respective staffs and develop new language to address the Senator from Wisconsin's and my concerns regarding this matter.

Mr. President, the power to line-item veto is not new. Every President from Jefferson to Nixon used a similar power. The line-item veto power they exercised ensured that the checks and balances between the congressional and executive branch remained in balance. In 1974, in reaction to the Presidential abuses, the Congress stripped the President of this power. Unfortunately, since that time, the Congress has abused its ability to dictate how money be spent. This bill would restore the checks and balances envisioned by the Founding Fathers.

Further, unlike impoundment power where the President could use appropriated money to fund his priorities over the objections of the Congress, this bill contains a lockbox provision as I have described. Any money line item vetoed under this bill could be used only for deficit reduction.

Mr. President, many have characterized this legislation as a dangerous reform. It is not a dangerous reform. This is not accurate and does not take into account the greater picture of the dangers presented by our out-of-control budget process. The real danger is what has happened to the administration of the American Government. Unnecessary and wasteful spending is threatening our national security and consuming resources that could better be spent on tax cuts, deficit reduction, or health care. I do not make the charge that wasteful spending that threatens our national security without a great deal of consideration. After last year's defense appropriations bill, it is unfortunately clear how dangerous this kind of spending can be to our national security. It should now be clear how urgent the need for a line-item veto is.

At a time when thousands of men and women who volunteered to serve their country have to leave military service, at a time we face new and declining defense budgets, we nonetheless are able to find money for billions of dollars of unnecessary spending in the defense appropriation bill. At a time when we need to restructure our forces to meet our post-Cold War military needs, we have squandered billions on pointless projects with no military value.

Mr. President, every Congressman or Senator wants to get projects for his or her district. Everyone wants the only their fair share of the Federal pie for their States, they want more. Therein lies the problem. It is an institutional problem. I am not a saint. But we are the people we are voting for. I am not here to cast aspersions on other Senators who secured an unnecessary project for their States. I am not here to start a partisan fight.

Congress created the problem and its Congress' responsibility to fix it. It is a Congress that has piled up a $5 trillion debt. It is a Congress that is responsible for over a $200 billion deficit this year. It is a Congress that has miserably failed the American people. It is an institution that desperately needs reform.

Anyone who feels that the system does not need reform only examine the trend in the level of our public debt. As I stated in my analysis of the most recent budget, the deficit has continued to balloon and spending continues to increase. In 1960, the Federal debt held by the public was $236.8 billion. In 1970, it was $283.2 billion. In 1980, it was $709.3 billion. In 1990, it was $3.2 trillion, and it is expected to surpass $5 trillion this year.

My colleagues may ask: Why is the line-item veto so important? Because a President with a line-item veto could help stop this waste. Because a President with a line-item veto could play an active role in ensuring that valuable taxpayer dollars are spent effectively to meet our national security needs, our infrastructure needs, and other social needs without pointless pork barrel spending. And the President can no longer say, "I didn't like having to spend billions on a wasteful project but it was part of a larger bill I just couldn't say no to." Under a line-item veto, no one can hide the waste.

According to a recent General Accounting Office study, $70 billion could have been saved between 1984 and 1989, if the President had a line-item veto. It is an important tool to help reduce the deficit. It can change the way Washington works. Mr. President, we cannot turn a blind eye to unnecessary spending when we cannot meet the needs of our children and our military. We cannot afford to waste when Americans all over this country are experiencing economic hardship and uncertainty.
The American public deserves better than business as usual. As their elected representatives we are duty bound to end the practice of wasteful and unnecessary spending.

The line-item veto is not a means to encourage Presidential abuse, but a means to end congressional abuse. It will give the President appropriate power to help control spending and reduce the deficit. To anyone who thinks that Congress is fully capable of policing national fiscal affairs, I simply bring to the Senate's attention the $3.7 trillion public debt as irredeemable proof of our inability.

Mr. President, a determined President will not be able to balance the budget with the line-item veto. But a determined President could make substantial progress toward that goal.

I submit that had the President been able to exercise line-item veto authority over the past 10 years the fiscal condition of our Nation would not be nearly as severe as it is today.

With that in mind, I hope the Senate would consider the following quote by a president fighting in the Scottish Enlightenment, Alexander Tytler. He stated:

A democracy cannot exist as a permanent form of government. It can exist only until a majority of voters discover that they can vote themselves, largesse out of the public treasury. From that moment on, the majority always votes for the candidate who promises them the most benefit from the public treasury, with the result being that democracy always collapses over a loose fiscal policy.

If our debt surpasses our output, I fear that our democracy may one day collapse over loose fiscal policy.

Today is a historic day. A 120-year battle is coming to a close. The line-item veto may soon be a reality.

Mr. President, I thank the distinguished Senator from Arizona and the distinguished Senator from Indiana for their views and got them to compromise on this final bill. The distinguished chairman of the Committee and is one of the outstanding members of that committee.

Today is a historic day. A 120-year battle is coming to a close. The line-item veto may soon be a reality.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The legislative clerk will call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, the conference report on this bill essentially adopts the House's enhanced rescission approach. I repeat, this essentially adopts the House's enhanced rescission approach.

I also want to congratulate again the majority leader who brought together a group of Senators with very diverse views and got them to compromise on this final bill. The distinguished chairman of the Committee and is one of the outstanding members of that committee.

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Mr. President, the conference report on this bill essentially adopts the House's enhanced rescission approach. I repeat, this essentially adopts the House's enhanced rescission approach.

Essentially that approach was similar to the approach advocated by Senators McCAIN and COATS and many who followed their lead.

There are a significant number of modifications to the House's enhanced rescission concept advocated by Senators McCAIN and COATS and many who followed their lead.

One, we sunset this authority after 8 years to give Congress an opportunity to review the President's use of this authority. Some wonder why, but, essentially, if you did not have that, there would be no time when you could change this law over a President's objection without having two-thirds vote in the Senate, because, indeed, if a President liked it and we did not like it—and there was a real reason for that, to argue that policy issue out of President's veto whatever we sent them.

As a matter of course, we would be saying, regardless of how it is used—and
it is a kind of new activity. Even the occupant of the chair, who used it as a Governor, understands and has spoken to me that this is somewhat different in scope when you do it this way, when it is the national picture, and we are treating on a new ground.

So I would have liked a shorter sunset provision, but the House had none. So there are 8 years. We will live through two complete Presidential terms, starting next January, and see how it is working out with reference to a judicious exercise of that new power given to Presidents.

No. 2, the line-item veto applies to all new spending, including new direct spending, that is frequently called entitlements or mandates. Despite all the rhetoric, the only real deficit reduction this year has been in the area of discretionary spending. I have misstated the number heretofore, and let me be accurate. The only money saved in the balanced budget argument to this point lies in savings in discretionary accounts in the appropriated accounts, domestic, in the year 1995. It is obvious to those who know the budget, we cannot balance the budget or significantly restrain Federal spending by just having a veto to discretionary accounts so we can continue the idea and concept that we can balance the budget on the back of the domestic discretionary programs, that spending alone.

We devote any savings from the line-item veto to discretionary spending through a lockbox concept. We clearly define and place restrictions on the President's cancellation authority. The President does not have complete discretion to cancel items in laws. He can only cancel entire items in laws or accompanying reports.

Moreover, the bill makes clear he can cancel only budgetary obligations. He cannot use his authority under any circumstance to change the provisions of law, this is to write law in an appropriations bill.

We strengthen the expedited procedures for congressional consideration of a bill to disapprove of a President's cancellation of an appropriation, either the line item or direct spending or the limited tax benefit, which has been described by my friend from Arizona. I will not go into it any further now other than to say this bill, as it left the Senate, carried with it an expanded concept of what ought to be subject to cancellation.

The two things included here that were not historically considered were targeted taxes, that is, very special and direct taxes that benefit a small group of people or institutions, and new additional mandatory or direct expenditures, not vetoing entitlements, but if you create a new one that spends more money, the President has one opportunity to address that.

Frankly, both are fair because if the statement, that is clear, that appropriated accounts alone do not create the problem of deficit spending, nor are they the only area where special attention is made to special needs of special constituents by legislators, the same is done in tax bills and the same is done in entitlements.

Clearly, the President, if he is going to have a chance to get at and cancel targeted tax expenditures, that is, very special and domestic, he ought to have a similar authority. This last part that I have just described is truly an experiment, but we worked as diligently as we could to make it clear and to make sure that everyone would understand what the conferences had in mind on direct or mandatory expenditures and targeted tax expenditures.

Again, I congratulate Senators Dole, McCain, and my cohort who chaired this conference, the distinguished Senator from Alaska, Senator Ted Stevens. This is a remarkable achievement on their part. While it will be contested here today, I do not believe it will be contested that this is some special legislation. Every Senator who thinks change is good clearly understand that this is a formidable event in the ever-changing landscape of the legislation that Congress considers and finally passes.

There will be a number of Senators who oppose this. Clearly, I want to say right up front that the distinguished Senator from West Virginia, former chairman of the Appropriations Committee, majority leader, minority leader of the Appropriations Committee, will be listened to. The concerns he expresses will not be light concerns. They will be important concerns.

Many of us have agreed with him in the past, and we have concerns about the legislation. However, we have come to the conclusion—many on the Appropriations Committee, or a number, will support this legislation—that the time is now to give line-item veto a chance, to get it over to the President who will sign it. If the House, they will adopt it, and then go to work on making it work come January.

Now, we have not yet agreed upon the time that will be taken here because, quite appropriately, the distinguished Senator from West Virginia wants to watch his time carefully, not only for himself but some of his advocates.

When we started here on the floor, before a word was said, the distinguished Senator from West Virginia, in his usual style and gracious, gracious demeanor and respect for the institution, shook the hand of Senator McCain and Senator Domenici and indicated his respect, but indicated in this particular measure he did not agree. That is a great part of our Senate heritage. He disagrees. He will have his day. We disagree with Senator Byrd. We will have our day. I hope in the end we will have a majority of Senators supporting what we propose. I yield the floor.

(Mr. KYL assumed the chair.)

Mr. BYRD. Mr. President, "I am no orator, but Brutus is. But as you know me all: a plain blunt man * * * for I have neither wit, nor words, nor worth, action, nor utterance, nor the power of speech to stir men's blood. I just speak right on. I tell you that which you yourselves do know."

Mr. President, the Senate is on the verge of making a colossal mistake. The distinguished Senator from New Mexico was correct when he spoke of this measure as being a formidable measure, a far-reaching measure, a measure that will produce a sea change in the relationship between the executive and the legislative branch.

Let me say at the outset that I have only the utmost respect for the distinguished, the very distinguished Senator from New Mexico. He is one of the brightest Senators that I have seen during my 38 years in this body. He understands the budget process, in all likelihood, better than anyone else in this Chamber on either side of the aisle. He is skillful, he is dedicated, he is tenacious, and, of course, he is fighting for what he believes today. I cannot help but think, however, that in his heart of hearts, he would rather be supporting a more moderate measure than this one. It is before me the no right to attempt to look into his mind or into his heart.

The Senate, you mark my words, is on the verge of making a colossal mistake, a mistake which we will come to regret but with which we will have to live until January 1 of the year 2005, at the very least. We are about to adopt a conference report which will upset the constitutional system of checks and balances and separation of powers, a system that was handed down to us by the Constitutional Framers 208 years ago, a system which has served the country well during these two centuries, a system that our children and grandchildren are entitled to have passed on to them as it was handed down to us.

And as I comprehend the appalling consequences—they may not become evident immediately, but in due time will be seen for what they are—as I comprehend the appalling consequences of the decision that will, unfortunately, likely have been rendered ere we hear the trailing garments of the Night sweep through these marble halls, I think of what Thomas Babington Macaulay, noted author and statesman, wrote in a letter to Henry S. Randall, an American friend, on May 23, 1857:

"Either some Caesar or Napoleon will seize the reins of government with a strong hand; or your republic will be as fearfully plundered and laid waste by barbarians in the Twentieth century as the Roman Empire was laid waste by the Huns and Vandals; your Huns and Vandals will have been engendered within your own country by your own institutions."

The Senate is about to adopt a conference report. Mr. President, it is clear, Madison and the other Constitutional Framers and early leaders would have absolutely abhorred, and in adopting the report we will be bartering away
our children's birthright for a mess of political pottage.

The control of the purse is the fundamental of our constitutional system of checks and balances of powers among the three departments of government. The history is careful that control over the purse in the hands of the legislative branch. There were reasons therefor.

The control over the purse is the ultimate power to be exercised by the legislative branch. From the middle ages, the control of the purse was the central pillar to which control of the executive was ceded. When it was desired to shift from its own hand to that of the executive, the purse strings, particularly in view of the legislative branch. There were reasons therefor.

The Romans knew this, and for centuries the Senate complete control over the public purse. Once it gave up its control of the purse strings, it gave up its power to check the executive. We saw that when it willingly and knowingly ceded its powers to Julius Caesar in the year B.C. Caesar did not seize power, the Senate handed power over to Caesar and he became a dictator. History tells us this, and history will not be denied.

The same thing happened in Rome when Octavianus, later given the title of Augustus in the Roman Senate, when in B.C. the Senate capitulated and yielded its powers to Augustus, willingly desiring to shift from its own shoulders responsibilities of government. When it gave to him the complete control of the purse, it gave away its power to check the executive.

Anyone who is familiar with the history of the British nation knows how our British forebears struggled for centuries to wrest the control of the purse from tyrannical monarchs and place it in the hands of the elected representatives of the people in Parliament. Perhaps it would be useful for us to review briefly the history of the British Parliament's struggle to gain control of the purse strings, particularly in view of the fact that the Constitutional Framers in 1787 were very much aware of the history of British institutions, and that history undoubtedly influenced Thomas Jefferson in considerable measure by that history and by the experiences of Englishmen in the constitutional struggle over the power of the purse.

Cicero said that "one should be acquainted with the history of the events of past ages. To be ignorant of what occurred before you were born is to remain always a child. For what is the worth of human life, unless it is woven into the life of our ancestors by the records of historical events?"

To better understand how our own legislative branch came to be vested with the power over the purse, it seems to me that one should examine not only the roots of the taxing and spending powers but also the seed and the soil from which the roots sprang and the climate in which the tree of Anglo-American liberty grew into its full flowering, because only by understanding the historical background of the constitutional struggle which Americans so dearly prize can we fully appreciate that the legislative control of the purse is the central pillar—the central pillar—upon which the constitutional temple of checks and balances and separation of powers rests, and that if the pillar is shaken, the temple will fall. It is as central to the fundamental liberty of the American people as is the principle of habeas corpus. It was observed at the time of the American Declaration of Independence that the control of the purse is the fountainhead of liberty. While the rights of d'etre are not generally well understood. Therefore, before focusing on the power over the purse as the central branch in the whole cloth of Anglo-American liberty, we should engage in a microcosmic view of the larger mosaic as it was spun on this loom of time.

Congress' control over the public purse has had a long and troubled history. Its beginnings are imbedded in the English experience, stretching backward into the middle ages and beyond. It did not have its genesis at the Constitutional Convention, as some may think, but, rather, like so many other elements contained in the American Constitution, it was largely the product of the colonial and state governments and with roots extending backward through hundreds of years of British history predating the earliest settlements in the New World.

Notwithstanding William Ewart Gladstone's observation that the American Constitution "is the most wonderful work ever struck off at a given time by the brain and purpose of man,"—although there is a school of thought with regard to that quotation—the Constitution was, in fact, not wholly an original creation of the Framers who met in Philadelphia in 1787. It "does not stand in historical isolation, free of antecedents," as one historian has noted, but "rests upon very old principles—principles laboriously worked out by long ages of constitutional struggle."

The fact is, Gladstone himself, contrary to his quote taken out of context, recognized the Constitution's evolutionary development. British subjects outnumbered all other immigrants to the colonies under British dominion. The forces of political correctness are trying to change American history these days, but it cannot be denied that the first sentence—Muzzey's history, which I studied in 1928, 1929, and 1930—the very first sentence—says: "America is the child of Europe." America is the child of Europe, political correctness notwithstanding.

They brought with them—those early settlers from England—the English language, the common law of England, and the traditions of British customs, rights, and liberties. The British system of constitutional government, safeguarded by a House of Commons elected by the people, was well established when the first colonial charters were granted to Virginia and New England. It was a system that had developed in great constitutional struggle during which many of the liberties and rights of Englishmen were concessions wins—sometimes at the point of the sword—from kings originally seized of all authority and who ruled as by divine right.

The Constitutional Framers were well aware of the ancient landmarks of the unwritten English constitution. Moreover, they were all intimately acquainted with the English commonwealths and the new state constitutions which had been lately established following the Declaration of Independence and which had been copied to a high degree from the English model, with adaptations appropriate to republican principles and local conditions. Let us trace a few of the Anglo-Saxon and later English footsteps that left their indelible imprint on our own constitutional system.

Since time immemorial, Anglo-Saxon and later English kings had levied taxes on their subjects with the advice and consent of the witenagemot or the Great Council. When Parliament later grew out of the Great Council, and when knights and burgesses from the shires and boroughs, and representatives from the town and rural middle class were chosen to participate in Parliament, the king sought approval, from his representative, who paid the revenues for the operation of government, the national defense, and the waging of wars.

In return for its approval of the sovereign's request for money, Parliament learned that it could secure the redress of grievances and exact concessions from the king. You are asking for money? Then we, the people's representatives, will demand first. Make these concessions, and then we will vote you the money. If he resisted, then Parliament would refuse to grant funding requests and new taxes. In 1297, almost 700 years ago now, Edward I reluctantly agreed to the "Confirmation of the Charters," and, in doing so, he agreed, under clause 6 of the Parliamentary document, that is the future he would not levy "aids, taxes, nor prises, but by the common consent of the realm." The fulfillment of the event was twofold. In the first place, it was henceforth necessary that representatives of the whole people, and especially the middle class, be summoned to all Parliaments where any non-feudal taxation proposals were to be considered. Moreover, and of even greater importance, the control of the purse was lodged in Parliament, and this was a power that Parliament would frequently use to check the claim of royal authority and to persuade the king to grant concessions.

This is the meat of the coconut. On two occasions in Edward II's reign (1307-1327), Parliament had asked for the redress of grievances before it granted taxes on personal property. In both cases, the substance of Parliament's petitions were approved and enacted into statutes by the king. On one of these occasions, in 1309, the Commons granted a subsidy on the condition, that the king shall take away and grant redress upon certain articles wherein they are aggrieved." Members of Congress should take note.
There are early instances of the allocation of funds for specific purposes, such as the Danegeld, which was a land tax levied to meet requirements arising from Danish invasions and to buy off the invaders. It usually was two shillings per man, a tax levied by King Canute and continued for some time after the danger of Danish invaders had passed, and, as a land tax, it was revived by William the Conqueror for specific emergency purposes such as defense preparations in 1068, when the King of Denmark threatened to enforce his claim to the English throne. Although continued as a land tax under William I's successors, its original character was lost, and its name, the Danegeld, fell into disuse in 1163, during the reign of Henry II. It became a source of revenue for general purposes.

Feudal charges were levied by kings before the creation of Parliament and appropriated for specific purposes. For example, the scutage, a tax levied upon a tenant of a knight's fee in commutation for military service, was assigned to the financing of military measures. Funds collected to buy Richard I's freedom were paid into a special 'exchequer of the Holy Land' and applied to financing the costs of a crusade, as were specific grants for Holy Land conquests in 1201, 1222, and 1270. In 1315, the Barons successfully insisted that Edward II's personal expenses be limited to 3000 marks. In 1332, Parliament agreed to attach conditions to money grants. Parliament often insisted that the money granted should be spent for certain specified purposes, and for no others.

In 1340, a grant was made by Commons to the king on the condition that it "shall be put and spent upon the building and furnishing of ships, and the defence of the Seas". The preamble to the subsidy Act of 1559 quoted Edward VI as having recognized that his predecessors "tyme out of mynde have had enjoyed unthoum, by authoritie of Parliament, for the defence of the Realms and the happy saulfugarde of the Seas" the proceedings of customs charges on certain goods.

Following the Restoration in 1660, Commons aimed at keeping Charles II's short of funds to prevent the maintenance of a large standing army in time of peace at a cost to the will of Parliament. Appropriations were made for the building of ships shall be made payable into the Exchequer, and shall be kept separate, distinct, and apart from all other moneys, and shall be appropriated for the building and furnishing of ships, and for no other purpose than that for which said supply shall be transmitted to the Commons of England in Parliament.

The principle of appropriating the supplies (sums of money) for specific purposes only, instead of placing the funds without reserve into the king's hands, dates back at least as far as 1340. Here, then, as early as the mid-1300's—560 years ago—was the beginning of the current system of congressional appropriations as we know it. Members of Congress should be aware of the importance of this aspect of the modern appropriations process. It was not something that was conceived just yesterday and did not just come out of the woodwork.

After the Commons and Lords separated into two houses in the early 1300's, around 1339, 1340, and 1341, the House of Commons reserved to itself the power to initiate tax and money bills.

In 1395, the grant to the king, Richard II, was made "by the commons with the advice and consent of the lords." It started out in the commons. In 1407, the king—Henry IV, the former Duke of Lancaster—agreed that he would listen to reports about money grants only "by the mouth of the speaker of the Commons." The right of the commons to originate taxes and money grants was a right by custom, and it was a statutory right, not a custom that was not easily shaken. For example, Henry IV had failed in 1407 when he tried to proceed first through the House of Lords. The Commons refused to accept such a "great prejudice against the Commons." The U.S. Constitution, Article I, reflects the very same principle: "All Bills for raising revenue shall originate in the House of Representatives." As the years passed, Parliament extended its power in the control of government expenditures and the earmarking of appropriations of money for particular purposes. Almost always it was specified that general taxes to the government expenditures, and after the Restoration in 1660, the House claimed, and Charles II grudgingly conceded, the right of appropriation in the Appropriation Act of 1665. From that time, it became an indisputable principle that the monies appropriated by Parliament were to be spent only for the purposes specified by Parliament. Since the reign of William and Mary (1689-1701), a clause was inserted in the annual Appropriation Act forbidding—"to appropriate the expenses under any particular purposes" Lords of the Treasury to issue, and officers of the Exchequer to obey, any warrant for the expenditure of any money in the national treasury, upon any other service than that to which it was directly appropriated.

The right of Parliament to audit accounts followed, as a natural consequence, the practice of making annual appropriations for specific objects. Even as early as 1630, a committee of Parliament was appointed to examine into the manner in which the last subsidy had been expended. Henry IV resisted a similar audit in 1406, but in 1407 he conceded Parliament's right to ascertain the ways the appropriations were spent. Such audits became a settled usage.

These two principles—that of appropriations and that of auditing—were united by the framers in a single paragraph of the U.S. Constitution: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of public Money shall be published from time to time."

So, Mr. President, as we can see, legislative control over taxation bears...
close relation to the history of Parliament. The witenagemot possessed the right of advice and consent regarding taxation, although the right was probably exercised only rarely because the royal needs in the Anglo-Saxon era were normally supplied by income from royal farms, fines, and payments in kind or the quasi-voluntary tribute paid by the kingdom to its sovereign. The Norman kings exacted feudal aids and other special varieties of taxation, retaining and adding to the impost of Saxon kings. But there is scant evidence as to what extent the council was asked by the kings. Although a tax in the reign of Henry I (1100-1135) was described as the "aid which my barons gave me," it appears that until the time of Richard I (1189-1199), the king usually merely announced in assembly the amounts needed and the reasons for his imposing subsidies. By the feudal doctrine, the payer of a tax made a voluntary gift for relief of the wants of his ruler.

Magna Carta (1215) provided that, except for three feudal aids, no tax should be levied without the assent of a council duly invoked. But as the burden of tax increased, there was a desire for broadening the tax base to all classes of society and increased. Hence, the establishment of the representative system in Parliament had its essential origin in the necessity for obtaining the consent, by chosen proxies, of all who were taxed. After the "Confirmation of the Charters" in 1297, the right of the people of the realm to tax themselves through their own chosen representatives became an established principle. The Petition of Rights, reluctantly agreed to by Charles I in 1628, emphatically reaffirmed the principle. Charles had attempted a forced loan in 1627 to meet his urgent money needs. This was, in effect, taxation without parliamentary sanction, and many refused to pay, whereupon Charles arbitrarily imprisoned some persons who would not pay. When he called Parliament into session the next year, twenty-seven members of the new house had been imprisoned for failure to pay the forced loan. When Charles demanded the money he so desperately needed, the commons paid no attention. They decided almost at once to put their major grievances in a Petition of Rights. Among these, the Petition declared that arbitrary imprisonment should cease and that arbitrary taxation should cease and "no man hereafter be compelled to make or yield any gift, loan, benevolence, tax, or such like charge, without common consent by Act of Parliament." When Charles granted the Petition of Rights, the Commons voted him taxes.

The insistence by Charles I that he possessed a divine right to levy taxation and could seek funds directly from the people without the consent of Parliament led the commoners to consider rebellion against the crown. When Charles tried to govern without Parliament by resorting to various means of raising revenue. Additional Nightsheds were created, requiring the beneficiaries to pay a fee to the King. Those who refused were fined. Other efforts to raise money led to increased resentment from citizens and threw the country into a state of crisis. Charles lost both his throne and his head.

The Bill of Rights, to which William III and Mary were required to give their assent before Parliament would make them joint sovereigns, declared "that levying money for or to the use of the crown, by pretence of prerogative, would be an act of Parliament, for longer time, or in other manner than the same is or shall be granted, is illegal." It was the violation of this constitutionally given right of the taxpayers, through their chosen representatives, that led to the revolt of the colonies in America. The Declaration of Independence explicitly names, as one of the reasons justifying separation from England, that of her having "imposing taxes on us without our consent."

There is, then, a certain historic fitness in the fact that first among the powers of Congress enumerated in Article I, section 8 of the Constitution is the power "to lay and collect taxes." The power to appropriate monies is also vested by Article I solely in the legislative branch.—nowhere else; not downtown, not at the other end of Pennsylvania Avenue, but here in the legislative branch. Mr. President, we have all perhaps been subject to the notion that the Federal Constitution with its built-in systems of checks and balances, was an isolated and innovative new instrument of government which sprang into existence—sprang into existence—during three months of meetings behind closed doors in Philadelphia, and that it solely was the product of the genius of the Framers who gathered there and made the thing come about. However, as I have also said heretofore, American constitutional history can only be fully understood and appreciated by looking into the institutions, events, and experiences of the past out of which the organic document of our nation evolved and took unto itself a life and soul of its own.

To ascertain the origin of the Constitution, then, it must be sought among the records treating of the fierce conflicts between kings and people—it cannot be found just in Madison's notes, but it must be sought among the records of treating fierce conflicts between kings and people—the evolution of chartered rights and liberties, and the development of Parliament in the island home of those hardy forebears who crossed the Atlantic to plant new homes in the wilder-ness and who transplanted to the English colonies of the New World the familiar institutions of government which would assure to them the rights and liberties which they, as British subjects in a new land, held to be their due inheritance.

The U.S. Constitution was, in many ways, the product of many centuries—many centuries—and it was not so much a new and untried experiment as it was a charter of government based to some extent on the British archetypetype, as well as on State and colonial models which had themselves been influenced by the British example and by the political theories of Montesquieu and others, who believed that political freedom could be developed by separating the executive, legislative, and judicial powers of government, which powers, when divided, would check and balance one another, thus preventing tyranny by any one man, as had been the case in the past.

Moreover, unlike the British Constitution, which, as I say, was, generally, an unwritten constitution consisting of written charters, common law principles and rules, and traditions and statutes of Parliament, the American Constitution was a single, written document that was ratified by the people in conventions called for the purpose.

In a real sense, therefore, the U.S. Constitution was an instrument of government that was the result of growth and experience and not manufacture, and its successful ratification was, in considerable measure, due to the respect the people had for the past. The mainspring of the constitutional system of separation of powers and delicate checks and balances was the power over the purse, vested—where? Here in the legislative branch. That power guaranteed the independence and the freedom and the liberties of the people.

James Madison, who is justly called the father of the Constitution, summed it up in a few words, the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental importance of the retention of that power by the people's elected representatives in the legislative branch.

He did this in the Federalist No. 58, in which he referred to the House of Representatives and said:

"They in a word hold the purse; that powerful instrument by which the significance of the power over the purse in the preservation of the people's rights and liberties, and the fundamental import-

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of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Let me repeat just the last portion of the words by Madison.

This power over the purse, may in fact be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Mr. President, the elected representatives of the people in this body should remember those weighty words by Madison, the father of the Constitution. If they wish to know the value of constitutional liberty, they might refer to those words and read.

Mr. President, to alter the constitutional system of checks and balances, by giving the executive—any executive, any President, Democrat or Republican—a share in the taxing or appropriations power through the instrument of an item veto or enhanced recision would, in my view, be rank heresy. As we have seen, the entrusting of the power over the purse to the legislative branch was no accident of history or the result of 600 years of contest with royalty. To chisel away this rock, that through bloody wars the judge is Time. From our vantage point, then, Mr. President, as we take the long look backwards into the murky past, history clearly teaches us that the power over the purse—the power to tax and to appropriate funds—wisely came to be lodged, more than 600 years ago, in the directly elected representatives of the people: that this principle lies at the foundation, and is a chief source, of our liberties; and that it is not a power that should be shared by a king or a President.

That our own Constitutional Framers clearly intended for the power over the purse to be solely in the hands of the elected representatives of the American people, we have only to review the words of Madison and Hamilton as they appeared in the Federalist Papers.

Hamilton in the Federalist #78 stated: “The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated.” Madison in the Federalist #48 stated, “The legislative department alone has the power to tax and to appropriate, but prescriptions of the rights and duties of every citizen are to be regulated. The executive department alone has the power to execute the laws—i.e., to make the laws effective. And the judicial department alone has the power to interpret the laws—i.e., to establish the meaning of the laws, and to prescribe the mode of executing them. Thus, the founders of this republic left no doubt as to what branch of the government had control over the purse strings. The Executive was not given the power to tax and appropriate, with the single exception of the right of the President to veto, in its entirety, a bill—any bill—and in this case a bill making appropriations.

There was little discussion of the Presidential veto at the Convention, as a reading of the convention notes will show. There was absolutely no discussion whatsoever with reference to a line item veto or any such modification thereof as we are now contemplating. Henry Clay, one of the greatest Senators of all time, in a Senate Floor speech on January 24, 1842, referred to the veto as “this miserable despotic veto power of the President of the United States.” That is what he thought of a Presidential veto. It is not hard to imagine what Henry Clay would think of this conference report that is before the Senate today. It is ludicrous—nay, it is tragic—that we are about to substitute our own judgment for that of the Framers with respect to what is to be done with the need to check the Executive. Yet, that is precisely what we are about to do here today. We are about to succumb, for political reasons only, to the mania which has taken hold of some in this and the other body to put this power in the hands of the President. That this is the right thing to do, and that this is the way to get a handle on the budget deficits.

To quote Homer in The Iliad: “Not if I had ten tongues and ten mouths, a voice that could echo the Hung of brass in my bosom”, would I be able to persuade those who are motivated by political expediency that future generations will condemn their shortsightedness and hold them responsible for the damage to our constitutional system that will be wrought by this radical shift of power from the legislative to the executive branch. “Who saves his country, saves all things, saves himself, and all things saved do bless him; Who lets his country die, lets all things die, dies himself ignobly, and all things dying curse him.”

Most Presidents in recent times have espoused the line-item veto. I fought against surrendering this power to President Reagan, I fought against surrendering the power to President Bush, and I just as fervently oppose giving President Clinton—or any other President—a line-item veto or any modification thereof. I have taken an oath to support and defend the Constitution of the United States. My contract with America is the Constitution of the United States. I paid 15 cents for this copy several years ago. It cost $1, I think, now. There it is, well-worn, taped together, and pretty well marked up. But that is my contract with America.

So I have taken an oath many times to support and defend this contract with America, the Constitution of the United States, and I do not intend to renege on my sworn oath by supporting this conference report. It is a malformed monsterity, born out of wedlock. Although the House voted on this version of the so-called line-item veto, the Senate did not. That is why I would say it was born out of wedlock.

It is a profanation of the temple of the Constitution which the Framers built, and it will prove to be an ignis fatuus in achieving a balanced budget. Its passage will effectuate a tremendous shift of power from the legislative branch to the Executive Branch, and it will be used as a club to be held over the head of every member of the United States Senate and House of Representatives. Any power-hungry President who will seek to impose their will over the legislative process to the detriment of the American people, whose elected representatives in Congress will no longer be free to exercise their judgment as to what is in the best interests of the states and the people whom they serve.

This so-called line-item veto act should be more appropriately labeled The President Always Wins Bill. From my vantage point, the President will be used to slap down Congressional opposition wherever it may exist. Yet, I have no doubt that this measure will pass. Political expediency will be the order of the day, for we are like Nebuchadnezzar, dethroned, bereft of reason, and eating grass like an ox.

“O, that my tongue were in the thunder’s mouth! Then with a passion would I shake the world’s dust out of its fair habitation of those who oppose this surrender of power to the President may be likened to the last stand of General George Armstrong Custer, who with 200 of his followers, were wiped out by the Indians at the Battle of the Little Big Horn, in Montana, in 1876, but I see this as the Battle of the “Big Giveaway”, and I do not propose to go along.

As a matter of fact, I do not believe that it is within the capability of Congress to give away such a fundamental pillar of Constitutional power as the control over the purse strings, because that is the fundamental pillar upon which rests the Constitutional system of separation of powers and checks and balances.

I know there are those who say that it will only be for 8 years—from January 1, 1997, to January 1, in the year 2005. Senators will note that the bill does not take effect upon passage, upon enactment, the reason being that the majority party does not want to give this President this line-item veto. He may use it against them. And so they have crafted the date to follow the next
election so that if President Clinton is able to use this ill-begotten measure at all, he would have to be reelected before he can do it. So they say it will only be for 8 years.

I do not believe that the constitutional powers of Congress can be so cavalierly shifted to the executive branch, whether it be for 8 years or for 1 year or for 6 months.

It is instructive to reflect on what George Washington had to say about checks and balances and separation of powers in his Farewell Address, and I shall quote therefrom: "It is important that the habits of thinking in a free country should inspire caution in those entrusted with its administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department, to encroach upon another.

The spirit of encroachment tends to consolidate the powers of all the departments in one, and thus to create, whatever the form of government, a real despotism. * * * The necessity of reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each guardian of the public powers to be responsible within its own sphere for those it is charged to represent, and it will have power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him, and the new version would be a law.

For the record, let it be noted that this measure is not a true line-item veto. A true line-item veto would allow the President to actually line out items with which he did not agree in an appropriations bill or, depending on how such legislation were to be written, any President to rescind portions of spending measures that are contained in their accompanying tables, committee reports, or statements by the managers on the part of the conferences of both Houses. This approach is actually far more effective in getting at "presidentially-deemed" unacceptable spending than would be a direct line-item veto authority. This is so because bill language does not lend itself to specifying each item that the President would force the President to eliminate large lump sums in order to get at specific items he did not like, when perhaps he was in agreement with most of the spending in the lump sum.

I say to Senators, beware of the hemlock. Let us pause and reject this measure lest the "People's Branch" suffer a self-inflicted wound that would go to the heart of the Constitutional system of checks and balances—the power over the purse, a power vested in the elected Legislative Branch, and in the Legislative Branch only.

Section 9, article I of the Constitution says, "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." And in the very first section of article I, it says, "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and a House of Representatives."

So here is where the power is vested to pass a law, to enact a law, to amend a law. But this conference report will change that. It will place into the hands of the Chief Executive a power which in essence will be a power to amend not only a bill but a law. A bill which has already been signed into law by the President can then within the next 5 days be amended almost single handedly by him, and the new version would be a law.

Now, let us take a look at this conference report and examine it.

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I implore Senators, I beseech, I implore every Senator to read the conference report to see how this is done. It is all plainly there in black and white. And it is a "heads-I-win, tails-you-lose" proposition for the President of the United States. It is an eye opener. Read it, Senators.

Section 1023(a) of this conference agreement would allow the President to cancel in whole—(1) any dollar amount of discretionary budget authority; (2) any item of new direct spending—see, it does not get into entitlements that are already in the law, and they are what is causing the budget deficits, but they escape the reaches of this conference report—any item of new direct spending; or (3) any limited tax benefit; as long as the President notifies the Congress "within 5 calendar days (excluding Sundays) after the enactment of the law providing the dollar amount of the discretionary budget authority, item of new direct spending, or limited tax benefit that was canceled."

Now let us look at section 1023(a), which states, in part:

The cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect upon receipt in the House of Representatives and the Senate of the special message notifying the Congress of the cancellation.

Once the message comes in the door, the cancellation takes effect.

If a disapproval bill for such special message is enacted into law, then all cancellations disapproved in that law shall be null and void and any such dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall be
Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it, it has become without his signature. He can veto item, veto a bill. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to override George Washington over his veto—President’s veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President’s veto power, creates a “heads I win, tails you lose” situation.

This overwhelming advantage on the side of a President is magnified by the fact that often the funds rescinded are likely to be of importance only to a few states or a single region. They may be of import to no more than a few congressional districts. If that is the case, then how many Members of either House are going to be interested in overriding the President’s veto? How many Senators are going to think it is worth standing up to the President and voting against reducing the deficit for the sake of one lonely House Member or a handful of Senators or a few Members of the House?

Take, for instance, the following six States: Connecticut with 2 votes in the House; New Hampshire, with 2 votes; Massachusetts, 10 votes; Vermont, 1 vote; Rhode Island, 2 votes; and Connecticut, with its 6 votes. Collectively, those states have 23 votes in the House of Representatives and 12 votes in the Senate. Those 35 individuals are going to find it extremely difficult, if not impossible, to interest two-thirds of the total House and Senate membership in overriding a presidential veto on an appropriation bill. I can only think of the New England region. The type of “divide and conquer” strategy, which this conference report creates for the White House to use, would have a devastating effect as of the original date provided in the law to which the cancellation applied.

Section 1025(b) goes on to detail the time period in which Congress must pass its rescission disapproval bill. The conference agreement allows for:

1. A conference for thirty calendar days of session, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

or

2. An additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill.

If the President vetoes the disapproval bill during the period provided, Congress is allowed an additional five calendar days to override the veto.

Allowing a presidential rescission to take effect unless specifically disapproved by the Congress has the force of taking from a majority of the people’s representatives final say over how tax dollars are spent. That is most certainly not what the American people had in mind when, because under this conference report, for all practical purposes, it would be necessary for Congress to marshal a two-thirds majority in both Houses in order to enact any appropriation to which the President had objected and conceivably object. A stacked deck, and Congress will lose every time.

Consider this scenario: Once the House and Senate have passed an appropriations bill, the President can then, to use the language of this conference report, use his new-found rescission power to carve that appropriation out of duly enacted legislation, the President will then transmit a special message to Congress. Once he transmits this special message, Congress would have thirty days to pass a rescission disapproval bill. But since a disapproval bill is a direct denial of the President’s request, and since the President is the one who proposed the rescission in the first place, I think we are safe in assuming that he would nearly always veto any such disapproval bill passed by both Houses. Therefore, it would be fairly pointless to even bring a disapproval bill to the Floor, unless it had with it the endorsement of two-thirds of the Senate and two-thirds of the House of Representatives. And it will almost never have that kind of support. This conference report loads the dice against Congress.

I used to play an old tune called, “I Am A Roving Gambler.” It did not say anything about that roving gambler having loaded dice. But this conference report loads the dice and the President will always win—always. You and I will always lose, and the people we represent will always lose, and the people we represent as representatives as to force us to muster votes of two-thirds of both Houses of Congress to override the President’s judgment on a matter we thought important for the good of our states. But this conference report is rigged, and it deals the cards that way and leaves the President and a minority in each body with the ultimate ace in the hole.

Mr. President, what we are talking about here is a measure that would increase exponentially the already overwhelming advantage that is held by the Executive in his use of the veto power. Out of the 1,460 regular vetoes that have been cast by Presidents directly over these past 208 years, only 105—or 7 percent—have been overridden in the entire course of American history. In 208 years, from the Presidency of George Washington, who vetoed two bills, and it was he who said the President has to veto the whole bill or sign it, it has become without his signature. He can veto item, veto a bill. That was George Washington. In 208 years from the Presidency of George Washington right down through President Clinton today, Congress has only been able to override George Washington over his veto—President’s veto 105 times, 7 percent of the total. In this case, this so-called enhanced rescission authority requirement for a disapproval resolution coupled with the President’s veto power, creates a “heads I win, tails you lose” situation.

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effect on the power of the purse, and the system of checks and balances, which is the very topnotch of the American constitutional system of government.

Not only will this conference report, when enacted into law, make a mockery of the rights of the minority against small rural states like my own—which can muster only three votes in the other body—but it will be a prescription for minority rule. For over 200 years, the theory underlying our republican system of government—some people speak of ours as a democracy. It is not a democracy. Ours is not a democracy. It would be impossible for a government that extends over 2,500 miles from ocean to ocean and has 250 million people to be a democracy. People should learn their high-school civics.

This is a republican form of government. And the theory underlying our republican system of government has been that of majority rule. This conference report is an attack on the majority rule by requiring a supermajority vote in both Houses to adopt a disapproval measure overriding a presidential veto of appropriations passed initially by simple majorities in both Houses. The majority of 34 votes in the Senate will sustain a presidential veto that may have already been given a two-thirds vote to override in the other body. In other words, the President and 34 Senators can override the wishes of the other 66 Senators and 435 Members of the House—if this is not minority rule in the field of legislation, what else may one call it? Do Senators wish to substitute minority rule for majority rule in the legislative process?

It is difficult to imagine why this body would want to deal such a painful blow, not only to itself, but to the basic structure of our constitutional form of government and to the interests of the people we represent. Whether the President is a Democrat or a Republican is not my concern. Whether one party or another is in power in the Congress is not my concern here. My concern is with the Framers of the Constitution and its Framers. They were induced to give to the President the veto power, and they did this for two reasons: the first, was a desire to protect the executive against possible encroachments by the legislative branch, and the other was a desire to guard the country against the injurious effects of hasty and bad judgment.

Mr. President, it was a gross misapprehension on the part of the Framers who feared that the executive branch would be too feeble to successfully contend with the legislature in a struggle for power. Little did the Constitutional Framers dream that the powers of the chief executive would be extended to such an extent, in the passage of this time. They could not foresee the powers that would flow to the President through his patronage as titular head of a political party. Nor, of course, could they foresee the power of the "bully pulpit" that would come with the invention of radio and television and modern telecommunications, which enable the President, at the snap of a finger, to summon before him for immediate dismissal the advantages of the legislative branch, and enable him to appeal directly to the American people with one voice. The fears of the Framers, in this respect, were not only unfounded, but the constant encroachment, which they were concerned about, has not been by the legislative branch on the executive, but has been just the opposite—there has been a constant erosion by the executive of the legislative authority.

The legislative branch of Government meets periodically; its powers lie in its assembling and acting; the moment it adjourns, its power disappears. But the executive branch of the Government is eternally in action; it is ever awake on land and on sea; its action is continuous and unceasing, like the tides of some mighty river, which continues to flow on and on and on, swelling, and deepening, and widening, in its onward progress, until it sweeps away every frail obstacle which might be set up to stay or slow its course.

The legislative branch sleeps but there stands the President at the head of the executive branch, and ready to enforce the law, and seize upon every advantage which presents itself for the extension and expansion of the executive power. And now, we are preparing here in the Senate to augment the already enormous power of an all-powerful chief executive by adopting a conference report that will shift the real power of the legislative branch to the other end of the avenue and place that power in his hands—to be used against the legislative branch, to be used against the elected representatives of the people in legislative matters. It is as if the legislative branch has been seized with a collective madness. The majority leadership in both Houses will have succeeded in enacting a major plank in the so-called Contract With America.

Mr. President, let me say once more, this is my contract with America: The Constitution of the United States. It cost 15 cents seventy years ago. It can be gotten from the Government Printing Office, not for 15 cents today, but perhaps for a dollar. That is my contract with America.

The majority leadership in both Houses will have succeeded in enacting a major plank in its so-called Contract With America while it turns its back on the Constitution—the real Contract with America, which we have all sworn to support and defend—and the majority party in Congress will forever carry on the hands of this House the unpardonable and gross betrayal of the Constitution and its Framers.

Let us contemplate the effect that the passage of this conference report would have on the power of the chief executive. At the present time, if all Senators are voting, 51 Senators are required to constitute a majority in the passage of a bill, while in the other body 218 Members are required to constitute a majority in the passage of a bill. What will it be if the bill is voted on then two-thirds of the Senate, or 67 votes, if all Senators are present and voting, will be required to make that bill become a law over a presidential veto. In other words, that veto by one man in the Oval Office will be worth the vote of 16 additional Senators, while in the House that presidential veto by one man will be equal to 72 votes—a supermajority of 218 being required to pass the bill, and a supermajority of 280 being required to override a presidential veto, or a difference of 72 votes. In other words, a veto cast by a single individual who holds the presidency, will be worth the
votes of 88 members of the House and Senate. Is this not enough, Mr. President, that he would wield so vast and formidable an amount of patronage, and thereby be able to exert an influence so potent and so extensive? Must there be added to all this the power, a legislative force equal to that of 16 Senators and 72 members of the House of Representatives?

I have viewed the veto power simply in its numerical weight, and the aggregate votes of both Houses. But there is another important point of view which ought to be considered. It is simply this: the veto, armed with the constitutional requirement of a two-thirds vote of both Houses in order to override, is nothing less than an absolute power. In all of the vetoes over the past 2 centuries, as I have said, only about 7 percent of the regular vetoes have been overridden. When it comes to overriding the vetoes of bills of disapproval of presidential rescissions, the President will constitute virtually an unqualified negative on the legislation of appropriations by Congress. If nothing can set it aside but a vote of two-thirds in both Houses, that veto of disapproval bills might as well be made now because that is what it will amount to. The Constitutional Framers did not intend for such raw power over the control of the purse strings to be vested in the hands of any chief executive.

Do Senators know what they are doing when they vote to adopt this conference report? They are voting willingly to diminish their own independence as legislators. No longer will they feel absolutely independent to speak their minds concerning any President, any administration or administrative policies in their speeches on this Floor, and no longer will they exercise a complete and uninhibited independence from the chief executive when they vote on matters other than appropriation bills because they will know that the President, with this new and potent weapon in his arsenal, can punish them and their constituencies for exercising their own free independence in casting a vote against administration policies, against presidential nominees, against approval of the ratification of treaties.

Now, Mr. President. I find in the New York Times of today that not only am I concerned about this loss of independence that we will suffer if we adopt this conference report. In today’s New York Times, I find an article by Robert Pear titled "J'judge Group Condemns Line-Item Veto Bill."

I will just read one paragraph as an excerpt therefrom. Here is what J'judge Gilbert S. Merritt, chairman of the Executive Committee of the Judicial Conference, has to say: "J'judges were given life tenure to be a barrier against the wind of public opinion," said Judge Merritt. "If we didn't have judicial independence, I'm not sure we could maintain free speech and other constitutional liberties that we take for granted." So the judges are concerned about judicial independence. I am concerned about the independence of lawmakers once this conference report becomes law.

Plutarch tells us that Eumenes came into a dense forest and divested himself in the following fable. It was a fable about a lion. "A lion once, falling in love with a young damsel, demanded her in marriage of her father. The father made answer, that he looked on her as more precious to his family, but he stood in fear of the lion's claws and teeth, lest, upon any trifling dispute that might happen between them after marriage, he might exercise them a little too hastily upon his daughter. To remove this objection, the amorous lion caused both his nails and his teeth to be drawn immediately: whereupon, the father took a cudgel, and soon got rid of his enemy. This," continued Eumenes, "is the very thing aimed at by Antigonus, who is liberal of the power and puts himself in the position of master of your forces, and then beware of his teeth and claws."

Mr. President, President Clinton wants this conference report. President Bush would have liked to have had it. I am concerned about the President, with the exception of President Taft, have wanted the veto power. So perhaps this President is about to be given the power which he will not be able to exercise, however, under its new and potent form. He was re-elected for the second term.

Mark my words, Mr. President, once he gets it—or any other President—then beware of his teeth and claws. Senator Byrd, you will not be as independent in your exercise against freedom of speech, against the policies of an administration, once that President has in his power this weapon. Beware of his teeth and claws. Senator Byrd, you might not have voted against Clarion project on the balance of power because the President had this effective weapon in his arsenal. I do not know about that.

In other words, Mr. President, this power of rescinding discretionary spending will not be used by a President to reduce the deficit. It is not a deficit-reducing tool because it does not get at entitlements, past entitlements. They are one of the real causes of the deficit. This conference report does not get to them. It is not a deficit-reducing tool because it has already been cut to the bone. Entitlement spending, which is a real cause of growth in the deficits cannot be touched under this conference report. No. This new power of rescissions will be used by a President to threaten and coerce and intimidate members of the legislative branch to give the President what he wants or he will cut the projects and programs that our constituents need and want. It will be a sword of Damocles suspended over every Member.

This conference report, when it is examined in its minutest detail, will constitute an inhibition on freedom of speech. It is going to constitute an inhibition on the independence of judges. That is what this judge feared. I say it will constitute an inhibition on freedom of speech in both Houses, an inhibition on a Member's casting of votes on administration and speech. It will constitute an inhibition on every Member's free and untrammeled independence in carrying out his duties and responsibilities toward the constituents who send him or her here. What Senator is willing to surrender his independence of thought and action and speech—to an already all-powerful executive, made more powerful by a major share in the control of the purse strings given to him by this conference report, a power that no Chief Executive has heretofore, in the course of over 200 years, shared.

The political leadership of the majority party in this Congress may reap temporary political gain from the enactment of this unwise measure, but the damage that will have been done to our constitutional system of checks and balances will constitute a stain upon the escutcheon of the Congress for a long time to come. As the Roman Senator Lucius Postumius Megellus said in a March 27, 1996, hearing before the House Government Operations Committee, Mr. Milton Socolar, Special Assistant to the Comptroller General of the United States, stated "proposals to change the rescission process should be viewed primarily in terms of their effect on the balance of power between the Congress and the President with respect to discretionary program priorities." He went on to say that enhanced rescission authority "would constitute a major shift of power from the Congress to the President in an area that was reserved to the Congress by the Constitution and historically has been one of clear legislative prerogative."

Mr. President, once this shift of power is made to the President, it will not be recovered by the legislative branch. Any bill to take it away from the President will be vetoed summarily and the prospects of overriding such a veto would be practically out of the question. The moving finger writes; and, having writ, moves on; nor all your piety nor wit shall lure it back to cancel half a line, nor all your tears wash out a word of it.

Senators should think long and hard before they agree to trade the long-term harm that will be done to the structure of our government for the short-term gain that might or might not come from passage of this bill. We
should all stop and think about our Constitution, its system of checks and balances, and the wisdom of the Framers who placed the power of the purse here in this institution. We should all take the time to reread the Constitution, particularly those who do not have it memorized. We should read it, and think about what that great document says before we agree to hand the type of enhanced rescission authority contained in this conference report over to the executive branch.

Mr. President, press reports tell us that a line item veto is the Republicans’ biggest legislative achievement of the 104th Congress. What a sad commentary to think that a bill of this quality, surrendering legislative power—the people’s power through their elected representatives—would give the Republicans their biggest legislative achievement of the 104th Congress. A bill so poorly drafted that we can only guess how it will be implemented, is considered an achievement. I cannot believe that the 104th Congress is so bereft of accomplishment that this bill represents its crowning glory.

Supporters of the item veto bill claim that it gives the President an essential tool in deleting “wasteful” federal projects and activities. Let us not deceive ourselves or the voters. There is no slightest basis in our political history for believing that Presidents are peculiarly endowed by nature with the President’s Economic Report for 1995 includes a discussion about the pros and cons of the item veto. It admits that there is little basis to conclude from the State experience that an item veto would have a substantial effect on Federal expenditures. In fact, it notes that “per capita spending is somewhat higher in States where the Governor has the authority for a line-item veto, even corrected for the major conditions that affect the distribution of spending among States.”

There are other constitutional problems with this bill. First, this bill will have a serious impact on the independence of the Federal judiciary. With enhanced rescission authority the President can delete judicial items, perhaps for punitive reasons. He has no such authority now.

Second, this bill contains a number of legislative vetoes declared unconstitutional by the Supreme Court in the 1983 Chadha case. The Court said that whenever Congress wants to alter the rights, duties, and relations outside the legislative branch, it must act through the full legislative process, including bicameralism and presentment of a bill to the President. Congress could not, said the Court, rely on mechanisms short of a public law to control the President or the executive branch. The item veto bill, however, relies on details in the conference report to determine to what extent the President can propose rescissions of budget authority.

Third, this bill enables the President to make law or unmake law without Congress. If Congress fails to respond to the President’s rescission proposals within thirty days, his proposals become law. In fact, as soon as the rescission message is submitted to Congress, the President’s proposal takes effect. If Congress has to comply with bicameralism and presentment in making law, how can the President make law and unmake law unilaterally?

Constitutional problems in the bill?
Proponents say not to worry. Section 3 authorizes expedited review of constitutional challenges. Any member of Congress or any individual adversely affected by the item veto bill may bring an action, in the U.S. District Court for the District of Columbia, for
declaratory judgment and injunctive relief on the ground that a provision violates the Constitution. Any order of the district court shall be reviewable by appeal directly to the Supreme Court. It shall be the duty of both the district court and the Supreme Court to advance on the docket and to expedite to the greatest possible extent the disposition of a case challenging the constitutionality of the item veto bill.

Evidently the authors of this legislation were also concerned about the independence of the judiciary. The provision for expedited review to resolve constitutional issues is not boilerplate in most bills. You may remember that when we included a provision for expedited review in the Gramm-Rudman-Hollings Act of 1985, the result was a Supreme Court opinion held that the procedure giving the Comptroller General the power to determine sequestration of funds violated the Constitution.

What is the purpose to pass a bill that raises such serious and substantial constitutional questions? We should be resolving those questions on our own. All of us take an oath of office to support and defend the Constitution. During the process of considering a bill, is our duty to identify—and correct—constitutional problems. We cannot correct these here because we cannot amend the conference report. It is irresponsible to simply punt to the courts, hoping the executive or judiciary will somehow catch our mistakes.

As to the first constitutional issue: the impact that this bill might have on the independence of the judiciary. That is what the judges are concerned about, as reported by the New York Times today. Under this legislation, the President can propose rescissions for any type of budget item, regardless of whether it is for the executive, legislative, or judicial branch.

There is no provision for the judiciary and certainly none for Congress. The President has full latitude to look through any bill and propose that certain funds and tax benefits be cancelled.

The item veto bill would allow the President to rescind funds for all of the judiciary except for the salaries of Article III Justices and judges. Anything else funds for courthouses, staff, expenses, etc. is subject to rescission. Article III judges have a long history of being majorly affected by the item veto bill. The judges are concerned about this bill, and the Senate confirmed it to the greatest possible extent the independence of the judiciary. The availability of the recision power, especially under the procedures of this bill, raises a clear issue of separation of powers and has constitutional dimensions.

If the President includes judicial items in a rescission proposal, judges would have to enter the political fray in the Supreme Court. This is unsound, whether the judges lobby openly or behind the scenes. They should not be put in that position, as this bill does.

Judges understand that they have to justify their budgets to Congress like any other agency, legislative or executive. But we have designed the process to protect their independence from the executive branch.

For example, the Budget and Accounting Act of 1921 specifically provided that budgetary estimates for the Supreme Court “shall be transmitted to the President on or before October 15th of each year, and shall be included by him in the Budget without revision or alteration.” In the light of the fact that the United States is almost entirely operating through the executive branch, this was a real threat to the independence of the judiciary. During the years between 1921 and 1939, the Department of Justice “cut judges’ travel funds, eliminated bailiffs, criers and messengers, and reduced

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the salaries of secretaries to retired judges by one-half.”

The judiciary should not be subject to the rescission requests made under this item veto bill. If such a bill were to pass, it is crucial to give a full ex-

emption to the judiciary. Even after reviewing the judiciary does not mean that the courts would escape the current pressure for budgetary cutbacks. Judges would still have the present their budget estimates and defend them. As Judge Merritt noted in his tes-
momy last year, the judiciary’s budget requests “are subject to full review by the congressional appropriations committees in keeping with the fiscal power conferred on Congress by the Constitution. The judiciary must jus-
tify each dollar it receives. This is appropri-
ate and the judiciary cheerfully respects this role of Congress.”

I turn now to the issue of the legisla-
tive veto. This bill gives the President the authority to cancel any dollar amount of discretionary budget authority, any item of new direct spending, and any limited tax benefit. This authority applies to any “appropria-
tion law,” defined in the bill to mean any general or special appropriation act, any act making supplemental, deficiency, or continuing appropri-
ations “that has been signed into law pursuant to Article I, section 7, of the Constitution of the United States.”

Nevertheless, the enhanced rescission authority applies only to appropri-
tions bills “signed into law” by the President. This is a very peculiar fea-
ture. If the President vetoes a bill and the veto is overridden, the enhanced re-
scission authority is not available. Similarly, if the President decides not to sign an appropriations bill and it be-
comes law after ten days, Sundays ex-
cepted, the President may not use the enhanced rescission authority either. You know, in the last December allowed the defense ap-
propriations bill to become law with-
out his signature. Why does the enhanced rescission au-
thority apply only to signed bills? If the goal is to maximize the opportu-
nity for the President to rescind “wasteful” funds, why restrict the President this way? What is the pur-
pose? Perhaps we are saying that if the President vetoes a bill and Congress overrules this veto, then this second action by Congress should settle the matter. Congress has reaffirmed and reinforced the priorities established in the bill. Those priorities are not to be second-
gueesed in a rescission action. Clearly, this provision puts some pressure on a President not to exercise his constitutional right of veto which is set forth in section 7 of article I of the Constitution of the United States. If he vetoes it and it is overridden, the enhanced rescission procedure is not available. I doubt we have thought through the merits and demerits of discouraging a veto.

The new procedure—this so-called line-item veto—enables the President to simply cancel items of spending with which he does not agree, will make him, in fact, a super legislator. It will discourage him from using his ex-
isting constitutional veto powers to veto an entire bill. The President may try to “fix” legislation with which he does not fully agree by canceling only portions of the bill. He will be the lawmakers sui generis because his can-
cellations will in practical effect, be absolute. Consequently, this new way to override his cancellations under the convoluted, stack-deck procedures set forth in this conference report.

The temptation to simply do a “cut and paste” job on spending bills, there-
by foregoing the route of a full Presi-
dential veto of an entire bill which might then be overridden will, it seems to me, be nearly overwhelming. As a result, we will have a President who not only proposes, but also “de-
develops,” in other words, the law-
maker in the White House circumvent-
ing in yet another way the principle of majority rule.

Additionally, such an approach will have the effect of discouraging a Presi-
dent from finding an entire bill, and thus through consensus and com-
promise and negotiations between the two branches, develop a new and better total product which he could then sign. If the government want to allow the President to rescind appropriations for projects and programs he objects to, we all know that appropriations bills con-
tain large lump-sum amounts. We don’t put details, or items, in appropriations bills. How does the President reach that level of detail?

The answer is that this bill allows the President to rescind dollar amounts that appear not merely in a bill but also in the conference report and the statement of managers in the House of Representatives. Here is a case where the issue of the legislative veto emerges. As defined in this bill, the term dollar amount of discretionary budget authority includes the entire dollar amount of budget authority “represented separately in any table, chart, or explanatory text included in the statement of managers or the gov-
erning committee report accompany-
ing such law.” The dollar amount of discretionary budget authority also in-
cludes the term dollar amount of budget authority “represented by the product of the estimated procurement cost and the total quantity of items specified in an appropriation law or in-
cluded in the statement of managers or the governing committee report ac-
companying such law.”

In INS v. Chadha (1983), the Supreme Court ruled that whenever congres-
sional action has the “purpose and ef-
fect of altering the legal rights, duties and obligations of the parties” outside the legislative branch, it must act through both Houses in a bill or joint resolution that is presented to the President. In other words, we cannot act by one House or even by both Houses in a con-
current resolution, because a concur-
rent resolution is not presented to the President. Nor can we act by commit-
tee or subcommittee. Anything that has the purpose and effect of altering the legal rights, duties, and relations between the President and his departments will discourage him from using his ex-
bsplicitly bicameralism and presentment.

What of these details and items that appear in a conference report or in the statement of managers? This is a nonstatutory source. It complies with bicameralism but not with presen-
tation. How can it bind the President? I recognize that proponents of this bill can argue that the conference re-
port and the statement of managers will continue to be nonbinding on the President in the management of these particular laws. To a certain extent that is true. The joint explanatory statement for this bill states: “The inclusion of subparagraph (A)(ii) is not intended to give increased legal weight to an item of authority the Attorney General would have to seek a private bill for each threatened alien. But that fact that this procedure constituted a benefit or ad-
vantage to the Attorney General, and that the Attorney General was better off with this mechanism than the pre-
vious one, did not save the one-House veto. In the Chadha case, the Court asked the specific question: did the one-House legislative veto comply with
bicameralism and presentment? Clearly it failed both tests.

Similarly, Presidents sought authority to reorganize the executive branch and accepted the one-House veto that went with this delegation. Reorganization of the executive branch became law unless either House disapproved within a specific time period. Distinct and clear advantages to the President, but that did not save the one-House veto. Chadha said that this mechanism is unconstitutional for procedural reasons.

That returns us to my central question: Does the use of conference reports and statements of managers constitute an attempt by Congress to control the President short of passing a public law? Is this procedure a forbidden legislative veto? Whether it is a benefit, advantage, or authority for the President is irrelevant in answering this constitutional question.

Let me put this another way. Suppose we itemize the $800 million lump sum into a hundred specific projects, consider the conference report and statement of managers. Suppose further that Congress becomes unhappy with the President's subsequent rescission proposal and decides to retaliate the next year by eliminating all details in the conference report and statement of managers. Now the President is limited to the lump sum of $800 million in the bill. He can live with it or decide to propose the rescission of that full amount. Can any one doubt that Congress, in something that is short of a public law, is controlling the President this time in a negative or restrictive way?

Measure that fact against the explicit language of the Court in the Chadha decision examining the one-House veto over the suspension of deportations, the Court concluded that the congressional action was "essentially legislative in purpose and effect." 462 U.S. at 952. Can anyone doubt that the congressional action in making language in a conference report and statement of managers the explicit guide for presidential rescissions is "essentially legislative in purpose and effect."

Moreover, the Court in Chadha decided that the disapproval by the House of suspended deportations "had the purpose and effect of altering the legal rights, duties, and relations of persons outside the legislative branch. Again, there can be no uncertainty about the purpose and effect of the conference report and the statement of managers. They have the purpose and effect of altering the legal rights, duties, and relations of the President in submitting rescissions. Presidents of this bill may claim that it will be beneficial and constructive. We may differ on that score, but there can be no doubt about how the Court will react to such arguments. In Chadha, the Court said that "the fact that a given law or procedure is efficient, convenient, and useful in facilitating the functions of government, standing alone, will not save it if it is contrary to the Constitution." 462 U.S. at 944.

The question remains: Does this bill square with the Chadha ruling? If it does not, we are being asked to consciously adopt a bill that we know is unconstitutional, whatever merit its proponents may claim for it. All of us are capable of analyzing this issue. If the procedure established in this bill amounts to a legislative veto prohibited by the Chadha case, we are violating our oath of office in passing this bill. If enhanced rescission is of value, then we must vote down this bill and insist that its supporters construct an alternative bill that meets the constitutional test. To simply kick this issue to the courts is irresponsible. It is curious that Chadha told Congress that if you want to make law you must follow the entire process, bicameralism and presentment, and yet this bill allows the President to make law and undermine any legislative involvement. Under the terms of this conference report, whenever Congress receives the President's special message on rescissions, the "cancellation of any dollar amount of discretionary budget authority, item of new direct spending, or limited tax benefit shall take effect." The cancellation is "effective" upon receipt by Congress of the special message notifying Congress of the cancellation. Why is the cancellation "effective" before Congress has an opportunity to respond to the President's message? The executive branch may have legitimate reasons to make sure that agencies do not obligate funds that are being proposed for cancellation, but the language in this bill is diametrically opposed to the role of Congress in canceling prior law.

Of course the bill gives Congress thirty days to disapprove the President, subject to the President's veto and the need then for a two-thirds majority in each for the override. If Congress does nothing during the thirty day review period, the President's proposals become binding and the laws previously passed and enacted are undone. Through this process the President can make history and avoid any necessary legislative action. How does that square with the intent and spirit of Chadha? Are we to argue that the President can make, or unmake, law singlehandedly and unilaterally, but Congress is compelled to follow the full lawmaking scheme laid out in the Constitution?

I earlier stated that placing details in a conference report and statement of managers violates Chadha because this phase of the legislative process is something short of a public law. It should be pointed out that in some legislative vehicles, like continuing resolutions, Congress incorporates by reference phases of the legislative process that are also short of a public law, such as a bill reported by committee or a bill that has passed one chamber. Yet those phases of the legislative process are in a vehicle—continuing resolutions that must pass both Houses and be presented to the President for his signature or veto. These precedents offer no support for the procedure adopted in this bill. The reference to committee report language in the item of new direct spending in this conference report does not comply with Chadha.

This is an enormous shift of power to the President but we cannot be sure that the courts will reverse such an abdication. If Congress is unwilling to protect its prerogatives, the courts won't always intervene to do Congress' work for it. As Justice Robert Jackson said in the Steel Seizure Case of 1952: "I have no illusion that any decision by this Court can ever put in the hands of Congress if it is not wise and timely in meeting its problems. * * *

We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."

On March 2, 1805, Vice President Aaron Burr bid adieu to the Senate, stepping down to make way for the new Vice President, George Clinton, who had been elected to serve during Jefferson's second term. Burr's farewell speech, according to those who heard it, was received with such emotion that Senators were brought to tears and stood at their benches for an hour. It was truly one of the great speeches in the Senate's history: "This House," said Burr that day, "is a sanctuary; a citadel of law, of order, and of liberty; and it is here—It is here in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrenzy and the silent arts of corrupcion; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this Floor."

I regret to say, Mr. President, that, in my opinion, before this day is done, the ingenuous prescience of Aaron Burr will have made itself manifest in the fateful events that will inevitably unfold and which will be witnessed on this Floor.

Philosophers, in their dreams, had conjured the ideal state and Plato had illustrated it in the bliss of his fanciful Republic. Sir Thomas More had taken great satisfaction in the refutal vision of his Utopia. The immortal Milton had expressed his exalted vision of freedom. Locke has published his grand house of the principles of government. But never, until the establishment of American independence and the drafting and ratification of that charter which embodied in it the checks and balances and separation of powers, that our own constitutional system, was it ever acknowledged by a people, and made the cornerstone of its government, that the
s

sovereign power is vested in the masses.

It was just such a noble attachment to a free constitution which raised ancient Rome from the smallest beginnings to the bright summit of happiness and liberty, and which the Republic of our fathers arrived, and it was the loss of that noble attachment to a free constitution that plunged her from that summit into the black gulf of indolence, in-famy, the loss of liberty, and made her the slave of blood thirsty dictators and tyrannical emperors.

It was then that the Roman Senate lost its independence, and her Senators, forgetful of their honor and dignity, and seduced by base corruption, betrayed their country. Her Praetorian soldiers urged only by the hopes of plunder and luxury, unfeelingly committed the most flagrant enormities, and with relentless fury perpetrated the most cruel murders, whereby the streets of imperial Rome were drenched with the blood of her best blood. Thus, the empress of the world lost her dominions abroad, and her inhabitants dissolute in their manners, at length became contented slaves, and the pages of her history reveal to this day a monument eternal to the memory of ours. And since the public happiness depends on an unshaken attachment to a free constitution.

And it is this attachment to the Constitution that has preserved the cause of liberty and freedom throughout our land and which today undergirds the noble experiment that never has ceased to inspire mankind throughout all the earth.

The gathered wisdom of a thousand years cries out against this conference report. The history of England for centuries is against this conference report. The declarations of the men who framed our Constitution stand in its way.

Let us resolve that our children will have cause to bless the memory of their fathers, as we have cause to bless the memory of ours.

Let us not have the arrogance to throw away centuries of English history and over 200 years of the American experience for political expediency. No party, Republican or Democrat, is worth the price that this conference report will exact from us and our children. Considering the fact that only a fraction of the regular vetoes have been overridden over a period of more than 200 years, it stands to reason that even a much smaller percentage of vetoes of disapproval bills will be overridden—keeping in mind that the president has more laws of national importance but will be of importance to only one or a few states, or perhaps a region at most, and it is very unlikely that the vetoes of disapproval bills will arouse sufficient sentiment in both Houses to produce a two-thirds vote to override. Hence, the President’s single act of rescinding an appropriation item will be tantamount to its being stricken from the law.

This is an enormous power for the Legislative Branch to transfer into the hands of any President. The power to rescind will be tantamount to the power to amend, and this conference report will transfer to any President the power to single-handedly amend a law by vetoing an item from a law where, as a majority of both Houses is required to amend a bill by striking an item from the bill. The President will be handed the power to strike an item from a law which, if done by action of the Legislative Branch, would require the votes of 51 Senators and 218 members of the House, if all members were in attendance and voting. What an enormous legislative power to place in the hands of any President!

Mr. President, let us learn from the pages of Rome’s history. The basic lesson that we should remember for our purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to make great policy. At that point, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

This, as well as today as it was two thousand years ago. Does anyone really imagine that the splendors of our capital city or fall with mansions, monuments, buildings, and piles of masonry? These are but bricks and mortar, lifeless things, and their collapse or restoration means little or nothing when measured on the great clock-tower of time.

But the survival of the American constitutional system, the foundation upon which the superstructure of this republic rests, finds its firmest support in the continued preservation of the delicate mechanism of checks and balances, separation of powers, and control of the purse, solemnly instituted by the Founding Fathers. For over two hundred years, from the beginning of the republic to this very hour, it has survived in unbroken continuity. We received it from our fathers. Let us as surely hand it on to our sons and daughters.

Mr. President, I close my reflections with the words of Daniel Webster from his speech in 1832 on the centennial anniversary of George Washington’s birthday:

Other misfortunes may be borne or their effects overcome. If disastrous war should sweep our commerce from the ocean, another generation may renew it. If it exhaust our Treasury, future industry may replenish it. If it desert our fertile fields, still, under a new cultivation, they will grow green again and ripen to future harvests. It were but a trifle even if the walls of yonder magnificent pile should fall, and its gorgeous decorations be all covered by the dust of the valley. All these might be rebuilt. But who shall reconstruct the fabric of demolished government? Who shall rear again the well-proportioned columns of constitutional liberty? Who shall unite and restore the ancient structure which unites national sovereignty with State rights, individual security, and public purposes here is, that when the Roman Senate gave away its control of the purse strings, it gave away its power to make great policy. At that point, the Senate declined and, as we have seen, it was only a matter of time. Once the mainstay was weakened, the structure crumbled and the Roman republic collapsed.

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In the interview today, Judge Merritt described the judges' concern about the line-item veto this way: "If for some reason the President, whoever he may be, is irritated about something the judiciary has done, he could excise the appropriation for a particular court or a particular judicial function."


Hon. ROBERT C. BYRD, Ranking Member, Committee on Appropriations, U.S. Senate, Senate Hart Off-Flice Building, Washington, DC.

DEAR SENATOR BYRD: I understand an agreement has been reached between Republican negotiators on "line-item veto" legislation. Although we have not seen a draft of the agreement to determine the extent to which the judiciary might be affected, I did not want to delay communicating with you. The judiciary had concerns over some previous versions of the legislation that were considered by the House and Senate. These concerns could also apply to the version on which agreement was just reached, depending on how it is drafted.

The judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes against appointments. The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. Protection of the judiciary by Congress against Presidential power and potential intervention is also evident in the Budget and Accounting Act of 1921, which ensures that the financial affairs of the judiciary be insulated from political influence by the President and his staff. Prior to this Act, the judiciary's budget was controlled by the Executive Office of the President. Judicial branch appropriations must be submitted to the President by the judiciary, but must be transmitted by him to Congress "without change." This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our judicial system should not be endangered by the potential of Executive Branch political influence.

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved. I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

Leonidas Ralph Mecham,
Secretary.

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back. Presidents, of course, have always wanted it. Now it seems that whoever represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because it recaptures the appropriations process where by all kinds of disparate expenditures are wrapped or "bundled" into one bill so that the president must either swallow the whole thing or veto the whole thing -- very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has not changed over the years. After all, I wrote the appropriations process, back in the Illinois legislature. It seemed the height of irresponsibility to bundle dozens of purposes into a single appropriation. It also seemed that the Illinois Constitution had a "single purpose" clause, under which bills considered by the legislature were to contain only one subject matter. But the "single purpose" clause had been observed in the breach for many years before I was elected in 1966. To cut back the bundle, when a single bill, presented for final passage, appropriated money for both the Fair Employment Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) and one to study the size of mosquitoes that inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I thought were wasteful. So I invoked the single purpose clause, reasoning that the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some things to the advantage of wastefulness. Bundling is very asymmetrical in effect and probably wasteful. But it is also a legislative device that allows various coalitions to form and thus moves the legislative process forward.

Consider South America, where regional rivalries and resentments in many countries make governing very hard. The inability to form the political coalitions that are normal in this country creates enormous pressure on the central government. This presents certain problems when the constituencies of the mini-revolts that perpetually arise. The have-nots feel excluded from the process, while the majority for the military regime exercise their power without taking care of the depressed areas of the country.

It is more difficult to ignore these have-notes in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. Woe betide the candidate who starts out like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress create fairly stable two branches to cooperate in setting spending priorities. Floating coalitions that take into account the needs of all the sections and groups in the country become essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies. It is true that bundling encourages the merger of bad ideas with good ideas, and di- lies the ability of the House to speak and vote on the constitutional liberties that we take for granted.

In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, said: "The doctrine of separation of powers recognizes the vital importance of protecting the judiciary against interference from any President. This protection needs to endure. Control of the judiciary's budget rightly belongs to the Congress and not the Executive Branch, particularly in light of the fact that the United States, almost always through the Executive Branch, has more lawsuits in the Federal courts than any other litigant. The integrity and fairness of our judicial system should not be endangered by the potential of Executive Branch political influence."

In whatever agreement is ultimately reached by the conference committee, on behalf of the Judicial Conference of the United States, I urge that the independence of the Third Branch of Government be preserved. I appreciate your consideration and we stand ready to assist you in any way necessary.

Sincerely,

Leonidas Ralph Mecham,
Secretary.
The College of William & Mary,
School of Law,
Williamsburg, VA, March 27, 1996.
Hon. Daniel Patrick Moynihan,
U.S. Senate,
Washington, DC.

Dear Senator Moynihan: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 4, 1996 (hereinafter “the Republican Draft” or “Conference Report”). In this letter, I focus on a few of the serious problems with the Republican Draft and do not purport to analyze exhaustively its constitutionality. Even so, I hope that this brief summary will contribute to your understanding of the constitutional issues.

The Conference Report would enable the President to make affirmative budgetary choices that the framers definitely wanted to preclude from him. The framers deliberately chose to place the power of the purse outside of the executive because they feared the concentration of the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, “This power of the purse may, in fact, be re-adapted to the purposes of an effeetual weapon with which any constitution can arm the immediate representatives of the people.” Every Congress (until perhaps this one) has used the power to the detriment of the early presidents, for that matter—has shared the understanding of the framers that the Constitution provides the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I, Section 7 of the Constitution. Congress may not delegate executive budgetary functions to an official over whom Congress has removal power; and to the President’s veto authority is strictly a negative power that enables him to strike down legislation, not to reshape the public fisc in a large and diverse nation requires degrees of coordination and compromise that the framers left to the initial choices of the political branches.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is buttressed by the recognition that pork barrel legislation—agency actions that are eliminated by the Republican Draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representation. The power of the purse is a means of checking the executive, is buttressed by the recognition that pork barrel legislation—agency actions that are eliminated by the Republican Draft—are just unattractive examples of legislating for diverse interests, which is the very stuff of representation. The power of the purse is a means for Congress to check the President’s use of the power to override a disapproval bill, which can then become law only if two-thirds of Congress agree to override his veto.

The Conference Report involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of congressional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that “while the [Supreme] Court has used a balancing test in some separation of powers cases, it has never used it in a [line-item veto] context.” The latter assertion is simply wrong.

In fact, the Supreme Court has issued two line-item veto cases on constitutional grounds. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or instrumentalities. The Court has held that such delegations under a “functionalist” approach to separation of powers ‘under which the Court balances the competing concerns or interests at stake to ensure that core aspects of a branch is not frustrated. For example, the Court used this approach in Morrison v. Olson to uphold the Independent Counsel Act in which Congress had delegated the executive function of criminal prosecution to an individual not formally associated with any of the three branches. Similarly, in Mistretta v. United States, the Court upheld the constitutionality of the commission and lawmaking function of the United States Sentencing Commission, at least three of whose members are required by statute to be lower court judges and to which the Congress delegated the authorities to promulgate, review, and revise sentence-determinative guidelines.

The Republican Draft clearly violates, however, the second line of Supreme Court decisions on constitutional grounds. These cases involve delegations from Congress to the titular head of a branch, such as one of its chambers or the President. In these cases, the Court uses a balancing test; rather, the Court has used a “formalist” approach that treats the Constitution as granting to each branch distinct powers and setting forth formal criteria to which the branches may share those powers. A formalist approach to separation of powers treats the text of the Constitution and the intent of its drafters as controlling in deciding whether or not a delegation is permissible. The framers definitely wanted to preclude from the President the power of the purse and the sword. As James Madison wrote in the Federalist No. 58, “This power of the purse may, in fact, be re-adapted to the purposes of an effeetual weapon with which any constitution can arm the immediate representatives of the people.”

Footnotes at end of letter.
Refuse to spend money 55% of the Congress

The net effect is that the President would get to

make this expenditure but this time through

money on this project, so, after signing the

new Veterans Administration hospital in

mechanism. Suppose that 55% of Congress

effectively free to disregard. 10 Once again

purse, would be demoted to the role of giving

appropriations process. Congress, which the

receive their funding through the annual ap-

President to nullify new congressional send-

As Professor Tribe recognizes further in his

establishes an uneven playing field for the

President and Congress on budgetary mat-

macy in the budget area and would unravel

the proposed law. The reason is that the law

the Republican draft, it would strike down

the framers' admit it allows the President to ex-

mining the particular configuration of a bill

the Conference Report. And the framers had

in favor of a specific expenditure that is now

votesÐthe second of which is much more dif-

force Congress to go through two majority

vis-a-vis the President. In other words, the

innovation. It tries to place on the President's cancella-

"Line Item Veto Act".

FOOTNOTES

1 U.S. Const. art. I, section 7, cl. 3.

2 Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).

3 Laurence Tribe, American Constitutional Law 267 (citing Note, "Is a Presidential Item


6 113 U.S. 714 (1885).


8 L. Tribe, supra note 2, at 267 (footnotes omitted).

9 L. Tribe, supra note 2, at 267 (footnotes omitted).

MOTION TO RECOMMIT

Mr. BYRD. Mr. President, I send to the desk a motion to recommite the Conference Report.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report the motion.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] moves to recommit the conference report on bill S. 4 to the committee of conference with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference.

Mr. BYRD. Mr. President, I ask unanimous consent further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit conference report on bill S. 4 with instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference. Then insert the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 2. OFFICIALS. This Act may be cited as the "Legislative Line Item Veto Act".
SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) In General.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 102 the following new section:

"EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

"SEC. 102A. (a) Proposed Cancellation of Budget Item.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

(b) Transmittal of Special Message.—(1) The time limitations provided in subparagraph (b), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The bill shall clearly identify each budget item that is proposed to be canceled, including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item to be canceled. The President shall specify for deficit reduction as provided in paragraph (4).

(2) A special message may be transmitted under this section—

"(i) during the 20-calendar-day period (excluding Saturdays, Sundays, and legal holi-
days) commencing on the day after the date of enactment of the proposal provided to be rescinded or repealed; or

"(ii) at the same time as the President's budget.

"(2) In the case of an Act that includes budget items within the jurisdiction of more than one committee of a House, the Presi-
dent in proposing to cancel such budget item under this section shall send a separate spe-
cial message and accompanying draft bill for each such committee.

"(3) Each special message shall specify, with respect to the budget item proposed to be canceled—

"(A) the amount that the President pro-
poses to cancel under this section;

"(B) any account, department, or estab-
lishment of the Government to which such budget item is available for obligation, and the specific project or governmental func-
tions involved;

"(C) the reasons why the budget item should be canceled;

"(D) any revenue or expenditure, or the economic, and budget-
ary effect (including the effect on outlays and receipts in each fiscal year) of the pro-
posed cancellation; and

"(E) all facts, circumstances, and considera-
tions relating to or bearing upon the pro-
posed cancellation and the decision to effect the proposed cancellation, and to the maxi-
mum extent practicable, the estimated fiscal, economic, and budg-
etary effect (including the effect on outlays and receipts in each fiscal year) of the pro-
posed cancellation; and

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduc-
tion under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the discretionary spending limits under sec-
tion 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) with respect to a repeal of a tax ex-
penditure, adjust the balances for the budget year and each outyear under section 252(b) of the Balanced Budget

and Emergency Deficit Control Act of 1985 to reflect such amount.

(B) Not later than 5 days after the date of enactment of a bill containing an amount designated by the President for deficit reduc-
tion under paragraph (1), the chairs of the Committees on the Budget of the Senate and the House of Representatives shall revise, or at their discretion, adjust the committee allocations under section 602(a) to reflect such amount.

"(c) Procedures for Expedited Consider-
ation.—(1)(A) Before the close of the second day of session of the Senate and the House of Representa-
tives, respectively, after the date of receipt of a special message transmitted to Congress under subsection (b), the major-
ity leader or minority leader of each House shall introduce (by request) the draft bill ac-
companying that special message. If the bill is not introduced as provided in the preced-
sing sentence in either House, then, on the third day of session of that House after the date of receipt of that special message, any Member of that House may introduce the bill.

"(B) The bill shall be referred to the appro-
priate committee or (in the House of Repre-
sentatives) the Rules Committee, which shall report the bill without substantive re-
vision and with or without recommendation. The report shall be completed not later than the seventh day of session of that House after the date of receipt of that special mes-
sage. If the committee fails to report the bill within that period, the committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

"(C) A vote on final passage of the bill shall be taken in the Senate and the House of Representatives on or before the close of the 10th day of session of that House after the date of introduction of the bill in that House. If the bill is passed, the Clerk of the Senate or the House of Representatives, as the case may be, shall cause the bill to be engrossed, certified, and transmitted to the other House within one calendar day of the day on which the bill is passed.

"(2)(A) During consideration under this subsection, any Member of the House of Representatives may move to strike any proposed cancella-
tion of a budget item.

"(B) A motion under this subsection shall be controlled by the majority leader or minority leader of each such committee.

"(C) Debate in the House of Representa-
tives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the move to reconsider the vote by which the motion is agreed to or disagreed to.

"(D) Amendments and Divisions Prohibited.—Except as otherwise provided by this section, no amendment to a bill considered under this section shall be in order in either the Senate or the House of Representatives. An amendment to a bill introduced under this subsection or to move to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order in the Senate or the House of Representatives on any bill introduced under this subsection, or to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(4) In the case of any amendment or division offered under this subsection, it shall be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(5) Debate in the House of Representa-
tives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the move to reconsider the vote by which the motion is agreed to or disagreed to.

"(D) Appeals from decisions of theChair
relating to the application of the Rules of the House of Representatives to the pro-
cedure required under this section shall be decided without debate.

"(E) Except to the extent specifically pro-
vided in this section, consideration of a bill under this subsection shall be limited to the Rules of the House of Representatives. It shall not be in order to consider any amendment or division of the question in the House of Representa-
tives (or in a Committee of the Whole). No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(E) Temporay Presidential Authority
To Rescind.—At the same time as the Presi-
dent transmits to Congress a special message pursuant to rescinding budget authority, the President may direct that any budget au-
thority proposed to be rescinded in that spe-
cial message shall not be made available for obligation or expenditure for the remainder of the fiscal year or any future fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (or a predecessor law) unless the President, by application of this subsection, directs that such budget authority shall be made available for obligation and expenditure.

March 27, 1996

S2950

CONGRESSIONAL RECORD Ð SENATE
The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the instructions insert the following: "with instructions to the managers on the part of the Senate to disagree to the conference report on the bill, agreed to by the committee of the conference committee and in secret session in the Senate on January 4, 1995, with certain exceptions which the President may designate in his discretion."
subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(D) Appeals from decisions of the Chair relating to the application of the Rules of the House of Representatives or Senate relating to a bill under this subsection shall be decided without debate.

"(E) Except to the extent specifically provided, no consideration of a bill under this subsection shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) Debate in the Senate on a bill under this subsection, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), shall not exceed 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 2 hours, of which not more than 1 hour shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of a bill, allot not more than 1 hour additional time to any Senator during the consideration of any debatable motion or appeal.

"(E) A motion in the Senate to further limit debate on a bill under this subsection is not in order. A motion to recommit a bill under this subsection is not in order.

"(F) If the Senate proceeds to consider a bill introduced in the House of Representatives under paragraph (1)(A), then any Senator may offer as an amendment the text of the companion bill introduced in the Senate under paragraph (1)(A) as amended or amended (under subparagraph (A)), Debate in the Senate on such bill introduced in the House of Representatives shall be limited to all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under this subparagraph, shall not exceed 10 hours minus such times (if any) as Senators consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

"(4) Debate in the Senate on a bill under this subsection shall be limited to not more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate is not debatable. A motion to suspend the application of this subsection shall be in order in the Senate or the House of Representatives, or shall be in order in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(g) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(f) Definitions.—For purposes of this section—

"(1) the term 'appropriation' means any general or special Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term 'direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term 'budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending;

"(C) a targeted tax benefit;

"(4) the term 'cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(5) the term 'targeted tax benefit' means any provision which has the practical effect of providing a tax benefit to a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any provision that provides a benefit to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or marital status.'

"(b) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621) is amended by adding after section 902 the following new section:

"SEC. 902A. EXERCISE OF RULEMAKING POWERS.—(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621) is amended by adding after section 902 the following new section:

"SEC. 902A. TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—(A) The President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(B) Except to the extent specifically provided in paragraph (a), the cancellation of any budget item provided in any Act.

"(c) Clerical Amendments.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1021 the following:

"'1022A.'

"(d) Effective Date.—The amendments made by this Act shall—

"(1) take effect on the date that is 1 day after the date of enactment of this Act;

"(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

"(3) cease to be effective on September 30, 2002.'

Mr. BYRD. Mr. President, I ask for a motion to reconsider the vote by which the amendment was agreed to or disagreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senate from West Virginia [Mr. BYRD] proposes an amendment numbered 3660 to amendment No. 3665.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word in the substitute amendment and insert the following: 'instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and insist on inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Legislative Line Item Veto Act.'

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 621) is amended by adding after section 1012 the following new section:

"SEC. 1012A. (a) PROPOSED CANCELLATION OF BUDGET ITEM.—The President may propose, at the time and in the manner provided in subsection (b), the cancellation of any budget item provided in any Act.

"(b) TRANSMITTAL OF SPECIAL MESSAGE.—Subject to the time limitations provided in subparagraph (8), the President may transmit to Congress a special message proposing to cancel budget items and include with that special message a draft bill that, if enacted, would only cancel those budget items as provided in this section. The Bill shall clearly identify each budget item that is proposed to be canceled, including, where applicable, each program, project, or activity to which the budget item relates. The bill shall specify the amount, if any, of each budget item that is proposed to be canceled.

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"(D) the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed action, and any amendment to the proposed action, enacted on or after the date of enactment of this Act; and

"(E) all facts, circumstances, and considerations relating to or bearing upon the proposed cancellation and the decision to effect the proposed cancellation, and to the maximum extent practicable, the estimated effect of the proposed cancellation upon the objects, purposes, and programs for which the budget item is provided.

"(4)(A) Not later than 5 days after the date of enactment of a bill containing an amount designated for deficit reduction under paragraph (1), the President shall—

"(i) with respect to a rescission bill, reduce the amount designated under section 601 of the Congressional Budget Act of 1974 for the budget year and each outyear to reflect such amount; and

"(ii) if the President designates an amount for deficit reduction under paragraph (1), the President shall introduce (by request) the draft bill accompanying such special message to Congress under subsection (b), the major- ity leader or minority leader of each House shall introduce the bill in each House, and the Senate shall automatically discharge from consideration any such motion or appeal in connection with a bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(B) Not later than 5 days after the date of enactment of a bill containing an amount designated for deficit reduction under paragraph (1), the Senate may move to reconsider the vote by which the President agreed to or disagreed to any Act or joint resolution making supplemental or continuing appropriations for such fiscal year;

"(C) the repeal of any targeted tax benefit; and

"(D) the term ‘cancellation of a budget item’ means—

"(A) an amount, in whole or in part, of budgetary authority provided in an appropriation Act;

"(B) an amount of direct spending; or

"(C) the repeal of any targeted tax benefit; and

"(D) the term ‘targeted tax benefit’ means any provision which has the practical effect of providing a benefit in the form of a differ- ent treatment to a particular taxpayer or a class of taxpayers, or but for such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers based on the basis of general demographic conditions such as income, number of dependents, or marital status; and

"(2) in subsection (d), by striking ‘section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985’.

"(3) apply only to budget items provided in an appropriation Act or joint resolution making supplemental or continuing appropriations for such fiscal year;

"(4) in subsection (a), by striking ‘and 1017’ and inserting ‘1012A and 1017’.

"Sec. 1012A. Expedited consideration of certain proposed rescissions and specified budget items provided in Acts enacted on or after the date of enactment of this Act; and
(3) cease to be effective on September 30, 2002.'".

Mr. DOMENICI. Mr. President, before I suggest the absence of a quorum, let me ask Senator BYRD if he is getting close to being able to agree to a time limit?

Mr. BYRD. Yes, I am.

Mr. DOMENICI. Mr. President, we are in the process of restructing this to accommodate what he has done. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOMENICI. Mr. President, I believe we are ready to enter into a unanimous-consent agreement. I am going to read it. Senator BYRD has seen it. Perhaps he has some suggestions, but let us get it on the RECORD right now.

I ask unanimous consent that during the consideration of the conference report on S. 4, the line-item veto bill, there be a total of 9 hours for debate on the conference report, with 4 hours under the control of Senator DOMENICI, or his designee, with the last hour of Senator DOMENICI’s time under the control of Senators MCCAIN and COATS; further, the remaining 5 hours under the control of Senator BYRD; any motions be limited to 60 minutes equally divided and any amendments thereto be limited to 60 minutes equally divided, as well, with all time counting against the overall limitation for debate; and further, that following the expiration or yielding back of time and disposition of any motions, the Senate proceed to vote on the adoption of the conference report with no intervening action.

I further ask unanimous consent that all the time used for debate up to now on the Republican side relative to the conference report be deducted from the time allotted under the consent agreement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Time is now controlled.

Mr. DOMENICI. I thank the Chair, and I thank Senator BYRD.

The PRESIDING OFFICER. Time is now controlled. Who yields time?

Mr. DOMENICI. Mr. President, pursuant to the unanimous-consent agreement, I am going to make a statement.

Mr. HATFIELD. I thank the Senator from West Virginia for his yielding me time.

Mr. President, a very interesting experience occurred this morning at the Senate prayer breakfast. That is that former Supreme Court justices from Maryland came to join us and some of the newer Senators sitting in our area, and we were informed about Senator Joe Tydings’ father, Senator Millard Tydings, who represented the State of Maryland and had a very interesting personal background. He was a Democrat, but when he decided to change the structure of the Supreme Court which is in effect termed in those days “to pack the Court.”

But he failed because the people of Maryland, as well as the people from Georgia, both returned those Senators that helped fight the packing of the Supreme Court—Democrats. They said, in effect, we support Mr. Roosevelt and the New Deal, but when he begins to tamper with the separation of powers, he must go. And the checks and balances that our forefathers established in the Constitution, President Roosevelt has gone too far.

Mind you, at that time, Mr. President, there were about 19 Republicans sitting on this side of the aisle, out of the 96, and they had what they called the Cherokee strip because there were not enough seats for the Democrats to stay on that side of the aisle, and they took these back rows across this Senate and occupied those.

Senator Charles McNary of Oregon, with his little band of 19 Senators, with the assistance of the Democrats who would not support a Democratic President in changing the Supreme Court, held Mr. Roosevelt’s coat and blocked it.

Mr. Roosevelt was not suggesting that we change the Supreme Court in terms of its rulings and its duties, “But just let me appoint one here and one there and one somewhere else when they get a certain age and they have not retired, because he was facing a hostile Supreme Court which was knocking down his legislation point by point when they found it to be unconstitutional.”

Mr. President, this is the greatest effort to shift the balance of power to the White House that has happened since Franklin Roosevelt attempted to pack the Supreme Court. He is asking, “Oh, just give me a little veto here and a little veto there and a little veto somewhere else, and I select.”

This is a concentration and transfer of power to the Chief Executive. I think this is a distortion to Tydings’ constitutional practice. I am appalled that my colleagues on the Republican side should help by leading the effort to give more power to the White House, more power to the President of the United States. I suppose this is a generational gap. I grew up thinking only Franklin Roosevelt would ever be the President of the United States. And the Republican cry was, “He’s leading us to a dictatorship, the concentration of power in the President’s hands.”

The Republican campaign songs, campaign speeches in campaign after campaign, whether you were running for county sheriff or for Governor or for Senator, was to point to the fact that during the New Deal, Roosevelt, they were concentrating power in the hands of the Chief Executive. And they were.

But here we are now, anxious to say, “Oh, please, Mr. President, take this new power. We don’t have the ability to exercise the constitutional responsibility of creating and holding the purse strings.”

That is what it is. Call it by any other name, it is still a transfer of power. And an enhancement of power in the hands of the President. I think it is a sad commentary on the responsibility and the history and the constitutional duties of the U.S. Congress to say to the President, “We don’t have the ability to exercise it ourselves, so we’re going to dump it in your lap.”

That was the story we talked about this morning with Senator Joe Tydings, because his father had the courage to stand firm as a Democrat and stop this kind of imbalance that was suggested by the President of the United States to add new members to the Supreme Court so he could have his total way. He controlled the Congress of the United States by extraordinary, extraordinary majorities. But it was the Supreme Court that got in his way.

So he was going to change the structure of the Supreme Court so he could have more power. And there is an interesting thing. Here is a Republican-led effort to give more power to a Democratic President. Maybe the election will change that in November, but once you transfer that power, no matter who is the President, you have transferred power to the other branch of Government.

One last little incident that I want to mention, and that is a few years ago Frank Church, a Democratic Senator from Idaho—Senator Church had been a strong supporter of President Johnson’s Vietnam policy. The day came when he decided to join those of us who were opposing the Vietnam policy, and he got up over there—and I can remember how he made his speech, of stating his position now as an opponent of the Vietnam war. In that speech he quoted Walter Lippmann, who was a very renowned, very respected writer and had commented extensively on the issue of the Vietnam war.

So he quoted Walter Lippmann in his speech, in saying, “I now stand, and I hate to say this to President Johnson, but I have to now take my position in opposition to the war policy.”
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Well, a week or so later Senator Church and Bethine, his wife, were down at the White House for a social function that President Johnson invited them to. As was the custom, they were going through the receiving line to pay their respects to President Johnson. You say different kinds of little remarks at that point to the President, very much a personal eyeball to eyeball. So Frank Church said to President Johnson, “You know, I have this Idaho project, and it’s going to be coming out of the State House and I hope you’ll help me on it.” President Johnson looked him straight in the eye and said, “Why don’t you go ask Walter Lippmann for it?” “Why don’t you go ask Walter Lippmann for it?”

I do not have to draw a picture to see the linkage in the President’s mind that you have decided not to support me on a war policy, well, I probably will be less than helpful to you on some kind of a project you have in Idaho. It invites political mischief. I can imagine the days when I stood very much in the minority on this Senate floor in opposing that Vietnam policy. I can very well imagine that I could have been given the same kind of treatment. I admire Frank Church, probably more likely because I was a Republican.

But let me say, there is not a single Senator in this body who could not become a target for that kind of political mischief exercised by a President when he wants your vote, when he needs your vote, when he, in effect, is demanding your vote. Then you stand there with your particular constituency when you have some funding of some kind in the Appropriations Committee, and he can just take that pen of his and, bop, just knock you out of the box; or he can say, “Now, I’ll listen to your willingness to support me on this.”

Likewise, it invites political mischief in this body, the Congress. They can load up a bill and say, “Well, the President now will have to veto that. He’ll have to take that kind of political stance. We can embarrass him by forcing him to veto that out of the bill.” I do not think we want to do that either.

I only wish that we would read our history, and remember that we came to this country to escape monarchies, dictators, czars, kaisers, and those powerful men who ran everything in their governments. We deliberately set up three branches of government; we deliberately assigned different powers; at the same time, we had mixing of powers. We are in the middle of an appropriation effort. There is not one way the President of the United States can force us to appropriate a dollar we do not want to appropriate. However, we cannot appropriate a dollar without the President’s consent or veto power. That is the mixing of powers. He has legislative powers; he has executive powers. Consequently, we should not tinker with something that has worked very well for over 200 years in the separation of powers.

I want to say, I do not trust any President—I do not care whether he is Democrat or Republican—wanting to exercise all the power we want to give to him. We have heard this body that votes for this in the younger generations will live to see the day when it passes that they will regret that they bestowed this kind of power on the Chief Executive of the United States. It is contrary to our Republican doctrine.

We want the diffusion and the decentralization of power. Yet the same Republicans that talk about too much power in the Federal Government, we should give more power to local government or more power to the private sector, are now wanting to bestow an additional amount of power on the Chief Executive.

I yield the floor.

Mr. BYRD. Mr. President, I ask that the time that was consumed by Mr. HATFIELD be charged against the 5 hours under my control and not against the time on the motion. The PRESIDING OFFICER. The Senator has the recognition. The time will be charged that way.

Mr. STEVENS. Mr. President, I yield such time as I need. It will not be very long. I do want to say at the beginning that I am of the generation of the Senator from West Virginia and the Senator from Oregon, and have taken the positions they have stated in the past. I am here today to explain why I support this bill.

Mr. DOMENICI. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. DOMENICI. Whatever time is consumed by the Senator, I ask that it be charged against the bill and not against the Senator.

The PRESIDING OFFICER. The Senator has that prerogative. It will be charged that way.

Mr. STEVENS. Mr. President, I was pleased to be able to file this conference report on S. 4, which is called the Line-Item Veto Act. If enacted, I believe it will be the most significant delegation of authority by the Congress to the President since the Constitution was ratified in 1789.

What the Senator from West Virginia and the Senator from Oregon have said is true. It is a major, major, change in the policy of the Congress toward the executive branch. It is a temporary delegation of authority under this bill. This delegation is necessary and appropriate to help reduce the current Federal budget deficit, a deficit that I believe threatens to destroy the future well-being of our great Nation.

It is not without a lot of soul searching that I made the change in position that I have made on this bill. Mr. President, 43 Governors around the country have some form of line-item veto authority, including my own Governor in Alaska. As Governor of California, Ronald Reagan used the line-item veto authority to effectively reduce wasteful spending.

I have opposed this bill in the past because it did not cover the largest culprits of wasteful spending: entitlements. Together, they account for hundreds of billions of dollars each year. I opposed this bill because I did not think that we were committed to a balanced budget concept. This bill goes together with the balanced budget amendment and the significant steps that the Congress took in the Gramm-Rudman-Hollings procedures. In my judgment, this bill will enable the President to assist in carrying out the original intention of Gramm-Rudman-Hollings. At my request, the bill has been expanded and broadened to cover not only appropriations for specific projects but tax breaks and entitlements as well.

Today, Congress has the power to cut programs the President proposes that we believe are unnecessary, but unless the President vetoes an entire appropriations bill, he is powerless to single out specific projects or programs. Likewise, unless he vetoes an entire tax bill, he cannot eliminate an unnecessary tax break designed to benefit only a narrow, special interest. This bill gives the President those powers temporarily.

In his annual State of the Union Address nearly 15 years ago, President Reagan came before us and asked us for the same power that Governors have, the power the Governor of Alaska has, and that he enjoyed as the Governor of California. Today, we are giving a President what President Reagan requested, but it is enhanced, Mr. President. It is more than President Reagan asked for. It has been a long time coming, and I am pleased and hope that we will fulfill his dream. I want everyone to understand it is much, much, greater than what President Reagan asked for.

I have supported this conference report because it includes the core concept that I insisted on when the Senate considered S. 4 a year ago. That was that the line-item authority would apply to all three areas of Federal spending. Until then, as I said before, the proposals for a line-item veto hit only appropriations and left those large culprits, entitlements and target tax breaks, untouched.

The conference report gives to the President the specific authority to cancel dollar amounts of discretionary budget authority, items of new direct spending, and limited tax benefits in any law that is enacted after the effective date of this bill. This President will be able to line out specific items in all three areas of Federal spending, whether it be appropriations, entitlements, or limited tax breaks. That is the line-item veto, which is effective immediately and the money that is not spent goes to deficit reduction. It is part of the budget process, in my opinion. Money that is saved because of the
exercise of the veto in this bill cannot be spent for any other purpose by the President or by Congress. Now, much has been said in the press about the need for the line-item veto to control wasteful spending through the appropriations. We have heard from the former chair of the Appropriations Committee and the current chairman of the Appropriations Committee. I still have hopes and dreams that I may be chair of the Appropriations Committee. Many people wonder why I have changed my mind at this time. I think that some Members here seem to miss the fact that the discretionary appropriations account only for 35 percent—not even 35 percent, but approximately 35 percent—of Federal spending. The remainder of Federal spending is mandatory, in the form of entitlements, tax breaks, interest on the national debt, items we cannot control. There is no figure available for the amount of revenues devoted to any of the three agencies through these targeted tax breaks, what the conference report now calls limited tax benefits.

If the Balanced Budget Act that Congress passed is signed into law, President Clinton will have vetoed, by fiscal year 2002 discretionary appropriations would account only for 26 percent of Federal spending, a decrease of 9 percent even without the line-item veto. Let me repeat that: Congress agreed to a bill that the President will veto. Had the Administration reined in the money covered by the appropriations process within a 7-year period by 9 percent. The Congress already vetoed the prospect of an increase to the extent of 9 percent, Mr. President. By contrast, entitlements under the balanced budget bill that we passed and the President vetoed would have grown from 55 percent to 60 percent of Federal spending. The increase would continue. That was an increase of 5 percent in 7 years with interest on the national debt accounting for the balance of Federal expenditures.

To put it another way, Mr. President, in 1980 the Defense Department accounted for 23 percent of Federal spending while the Social Security Administration accounted for 19 percent, and the Department of Health and Human Services 10 percent of total Federal spending. Seventeen years later, the Department of Defense will get 17 percent; Social Security, 25 percent; and Human Services, 22 percent. In other words, the Department of Defense continues to go down while Social Security and Health and Human Services continue to go up.

Defense spending is all discretionary. It would be said that the line-item veto under the original concept. The other two agencies that handle primarily entitlement programs would have been immune under the original line-item veto concept.

This conference report allows the President to cancel new direct spending, which means any provision contained in nonappropriations laws which increase Federal spending above the current baseline. By allowing the President to cancel increases in existing entitlement programs, or the creation of new ones, the conference report provides the opportunity to control the explosive growth in mandatory entitlement spending. This bill, because it now will give us a tool to require the President to help us control the growth in nondiscretionary spending.

Now, I think that ought to be very clear. In the area of taxes, the conference report does not go as far as I would have liked. But it was the best that we could get the conference to agree to. Under our agreement, the President could cancel any limited tax benefit in a law under one of two conditions:

First, if the law contains a list of specific provisions, identified by the Joint Committee on Taxation as meeting the definition of a limited tax benefit, the President can cancel any dollar amount identified in an accompanying report. Second, if the law does not contain such a list prepared by the Joint Tax Committee, then the President can cancel the entire dollar amount identified in an accompanying report. As I mentioned earlier, Mr. President, there is no ready list of revenue that has been lost to the Federal Government through targeted tax breaks. However, I believe it continues to run into hundreds of billions of dollars.

In the analytical perspectives that accompanied the President’s 1997 budget, there is a table on pages 86 and 87 that I call to the Senate’s attention. This lists the revenue that will be lost from major tax breaks of the past. The largest is $70 billion in fiscal year 1997 for the exclusion of employer contributions to medical insurance. However, I believe it continues to run into hundreds of billions of dollars.

Over fiscal years 1997 to 2003, that exemption will cost the Government $423 billion. Let me repeat that in case anyone did not get that. In the period of time between 1997 and 2003, in the exemption that is already in one of the tax bills, the Revenue Act of 1987, will result in lost revenue of $423 billion. That is 75 percent of the entire discretionary budget that we are working on now in the Appropriations Committees. The small tax break listed in the President’s addendum is a special alternative tax on small property and casualty insurance companies. That provision will cost the Government, according to the President’s statement, $52 million between 1997 and 2001.

It is impossible to tell from the table whether any of the provisions listed would in fact meet the definition of limited tax benefits under the conference report. I would like to remember that. It may well be that, although we are starting toward an attempt to give the President the right to eliminate limited tax breaks, we may have so defined limited tax breaks that they will never be touchable by the veto pen. But I think it illustrates my point that appropriations are not now, nor will they be in the future, totally responsible for the current Federal budget deficit. Congress can end it all. It is the major part of it, but the major part of it is the entitlement spending and the special tax breaks that account for so much of the problem.

In the case of appropriations, the President may cancel any dollar amount identified in an appropriations bill itself, or in the accompanying statement of managers or committee reports.

In addition, if an authorizing law has the effect of requiring the expenditure of funds provided in appropriations law for a particular program or project, the President may also cancel the dollar amount specified in the authorization law. I am not sure how many Senators realize that. But this is a very, very broad power we are delegating to the President of the United States.

The delegation is carefully structured in order to precisely define the President’s authority.

In order to increase the President’s discretion to cancel dollar amounts, the conference agreed to allow the President to use the statement of managers or the Joint Committee on Taxation to identify those dollar amounts.

However, in order to prevent disagreements between the President and Congress over the dollar amount that can be canceled, the conference specifically limited the President’s authority to the entire dollar amount specified by Congress in the particular document he references—either the law itself or an accompanying report.

In addition, the President is required to cancel the entire dollar amount and may not cancel part of that dollar amount.

This limitation was included in order to ensure that the line item veto authority is not used to change policies adopted by the Congress that deals with appropriations or increases in tax benefits or entitlements. The line item authority cannot, for example, be used to reduce the amount appropriated for B-2 bombers so that the number of the bombers has changed. He must delete the entire amount to effect a change in policy.

Likewise, the conference made clear that the cancellation authority does not apply to any condition, limitation, or restriction on the expenditure of funds or activities involving expenditure of funds. This means, for example, that the President cannot cancel a prohibition on the expenditure of funds to implement a particular law or regulation.

The statement of managers before the Senate contains a number of specific examples to illustrate the conference’s intent with respect to those items the President may cancel in appropriations bills, and I want to incorporate those in my remarks at the conclusion.
I ask unanimous consent that they be printed following my remarks. The PRESIDING OFFICER (Mr. LOTT). Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENS. Mr. President, as the Senator from New Mexico, PETE DOMENICI, said earlier today, this has been a difficult conference. Senator DOMENICI and his staff worked tirelessly on this conference report and deserve much of the credit for it.

Let me review just briefly some of the differences that had to be resolved. In the House bill, there was an enhanced rescissions approach, while the Senate bill that went to conference used separate enrollment.

The House bill applied only to appropriations and targeted taxes, while the Senate bill applied to appropriations, any tax that favored any one group, and new entitlement programs as well.

The House bill made the President's line item veto of a program effective after a congressional review period, while the Senate used a constitutional veto that was effective immediately.

The Senate bill contained a mandatory lockbox for deficit reduction. The House bill did not.

The Senate bill contained a sunset, and the House bill did not.

The list can go on and on, but foremost among all of these issues were real questions about just what it was that we were delegating to the President, and whether that delegation would be found constitutional.

After many long days and nights, and not a few testy meetings—and I must say, these conferences were the most acrimonious I have faced in 28 years—I believe that we have taken the best elements of both bills and created something that will work as Congress intends. I think it may be too narrow, rather than too broad, before we are through.

More importantly, I think we have a clear delegation of authority to the President for a specific purpose, and it is for the purpose of deficit reduction. That is what will pass constitutional muster, and I urge Members to remember that.

This is a bill for deficit reduction that goes hand-in-hand with the concept of a balanced budget bill, a bill to require the elimination of a deficit. It is a mechanism to assist in congressional oversight to ensure that both the Congress and the executive branch exercise the discipline that is necessary to bring about an elimination of the deficit that so plagues our future. It is not something that is a permanent change in constitutional power. If it is to be continued, that is for someone who comes to this body after most of us will have left. But, as a practical matter, I think it is a step that must be taken if we are to demonstrate our complete commitment to the concept of eliminating the deficit and bringing about a balanced budget.

I want to congratulate the members of the conference. In particular, I want to point to the chairman of the Budget Committee, who was a cochairman of the Senate portion of the conference, and I point to Senators McCAIN and GOATS, who brought the original concept to the floor, and Chairman DEDOUX and the House, and their hard work helped to bring this bill together and bring it before the two bodies now.

We are all indebted to our majority leader, Senator Dole. He really held our noses—sometimes other things—to the grindstone.

I thank the current occupant of the chair, Senator LOTT, for his role as the assistant majority leader.

Mr. President, this bill is really a significant bill. Anyone who thinks it is something that should be passed over lightly is wrong. It is a major change in the balance of Government power. It is really a check on the check of the check.

We are indebted to the staff who worked out many of the problems which we encountered with this bill. We would point them in the general direction, and they came back with language and concepts that would fulfill our goal.

Earl Comstock, who is here with me now, on my personal staff; Christine Ciccone, who helped from the Governmental Affairs Committee; Austin Smythe, Bill Haagland, Beth Felder, from the Budget Committee; Executive Committee; Mark Busey with Senator McCAIN; Sharon Soderstrom and Megan Gilly with Senator GOATS; John Schall with Senator Dole; Monte Tripp with Chairman CLINGER; Eric Pelitter with Chairman SOLOMON; and Wendy Selig with Congressmen Goss.

We got to know them pretty well, Mr. President. Unfortunately, they got to know us too well.

I think this is truly a momentous piece of legislation. I regret deeply that I disagree with my good friend from West Virginia and my chairman of the Appropriations Committee now.

In my judgment, if it is my watch between the years 1997 and 2000, I intend to see to it that the Appropriations Committee heed this warning. If we take action which might lead to increases in the deficit, if we allow funds to be spent which are not necessary, I hope the President will use this authority to assure that my good friend from West Virginia suggests, in a political fashion—if any President does that, or she—during this period we are dealing with, then I think this is a powerful tool that will go away. The Congress will not allow the executive branch to have a power such as this to be exercised frivolously or politically.

This is a change in the Government structure we are suggesting. We are suggesting that the President hold the pen which allows the Congress to carry out the discipline that it imposed on itself. Gramm-Rudman-Hollings started this, Mr. President, and this bill that is before us today will continue the mechanisms of discipline to bring about elimination of the deficit. I pray to the good Lord that we will succeed this time.

Thank you, Mr. President. I asked that one page from this report be printed after my remarks. I call the Senate's attention to it. I do hope every Senator will read it. It is on page 20, section 1021, line-item veto authority.

This is what this bill is, not what it is not, but that is what it is. I think Senators should realize that. The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

EXCERPT FROM STATEMENT OF MANAGERS

(7) Dollar Amount of Discretionary Budget Authority. The term "dollar amount of discretionary budget authority" is carefully defined in section 1026(f) 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 Branch and the 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 is, authority that is identified in any provision in part C of title X, as well as any restriction, condition, or limitation that Congress places on the expenditure of budget authority for any activity, or any activity's fiscal year. 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 included in the law a provision 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 paragraph (A)(1), 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. The cancellation authority is contained 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 1026(7)(A)(i), as defined under section 1026(7)(A)(ii), the President could cancel or rescind the entire $804,573,000 or could cancel part of that amount.

Further, again under subparagraph (A)(i), the appropriation law does not include a specific dollar amount, but does include a specific proviso that requires the President to rescind the entire dollar amount represented by the product of those two figures. The conferences expect that the President will use the best available information, as represented by the budget documents, to determine the procurement cost.

The conferences have included the following example in order to more clearly explain the definition of dollar amount of discretionary budget authority as defined by section 1026(7). This example is for illustrative purposes and the conferences are in no way commenting on the merit of any of these programs. The conferences do not intend to express a position as to the agencies where cancellation authority may be used.

The FY 1996 Agriculture Appropriations Act (Public Law 104-46) appropriates $49,846,000 in special grants for agriculture research. The Conference Report accompanying this law contains a table that allocates the $49,846,000 total into lesser dollar amounts of all which correspond to individual research programs. This table, for example, contains a $3,758,000 allocation for cancellation authority (OR, MS, MN, ME, MI).

Using the definition in section 1026(7)(A)(i) and (ii), the President could cancel either the entire $3,758,000 or could cancel part of the entire $3,758,000 described in the chart in the Conference Report. However, because the Congress did not break down the allocation across each state or in this project the President would not have the authority to take a portion of the $3,758,000 allocated to wood utilization research in the Appropriations Act.

The conferences intend that cancellation authority only applies to whole items. If an item (or project) occurs in more than one state in the law or 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 another appropriation law be allocated to a specific program, project, or activity that can be quantified as a specific dollar amount. The President could rescind the entire dollar amount required to be allocated by the other law, since that dollar amount has been identified by Congress as the amount that must be spent. As is the case with the earlier provisions, the President could not rescind part of the dollar amount mandated by the other law. It is an all or nothing decision. Likewise, the President could not use the cancellation authority to change, alter, or modify in any way the other law.

An example is provided in subparagraph (A)(iii) is found in section 132 of Public Law 104-106, the National Defense Authorization Act for Fiscal Year 1996. Section 132 states that “Of the amounts appropriated for Fiscal Year 1996 in the National Defense Seafill 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 authority contained in subparagraph (A)(iii) of the appropriation law and then lists a series of states, it is the entire item that must be canceled.

Another example is provided in the report: “Wood Utilization Research” appears in the report as: “Wood Utilization Research (OR, MS, NC, MN, ME, MI).”

The conferences 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 conferences submit the following examples that corresponds to a chart contained in the same 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 cannot cancel the entire human nutrition research program and may not cancel only wool research in Texas.

Paragraph (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 or continuing budget authority provided 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,
President must make any cancellations that would harm the national interest. In addition the President may cancel any essential government function or spending, or limited tax benefit contained in Sec. 1021. Line item veto authority is to expend appropriated funds. With the proviso, the President would have the power to cancel the entire amount of appropriated funds contained in this Act.

The President's cancellation authority only applies to entire dollar amounts. The above example of "fencing language" is a limitation on dollar amounts. Therefore, the President has no authority to alter or cancel this statement of congressional policy. If a limitation or condition on spending—"fencing language"—is not written as a separate numbered or unnumbered paragraph, but instead is written as a proviso to an appropriation, the President still has no power to cancel the proviso.

The Energy and Water Development Appropriations Act, 1996, (Public Law 104-6), Title II, Department of the Interior, General Administrative Expenses, states: "For necessary expenses of general administration and related functions in the office of the Secretary—Denver Field Offices 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 miscellaneous 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 related to these 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 law, the President would have to expend appropriated funds.

EXHIBIT 2

Sec. 1021. Line item veto authority

Section 1021(a) permits the President to cancel in whole any dollar amount of discretionarily 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 essential government functions or harm the national interest. In addition the President must make any cancellations within five days of the date of enactment of the law from which the cancellations are made, and must notify the Congress by transmittal of a special message within that time.

The conferees specifically include the requirement that a bill or joint resolution which 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 rewire 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 appropriation or mandatory payment, or the obligation to forego the collection of revenue otherwise due to the Federal Government in the absence of a limit or restriction.

Likewise, the terms "dollar amount of discretionary budget authority," "item of new direct spending," and "limited tax benefit" must have been canceled in order to make clear that the President may only cancel the entire dollar amount, the specific legal obligation to spend or not spend money, and any consequence of spending or not spending. "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 obligations associated with provisions of the underlying law will remain in effect. If the President desires a broader result, then the President must either rewrite the underlying 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 the law in identifying cancellations. It also requires that the President use the definitions in section 1026, and provides that the President use any sources specified in the law or the best available information. Section 1021(c) states that the President's cancellation authority does not apply if an approval bill, as defined in section 1026. The provision is intended to prevent an endless loop of cancellations.

Mr. BYRD. Mr. President, will the Senator yield the floor? Mr. STEVENS. Yes.

Mr. BYRD. Mr. President, I take this occasion to congratulate the distinguished Senator from Alaska [Mr. STEVENS], and the other Members of the Senate who were conferees.

As I sat and listened to him as he has outlined the changes that were brought within the bill during the meeting of the conferees, I think he brought about several improvements over the House position. I thank them for that.

Mr. STEVENS. Mr. President, I am honored by those comments.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

The last time we balanced the Federal budget was in 1969 when Richard Nixon was President, and it happened only because of a big tax increase that occurred in 1968—an income surtax. It lasted only for 1 year, and then it was gone. The last time we balanced the budget 2 years in a row where the budget was balanced by fiscal restraint by doing what every family and every business in America has to do every year was in the middle of the 1950's when Dwight David Eisenhower was President of the United States.

In other words, we are here today changing the fundamental powers of the Presidency as they relate to the Congress and altering our system of the distribution of that power because for 40 years we have not been able or willing to say "no." And very important role from time to time during our conference bringing a degree of insight, particularly helping us understand the difference between enhanced rescissions and real line-item vetoes.

Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I believe this bill represents a significant break with the past. I think it does in a very real sense represent the changing of the guard. Might I say that I think it is long overdue.

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Mr. President, in behalf of this side, I yield 10 minutes to the Senator from Texas.
have had to say "no" on a constant basis. The problem is we have said "yes" to spending money when "yes" was the wrong answer, forcing families to say "no" to investing in their future and the future of this country, when "no" is the right answer. We are here today to try to change that.

What does the line-item veto do, and what does it not do? The line-item veto allows the President to go inside an appropriations bill and to eliminate a program, a project, or an activity. He does not have the ability to change it. He can either say "yes" or "no" to the whole thing and strike it out, and then alter the budget total at the top of the page. This will allow the President to exercise leadership in controlling spending and to impose priorities. But, if the Congress does not agree and if there is strong disagreement, the President can be overridden. But what it does, no doubt about it, is that for the distinguished Senator from West Virginia is right—this is going to be a fundamental, sweeping change in Government. My only disappointment is that it is not permanent. This is grandfathered, and what it will mean is that if we do have a President who actually uses it, my guts are not going to tell me, once this expires. I had hoped this would be permanent law, but this is a very, very important bill. I commend everybody who has been involved in it. Let me conclude by just thanking some people individually.

First of all, I thank Ted Stevens, who had very real hesitation about this bill. I thank Pete Domenici. Both of these men had real reservations when we started. This has meant a compromise for them, and I think, quite frankly, we have a better bill right now than we did when we started this process. I think they are largely responsible for it. But only because of their support will this bill become the law of the land.

I thank Dan Coats and John McCain for their leadership. This has been a battle which has really raged for 8 years. Many people have despaired of it ever happening. But because we had people who cared strongly about it. I think it reveals the basic lesson of democracy, and that is intensity counts. If you have people who care very strongly about something and they do not give up, ultimately they succeed.

I also thank the President, our distinguished assistant majority leader, for his good counsel in bringing people together and helping to push this matter to a final conclusion.

It is interesting in that I think this is an old issue which has been debated a long time and as a result there is not the clamor which normally would surround a bill that is as important and momentous as this bill is, and that is a disappointment I am sure both to those of us who are for it and those who are against it in terms of its profound impact on America. There are very few of us who have dealt with 5 Congresses that have a larger potential impact than the passage of this bill.

I congratulate everybody who has been involved. I believe we are not only making history today, but we are making good history. That is something which does not happen very often. This is one more tool the President has, if the President wants to do something about the deficit. If we have a President who really wants to do it, all that President has to do is get one-third of his party and say, "Mr. President, sharpen up his pencil, and he is in business. I believe it is going to take strong leadership.

I wish to conclude by remembering the words of Ronald Reagan when he asked for this power and said, "Give me the line-item veto and let me take the heat." I was always disappointed we did not do that, but we are going to give whoever is President in January this power. We will see if they can take the heat.

I thank the Chair and I yield the floor.

Mr. Byrd addressed the Chair. The PRESIDING OFFICER. Who seeks recognition? The Senator from West Virginia.

Mr. BYRD. Mr. President, I shall quote Lord Byron:

A thousand years scarce serve to form a state; an hour may lay it in the dust.

Mr. President, let me explain my motion now for the benefit of Senators on both sides.

Mr. President, in offering this motion to recommit, I am, I hope, providing one last opportunity for the Senate to come to grips with what we are about to do. It is my desire that each one of us, before we cast our vote on the conference agreement to S. 4, have the chance to reevaluate our position, to reexamine the damaging consequences that will necessarily extend from this enhanced rescission proposal, and to vote, instead, for a more sensible approach than that offered in S. 4, as amended.

In essence, my motion to recommit would supplant the provisions currently contained in the conference agreement with those contained in S. 14, as originally introduced by Senators Domenici, Exon, Craig, Bradley, Cohen, Dole, Daschle, and Campbell on April 4, 1995. That measure was, I believe, a workable proposal that would give the President broad and uncomplicated authority to propose the
rescission or repeal of not only appropriated funds, but, also, new direct spending and targeted tax benefits.

Consequently, my proposal will allow any President to rescind any of these budget items under an expedited process. Thereafter, the President would receive a vote on any of his proposed rescissions. The process would work as follows:

The President would have 20 calendar days after the date of enactment of each covered measure to transmit a special message to Congress proposing to cancel any of the budget items previously mentioned. The House and Senate would then be required to take up the President's proposed rescissions under expedited procedures which would ensure that a vote on final passage of the President's proposed rescissions shall be taken in the Senate and House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of the bill. Furthermore, procedures are contained in the measure to ensure that such measures are introduced no later than the third day of session of each House after receipt of a special message from the President.

During consideration of the rescission bill in either House, any member may move to strike any proposed cancellation of a budget item. I might note parenthetically that this represents a change from S. 4 as introduced, in that S. 14 would have required a member of the House to gather the signatures of 49 other members in order to offer an amendment to a rescission bill on the floor and in the Senate would have required a Senator to collect an additional 11 signatures in order to be able to offer an amendment to strike a proposed rescission from a bill. I do not agree that members of the House and Senate should be prohibited from offering amendments as they wish without the necessity of gathering signatures from other members.

Under my proposal, debate in the Senate on a rescission bill and all debatable motions and appeals in connection therewith shall not exceed 10 hours. A motion in the Senate to further limit debate on a rescission bill is not in order. Debate in the House of Representatives on or before the close of the tenth day of session of the House of Representatives on or before the close of the tenth day of session of that House after the date of the introduction of the bill shall be limited to not more than two hours, motions to further limit debate shall be nondebatable, and motions to recommit the conference report will not be in order.

Finally, my proposal contains an ironclad lockbox provision to ensure that any monies saved through these rescissions are, indeed, used for deficit reduction. Under this proposal, the President and Congress must each take action to prevent the diversion of rescission spending limits contained in section 601 of the Congressional Budget Act, the committee allocations under section 602, and the balances for the budget under section 252 of the Balanced Budget and Emergency Deficit Control Act.

By adopting this proposal, I believe that the Senate will then have passed a measure that effectively amends the抢险 measures that any in his time at the same time maintaining the constitutional separation of powers by protecting congressional control of the purse strings from an unchecked executive.

Mr. President, I remind my colleagues that it was the considered judgment of the distinguished chairman of the Budget Committee, working in conjunction with the ranking member of that committee, Mr. Exon, that the expedited rescission process contained in S. 14, as originally introduced, was the most appropriate approach to this issue. Based on their expertise—expertise gained through many years of study of the budget process—the provisions contained in the substitute will give us a workable process. Consequently, my motion, if adopted, would force the Congress to vote, in an expedited fashion, on the President's rescission proposals. No longer would Congress be in the position of accepting the recommendations of the President. We would be mandated, under the language I am proposing to have substituted, to consider the President's request, and to do so in a timely manner.

Furthermore, under the terms of S. 14, as introduced, this newly crafted expedited rescission process would extend not only to appropriated funds, but, also, to the vast amounts of revenues lost each year through the use of tax expenditures. As with entitlement programs, tax expenditures cost the U.S. Treasury billions of dollars each year; nearly $500 billion in this fiscal year alone. And, again, like entitlements, they receive little or no scrutiny once enacted. Moreover, even though they increase the deficit, just like spending on mandatory programs, tax expenditures routinely escape any meaningful fiscal control or oversight. Indeed, by masquerading as a tax expenditure, a program or activity that could not pass congressional muster could be indirectly funded and survive for years.

Yet, the conference agreement on S. 4 effectively puts this entire area of Federal expenditures out of the reach of the President. By limiting the President's rescission authority to only those tax expenditures that, by definition, benefit 100 or fewer taxpayers, S. 4 absurdly restricts the ability of the President to get at this type of backdoor spending. How absurd is this? Imagine limiting the scope of the President's rescission authority to those appropriations that impacted 100 or fewer beneficiaries. Imagine in an individual procedure that would befall any Senator who stood up here and proposed that kind of rescission process. What would the proponents of S. 4 think of the efficacy of their legislation with that type of restriction in place on appropriated funds?

Mr. President, the concept of numerical definitions on tax expenditures was rejected in the Senate because we all recognized that any in his time could find a few extra people to qualify for the targeted tax benefit, thereby bringing the number of beneficiaries above 100 and out of range of rescission authority. Consequently, this limitation is nothing more than an open invitation to the many creative tax attorneys in this country to unfold ways to abuse the system.

But the asinity of such a provision does not stop there. The definition of a tax expenditure, or "limited tax benefit" as S. 4 calls it, is further gutted with exemptions for tax breaks that serve to benefit all persons in the same industry, or all persons engaged in the same type of activity, or even all persons owning the same type of property. This is the kind of special tax break passed by the Congress for anyone owning a Rolls Royce, for example, would not be subject to a presidential rescission since everyone affected would own the same type of property. In this case, the S 4 proposal.

Mr. President, I find it ironic that the proponents of S. 4—who seem to be claiming that their so-called line-item veto is the only version that will efficiently cut wasteful spending—are the very same people who seem to be afraid to give the President of the United States a similar method of cutting wasteful tax breaks. Why should the President be given the power to veto spending for school lunches, or highway construction, or drug programs, and not be given the power to veto the tax deduction claimed by businessmen for a three-Martini lunch? Whether wasteful spending is in a program funded through an appropriation or through a tax break, it is still wasteful spending.

The Domenici-Exon expedited rescission bill, which I am offering as a substitute to the current conference agreement, gives the President real authority to go after wasteful tax breaks. Under the substitute, every tax break would get the same presidential scrutiny as every program funded through the appropriations process. No more, but certainly no less.

Finally, but not insignificantly, Mr. President, is the issue of timing. The rescission process that I am proposing is immediate. It is not put off until next year. It is not delayed until 1997, as it is under the conference agreement. Under the substitute, the President would have the opportunity to exercise his newfound rescission powers right away, this year, on any appropriations, or entitlements, or tax expenditures enacted by this Congress. As chairman of the Appropriations Committee, in this case President Clinton—is not allowed to affect the fiscal year 1997 appropriations. Apparently, President Clinton is not to be
trust with this new power. Apparently, the hope of the proponents of the conference agreement is that, after 1996, the White House will be under Republican control. Apparently, what is good for a possible Republican President is not good for a President for the Democratic party.

Mr. President, my position on enhanced rescission is well known to my colleagues. I believe that passage of this conference report, in its present form, would be a truly monumental mistake that would create an imbalance in the constitutional balance of powers while contributing very little toward balancing the federal budget. I have been, and continue to be, unalterably opposed to granting any President the constitutional prerogative to insist on the amending of the fundamental laws under conditions which would require a two-thirds vote of both Houses to override such rescissions.

But if we are to have legislation that amends the current rescission process, I hope that at least have the presence of mind to ensure that we do not give away, in wholesale fashion, that which the constitutional Framers so wisely placed in this branch of government. Accordingly, I urge my colleagues to adopt my motion to recommit.

The PRESIDING OFFICER (Mr. BYRD). Who seeks recognition?

Mr. BYRD. Mr. President, I ask the time be charged against my time on the amendment.

The PRESIDING OFFICER. The time will be so charged. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I, first of all, want to take this opportunity to express my respect for the Senator from West Virginia. We clearly are on different sides of this issue. He has been an articulate and zealous protector of the prerogatives and rights of this institution, and he has articulated those principles that I respect.

I also respect his unswerving allegiance and dedication to that proposition and know that it is very, very important, and it has been over the 8 years of debate on line-item veto, a great history lesson for this Senator.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his overly generous and charitable remarks.

Mr. COATS. Mr. President, it is my understanding that it has been cleared that Mr. O'MOYNIHAN will move to a vote at 5:45 to have Senator DOMENICI recognized in order to make a motion to table the pending motion to recommit. I want to make sure the minority leader and Senator BYRD—if that is his understanding—do not time him to harm to the motion against my time on the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. COATS. We have no objection to that, Mr. President. Therefore, I ask unanimous consent that at the hour of 5:45 this evening, Senator DOMENICI be recognized in order to make a motion to table the pending motion to recommit, and, prior to that, at 5 p.m. this evening, Senator O'MOYNIHAN of New York be recognized to speak in opposition of the conference report to recommit and in opposition to the bill on the floor, the time to be charged to the Senator from West Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, I would just alert our fellow Senators that a rollcall vote will now occur at 5:45 p.m. today; that there will still be, after that vote, time remaining on this debate. I am not sure how much of that time will be used. I do know there are some requests for time, so Senators should also expect that there will be additional debate and a vote on final passage on this line-item veto conference report sometime this evening.

Mr. President, I would also like to request some time on this side. I think 5 minutes will be adequate.

Mr. President, I am happy to yield to the Senator from Mississippi whatever time he desires.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I would like to request some time on this side. I think 5 minutes will be adequate.

I also want to join in commending the Senator from Arizona, Senator MCCAIN, for his dogged support of this idea, and also the Senator from Indiana. They have worked together. They have worked against the run of the odds and never gave up, even though it looked pretty dismal just a month or so ago.

I have to express my appreciation for Senator STEVENS and Senator DOMENICI, who are very active, but they were involved. I remember I had been talking with the Senator from Alaska one night about what we had been trying to do, and he had been very aggressive in saying how he did not want us to do that. He had worked me over from three or four different angles trying to educate me. Then I said, “Okay, I understand you don’t want it. Is there a solution?” He stopped and said, “Well, maybe there is.”

So we worked together. Even the Senator from West Virginia, who so opposes this legislation, has been very much a gentleman in the way he has handled the debate, how he is addressing this issue today, the motion to recommit he has offered, and the time agreements he has entered into. So a lot of people deserve credit.

I think it is a carefully crafted piece of legislation. We went into the detail of what would it mean for the President. We were able for in part. Quite frankly, we were a little bit surprised—I know I was—at what that could mean. So we worked to try to clarify what that “in part” meant.

It does include things other than just appropriations. It does include the so-called tax expenditure. But that provision is carefully drafted, it is carefully defined, and I think we came up with the right blend, so that also can be considered by the President when he reviews legislation we send him.

We were very concerned what to do on the sunset. There was a lot of argument that we should have no sunset, and there were others who said,
and I kind of agreed. “Look, this is big legislation, important legislation, it may not work out correctly. It may be abused. So after a certain period of time, let’s be allowed to take a look at it.

I think it will work correctly. I hope it will be extended. I hope to support to extend it when the time comes.

We even talked a lot about the effective date. We wanted to make sure it was going to be handled in such a way it would be subject as soon as possible. We do have a provision that says if we reach a balanced budget this year, it will go into effect on that date, or January 1, 1997, whichever is earlier. The President and the majority leader talked about that and agreed that was the fair way to do it.

I think we have done what we said we were going to do. I have always felt the President should have this authority. I am in the Congress. I guess I should be jealous of ceding authority to the President, really do feel the President should have this authority. We can only have one Commander in Chief at a time. He is the ultimate authority. He should have the ability to go inside a bill and knock out things that are not justified, that have not been sufficiently considered, that cost too much—whatever reason—without having to veto the whole bill.

I am very pleased this afternoon to rise on the floor of the Senate and commend the Senate for what I believe will be their action today and all those associated with this effort. I think it is the right thing to do. I believe it will help save some of our children’s tax money in the future.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, I yield to the distinguished Senator from Michigan [Mr. LEVIN], 30 minutes.

Mr. LEVIN. First, let me thank our friend from West Virginia. He has already been told this afternoon by so many of us just how important it is to the Nation and to the U.S. Senate in the cause he is fighting and the many causes he has fought and continues to fight for in this body. Many of the accolades, indeed, have come from people who are on the other side of this issue, but I want to let him know, as someone on the same side of this issue as he is, we, too, feel particularly keenly about the leadership that he has exerted on this issue and so many other issues involving the Constitution of the United States.

This is our bedrock document, a fundamental document. It has no more staunch supporter of the Constitution in this body or in this country than Senator Byrd. I just want to add my voice to those of so many others in this body on both sides of this issue in gratitude for the labor he has given to this Constitution. From his perspective, I know they are not labors because they are labors of love.

Mr. LEVIN. Mr. President, the Senator from Michigan is a man of great tenacity and perception and love for the Constitution and for him to deliver remarks this afternoon has brightened my day. I am very grateful.

Mr. LEVIN. Mr. President, while we are expressing sentiments about each other personally, before I get into my remarks on this bill, which I oppose for reasons I will set forth, I want to add my thanks also to the President, the Senator from Indiana, who is managing the bill, and to others on the other side of this particular issue for the manner in which this debate has proceeded.

It is a very significant debate, and people on both sides of this issue feel very keenly about it. I think there is unity in terms of trying to find a form of line-item veto, so-called, which is constitutional, because whatever side of this particular bill we are on, the President should have this authority. Whether we think this version is constitutional or not, I think most of us would like to find a formula which would give the President greater power to identify issues in bills, items in bills that should be separately voted upon, which should be highlighted for the public, for the Congress, and we should then vote up or down on.

I, for instance, very much favor the version which the Senator from West Virginia has offered, which would be voted upon later this afternoon. That so-called expedited rescission process, it seems to me, is constitutional and is something which we can in good conscience, at least I can in good conscience, support.

The President, and many others in this body obviously feel that the version which is currently before us is constitutional or I do not think they would have been proposing it. There is a difference, but it is a difference which is held in good faith. I must say, I greatly admire the Senator from Arizona and the Senator from Indiana and others for the manner in which they have proceeded relative to this issue.

Mr. President, as I said, I support the version of the line-item veto which is known as expedited rescission. That version would ensure that any item of spending that the Congress enacts that the President feels is inappropriate, it fails the fundamental test of constitutionality.

The problem with the current bill is that it fails the fundamental test of being consistent with the requirements of the Constitution that any repeal or amendment to a law be passed in the same way that the law itself was enacted. The Constitution establishes the method by which laws are enacted, by which laws are amended, and by which laws are repealed. It is fundamental constitutional law. It is our bedrock law that says that a bill becomes law when it is passed by both Houses of Congress and signed by the President, or if the bill is vetoed by the President, when that veto is overridden by a two-thirds vote in each House.

The bill before us purports to create a third way by which laws can be made, a way not recognized in the Constitution. And this third way, this new way, is by giving the President the unilateral power to repeal a law or part of a law without any action by the Congress.

The Founding Fathers made a conscious decision to give the power of the purse to the Congress and not to the President. This power of the purse serves an important check on the power of the Presidency. It is, in fact, a crucial element in the system of checks and balances which was established by the Founding Fathers. These checks and balances are not a mere abstraction; they were expressly written into the Constitution to protect our freedom.

James Madison warned in Federalist No. 47 that—

There can be no liberty where the legislative and executive powers are united in the same person.

He quoted Montesquieu for that point. It was because of that, the fear of uniting executive and legislative powers in the same person, that article I of the Constitution gives Congress, and not the President, the power of the purse.

Article I, section 1, states without qualification—and the first word in this quote is the critical one—

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Article I, section 8 adds:

The Congress shall have Power To lay and collect Taxes . . . to pay the debts and provide for the common Defense and general Welfare of the United States; . . . [and] To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Article I, section 9 affirms that:

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law.

It was Madison, in Federalist No. 58, who explained that the power of the purse was granted to Congress because
The veto or the repeal or the cancellation power that is granted to the President by this bill attempts to alter our constitutional system by giving the President unilateral authority to control spending and to substitute his personal budget priorities for the priorities that have been passed by the Congress and signed into law. This bill would give the President the unilateral power to repeal a statute or part of a statute without any action at all by the legislative branch.

That is the heart of the matter. This bill in front of us would give to the President the unilateral power to repeal a statute or part of a statute, the law of the land, without any action by the legislative branch. That is something that we cannot do.

The Supreme Court said as recently as in the Chadha case, that it is beyond Congress' power to alter the carefully defined limits and the power of the branches. That is what the Supreme Court said in Chadha:

The bicameral requirement, the Presentment Clauses, the President's veto, and Congress' power to override the President—these are the checks and maintenance of the separation of powers, the carefully defined limits on the power of each branch must not be eroded.

The Chadha court went on to say:

The Constitution or decisions of this Court for the proposition that the cumberosseness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. . . . With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

The veto or the repeal or the cancellation unilaterally, of an existing law by the President is subject to the same constitutional restraints.

The Chadha court explicitly stated that “[a]mendment and repeal of statutes, no less than enactment, must conform with Article I” of the Constitution.

That is an explicit statement of Chadha by the Chadha court. We cannot change that unless we adopt a constitutional amendment and send it to the States.

The Chadha court has told us what courts have told us throughout our history, what the Constitution has told us. It says explicitly, “[a]mendment and repeal of statutes, no less than enactment, must conform with Article I” of the Constitution.

What this bill says is, “Well, we will try to create a new way. We will let the President decide within 5 days after a law becomes law that he wants to cancel a part of that law.” Unless the Congress acts to override him, the President’s unilateral cancellation effectively amends the law of the land, by law. We cannot do that. We should not try.

The Chadha court explained why it reached the conclusion that it did. It wrote that during the Convention of 1787 the application of the President’s veto to repeals of statutes was addressed. It was very explicitly addressed during the Constitutional Convention. The Chadha court went through the Convention. The issue was the application of the President’s veto to repeals of statutes. The Chadha court went on to say that there is no provision in the Constitution allowing Congress to repeal or amend laws other than by legislative means, pursuant to Article I.

Now, Mr. President, the conference report acknowledges what I think is obvious: That when the President signs the appropriations bill—this approach would allow him to cancel within 5 days that appropriations bill—upon his signature that becomes the law of the land. The conference report § 1021 says that notwithstanding the provision of parts A and B and subject to provisions of this part, “the President may with respect to any bill or joint resolution that has been signed into law, pursuant to article I, section 7 of the Constitution, may cancel in whole or in part,” and it goes on to talk about what the President can cancel.

We are only talking here about bills which have become the law of the land. Those are pretty important words in this government. We do not allow Presidents to pick and choose which laws they abide by and which ones they do not. I cannot think of any other places where we say a law could be canceled by a President acting unilaterally; yet this bill says that a law—and that has become enacted, signed by the President—can be canceled in whole or in part by the President, acting alone.

Of course, the bill gives us the opportunity to override that cancellation with new legislation. That is not the point. That is not what article I of the Constitution provides. Article I of the Constitution as interpreted by Supreme Court opinion after Supreme Court opinion as recently as Chadha says the repeal, the amendment, the modification of a law must be done in the same way that a law is enacted. This bill is a deviation from that. This bill says “Well, we will create another way. We will create a new law. You do not have to enact an amendment. You do not have to repeal a law the way the Constitution provides. We're going to say that the President of the United States, acting alone, is able to cancel a law of the United States.”

Now, Mr. President, the argument has been made that the bill just restores to the President the authority that he exercised under the enactment of the Impoundment and Control Act in 1974. That is plainly wrong. No President has ever exercised the kind of unrestrained right to override congressional budget decisions that this bill would attempt to create. The Assistant Attorney General, Charles Cooper, in the Reagan administration, stated in a 1988 legal opinion, the following:

To the extent that the commentators are suggesting that the President has inherent constitutional power to impound funds, the weight of authority is against such a broad power. This office has long held that the existence of such a broad power is supported by neither reason nor precedent. Virtually all commentators have reached the same conclusion without reference to their views as to the use of executive power.

I note that same Assistant Attorney General, Charles Cooper, in the Reagan administration, cited no less an authority than Chief Justice Rehnquist, writing in his position as Assistant Attorney General in the Nixon administration, for the proposition that a Presidential power not to spend money “is supported by neither reason nor precedent.”

The Constitution does not authorize the President of a law. The Constitution does not permit the President to repeal a law, to suspend a law, to ignore a law, unless he chooses to veto the law itself. He cannot cancel laws. This is just another word for modifying it or ignoring it or vetoing it.

George Washington said 200 years ago, “From the nature of the Constitution I must approve all the parts of a bill or reject it in toto.”

The President and Chief Justice William Howard Taft explained, “The President has no power to veto parts of the bill and allow the rest to become a law. He must accept it or reject it, and even his rejection of it is not final unless he can find more than one-third of one of the Houses to sustain him in his veto.”

Congress cannot give the President that authority or even greater authority simply by changing the labels and calling a repeal or an amendment the “cancellation” of a law. It is not the labels that count. It is the substance of what we are doing or purporting to do. What we are purporting to do in this bill is to give the President of the United States unilaterally a right which the Constitution denies him, and that is the right to cancel or veto or amend or modify or ignore the law of the United States.

If it is unconstitutional for Congress to take away the President's power under one label, it is not suddenly constitutional merely because we change the label. We cannot acknowledge that the President does not have
the right to "modify" or "repeal" a law under the Constitution, but at the same time maintain that he can "cancel" a law. A veto is no less a veto and a repeal is no less a repeal because we call it suspension or cancellation.

As an example, the Random House dictionary defines a veto as "The power vested in one branch of a government to cancel the decisions, enactments, et cetera, of another branch. To paraphrase the statement of Senator Sam Ervin on a similar issue, 1973, 'you can't make an onion a flower by calling it a rose.'"

Now, it is argued by some that this bill is a constitutional delegation of power because the President is simply exercising some legislatively authorized discretion not to enforce a statutory provision. By this reasoning, the appropriation that has been canceled is still law. But I do not believe that is the intent of the sponsors. The bill itself is entitled "The Line-Item Veto Act." The bill expressly states in section 1026(4)(b) that the term "cancel" means, in the case of budget authority provided by law, to prevent such budget authority from having legal force or effect. The bill expressly states in section 1026(4)(b) that the term "cancel" means the application of the label "cancel" to what is clearly a repeal and an annulment change the outcome legally? I do not think so.

The bottom line is that this bill purports to grant to the President of the United States the inherent authority, which the Constitution will not allow him to have or us to grant to him; that is, the authority to repeal a law without any action by Congress. Chadha says that you cannot repeal or modify a law without any action by Congress, the Constitution says it. We cannot do—and we should not attempt to do—what the Supreme Court says cannot be done and which the very logic of the Constitution says cannot be done.

The gentleman from Mississippi (Mr. Broomfield) states that a comprehensive study of the item veto has not been used to hold down state spending or deficits, but rather than reducing spending, have been used for partisan, political purposes. CBO Assistant Attorney General Cooper, again in the Reagan administration, explained this in his legal memorandum on impoundment. He said that because an inherent impoundment power would not be properly delegated if the limitations on the veto power contained in article I, clause 8, an impoundment would, in effect, be a superveto with respect to all appropriations measures. The inconsistency between such an impoundment power and the text suggests that no inherent impoundment power can be discovered in the Constitution.

The same conclusion must be reached with regard to the cancellation power which is proposed in this conference report only operates in one direction. Once a President cancels an appropriation under the bill, neither that President nor any other President would be permitted to spend the appropriated money without the enactment of new legislation. When a President cancels a provision of law providing for direct spending, this bill provides that the provision shall have no legal force or effect. The bill expressly states in section 1026(4)(b) that the term "cancel" means, in the case of budget authority provided by law, to prevent such budget authority from having legal force or effect. That is right in the bill itself.

There is no discretion that is being granted to the President under this bill. It is only one-way discretion here, which is to cancel a provision of law and deprive it of legal force and effect in perpetuity.

Similarly, in the case of entitlement authority, the bill states that a cancellation "prevent[s] the specific obligation of the United States from having legal force or effect." The whole purpose of this bill is to deny the legal force or effect of any part of an appropriation that the President has canceled. The Fiscal Service Program, the bill says its purpose is 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."

Now, Random House defines the term "cancel" to mean, "make void, to revoke, to annul." I think we would all agree that any bill that purported to authorize the President to unilaterally void or annul or revoke a statute would be unconstitutional.

Can the result be different because, instead of calling it a repeal or an annulment, we call it a cancellation? Can
Congress to increase Federal funding for projects favored by the President. But even if one believes line-item veto will have a major impact on the deficit, then do it constitutionally. That is what the Byrd motion is all about. It would do it by allowing the President a part of the power over the purse, a power the constitution reserves to the Congress. We should not do it by trying to give the President the right to repeal a law or a portion of a law without congressional involvement.

The sponsors of the bill have taken the position that Presidents are unlikely to abuse these new powers. That view is not only naive, it is also inconsistent with the view of our Founding Fathers and the purpose of our constitutional system of checks and balances. As James Madison explained in "Federalist Number 51":

['The great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department, the necessary constitutional means, and personal motives, to resist encroachments of the others.']

The Founders rested the structure of our central government on the system of checks and balances. For them the doctrine of separation of powers was not mere theory; it was a felt necessity. Not so long ago it was fashionable to find our system of checks and balances obstructive to effective government. It was cast as a system that was outmoded--too easy. The experience through which the world has passed in our own day has made vivid the realization that the Framers did not intend to create a system of unexperienced doctrinaires. These long-headed statesmen had no illusion that our people enjoyed biological or psychological or sociological immunities from the hazards of concentrated power. It is absurd to see a dictator in a representative product of the sturdy democratic traditions of the Mississippi Valley. The accretion of dangerous power does not come in a day. It does come, how ever slowly, from the generative force of uncheked disregard of the restrictions that fence in even the most disinterested assertion of authority.

Much will no doubt be made in the course of this debate of the fact that the President supports this bill of course he should do it if he wouldlike Congress to hand over part of its power over the purse. I would point out however that former Counsel to the President—the President's own counsel—has parted company with President on this issue. In a March 25, 1996, column in the Legal Times, Abner Mikva wrote that line-item veto proposals not only raise constitutional problems, but would also transfer excessive power to the President. Judge Mikva has been consistent, and convincing, on this issue. Back in 1986, Judge Mikva wrote, in the University of Georgia Law Journal:

["The source of almost all congressional power—the spine and bite of legislative authority—lies in Congress' control of the nation's purse. If ever Congress loosens its hold on this source of power or if ever the President were to resist its will, then to quote the late Senator Frank Church, "the American Republic will go the way of Rome." The delicate balance created by the Framers will have been destroyed."]

Since 1973, when Ulysses Grant first proposed the idea, over 150 legislative proposals have called for Congress to give to the President the ability to veto individual parts of a bill. Congress has thus far rejected such proposals; with any luck, it always will. For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. If the system of governmental system, the legislature does and must have plenary power over the budget. The power of the purse is the strength of the Congress; take that power away, and the other branches will fall. Congress' management of the budget is inefficient; surely it is; the workings of democratic institutions always are. Is it cumbersome? Of course! It is cumbersome. But that is true of every system of checks and balances. For them the doctrine of separation of powers is not only naive, it is also inconsistent with the fact that Congress retains exclusive control over the purse. That is why the Constitution established the system of checks and balances. For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In our governmental system, the central government on the system of checks and balances. For them the doctrine of separation of powers is not only naive, it is also inconsistent with the fact that Congress retains exclusive control over the purse. That is why the Constitution established the system of checks and balances. For regardless of whether Congress yields budgetary authority or the President usurps it, the threat to our constitutional order is the same. In our governmental system, the central government on the system of checks and balances. For them the doctrine of separation of powers is not only naive, it is also inconsistent with the fact that Congress retains exclusive control over the purse. That is why the Constitution established the system of checks and balances.

Mr. President, this bill is an unwise attempt to expand Congress' power over the purse and undo the system of checks and balances created by our Founding Fathers. It is at odds with the requirements of the Constitution. I urge my colleagues to reject it and adopt a different version called expedited rescission.

Mr. MCCAIN. Mr. President, we were of going back and forth from one side to the other. Since Senator LEVIN just went, Senator ROTH was going to go and understand Senate DASCHLE will go. I believe that is the normal custom.

Mr. BUMPERS. Mr. President, I wonder if the floor manager would be willing to enter into a unanimous-consent agreement specifically naming the order of those who were here on the floor so others will know approximately when to come to the floor.

Mr. MCCAIN. I note the presence of the Senator from West Virginia. I hope that is agreed to with him.

Mr. BUMPERS. I defer to our leader there, Senator BYRD, with how to approach this.

Mr. BYRD. Under the circumstances, I would be willing to do that. I am ordinarily not willing to stray away from what the rules require, but I would be happy to do that on this occasion.

Mr. BUMPERS. I suggest that Senator ROTH be recognized next, following which Senator DASCHLE be recognized.

Mr. DASCHLE. Well, Senator BUMPERS has been here longer than I have.

Mr. BUMPERS. I do not mind yielding to the leader. He has a much busier schedule than I do. Who would be next on that side?

Mr. MCCAIN. I am not sure at this time whether it would be Senator NICKLES or Senator Kyl.

Mr. BUMPERS. And then it would come back to me?

Mr. MCCAIN. Yes, then the Senator from Arkansas.

Mr. BUMPERS. Does the Senator from Maryland wish to speak on this issue?

Mr. SARBANES. How long do we expect people to speak if we set up this procedure?

Mr. MCCAIN. I say to my friend from Maryland that usually about this time of the afternoon and evening we find there are a lot of speakers.

The PRESIDING OFFICER. The Chair notes that Senator MOYNIHAN is to be recognized at 5 o'clock.

Mr. BUMPERS. Is a certain time allotted to Senator MOYNIHAN?

Mr. MCCAIN. It is 3 minutes, I believe.

Mr. MCCAIN. Under the circumstances, I ask the Chair, how much time does Senator MOYNIHAN have? Is there a certain amount of time?

The PRESIDING OFFICER. No time was allotted.

Mr. BYRD. Mr. President, I yield 30 minutes to Mr. MOYNIHAN.

Mr. MOYNIHAN. At 5:45 is a vote to table the Byrd motion to recommit, under a previous agreement.

Mr. BYRD. So, between now and 5, there is time for several Senators.

Mr. MCCAIN. Mr. President, I yield 15 minutes to the Senator from Delaware, Senator ROTH.

Mr. NICKLES. Will the Senator yield to me briefly?

Mr. MCCAIN. Yes.

Mr. NICKLES. Mr. President, I rise today in strong support of the Line-item Veto Act. The final Senate consideration and passage of this historic legislation is the result of years of hard work on the part of many of my colleagues.

I particularly wish to congratulate Senator McCain and Senator COATS, who have dedicated so much of their time and energy to this initiative. In recent years, they have taken up this cause which was so actively pursued in the past by Senator Mattingly, Senator Evans, and Senator Quayle.

My colleagues have shown great courage over the years in continuing to bring this issue to the floor of the Senate. They did this at some political risk, yet they did not waiver. They believe in this issue, and I think they are right.

I believe the line-item veto is vitally important. Mr. President, it will save money, and right now we are spending too much and our budget process does not work very well. The line-item veto is certainly not a panacea for all our
budget problems, and it will not balance the budget. But it will help.

According to the Library of Congress, at least 10 Presidents since the Civil War have supported the line-item veto, including Presidents Grant, Hayes, Arthur, Cleveland, Truman, Eisenhower, Nixon, Ford, Reagan, and Bush. Further, 43 of 50 State Governors have some form of line-item veto authority.

At its essence, this is a debate over checks and balances. Right now, we are writing a lot of checks, and there are few balances. Congress spends the money, and the President has two options. One, he signs the bill, or two, he vetoes the bill.

Historically, the balance of spending power between the executive and legislative branches of Government has varied considerably. Prior to 1974, several Presidents impounded congressionally directed spending, and Congress had little recourse.

According to the Congressional Research Service, the first significant impoundment of funds occurred in 1803 when President Thomas Jefferson refused to spend $50,000 appropriated by Congress to provide gunboats to operate on the Mississippi River. President Grant impounded funds for harbor and river improvement projects in 1876 because they were of a local interest rather than in the national interest. President Roosevelt impounded funds during the Great Depression and World War II, and in the 1960's President Johnson withheld billions of dollars in funding for highway projects.

This conflict came to a head in the 1970’s when President Nixon impounded over $12 billion for public works housing, education, and health programs. Nixon’s action led to the enactment of the Congressional Budget and Impoundment Control Act of 1974. Under this legislation, Congress eliminated the President’s impoundment authority in exchange for establishing its own budget process.

Under the Congressional Budget Act, the balance of spending power is now significantly in Congress’ favor. The President may now propose rescissions of appropriated funds, but Congress is not obligated to consider them. The General Accounting Office reports that from 1974 to 1994, Presidents have proposed 1,084 rescissions of budget authority totaling $79.8 billion. Congress has adopted only 399, or 37 percent, of the proposed rescissions in the amount of $22.9 billion. Congress has also initiated 649 rescissions totaling $70.1 billion, but most of these rescissions have been used to offset other Federal spending.

Mr. President, I have served on the Appropriations Committee. They probably work as hard as any committee in the Senate, and they are responsible for spending a little over $500 billion, about a third of what the Government spends right now.

For the most part, they do an excellent job with the annual appropriations bills and supplemants, but I can tell you from experience that every single appropriations bill has had items in it that we do not need and we cannot afford. The line-item veto will give the President the ability to strike those items that we cannot afford. We may or may not agree, but if we disagree, we can try to override his veto.

Mr. President, I think it is important to note that this line-item veto will impact not only appropriated spending, but also new entitlement spending and limited tax relief. I know it is the outrageous growth of entitlement spending that is causing our deficit problems, so I think it is a significant step to give the office of the President more authority to control the growth of these programs.

Mr. President, again, I compliment my colleagues, particularly Senator McCain and Senator Coats, for their leadership. They have taken this issue on year after year, many times at considerable personal sacrifice. I compliment them for their courage, and I am proud of their success.

The line-item veto is a significant accomplishment for the 104th Congress, but I continue to hope that it is not the end of our work on this issue. It is with no small degree of frustration that I note that President Clinton and the Democrats killed the constitutional amendment to balance the budget, they killed the Balanced Budget Act, and they killed welfare reform.

When President Clinton campaigned on a line-item veto in 1992, he claimed that he could reduce spending by $9.8 billion during his term. I wish we could have given it to him earlier, since spending has actually increased during his term so far. Even more amazing is that right now, in some room in the Capitol building, the President’s aides are insisting on spending $8 billion more this year.

Mr. President, I hope the line-item veto is not our most significant budget accomplishment this year, but even if the President continues to block our other initiatives, this legislation will stand out as a shining example of our success.

Mr. President, today the Senate turns to the conference report on the line-item veto legislation. This legislation would provide for enhanced rescissions procedures to allow the President to cancel new items of direct or entitlement spending, appropriations, and limit the tax benefits; in sum, virtually all Government expenditures.

Mr. President, while I do support the conference report’s beliefs in the intent of the legislation, I am concerned about the way the legislation affects tax provisions. Let me first outline my views regarding the underlying conference report, and then I will turn to the troublesome language regarding taxes.

Let me be clear that I believe that the line-item veto will not solve our deficit problem. In fact, it will be used to help fund new spending. We all know, that we need every possible tool to help reduce Federal spending.

This is a very important issue that was contained in the Contract With America. The Republican-led Congress continues to keep its promises to the American people in passing legislation that will help reduce Government spending, the budget deficit, and the debt burden on our children. In the Senate’s first joint hearing with the House on the issue in January 1995, before the Governmental Affairs Committee, Dr. Alice Rivlin, Director of the Office of Management and Budget asked that the Congress provide the “strongest possible line-item veto powers” to the President. I agreed with Dr. Rivlin’s statement. Congress has acted and will now give the President a very strong version of the line-item veto powers. Both the Senate and House passed the line-item veto overwhelmingly. This week the Senate will pass the conference report. A historic moment.

Mr. President, the time has come to put an end to out of control Federal spending that has taken money from the private sector—the very sector that creates jobs and economic opportunity for all Americans.

The American people are crying out for a smaller, more efficient Government. They are concerned about the trend that for too long has put the interests of big government before the interests of our job-creating private sector. They are irritated by the double-standard that exists between how our families are required to balance their checkbooks and how Government is allowed to continue spending despite its deficit accounts.

I believe that spending restraint for our nation is one of the most important steps we can take to ensure the economic opportunities for prosperity for our children and for our children’s children.

As a nation—and as individuals—we are morally bound to pass on opportunity and security to the next generation.

The Federal behemoth must be reformed to meet the needs of all taxpayers for the 21st century. I am convinced that it is through a smaller, smarter government that we will be able to serve Americans into the next century.

The President’s recent budget proposals for next year offer clear evidence of the lack of political will to make the hard choices when it comes to cutting Government spending. His budget does not even seriously the need for spending restraint. In fact, Bill Clinton proposes spending over $1.5 trillion dollars this year and nearly $1.9 trillion dollars in 2002. In other
words, the only path that the President proposes is one that leads to higher Government spending, higher taxes, and ever-increasing burdens for our children.

Deficit spending cannot continue. We cannot longer allow waste, inefficiency, and overbearing Government to consume the potential of America's future. I am committed to spending restraint as we move to balance the budget. As I said before, the line-item veto, the authority to cancel—with specified limitations—appropriations, entitlements, and tax cuts. This cancellation authority bears closer resemblance to im punctuation than to a traditional veto.

While the legislation before us does is to allow a President to sign an appropriation, entitlement, or tax bill and then exercise a separate authority to cancel an item in those laws, such cancellation to be effective unless Congress overrules the veto over the President's veto, to negate the President's exercise of his cancellation authority.

My concern with this legislation is that I have never heard of impounding a tax cut. I have heard of impounding spending, but not a tax cut. As you know, 43 State Governors have line-item veto authority, but not a single Governor has any authority to cancel a tax cut.

It is my studied judgment that the Federal Government spends too much and taxes too much. The well being of our people would be significantly improved if both spending and taxation were diminished. Consequently, I would like to see legislation better if it allowed the President to cancel only spending items and not tax-cut items.

Fortunately, the President's authority in the tax area is narrow—evidence of the fact that the conferences understood the anomaly of impounding tax cuts. In contrast to the authority on the spending side whereby the President may cancel, first, "any dollar amount of discretionary budget authority" and (2), "any item of direct spending," the authority on tax cuts is limited. The President has the authority to cancel only items which meet the definition of a "limited tax benefit."

A "limited tax benefit" is a defined term, which covers two specific categories:

First, a revenue losing provision which provides a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries under the Internal Revenue Code of 1986 in any fiscal year for which the provision is in effect; or

Second, any Federal tax provision which provides temporary or permanent transition relief for 10 or fewer beneficiaries in an fiscal year from a change to the Internal Revenue Code.

In further contrast to the President's authority to cancel on the spending side, the legislation before us provides an authority that applies only with respect to limited tax benefits, in order to further circumscribe the President's authority. This mechanism provides that in certain circumstances Congress may reserve unto itself the sole right to identify those items in a revenue reconciliation bill or joint resolution that constitute a limited tax benefit. Such identification by Congress is controlling on the President, notwithstanding the definition of a "limited tax benefit" in the pending legislation, and is not subject to review by any court.

Historically, the Senate has enacted tax legislation either by unanimous consent, in the case of simple bills, or by agreeing to a report, in the case of more significant bills. As a practical matter, the bills adopted by unanimous consent generally deal with one subject and are not an important concern to advocates of a line-item veto authority in the tax area. Consequently, regardless of the number of items in a conference report, the President may contain a large number of tax items. It is in such context that a limited tax benefit might be found.

Consequently, whenever a revenue or reconciliation bill or joint resolution that amends the Internal Revenue Code of 1986 is in conference, the Joint Committee on Taxation is required to review the legislation and identify any provision that constitutes a limited tax benefit. If the conferences include this list of identified items in the conference report, the President can cancel a tax item only if it appears on the list. If the Joint Committee on Taxation finds that the bill contains no limited tax benefits and Congress in the conference report that no such items exist, the President is thereby foreclosed from canceling any tax item. However, if Congress does not include a statement either identifying the specific limited tax benefits or declaring that none is contained in the bill, then the President may cancel a tax item if it falls within the definition of a limited tax benefit and the exercise of the President's authority meets the requirements of the Budget and Impoundment Act, as written by this pending legislation. Similarly, the President has such authority to cancel a limited tax benefit contained in legislation that is not adopted as a conference report. However, as I said, the occasion for an exercise of such authority would be rare, indeed.

The pending legislation authorizes conferences, in the above circumstances, to include a statement regarding the provisions of limited tax benefits, notwithstanding any precedents or House or Senate rules—such as those rules relating to the proper scope of a conference—that might create a point of order against such inclusion. However, nothing in the pending legislation that authorizes the inclusion of such statements in a conference report limits either House from exercising its constitutional rulemaking authority by requiring, rather than authorizing, the inclusion of such statements.

Mr. President, I thank my colleagues for their attention, and I urge that they join me in supporting this needed legislation. I thank the Chair. I yield the floor.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas (Mr. Bumpers) is recognized.

Mr. BUMPERS. Mr. President, the distinguished Senator from West Virginia yielded me 30 minutes, and I am quite sure I will not take that amount of time. I know there are many wishing to speak. It is one of those cases that Mr. Udall described one time: "I jest about everything that needs to be said, but everybody has not said it." So I am going to add my two cents worth.

First of all, the constitutional problems with this bill are insurmountable. The people listening or watching who are interested in this legislation, nowhere in the Constitution is the word veto mentioned. Here is what the Framers said in article I of the Constitution:

Every bill which shall have passed through the House of Representatives and the Senate shall before it become a law be presented to the President of the United States. If he approve he shall sign it but if he shall not he shall return it with his objections to the House in which it shall have originated.

I have been here 21 years. I am not a constitutional scholar but a country lawyer with a great reverence for the Constitution. I have voted against more constitutional tinkering, I will vote against any Senator in the past 21 years. Unhappily, we have Members of this body who think that what Madison and Adams and Franklin did 207 years ago was simply a rough draft for us to finish. This is a classic case of casual tinkering with our Constitution, that sacred document which was put together by the greatest assemblage of minds under one roof in the history of the world.

Do you know what else it is? It is a classic political response to an admitted problem. It is a diversion and a distraction of the American people. It tells them, "Here is a simple answer to spending and deficits."

Nothing could be further from the truth. But people busy trying to make a living and keeping food in the mouths of their children do not have time to examine the complicated details of this proposal.

How did it all start? Where did this idea of a line-item veto originate? I do not know. I had not been here very long when Ronald Reagan was elected President. He had promised to balance the budget, and the first thing you know the deficit was soaring. And 8
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years later the national debt had gone from $1 trillion to $3 trillion—tripled in 8 years. I do not want to be hyper-critical of President Reagan, but I heard him say time and time again, “I can’t spend a nickel that the Congress doesn’t give me.”

What he should have been saying is “The Government cannot spend a dime unless I sign off on it.” Despite all of that rhetoric and talk about spending and deficits, from 1980 to 1992, the deficit went from $1 to $4 trillion. President Reagan vetoed an appropriations bill, and President Reagan vetoed one spending bill because it was not big enough—a Defense bill. He vetoed it because it did not have enough money in it.

President Clinton told my friends on the other side of the aisle, “You pass that reconciliation bill, and I am going to veto it.” And they passed it, and he vetoed it. He did not veto it because of the amount of money in it. He vetoed it because of its priorities. But at this very moment, conferes all over this Capitol building are meeting trying to craft a resolution about differences on spending and programs. Frankly, not making much headway.

The President wants another $3 billion in education, and that is the sticking point. Let me digress just for a moment on that point and say I saw the most interesting quote yesterday. I think it was the President of Peru who said everything should be subordinate to our children. They are just forming their brain cells, their bones, their minds, and bodies, and they do that in a short few years. His point was that if you neglect your children, you have lost a generation of what would otherwise be healthy, productive citizens.

I thought that comment was beautiful, appropriate, and absolutely true. So our President is simply saying that for everybody we allow to grow up in ignorance, we are going to pay a price for it. I do not know whether he is going to get the $3 billion or not. We may have another continuing resolution. I think we will. But my point is this. We are negotiating, and we are talking. If I were to say to my friends on the other side of the aisle, “Let us just send this bill over to the President and let him pick and choose what he wants to kick out,” I would start a riot right on the floor of the Senate. Nobody wants to do that.

I can remember when this line-item veto thing came up. I did not like it. People would say, “Well, you were a Governor, weren’t you?” “Yes, I was Governor.” “Didn’t you have a line-item veto?” “Yes, we had a line-item veto.”

And I used it occasionally. Do you know what I used it for? To get legislators in line. “Senator, you know that vo-tech school you have in your school district in this bill? That sucker is going to be gone unless you get back down there and change your vote.” That is the way I used it. That is the way a President of the United States would use it. It is a lethal weapon in the hands of the executive branch.

Today, at this very moment, the deficit has fallen from a projected $390 billion—that is what it was projected to be in 1992—to a 1995 deficit of $390 billion. It is half that amount, and it is already down close to $200 billion from that projection, during just the first 3½ months of this new fiscal year. And it was not done with a line-item veto. It was done by people who were determined to try to get the budget balanced.

Oh, this is a terrible, terrible, lousy idea. It started out as a political diversion for the benefit of a party, to say, “Oh, wouldn’t it be great if the President could just take all that pork out of there?” I have seen figures to show if the President utilized the line-item veto to its maximum, it would have about a 1 to 2 percent effect on the total budget. It is unbelievable, and it is unprecedented, for the President to be the grant of power to the President of the United States. And, yes, it is patently unconstitutional.

This morning we had a vote. Everybody here knows it was about the Utah wilderness bill. Even the people of Utah, apparently, did not think much of that bill. It is very controversial. But the bill tracked almost exactly what President Bush recommended to the President.

Now, if President Bush were sitting in the White House right now and we were voting on cloture, as we did this morning, and the advocates of the Utah wilderness bill needed the nine votes that they did not get this morning, they could go to the White House and the President could call three Republicans and maybe six Democrats and say, “I have been looking at this bill over here. You know that little old research center you have down in your State? It is not out of mind for you to get that, you and I could sit down. We could talk this over. Maybe you could see my way on the Utah wilderness bill and perhaps I could see your way on that little research center you have in your State.”

It is not unheard of. I just got through confessing to you that is what I did when I was Governor. I have fought against 12 aircraft carriers; I thought 10 was adequate. I fought against bringing those old moth-eaten battleships out of mothballs at a cost of about $2 billion. Now they are back in mothballs. I fought and have continued to fight against the space station, which will go down in history as the most outrageous waste of money in the history of the U.S. Government. We finally killed the space station. On every one of those things, the President was on the other side. And we build a multiple launch rocket in Cam-den, AR. Are you beginning to get the picture? The President might say, “Well, now, Senator, they tell me you are hot against the space station. I am not for it. And the Defense Department told me they were thinking about moving the manufacturing of the multiple launch rockets to someplace in Alabama.” Do you think that does not get my attention, 750 jobs?

When James Madison and his colleagues in Philadelphia in 1787 were crafting that document that has given this country the oldest democracy in the history of the world, they said the power of the purse will be vested in Congress. They did not say “unless the President decides to tinker with the figures.” They said, “The Congress shall pass appropriation measures.” Do you know what they gave us in exchange for that? They said, “You can spend the money, but you also have to raise it.” That was supposed to be a nice balance. You have to tax the people. That is not popular. You have to raise the money with taxation before you can spend it, but we are going to give you the power of the purse.

What are we doing? We are saying, “Well, Madison, you didn’t know what you were doing. You made a colossal mistake when you crafted our Constitution, so we are going to correct it. We are going to give the President all the powers you gave him in the Constitution, and we are going to take some away from Congress and say you not only have all the executive powers, being Commander in Chief and all those things, we are now going to give you the power of the purse.”

Colleagues, do not, 2 years from now, 3 years from now, come on this floor and start crying about this mistake we are about to make. Oh, I know it is popular. You walk in any diner in America and ask, “Do you favor the line-item veto?” “Yes, I do.” “Do you favor prayer in school?” You bet. “Do you favor flag burning?” You bet. All those things that have a great emotional impact on people, until they have heard, as Paul Harvey says, “the rest of the story.”

We are saying, “Mr. President, stop us before we spend again. We are out of control, and only you can bring us under control.”

This is not such a good idea for the President, either. Everybody knows President Clinton and I have served our beloved State of Arkansas together for many, many years. He is my friend. But he is for this. I am sick that I did not get a chance to dissuade him before he said that publicly. But he says he is for a line-item veto, and that is a mild disappointment to me.

But, you know, Mr. President, if he put a stop to some projects that are the wrong projects and decides to send them back over here and require us, ultimately, to have a two-thirds vote in both Houses in order to pass, he may
BOB DOLE will be President January 1, could not even get conferees appointed. Passed it. How long did it take after put in the contract: line-item veto. Not thing, too. What was it about? Take all fairness 19 Democrats voted for this ed a line-item veto so desperately—in comes to the line-item veto, they want—would be defeated soundly. And when it have a roll call on term limits. It not worth the cost of electricity to just long enough, and the Republicans get it up for a vote.

We kept people's attention diverted just long enough, and the Republicans took control of Congress, and now it is not worth the cost of electricity to have a roll call on term limits. It would be defeated soundly. And when it comes to the line-item veto they would have been better off not to ever be put into the bill. Virtually every Member of this body on the other side of the aisle thought it was wonderful until they got control of Congress, and now you cannot even get it up for a vote.

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Mr. President, this struggle will continue. And I will be willing in the future to work with colleagues on both sides of the aisle, as I have in the past, to develop a responsible, workable, constitutional, and bipartisan legislative proposal that that day were, but with the Presidential races in full swing, I fear once again that politics, not policy, is the driving force behind today's controversy.

Mr. BIDEN. Mr. President, I have for many years now supported a line-item veto that can help to wipe out wasteful special-interest spending items that are added to our appropriations bills.

But I have also cosponsored and supported line-item veto authority for the President that includes the authority to cut special-interest tax breaks, that lose money from the Treasury as surely as any spending program. In many ways they weaken our control over the deficit more than annual spending bills.

Because tax breaks characteristically last for years with little or no review, they can cause more damage than any single item in 1 year's appropriations bills.

The line-item veto we passed out of the Senate last year, the separate enrollment version that I have consistently supported for over a decade, included clear and strong language that put special-interest tax breaks under the same veto power as any pork-barrel spending project.

Unfortunately, the version that came out of conference with the House has so diluted that provision that it may well apply to veterans.

That is why I will vote for Senator Byrd's proposal, that restores the clear authority to cut tax breaks as well as special-interest spending.

Mr. DOMENICI addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 86 minutes. The Senator from West Virginia has 4 hours 9 minutes.

Mr. DOMENICI. At this moment, do I understand there is 5 minutes before Senator Moynihan's time?

The PRESIDING OFFICER. That is correct.

Mr. DOMENICI. I yield myself 5 minutes.

Mr. President, before we finally vote to table Senator Byrd's motion, there will be another 15 minutes on our side for discussion and some kind of rejoinder. But I just want to have a 5-minute discussion with the Senators about this issue of the shift in power that Congress is left with no power to respond to a President's use of this item veto authority.

So if, indeed, Mr. President, any President of the United States chooses to make a mockery of the Senate or the House by arbitrarily exercising this veto, let me suggest the Senate has to confirm his Cabinet. The Senate has to confirm his appointees, and there are a host of others in the United States need legislation. They work to get elected, and they send us their proposals. Their proposals are their policies and they need to pass Congress to become law.

Mr. President, I suggest that any President who would choose to act capriciously and arbitrarily in this line-item veto exercise will do so at his own risk. We are really trying out this item veto—it is an experiment in seeing if we can do a better job of spending the taxpayers' money. I believe Presidents who will arbitrarily and capriciously use that tool take unto themselves the opportunity that will certainly find that Congress will have a chance to respond arbitrarily too.

I am not threatening this, and I am not suggesting a tit-for-tat sort of situation. But the truth of the matter is, there is some serious balance of this power that remains vested in the Congress of the United States. Indeed, speaking for our institution, the U.S. Senate, this institution, there are plenty of things Presidents need the U.S. Senate to do so they can do their executive work well.

After all, the President is the Executive. He needs Congress to help him so he can use his Executive powers. If he chooses to use them arbitrarily with reference to the line-item veto, then, obviously, he might find an uncooperative Senate, he might find an uncooperative Congress. I do not think that is ever going to occur, but I thought it might be good for the record just to explore that we have not given away all our power. We have not given away all our ability to say, no, to Presidents of the United States on a myriad of things that the President needs for his Executive power.

Now, why do I say it that way? Because the contention is that he is taking away some of our prerogatives as legislators in the appropriating process, and if he chooses to do that arbitrarily, then he is, obviously, weakening our power.

I am suggesting we are not without recourse. I think there is going to be a give and take for a few years, but we are not also accepting this concept in perpetuity. We are giving the Executive the line-item veto for 8 years, two full Presidential terms. Then we will have to pass it again or change it.

But, indeed, that event of taking another look to see if it is being used properly or if we should further define things is not left solely within the discretion of Presidents, because this line-item veto sunsets in 8 years and we will have something to say about the continuation of it.

The arguments about constitutionalism, the arguments about balance of
power are serious. I commend the number of Senators for raising these serious issues in very delicate and sincere ways and I commend them for their concern. Most of all, I commend Senator BYRD for his dedicated explanation and his conciseness. He wrote a whole book about the Roman senate versus losing its power and compared it in many ways to what he perceives might happen in this regard. I was privileged to get one of those books. I do not always read books that are given to me, but I read that book. In fact, I told the Senator I had and I thought it was exciting.

He reminded me the successor to Rome was Italy. He reminded me I might even be a descendant of one of those people he wrote about.

Nonetheless, I thought that we ought to get this short 5-minute argument in response, just for our perspective in terms of why we are not fearful, why we do this with open eyes and open minds. I think that it will help the American people get better Government at less cost. I yield the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I would like to begin by joining the chairman of the Budget Committee in expressing my profound gratitude and admiration to the revered, sometime President pro tempore of the Senate, Robert Byrd, who has set us a standard which if we fail to meet today, will remain to measure those who come after us.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York, whose obituate veracity we all admire. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I rise in the serene confidence that this measure is constitutionally doomed. That speaks to the stability of the American federal system, a stability sustained in so many moments of peril by the American judiciary.

By contrast, I find myself once again agitated that a measure of such enormity—I use that word in both of its meanings—comes to us for so frivolous a reason. We are told by the committee of conference that the purpose of the conference report, which is to say the bill, is to promote savings. We are further informed that this is necessary because—Congress, I might note, has considered the fiscal resources. Fifteen days into his Presidency, February 5, 1981, President Reagan declared in a television address, “There are always those who told us that taxes can’t be cut until spending was reduced. Well, you know, we had to do it. He has cut extravagance until we run out of voice and breath or we can cut their extravagance by simply reducing their allowance.”

“Starve the beast” was the phrase. A huge increase in debt was the result. But at least until now we have not set out to mangle the Constitution to make up for the honest mistakes of one administration.

The separate enrollment bill passed by the Senate last March would have required appropriations bills to be disassembled by the enrolling clerks after passage and presented to the President, one by one, for his signature. During that debate I spoke at some length about the constitutional and practical defects. The legislation before us is somewhat less convoluted. But its effect on the separation of powers between legislative and executive branches would be just as profoundly destabilizing.

I will describe at this point what has been described as the methods, the procedure for cancellation. Once such a cancellation is made, it would ultimately require a two-thirds vote of the Congress to override. The legislation would have us depart dramatically from the procedures set forth in the plain language of the presentment clause in article I, section 7.

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it.

There is nothing ambiguous about this provision. The Supreme Court declared in INS versus Chadha in 1983 that—I quote the Court:

It emerges clearly that the prescription for legislative action in section 7, represents the Framers’ decision—that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered procedure.

In Chadha the court held unconstitutional a statute that permitted either House of Congress by resolution to invalidate decisions of the Executive branch. The alien could be deported. This so-called legislative veto, according to the Court, impermissibly departed from the explicit procedures set forth in article I, which the court said were “integral parts of the constitutional design for the separation of powers.”

And 3 years later, in Bowsher versus Synar, the Supreme Court was equally scrupulous in requiring strict adherence to the procedures set forth in article I. In Bowsher the court invalidated the provisions of the Gramm–Rudman–Hollings Deficit Control Act, giving the Comptroller General of the United States authority to execute spending reductions under the act. The Court held that this violated the separation of powers because it vested an executive branch function in the Comptroller General, who is a legislative branch official. “Underlying both decisions,” the court wrote, “was the premise . . . that the powers delegated to the three branches are functionally identifiable, distinct, and definable.”

There is no ambiguity about the meaning of the requirements of article I, section 7, nor is there uncertainty about why the framers vested the power of the purse in Congress. Madison in Federalist No. 58:

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

Until the Supreme Court considers this bill—and it surely will—we will not have a definitive constitutional determination. But some of the Nation’s leading constitutional scholars have already concluded that this legislation would be constitutionally doomed.

Michael J. Gerhardt, a sometime professor of law at Cornell University, and now professor of law at the College of William and Mary, has written to Congress that “Congress lacks the authority to strike down the courts when they reach the Constitution.

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In his treatise, “American Constitutional Law,” Laurence H. Tribe of the Harvard Law School writes that—

[...](empowering the President to veto appropriations bills line by line would profoundly alter the Constitution’s balance of power. The President would be free not only to nullify new congressional spending initiatives and priorities, but to wipe out previously enacted programs that receive their funding through the annual appropriations process.)

Professor Tribe goes on to say:

Congress, which the Constitution makes the master of the public purse, would be demoted to the role of giving fiscal advice that the President would be free not to heed. The Framers granted the President no such special veto over appropriations bills, despite
their awareness that the insistence of colonial assemblies that their spending bills could not be amended once they passed the lower house had greatly enhanced the growth of legislative power.

Yesterday, we asked Professor Tribe for his opinion on the legislation before the Senate today. He graciously telephoned our office this morning to say that after studying the conference report, he has concluded as follows. This is Laurence H. Tribe this morning:

This is a direct attempt to circumvent the constitutional prohibition against legislative vetoes, and its delegation of power to the President to make major legislation agreeable and effective. Supposing a member with the constitutional considerations briefly stated.

Now there is an additional subject that is of particular interest to me as ranking member and sometime chairman of the Committee on Finance, I direct the attention of the Senate to the provision of section 1021A(3) of this legislation dealing with the line-item veto. This new language appears to be a response to the argument, raised in the debate last year, that spending and tax benefits should be treated equally under a line-item veto.

The provision purports to subject tax benefits to the same treatment under the line-item veto as other spending, yet the bill’s application to limited tax benefits would have very little real effect, save, as I believe, pernicious ones. Under the proposal, a limited tax benefit is defined as any tax provision identified by the Joint Committee on Taxation as, (first), a revenue-losing provision; (second), having 100 or fewer beneficiaries in any fiscal year; and (third), not within a number of very broad exceptions designed to exempt from the line-item veto any tax provision under which “all similarly situated persons receive the same treatment.” Any transition rule that the Joint Committee on Taxation identifies as a tax benefit may be amended by the President to make general the definition of a limited tax benefit.

This definition is so narrowly drawn that it will be almost effortlessly circumvented, for it is surely simple enough to generate a version of the Finance Committee for 20 years, let me assure you, there is no problem expanding the number of beneficiaries from 10 to 100. It is very readily done and perhaps too often so.

To the extent that the drafters are unwilling or unable to manipulate this numerical standard, one of the “similarly situated” exceptions often will be available to avoid the limited tax benefit designation. By way of an example, the conference report states that a provision that benefits only automobile manufacturers would not be treated as a limited tax benefit because “the benefit is available to anyone who chooses to engage in the activity.” Thus, a provision that benefits only Ford Motor Co. but is drafted in a manner potentially open to General Motors and Chrysler would apparently escape the line-item veto.

The tax-writing committees often and properly find that tax relief may be justified in narrow circumstances. Such narrow relief is and ought to be granted sparingly, yet these features of the bill create a perverse incentive to craft broader tax benefits than necessary in order to avoid application of the line-item veto. This is surely counterproductive.

Second, while seemingly objective on its face, the definition includes several elements that are so ambiguous, raising a number of questions. For example, what does it mean to be “similarly situated?” Can a provision be drafted to benefit all baseball team owners to the exclusion of other sport franchises? Who are the beneficiaries of a particular provision? Would the football coaches pension provision—and, yes, there was one, in the vetoed Balanced Budget Act of 1995—be deemed to benefit only the coaches or the school itself? More than 100 coach participants? I could go on longer than the Senate would be interested or perhaps even edified to hear.

There is a final point, sir. By vesting in the Joint Committee on Taxation the exclusive authority—not subject to judicial review, not subject to debate on the Senate floor—the exclusive authority to make these determinations, this legislation would effectively grant unto the chairmen of the Ways and Means Committee the exclusive authority—respect for the kind of compromise the Framers anticipated. The Framers said they did not create a system of government which presumed virtue. They took interest as a given and virtue as something to be acquired. And the off-setting provision, as Madison was so apt to do, to make up for the defect of better motives. We made all manner of compromises in that legislation, and we would not have our deficit down to 2 percent of GDP today had we not.

For example, the business meal tax deduction was reduced from 80 to 50 percent. That was something a chairman from New York could offer and say, “Here, I am willing to do this.” The restaurant owners said, “What about us?” They said if we are going to give it for the FICA tax they are required to pay on their employees’ tips. Well, it was a compromise. I could go on and on about that. Gasoline and diesel fuels were raised 4.3 cents per gallon. Oh, Mr. President, do I remember that 0.3 cents—1 week in a room on the third floor without windows of this Capitol. But we got that. How? Airlines were given a 2-year exemption from the increased tax. We also took away tax benefits previously accorded exporters of raw timber.

Mr. President, these compromises make major legislation agreeable and effective. Supposing a member with
which a chairman worked were asked to make a concession in return for an accommodation; supposing that member had to think: The minute this bill becomes law, that chairman will go to that President and say, "Take out that provision that was made for the Senator from Louisiana because I have only done to get your bill by, Mr. President." You will not have that which makes legislation possible. You will not have that spirit of trust, which performance reinforces and creates the stability of our institutions. For there is no trust, there will be no compromise, and if there is no compromise, there will be no Government—no stable Government.

I sometimes think of this simple fact. Mr. President, there are seven nations on Earth that both existed in 1914 and have not had their form of government changed by violence since 1914. There are two since 1800, and we are one of them. We are one of the seven and we are one of the two. That confidence did not come easily, nor should it be assumed given. That stability rests on the rock bed of the Constitution, and we do a very poor service to that stability when we begin to dynamite away parts of that rock bed.

I will close with simply one statement, which we are all required on our oaths to observe. The Judicial Conference of the United States has written to us to say: Do not do this. We are the least harmless branch—again, remember Madison—and we cannot make you do it. I will quote them:

The line-item veto authority poses a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against the judges by vetoing items in judicial appropriation bills. This is a profound responsibility which—in the end, we will turn to the courts to see sustained. I believe this is a serious concern. I hope that it will be attended to. Mr. President, I thank the Senate for its careful, courteous attention. I thank Senator Domenici. I thank, with special gratitude, Senator Byrd.

I will also, finally, ask unanimous consent that the letter from Prof. Michael Gerhardt, along with two letters from the Judicial Conference of the United States, be printed in the Record at this point.

There being no objection, the letters were ordered to be printed in the Record, as follows:

College of William & Mary School of Law, Williamsburg, VA, March 27, 1996. Hon. Daniel Patrick Moynihan, U.S. Senate, Washington, DC. Dear Senator Moynihan: I appreciate the chance to share with you my opinion on the constitutionality of the Line Item Veto Act of 1996, as set forth in the Conference Report, dated March 25, 1996 (hereinafter "the Republican draft" or "the Conference Report"). In this letter, I focus only on a few of the more serious problems with the Republican Draft and do not purport to analyze everything.

The Conference Report would enable the President to make affirmative legislative choices that the framers definitely wanted to preclude him from making. The framers deliberately chose to place the powers of the purse outside of the executive branch because they feared the consequences of centralizing the powers of the purse and the sword. As James Madison wrote in the Federalist No. 58, "The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is but not to rewrite whatever a majority of Congress has sent to him as a bill.

The wisdom of leaving the power of the purse in Congress, as the framers desired as a means of checking the executive, is but not to rewrite whatever a majority of Congress has sent to him as a bill. You do it. I will quote them: "The President may veto the disapproval bill, which can then become law only if two-thirds of each chamber of Congress agree to override his veto."

In my opinion, there are three fatal constitutional problems with the procedures outlined above. First, the law effectively allows any portion of a bill enacted by Congress that the President signs into law but that he later disapproves, in some of the fact that Congress will have never voted on it as such. This kind of lawmaking by the President clearly violates Article I, section 7, which grants to Congress alone the discretion to package bills as it sees fit.

Article I states further that the President's veto power applies to "every Bill... Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives is necessary..." This means that the President may wield his veto on the legislative product only, as Harvard Law Professor Laurence Tribe maintains in his treatise, "in the form in which Congress enacted it."" The first constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of constitutional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine.

The second constitutional defect with the Conference Report's basic procedures involves the legitimacy of the cancelling authority given to the President. Proponents of this cancellation power defend it as a legitimate delegation of constitutional authority to the President; however, this argument rests on a misunderstanding of the relevant constitutional doctrine. This misunderstanding is reflected in the CRS Report, which claims erroneously that "while the Supreme Court has held in some separation of powers cases, it has never chosen to do so in delegation cases." The latter assertion is simply wrong. Furthermore, the Supreme Court issued two lines of cases on congressional delegations. The first, which is not implicated by the Conference Report, involves delegations from Congress to administrative agencies or inferior bodies. The second line of cases involves delegation to Congress. The Court said, in fact, that the Constitution required the President to strike down the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I, thereby transforming the Congress into an unelected legislative body with power to control executive budgetary functions... The Court has not used a balancing test; rather, the Court has used a "formalist" approach to separation of powers under which the Court sets distinct powers and sets forth the criteria for determining whether a particular delegation is constitutional. The Court has not used a balancing test; rather, the Court has used a "formalist" approach to separation of powers under which the Court sets distinct powers and sets forth the criteria for determining whether a particular delegation is constitutional.

The Republican Draft clearly violates, however, the second, formalist Court decision on congressional delegations. These cases involve delegations from Congress to the titular head of a branch, such as of its chambers or the President. In some cases, the Court has not used a balancing test; rather, the Court has used a "formalist" approach to treat the Constitution as granting to each branch distinct powers and setting forth the maximum degree to which the branches may share those powers. A formalist approach to separation of powers treats the Congress's constitutional intent of it drafters as controlling and changing circumstances and broader policy outcomes as irrelevant to constitutional outcomes. In the event, the Court has used the framers' intent to strike down the legislative veto in Chadha because it would have allowed one House to take legislative action without complying with the procedures set forth in Article I, thereby transforming the Congress into an unelected legislative body with power to control executive budgetary functions... The Court has not used a balancing test; rather, the Court has used a "formalist" approach to separation of powers under which the Court sets distinct powers and sets forth the criteria for determining whether a particular delegation is constitutional.
of Review partially composed of members of Congress with executive veto-like power over the decisions of the directors of the Metropolitan Washington Airports Authority. Unquestionably, the Court would favor a formalist approach in striking down the Republican draft. For one thing, the Court would not be applying the doctrine of separation of powers as enunciated in Bowsher v. Synar to the proposed law. Whereas the crucial problem in Bowsher was Congress' attempt to authorize the exercise of certain executive functions by an independent agency--the Comptroller General, here the problem is that the President would plainly be exercising what everyone agrees is legislative discretion: the determination of the particular configuration of a bill that will become law. Even the law's proponents admit it allows the President to exercise a power of the utmost importance in their view delegated to him by Congress.

Formalist analysis would be inappropriate in evaluating such a delegation's constitutionality because it would be the kind encountered in which the framers were most concerned: the checks and balances set forth in the Constitution deal directly with how the titu lar heads of each branch should interrelate. Hence, the Court has opted for a formalist approach to deal with delegations between the branches, their respective powers. It would preclude one branch from arrogating itself at the expense of another. The Conference Report would clearly undermine the balance of power among the respective branches at the expense of one because it would eliminate Congress' primary role in the budget area and would unravel the framers' judgment to restrict the President's role in the lawmaking process to a qualified negative rather than to have him exercise an affirmative power to rework or reconfigure a bill. Even if the Court used a functionalist approach to evaluate the constitutionality of the Republican draft, it would strike down the proposed law. The reason is that the law establishes an uneven playing field for the President and Congress on budgetary matters. In so doing, it profoundly alters the balance of power set forth in the Constitution. As Professor Tribe recognizes further in his treatise, such a scheme would "enable the President to nullify new congressional spending initiatives and priorities as well as to veto portions of bills that receive their funding through the annual appropriations process. Congress, which, the Constitution establishes as the public's democratic voice in the lawmaking process, would be relegated to the role of giving fiscal advice that the President would be effectively free to disregard."

Once again, Tribe's subsequent change of position does not undermine the soundness of his initial reasoning, for the historical record is clear: the framers, as Tribe has recognized himself, did not in fact grant to the President any "special veto power over appropriation bills," despite their awareness that the structure of colonial assemblies that they could not be amended once they had passed the lower house had greatly enhanced the growth of legislative power.

An example should illustrate the problematic features of the proposed cancellation mechanism. Suppose that 55% of Congress passes a law, including expenditures for a new airports hub for a proposed airport in New York. The President decides he would prefer for Congress not to spend any federal money on this project, so after signing the bill into law, he exercises his authority to cancel the allocations made for the new facility. Again 55% of the Congress agrees to make this expenditure but this time through the procedure an appropriations rider. Thus, the President vetoes the latter, and Congress fails to override his veto, with only 55% of Congress (yet again) voting for the appropriation. The net effect is that the President would get to refuse to spend money 55% of the Congress will have thrice said it wanted to spend. Moreover, Congress would require the President to vote as many as three separate times to fund something while assuming in the process an increasingly defensive posture vis-a-vis the President. In other words, the Republican draft allows the President to force Congress to go through two majority voting thresholds of which is much more difficult to attain than the other. It would have to be in favor of a specific expenditure that is now severed from the other items of the comprehensive spending bill to be passed in the first place--and one supermajority vote in order to put into law a particular expenditure.

A third constitutional problem with the Conference Report involves the constraints it tries to place on the President's cancella tion authority. The latter is for all intents and purposes a veto. It has the effect of a veto because it forces Congress in the midst of the lawmaking process into repassing something as a bill that ultimately must carry a supermajority of each chamber in order to become law. Nevertheless, the Conference Report attempts to constrain the President's role in the lawmaking process by empowering him to reconfigure what Congress has passed as a bill into some other form prior to its becoming a law. Congress lacks the authority to restrict presidential authority by limiting the grounds a president may consider as appropriate for vetoing something. Even apart from whatever constitutional problems the Conference Report may have, it poses two serious practical problems. First, the possibility for substantial judicial review of presidential or congressional compliance with the Republican draft is quite high. For example, it seems likely that lawsuits could be brought challenging whether the President has appropriately considered, as the act directs, such things as "the legislative history" or "any specific sources of information referenced in such law or, in the absence of specific references, the best available information" or "the specific definitions contained" within it. At the very least, a judgment by the Court that Congress has made showing that he has done these things to the satisfaction of members of Congress (or at least those disposed to bring a lawsuit in the absence of such a showing.) There are also numerous procedures OMB and each house of Congress must follow that, presumably, could become the basis for judicial scrutiny of the President to the satisfaction of partisan foes in the other branch. In addition, there may be some questions as whether the President has in fact complied with the Republican draft's understanding of the kinds of items he may cancel, such as a "targeted tax benef it.

The likely prospect of substantial judicial interference with the budgetary process is unsettling. The framers deliberately excluded the unselected federal judiciary from exercising any role within budgetary negotiations or deliberations. The Republican draft does not ensure that this exclusion will always be honored. The framers wanted all of the key decisionmakers within the budget negotiations to be politically accountable; any budgetary impasse between the President and Congress that the federal courts cannot resolve or the latter will simply dimish even further the public's confidence that the political process is the place to turn for answers to such deadlocks.

Another practical difficulty is with the authorization made by the Republican law to the Joint Committee on Taxation to render an official opinion, which may become a part of a budgetary or appropriations measure, on the "constitutional question, it forces those members of Congress who disagree with the Joint Committee to express their disagreement only by voting down rather than by the ability to amend a bill that they otherwise would support.

In summary, I believe that the Republican draft conflicts with the plain language, structure, and traditional understanding of the lawmaking process set forth in Article I; relevant Supreme Court doctrine; and the delicate balance of power between Congress and the President on budget matters. I am confident that the Supreme Court ultimately would strike the bill down if it were passed into law and signed into law by the President. It has been a privilege for me to share my opinions about the Constitution with you. If you have any other questions or need any further analysis, please do not hesitate to let me know.

Very truly yours,

Michael J. Gerhardt
Professor of Law.

FOOTNOTES

1 U.S. Const. art. I, section 7, cl. 2, 3.
2 Laurence Tribe, American Constitutional Law 265 (2d ed. 1988).
4 The Federalist No. 58 at 330 (J. Madison) (M. Belof ed. 1987).
5 Congressional Research Service, Memorandum Regarding Constitutional Questions Respecting Bill to Grant President Enhanced Recision Authority over Appropriations and Targeted Tax Benefits, at 16 (January 1996).
8 476 U.S. 714 (1986).
10 Tribe, supra note 2, at 267 (footnotes omitted).
11 Id. at 267 (citing Note, Is a Presidential Item Veto Constitutional? 96 Yale L.J. 831-844 (1987)).
Protection of the Judiciary by Congress

DEAR SENATOR HATCH: On behalf of the Judicial Conference of the United States, I am pleased to respond to your request for the masterful presentation made by Mr. MOYNIHAN, Mr. President, I believe I have two moments. I yield them to whichever Senator wishes to use them. I thank the Chair.

Mr. DOMENICI, Mr. President, I suggest that The PRESIDING OFFICER. The clerk will call the roll. The assistant legislative clerk procured to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I note that the minority leader is on the floor. I understand that for S.45, and we have 15 minutes. Is that the parliamentary situation? The PRESIDING OFFICER. Yes. Mr. DOMENICI. Does the Senator desire to use his leader time? Mr. DASCHLE. That is fine. Mr. DOMENICI. Can we do it even though time is set? Mr. DASCHLE. We can do that. Mr. DOMENICI. Mr. President, I ask unanimous consent that the distinguished minority leader be permitted to speak for 10 minutes, after which I will yield 15 minutes that I have follow, and after that we proceed to a vote on or in relation to the Byrd amendment. The PRESIDING OFFICER. Is there objection? Mr. STEVENS. Reserving the right to object.

Mr. DASCHLE. Mr. President, I would be more than happy to keep my remarks to fewer than 5 minutes. So perhaps if it would work, we can still try to keep the time. I know a lot of people are scheduling their time for another 5-minute break. I yield up to 5 minutes of my 15 minutes to the distinguished minority leader so we keep the time as agreed.

Mr. DASCHLE. Mr. President, thank the manager of the bill. Mr. President, let me begin by acknowledging the masterful presentation made by the distinguished Senator from West Virginia. No one knows this issue better than he does. No one has studied constitutional law more carefully than he has. He has raised issues today of constitutionality and the balance of power with a clarity of vision and a depth of knowledge that every Senator ought to carefully consider.

His motion certainly would lead to a more thoughtful approach, in my view. The Byrd motion is one that should be supported by all Members of the Senate, and it instructs the President to report a bill similar to S. 14, a bipartisan bill that was debated very carefully on the Senate floor a little over one year ago. It was sponsored by Senators DOMENICI and EXON and cosponsored by the majority leader, and wanted out of the Appropriations Committee and the Governmental Affairs Committee. It does what the distinguished ranking member of the Appropriations Committee has indicated it would do—maintain the proper relationship between the role of Congress as well as the responsibilities of the President. I believe it has three major advantages, and I want to touch very briefly on each of these advantages.

This plan provides an equal opportunity for the President to examine tax expenditures as well as appropriations measures. The Republican plan, constituted in the conference report, does not allow the President to review the special-interest tax breaks that are all too often considered in the Senate. It applies only to those that benefit fewer than 100 taxpayers. Frankly, there are not many provisions that apply to 100 or fewer taxpayers. The Joint Tax Committee determines which breaks can be canceled. I believe that in many cases that alone ought to give us pause. Under S. 14, the President has the opportunity to more broadly apply the powers to examine all expenditures in a more careful way, not only on appropriations bills but also with regard to tax expenditures.

Second, we protect majority rule, which is a central principle of democracy. S. 14 requires a congressional majority to approve the cuts proposed by the President. Under the Byrd amendment, not only on appropriations bills but also with regard to tax expenditures.

Second, we protect majority rule, which is a central principle of democracy. S. 14 requires a congressional majority to approve the cuts proposed by the President. Under the Byrd amendment, the President can prevail with the support of only one-third of either House of Congress. So, clearly, we abrogate the concept of majority rule. We certainly would not permit a minority to hold a majority hostage in cases like this.

Clearly, S. 14 is constitutional, as the distinguished ranking member and former chairman of the Appropriations Committee has so eloquently described in his remarks, and a court could not strike it down. The Byrd amendment does what the President has indicated it would do—maintain the proper relationship between the role of Congress as well as the responsibilities of the President.

I believe it has three major advantages, and I want to touch very briefly on each of these advantages. This plan provides an equal opportunity for the President to examine tax expenditures as well as appropriations measures. The Republican plan, constituted in the conference report, does not allow the President to review the special-interest tax breaks that are all too often considered in the Senate. It applies only to those that benefit fewer than 100 taxpayers. Frankly, there are not many provisions that apply to 100 or fewer taxpayers. The Joint Tax Committee determines which breaks can be canceled. I believe that in many cases that alone ought to give us pause. Under S. 14, the President has the opportunity to more broadly apply the powers to examine all expenditures in a more careful way, not only on appropriations bills but also with regard to tax expenditures.

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opportunity to apply that scrutiny both to tax expenditures as well as appropriated spending. It allows us to retain majority rule and preserves the balance of power. It avoids constitutional questions that will certainly be raised as soon as this legislation would be enacted, and it is effective immediately.

We do not have to wait for the end of this year. We do not have to assume that we have to wait until the next term to act. We do not have to allow the power to be utilized. It allows him to do it now. We can look between now and the end of the year at the ways in which this might be utilized. This will allow us more opportunity to examine whether or not this approach is an appropriate way with which to assure additional scrutiny of spending and tax breaks in the future.

So I applaud the work of the Senator from West Virginia and others who have brought us this opportunity. I think it is important. It is critical that we carefully consider the constitutional questions that the distinguished Senator from West Virginia has raised. I hope we here on the Senate floor will support this motion to recommit.

I yield the floor.

Mr. DOMENICI. Mr. President, with the minority leader on the floor, I wonder if it might be in order for me to ask unanimous consent that the yeas and nays be ordered on the Domenici motion to table the underlying amendment. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield 5 minutes of my time to Senator Stevens.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. President, I call the attention of the Senate to the very basic provision in this bill. It says in section 102(a), "Notwithstanding the provisions of part A and B, and subject to this part, the President may, with respect to any bill or joint resolution that has been signed into law pursuant to article I, section 7, of the Constitution of the United States * * *" take the action under this bill.

What we in fact under this bill are doing is giving the President the authority, in effect, to impound moneys that we have given him authority to spend. And we have the right to take that notification of any cancellation that he sends to us and send him, in effect, a bill, telling us to go ahead and spend those moneys. He may veto that second bill if he wants. But in the first instance, we are not giving the President any authority to change the law. We are telling him he can cancel for this reason or for that reason. This cancellation would reduce the Federal budget deficit, not impair essential Government functions, and not harm the national interest.

The issue here is whether the Congress has the right to delegate to the President the authority not to spend money. This is not a violation of separation of powers or a violation of the presentation clause of the Constitution. We have given the President, under the bill, under specific circumstances that he has the authority to cancel—that is, to not spend—certain moneys Congress otherwise would have directed the President to spend.

I want to make sure people understand this. The President will be given a bill and the President may sign, reject, or let it take effect without his signature under article I, section 7, of the Constitution. If, and only if, the President signs the bill into law, then under this bill the President is given the delegated authority from Congress not to spend certain portions of the money that he cancels according to the provisions of the bill.

I have heard the concept of many of the Senators, but I want to make sure that we all understand that this is no different from giving the President the discretion not to enforce a particular law under certain circumstances or to decide, when based on specific criteria, to impose or to lift an import duty. We have done that before. This conference report has no Chadha problems, based on the Supreme Court decision in the Chadha case. Congress is not going to be given the power to legislatively overturn a Presidential decision with regard to a veto or implementation of a law.

We have the power to take action for the second time after the President uses his authority under this bill to impound or cancel moneys and, in effect, put them into the track where they will reduce the deficit. We can pass a second bill. The President would veto that. He has no authority under this bill to deal with that second proposal. If we pass such a bill and direct the President to spend money he otherwise would not, this gives the President the authority to override his veto; in effect, to mandate him to spend the money as we have said to do so on two occasions.

But I urge Senators not to refer to this as some action to give the President the authority to change a bill before it becomes law or to change in any way legislation that does not affect dollars. He only has the authority to, in effect, cancel the spending of dollars under limited circumstances that, while the circumstances are clearly limited, the scope of the authority is very broad.

Mr. DOMENICI. Mr. President, first, let me add to my brief commitment a while ago about Presidents who might abuse this power because a lot has been said about how this might change the balance of power.

I remind every Senator that there is nothing in the bill, limited circumstances that we have to appropriate money that the President asks us for. You see, if a President decides to be totally arbitrary about this, the Congress of the United States does not have to appropriate money for things the President wants. That is our balance. There can be no money spent unless we appropriate it.

So, in addition to all of the other things the President needs of a Congress and a Senate under the Constitution, those are all our powers that he needs to help him do his job.

In addition, he needs dollars to run the Government of which he is the Chief Executive, and we have to appropriate those dollars.

I am not worried about the balance of power because, obviously, Congress will fix expedited approach. Senator's power if this gets into an arbitrary match of power, and I believe it is going to be used to the betterment of our country, our people, and the taxpayers.

With reference to the motion we are going to vote on, let me be very brief and very forthright. The amendments Senator Byrd has offered and that I am going to move to table shortly will return the line-item veto to conference. It took us six months to reach a compromise on the line-item veto. To send it back with instructions is to kill it because what is purported to be instructed cannot pass the Senate and cannot pass the House.

This motion calls us to cast aside the compromise embodied in this conference report. It calls on the conferees to adopt an expedited recissions approach instead. Both Houses rejected the expedited approach last year. During the Senate's consideration of the line-item veto, we voted 62 to 38 to table the expedited approach which the distinguished Senator from West Virginia, Mr. Byrd, is asking us to instruct the conference committee to do. We are going to move to table the expedited approach instead. Both Houses rejected this approach last year.

But I urge Senators not to refer to this as some action to give the President the authority to override a bill that just passed. If the President were to override our bill, I believe that is what is intended if these amendments were adopted.

I support the compromise, and it is now time to vote on the conference report on the line-item veto. A vote in favor of the motion will be a vote to defeat the line-item veto conference report before us. I urge Senators not to do that.

So we will all have a chance to make sure we do not send this to conference, I yield back the remaining time that I have, and I yield the floor.

I move to table the underlying amendment.

The PRESIDING OFFICER. The question is on agreement to the motion to table the motion to recommit the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 58, nays 42, as follows:
Mr. KYL. Mr. President, the Line-item Veto Act is a good bill, but one that should not be necessary. Congress should always have the good sense to spend taxpayers’ hard-earned money wisely, for the benefit of all citizens.

Mr. President, British historian Alexander Tytler once said:

“A democracy cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority always vote for the candidates claiming the most benefits from the public treasury with the result that a democracy always collapses over loose fiscal policy, always followed by a dictatorship. In every牒形化文明 has been 200 years.

Mr. President, just a few weeks ago, the nonpartisan taxpayers’ organization, Citizens Against Government Waste, released the 1996 Congressional Pig Book Summary. The good news is that the organization certified that, in 1995, Congress produced the first pork-free appropriation bill ever—the legislative branch appropriations bill.

Unfortunately, however, not all of this was good news. One reason why the line-item veto is still necessary. Citizens Against Government Waste found a total of $12.5 billion in pork-barrel spending in eight other fiscal year 1996 appropriations bills that have been signed into law. Among the projects that the group identified were rice modeling at the Universities of Arkansas and Missouri; shrimp aquaculture; brown tree snake research; the International Fund for Ireland; and the Iowa communications network, to name a few.

These are the kinds of projects that are likely to be the target of a line-item veto, projects that are typically foolish and farsighted that he could not understand. The American people recognize the burden that a spendthrift government can impose on them, their children, and their grandchildren. And that is why they have been so prepared to demanding change. Demanding less Government spending, lower taxes, and a leaner Government—before Tytler’s prophecy comes to pass.

The American people began to change the face of Congress in the last election. And of elected fiscally responsible individuals to the Congress is probably the most powerful and effective weapon that the American people can wield in the fight against pork-barrel spending. It is more effective than a line-item veto can ever be.

The line-item veto itself is not a cure-all. It will not result in a balanced budget. There is not enough pork that can be deleted from the budget to accomplish that. But properly exercised by the President, it can make it easier to get to balance.

Make no mistake about it, this bill will shift a great deal of new power to the President. I do not relish that prospect because the power should be vested in the President.

Mr. President, the line-item veto is a powerful tool. It will enable the President to prevent Congress from passing legislation that is not in the best interest of the American people. It will allow the President to ensure that appropriations bills do not include pork-barrel spending, which is not in the best interest of the American people.

In conclusion, I commend to your careful consideration the arguments against the line-item veto as: First “... an indignant howl about our rights and interests” [in the Legislative Branch]; and second, those who feign mistrust of the Executive, who fear too much “one-man power.”

Wise as the bill before the Senate today includes a sunset provision. If it turns out that this authority is abused by the President, I do not fear—that Congress can let the authority die.

The point is, we have been debating this issue for at least 114 years, and the arguments pro and con have been debated. If this legislation will not solve our deficit problems. However, it will give the American people one more tool—one more check against unnecessary spending. Frankly, in my view, we need all the help we can get in that regard. So, I say: Let us pass this conference report and get on to other business.
hidden away in annual spending bills. They're enough to demonstrate the ability of certain legislators to "bring home the bacon" and curry favor with special interest groups back home. But, they don't amount to enough to cause Congress to forego spending and prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto is designed to bring accountability to the budget process. In forcing the President to accept wasteful and unnecessary spending in order to protect important programs, it puts the onus on special interests and their congressional patrons to prove their case in the public arena. It subjects projects with narrow special interests to a more stringent standard than programs of national interest. The special interests would have to win a two-thirds majority in each House. Programs of national interest would merely require a simple majority.

That is the shift in the balance of power which the line-item veto represents. It is a shift in favor of the taxpayers, and that is why I intend to support it. If the Government were running a surplus, the taxpayers might be willing to tolerate some extra projects. But the Government is running annual deficits that are far too high, and there is no extra money to go around. There is not even enough to fund more basic necessities.

Mr. President, when you find yourself in a hole, the first rule of thumb is to stop digging. Let us begin climbing out of the hole we have dug for ourselves and future generations. Let us pass the line-item veto.

EMERGENCY SPENDING PROVISIONS

Mr. FEINGOLD. Mr. President, will the Senate from Arizona yield for a question?

Mr. President, the Senator from Arizona and I introduced in his opening statement on this measure that the emergency spending reforms he and I were able to include in the Senate-passed version were dropped in the conference committee version of this line-item veto measure.

Our provision limited emergency spending bills solely to emergencies by establishing a new point of order against nonemergency matters, other than rescissions of budget authority or reductions in direct spending, in any bill that contains an emergency measure, or an amendment to an emergency measure, or a conference report that contains an emergency measure.

The provision also featured an additional enforcement mechanism to add further protection by prohibiting the Office of Management and Budget from adjusting the caps on discretionary spending, or from adjusting the sequester process for direct spending and receipts, or the caps on an entire emergency appropriations bill if the bill included extraneous items other than rescissions of budget authority or reductions in direct spending.

I know he shares my disappointment that those provisions were dropped. Is it his understanding that though the emergency spending provisions were dropped from the final conference version of the line-item veto measure, the Senate provision that we introduced with the Budget Committee staff will work with our own staffs to bring this matter back on an appropriate legislative vehicle?

Mr. MCCAIN. Mr. President, that is my understanding, and I look forward to working with the Senator from Wisconsin and the Budget Committee staff to address any technical concerns there might be with the emergency spending provisions.

Mr. FEINGOLD. I thank my friend from Arizona.

As we consider ways to empower the President to veto unjustified spending through this new authority, it only makes sense to enact reforms that prevent those abuses from passing in the first place.

The emergency spending reforms that Senator McCain and I introduced as legislation, and included in S. 4 as it passed the Senate, did just that.

Our emergency spending legislation would have ended this House by an overwhelming vote and I am hopeful that we will soon be able to overcome the resistance to this provision and have it enacted into law as well.

And though I regret our reforms were not included in this proposal, I look forward to working with the Budget Committee and my good friend from Arizona to iron out any drafting problems, and find an appropriate vehicle for this needed reform.

Mr. FRIST. Mr. President, I rise today in strong support of the line-item veto. No single legislative procedure will do more to curb wasteful Government spending than this powerful legislative tool. For years, Washington has been overspending without acting. I am proud to be a Member of the Congress that will make the line-item veto a reality.

For years, the Federal Government has demonstrated an appalling lack of fiscal responsibility. Today, our national debt is over $5 trillion—more than $19,000 for every man, woman, and child in America—and is growing at a rate of $600 million a day. Entitlement spending—the two-thirds of the Federal budget that is growing so fast that it will consume all of our tax dollars in just over a decade. Meanwhile, the other third of our budget, discretionary spending, is riddled with unnecessary pork-barrel projects. Basically, it is too easy to spend and too hard to save here in Washington. We owe it to the American taxpayer to impose fiscal discipline on Federal spending habits.

The line-item veto reforms our institutional tendency to overspend. Here's how it works. The President already can veto spending bills passed by Congress. S. 4 gives the President the authority to veto specific spending items—including appropriations, new entitlements, and limited tax benefits. The President's cancellations will stand unless Congress passes a bill restoring the spending and providing the two-thirds support necessary to override any additional veto.

Some people argue that S. 4 shifts too much power from Congress to the President. However, I believe the President needs a tool to help control Congress's profligate spending with their taxpayers' money. We must give our Chief Executive the power to strike discreet budget items which do not serve the national interest. In fact, I am so convinced that the line-item veto is the right thing to do that I am willing to give this power to a President of another political party.

While the line-item veto alone cannot balance our budget or pay off our national debt this one legislative tool could perform radical surgery on federal spending. The General Accounting Office [GAO] estimated that a line-item veto could have saved $70 billion in wasteful spending during the last half of the 1980's. That $70 billion could provide a $25 tax cut for every family for 7 years. Taxpayer watchdog group Citizens Against Government Waste identified an additional $43 billion in procedural pork spending in the last 5 years, spending which circumvented normal budget procedures. Imagine how a line-item veto could have saved a significant portion of that money.

But we don't need the GAO or a taxpayer watchdog to tell us that the line-item veto works. We only need to ask the 43 of our Nation's Governors who use this tool on a regular basis. In fact, when President Clinton was Governor or Arkansas, he used the line-item veto 11 times. If the States can control spending and balance their budgets, the Federal Government should follow their example.

Mr. President, I look forward to the day when I can tell my three sons, my fellow Tennesseans, and every American that they have inherited a country free of debt. I look forward to the better job opportunities and higher the standards of living they will enjoy. And at that moment, I hope I can look back at the day we passed the line-item veto as the day a bipartisan group of legislators takes a significant step down the road to fiscal accountability. I strongly urge my colleagues to support this bill.

THE LINE-ITEM VETO: STILL AN ILL-CONSIDERED PROPOSITION

Mr. PELL. Mr. President, when the line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds.

I must be quick to acknowledge that my reservations on practical grounds were dropped in the conference bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

The line-item veto was last before us, I said that I found myself in opposition both on philosophical as well as practical grounds. I must be quick to acknowledge that my reservations on practical grounds were dropped in the conference bill or prompt the President to veto a bill and bring large parts of the Government to a standstill.

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legislation, with at least a workable plan for enhanced rescission authority.

But my underlying philosophical reservation remains. As I said when the bill was last before us, I simply believe that Congress should be extremely careful about granting the power of the purse to the executive branch. I hold this view on the basis of my Senate service under eight Presidents of both parties during my 35 years in the Senate, and notwithstanding the cordial relationships I have had with all of them.

I continue to believe that the executive branch, which under our Constitution, quite properly is a separate power center with its own agenda and its own priorities, inevitably will seek and use any additional power to achieve its objectives. And the pending grant of veto power over specific items, I fear, will surely give even the most benign and well-motivated Chief Executive a new means for exercising undue influence and coercion over individual members of the legislative branch.

I hold this view, notwithstanding my loyalty and respect for President Clinton, who I know would use such a grant of authority wisely. But it is the balance of institutional forces that must be considered. This is in this connection that we have been well served by the erudition of the senior Senator from West Virginia [Mr. BYRD], who has reminded us so eloquently of the need to protect the legislative prerogatives in all of this. I commend him for his great service to the cause of constitutional government.

Mr. LEAHY. Mr. President, I have a number of serious concerns and questions about the conference report on the line-item veto, S. 4.

First, the line-item veto encourages minority rule by allowing a Presidential-item veto to stand with the support of only 34 Senators or 146 Representatives. This is not majority rule. We are talking about super-majority requirements, which I thought were dismissed during the balanced budget amendment debate.

By imposing a two-thirds supermajority vote to override a Presidential-item veto, the line-item veto undermines the fundamental principle of majority rule. Our Founders rejected such supermajority voting requirements on matters within Congress’ purview.

Alexander Hamilton described supermajority requirements as a poison that serves to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junta to the regular deliberations and decisions of a responsible majority.

Such supermajority requirements reflect a basic distrust not just of Congress, but of the electorate itself. I reject that notion.

Moreover, supermajority requirements in any line-item veto bill is overkill. I am afraid that this bill will sacrifice many worthy projects on the altar of supermajority votes.

But supermajority power is needed to strike wasteful line items. The purpose of any line-item veto bill is to give the President the power to expose wasteful line items to the sunlight of a congressional vote. A veto is to overrule any line item while still allowing Members to vote for a worthy line item. In addition, these supermajority requirements hurt small States, like my home State of Vermont. The most damaging to the line-item veto, S. 4.

With Vermont having only one representative in the House, the President’s veto is enough to kill any wasteful line item while still allowing Members to vote for a worthy line item.

In conclusion, these supermajority requirements hurt small States, like my home State of Vermont. The prospects of the line-item veto, S. 4.

Another question mark under this conference report is tax breaks. Under the bill, the President has authority to veto only limited tax benefits, which are defined as providing a Federal tax deduction, credit, or exclusion in excess of $100 to a limited number of beneficiaries.

Any accountant or lawyer worth his or her high-priced fee will be able to find more than 100 clients who can benefit from a tax loophole. If more than 100 taxpayers can figure out a way to shelter their income in a tax loophole, the President would not be able to touch it. The bigger the loophole in terms of the number of people who can take advantage of it, the safer it is.

The definition of limited tax benefit sounds like a tax loophole in itself. Would the President have line-item veto authority over the capital gains tax cut described in the House Republican Contract With America?

It certainly is estimated to lose revenue. The Joint Committee on Taxation has estimated that the contract’s capital gains tax cut would lose almost $32 billion from 1995 to 2000. Yet somehow I think a capital gains tax cut would fall beyond the scope of being a limited tax benefit under this legislation.

Why do we not quit this shell game? Just state in plain language that the President has line-item authority over all tax expenditures.

I believe the President should tread carefully when expanding the fiscal powers of the Presidency. The line-item veto will change one of the fundamental checks and balances that form the separation of powers under the Constitution—the power of the purse.

The line-item veto hands over the spending purse strings to the President, whose cuts would automatically become effective unless two-thirds of both Houses of Congress override the veto.

The President would have no burden of persuasion while a Member would have the Herculean task of convincing two-thirds of his or her colleagues in both Houses to care about the vetoed project.

It is truly a task for Hercules to override a veto. Just look at the record—the more than 2,500 Presidential vetoes in our history, Congress has been able to override only 105. As noted so well in The Federalist Papers: “the accumulation of all powers, legislative, executive, and judiciar, in the same hands, whether of one, a few or many, and whether hereditary, elective, or appointive, may justly be pronounced the very definition of tyranny.”

Let us not try to score cheap political points at the expense of over 200 years of constitutional separation of powers.

Mr. REID. Mr. President, I rise in opposition to the proposed Line-Item Veto Act. The conference report does more to upset the balance of powers than any legislation this body has considered this year. It would be one of the most significant about curbing expenditures. It is body abrogating constitutional responsibility. It is about ceding unbridled spending authority to one individual in one branch of the Government. It should not be called the Line-Item veto. It should be called the Presidential Spending Empowerment Act. It grants unprecedented amounts of spending power to one individual. Proponents attack discretionary spending as though it were the tax cut for only 106.

They know better. Discretionary spending becomes a smaller part of the Federal budget every year. The days of pork-barrel spending have long since passed. This concept is replaced by yielding the President authority to punish his enemies.

This is an invitation to unfettered politicization of the Federal spending process. It is exactly this kind of undue influence that the founders sought to avoid through separation of powers doctrine. It does not take the imagination of Machiavelli to see how this power could be used for nefarious purposes. This is particularly true in an election year. Look at the possible scenarios that could be in store. This would give a future incumbent President quite a political weapon. Perhaps it could be used to entice the endorsement of Members from key primary States. A President could agree to not cancel an item of new direct spending on the condition that they endorse his candidacy. Conversely he could punish a Member for deciding not to support him. Even in a non-election year, this unfettered power could be unleashed for the rawest of political purposes. Why? Because this legislation creates an implied threat against all Members of Congress. This implied threat is vested in one politician. It can be exercised on any piece of legislation this body considers.

The conference report is not what is said, it is what is not said. It attempts to remove politics from the process. Unfortunately, it will have the exact opposite effect that its
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supporters intend. It injects the rawest form of power politics into the Federal spending process.

The conference report creates enormous political arsenal and endows it in one individual, its proponents say it will go against unwieldy spending. But it's really an axe that can bludgeon any legislator who dares to disagree with a President. This is not just about concentrating unprecedented amounts of power in one individual, as one branch of government may be, it is about giving that individual a lethal political weapon. We are giving that individual license to use this weapon in whichever manner he sees fit.

Proponents of the conference report say this measure can be used as a surgical scalpel. I believe it more closely resembles a hovering guillotine. It is not just congressional spending authority that will be infringed. Our third branch of government, the judiciary, will have its independence placed in jeopardy.

I would encourage all Members to read an excellent piece on this issue today's New York Times. It sets out some interesting arguments as to why the legislation is opposed by the judiciary. Scholars are beginning to make their opposition known. Indeed, the Judicial Conference of the United States has spoken out against this measure. It said such authority posed a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges who vetoing items in judicial appropriations bills.

Judge Gilbert Merritt, chief judge of the Court of Appeals for the Sixth Circuit opposed this measure. Judge Merritt said it was unwise to give the President authority over the judicial budget because the executive branch was the biggest litigant in Federal court. I believe Judge Merritt is correct. The potential for conflict is enormous. All of us, at some point or another, have likely found ourselves in profound disagreement with a judicial ruling. But we realize there is a process in place for disagreeing with clearly wrongheaded decisions. We introduce legislation, hold hearings, and attempt to persuade our colleagues of the proposal's merits. None of us, individually, has the ability to influence a judicial decision we disagree with.

The line-item veto report endows in one individual the tools with which to immediately demonstrate displeasure. Why don't we simply eliminate the lifetime tenure provisions from article III. Judges have good reason to fear this measure. They should be on notice that all future decisions could be subjected to political appeal. The Supreme Court may ultimately have the final say but the President can ensure whether it has the paper on which to say it.

This political weapon can be exercised in many different ways. The executive branch may be litigating one of its policies in Federal court. This happens all the time in every administration. Consider the conflict that could arise if the administration receives an unfavorable ruling from a particular court. Now, the President could employ the power of the bully pulpit or appeal to Congress to handle the matter legislatively. Alternatively, and more pragmatically, he could also exercise the appropriation for that particular court. This is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Process for considering item vetoes binds this body to new rules that are overly burdensome and unduly restrictive. It will be very disruptive to the consideration of substantive legislative matters. We don't even know how this will play out and we are today being asked to accept a 10-hour time agreement. A large number of line-item vetoes may deserve debate. Are we all willing to enter into a 10-hour time agreement today? What kind of chaos are we binding ourselves to?

There is a great deal of thought and consideration that goes into writing an appropriations bill. Typically, the conference report is written with White House involvement throughout this process. It is not as if the administration reads appropriations bills for the first time upon their passage. Administration officials are actively involved in every step of the way. Why not allow the President to press these controversial issues to the administration to write the measures and schedule up or down votes in both chambers?

Presidential veto of targeted tax benefits was a key feature of the Senate-passed bill. The conference report attempts to define tax benefits by counting the number of beneficiaries. At best, this is disingenuous. A tax benefit is defined as an income tax deduction, credit exclusion or preference to 100 or more taxpayers owning the same type of property. How the administration defines a benefit is another matter. It is not meant to cast aspersions on our future Presidents. It merely reflects the political reality that the Framers recognized when they wrote the Constitution.

Mr. BIDEN. Mr. President, I have long supported an experiment with a line-item veto power for the President. Over a decade ago, I introduced my amendment. Senator Byrd, the sponsor of the Bill, supported this position. Mr. President, it is nutritious. Since then I have cosponsored several similar plans, in particular those offered by my distinguished colleague Senator Hollings and Senator Bradley.

I have held this position for all these years, Mr. President, not because I believe the line-item veto will solve our deficit problem. No single procedural change can do that.

I support a line-item veto because it will affect the margins, shift the incentives now in our system to attack special-interest spending to our appropriations bills. To rein in that practice, Mr. President, we must expose it. The line-item veto will give the President a tool he can choose to use it, to raise the profile of wasteful, special-interest spending—expose it to the light of public scrutiny.

The need to track down and remove wasteful spending is not new, Mr. President, but it has never been more important than now. As we continue down the road toward a balanced budget, we must reserve every dime of taxpayers' money for the most important
Mr. President, the version of the line-item veto that I have consistently supported is not the one before us now. Nevertheless, I will vote for this line-item veto plan today, because I believe that it can be a useful check on wasteful spending, at a time when we must subject every dollar we spend to the most careful scrutiny.

Mr. President, I want to take a few minutes to explain the difference between the version I have consistently supported—the one, I must add, that we passed out of the Senate last year—and the version here before us today. I have long held that separate enrollment, in contrast to the enhanced rescission plan before us now. But what do those fancy titles mean?

The separate enrollment approach to the line-item veto is the one that I have supported and the one I think most people have in mind when they think of a line-item veto. Quite simply, separate enrollment requires that the Congress take each item in the spending bills we pass and send them to the President separately, instead of lumped together, as we do it now.

We used to send individual spending items to the President separately, back before the Civil War. I believe that the separate enrollment approach would restore a relationship between Congress and the Executive that was upset by the practice of lumping those items together. To that extent, it would be less disruptive of the constitutional relationship between the branches of our Government.

The way we do it now, we send the President every item for national defense, for example, in a single spending bill. If the President believes that there are too many tanks, or too many missiles, he must veto the entire national defense bill to cut out the spending that he doesn't want.

We write bills that way on the bet that the President will accept additional spending as the price of getting our national defense or other basic needs paid for.

And, we must admit, Mr. President, we write bills that way because it serves the needs of individual Members of Congress to have their special projects—that on their own merits, in the cold light of day, could not muster a majority vote—to have those special projects pulled through the process by the legislative machinery of separate enrollment. By sending each item of spending to the President as individual bills—by separate enrollment of each item—Congress would expose each of those items to the scrutiny it deserves, would remove the camouflage of the larger spending bills.

The modest hope is not that the President will, willy-nilly, cut and slash special-interest items. Rather, it is that of those of us who have promoted this idea is that Members of Congress—confronted by a President with this new power—would choose not to include those special-interest items that cannot pass the threshold of public scrutiny.

That is essentially the version that we passed out of the Senate last year, Mr. President, with one important addition. We included special interest tax breaks among the items the President could veto. Those tax expenditures lose money from the Treasury just as surely as any spending program.

And as for those items vetoed by the President, the normal constitutional procedures would apply—two-thirds majorities of each House would be required to restore the spending that the President has cut.

I have supported that approach as the one that least disturbs the constitutional relationship between the President and Congress, particularly on the crucial issue of the power of the purse.

I was heartened when that was the version passed by the Senate last year. But the same token, Mr. President, I am less happy about the version before us today. But because I am still convinced that we need to improve our capacity to discourage if possible, and to cut out if necessary, any wasteful, special-interest spending, I will vote for this version.

The line-item veto bill before us today provides for a procedure that is more correctly known as enhanced rescission. It greatly transforms a Presidential veto power, which would require a two-thirds majority of each House of Congress to overturn.

This is a powerful new tool in the hands of the President. That is why I have long held that we should experiment with the line-item veto—that we should set a date certain on which the legislation will sunset. This line-item legislation provides for an 8-year experiment, after which it will terminate unless Congress agrees that the experiment has produced more benefits than costs.

This is longer than I think is necessary—particularly if we discover unintended consequences—but it does provide for two Presidential administrations over which to test the merits of this proposal.

I am more disappointed that the President's ability to cut special interest tax breaks has been severely weakened in conference with the House. The provision would apply to only a few tax items—in fact, with clever tax lawyers on the job, it could well apply to virtually no tax breaks.

So, Mr. President, like so much legislation, we consider and that becomes largely a line-item veto bill advances a worthy cause—cutting out waste and special-interest spending—but not in the ways that all of us may agree with. As someone who has for years advocated the separate enrollment method of the line-item veto, I wish we had chosen that route.

But there is a more fundamental question—Will we give the President a power that will expose congressional spending to a higher level of scrutiny? Will we take an additional step to prevent the inclusion of special-interest spending in our appropriations bills? I am willing to take that step, Mr. President, and will vote for the conference report.

Mr. SMITH, Mr. President, I rise in strong support of the line-item veto bill before the Senate today, and urge my colleagues to pass this overdue measure. As a long-time opponent of pork-barrel spending, I am glad we are taking this first small step toward fiscal sanity.

When I attend a town meeting, or hold a briefing on the Federal budget, I often hear a common sentiment: "Why does Congress want to change Medicare and education?" I ask, "What would you like to see done with the $5 million on Hawaiian arts and crafts?" It is a question that cannot be answered. Pork-barrel spending may constitute a relatively small portion of the overall budget, but it represents a very symbolic part of the budget. If Congress cannot cut the little spending items, how on Earth can we make the difficult decisions on the larger programs?

Will the line-item veto balance the Federal budget in the coming session? But it will help to restore discipline to our budget process. It is no secret that special projects and narrow interest provisions are often included in large spending
BYRD, the line-item veto legislation or responsible fiscal management report on the line-item veto bill is not wasteful spending. But this conference colleagues. I, too, want to eliminate the deficit, as are many of my colleagues.

Mr. President, I have supported and cosponsored line-item veto legislation for more than a decade. It has been a long and arduous fight. I, for one, am glad that the fight is finally over. I commend my colleagues—Senator MCCAIN and Senator COATS—for their hard work on behalf of this landmark legislation. This line-item veto bill before the Senate today will certainly stand the test of time.

Mr. ROCKETT, Mr. President, I am a proponent of responsibly reducing the deficit, as are many of my colleagues. I, too, want to eliminate wasteful spending. But this conference report on the line-item veto bill is not the right way to ensure deficit reduction and responsible fiscal management in my view.

As articulated so poignantly by my colleague from West Virginia, Senator BYRD, the line-item veto legislation raises many constitutional problems and it substantially alters the balance of power devised by the Framers of our Constitution.

Before supporting such a dramatic change in the balance of powers, we need to examine it in light of what it really means in practice. Giving a President broad power to cut discretionary spending concerns me in theory, but it troubles me even more to think about its potential effects in practice. A President may hastily veto substantive provisions of a spending bill, which he considers wasteful, but which really are essential programs for States or regions. One person’s perception of waste or pork may be another person’s funding for roads, schools, hospitals, or rural hospitals. A President could leverage a line-item veto as a political tool to intimidate a particular Member or groups of Members.

A specific example is the recent history of funding for the Appalachian Regional Commission [ARC]. Recent Republican Presidents sought to eliminate the Appalachian Regional Commission [ARC] from the budget, but a bipartisan agreement maintained this important program to promote economic development in some of the poorest counties of our country. The ARC provides basic funding for infrastructure and economic development.

In representing West Virginia’s interest, I do not believe that Congress should give any President free range to cut discretionary spending. Under the line-item veto, a President could veto spending for the ARC, or other discretionary programs ranging from highway projects to housing programs. It is important to note that the present system already offers a way for Virginia and other States. And I do not want to irrevocably alter the balance of power between Congress and the Executive branch which was enshrined in our constitution over 200 years ago. I think Congress has duty to be excruciatingly careful and deliberative in rewriting of our Constitution is being considered. This conference report has not been given proper consideration and I disagree with its intent on principle. I oppose passage of this conference report.

Mr. GRASSLEY, Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto.

Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join the battle against waste without the risk of canceling out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; he may only cancel it entirely. With this line-item veto, a responsible President will attack and cancel out latent direct-spending provisions that would increase future deficit increases before they even begin; first, by eliminating a wasteful provision, and second, by dedicating any savings from operation of the line-item veto to a special lockbox for deficit reduction. This line-item veto will instruct the nonpartisan Joint Committee on Taxation to identify and flag any limited tax benefits that may exist in future conference reports of future tax bills. This conference report on the line-item veto defines limited tax benefits as any tax expenditures that would both, lose more than $100 over the first 5 years, and benefit 100 or fewer persons. Then, Congress would add a list of these limited tax benefits to the conference report as a matter of law.

If the Joint Committee on Taxation looks, but does not see, any limited tax benefits, then it may issue a clean bill of health upon the related tax legislation. If the Joint Committee on Taxation does not look for any limited tax benefits, then the Chief Executive may himself look for the limited tax benefits. He would use our same objective measure outlined in the conference report.

Having found waste, a responsible President may effectively take out his ruler and draw a line through any offending legislation. After operating a line-item veto, the President would send a special message back to Capitol Hill outlining his actions. Both Houses of Congress would single out items in spending bills that he opposes, and if Congress approves the budget cuts are made immediately. I agree that Congress needs to chart a careful course for deficit reduction and economic growth. After operating a line-item veto, I continue to vote for cuts in specific programs where I believe Congress has wasted taxpayer money. I do not, however, want to risk the careless elimination of critical programs which benefit West Virginia and other States. And I do not want to irrevocably alter the balance of power between Congress and the Executive branch which was enshrined in our constitution over 200 years ago.

I think Congress has duty to be excruciatingly careful and deliberative in rewriting of our Constitution is being considered. This conference report has not been given proper consideration and I disagree with its intent on principle. I oppose passage of this conference report.

Mr. President, I am proud to have this long awaited and unique opportunity to address the Chair about a successful conference report on a line-item veto.

Some of us have spent much of our congressional careers fighting against wasteful spending. Under present law, the Chief Executive often cannot join the battle against waste without the risk of canceling out entire dollar amounts in appropriation bills. He may not merely reduce a dollar amount; he may only cancel it entirely. With this line-item veto, a responsible President will attack and cancel...
in our tireless efforts to stamp out the Government waste of taxpayer capital. This is a great day indeed. I urge all of my colleagues to join in support of this conference report on the line-item veto.

Mrs. MURRAY. Mr. President, I take the floor to oppose the so-called line-item veto legislation before us today. I regret I cannot support this conference report, but unfortunately this report is careless, highly questionable and possibly unconstitutional. Mr. President, I support the line-item veto proposal submitted by Senator BYRD. His expedited rescission proposal was well-written and made good common sense, but unfortunately, it was not accepted by the Senate.

I know all too well the abuse that can arise through broad, sweeping line-item veto authority. Mr. President, I served in the Washington State Senate prior to coming to the U.S. Senate. My home State arms its executive with line-item veto authority, and while serving in the State legislature I witnessed, first hand, the horse trading that results by giving the State's executive this authority.

In my home State, the line-item veto does not get spending. Rather, it encourages more spending. It puts legislators in the position of having to accept the Governor's priorities in order to make sure their legislative priorities are not vetoed by the Governor. As you know, Mr. President, this debate essentially was spawned out of our desire to reduce Government waste and balance our Nation's budget deficit. I do not think there is a single Member in this body that does not want to reduce the Nation's budget deficit. However, I have great difficulty turning over my responsibility and Congress' fiscal responsibilities to the executive branch. Mr. President, the line-item veto is a budget gimmick, and it simply procures the power of the purse from Congress to the President.

Since 1993, we have cut the Nation's budget deficit in half. This is commendable work. However, it was difficult work that required tough decisions. Congress and the Clinton administration chose to reduce and cut hundreds of Federal programs. This was not easy, but it is what we were elected to do. We will get our fiscal house in order once we set our minds to it. We do not need a line-item veto to encourage. We should not shrink from our constitutional responsibilities. We should accept the challenge.

Mr. President, earlier today I listened to the elegant words of Senator BYRD. Senator BYRD is a great orator, respected legislator and an excellent teacher—especially when it comes to the constitutional issues surrounding the line-item veto. I hope my colleagues listened to his words, because there are some real constitutional issues that were left out of this legislation.

This legislation disrupts the delicate balance of powers laid out by our Founding Fathers. It shifts an enormous amount of power to the President of the United States—directly conflicting with Congress' constitutional duties. And, as written, this legislation gives the President and a one-third minority in one House the power to veto legislation Congress approved. It turns the idea of checks and balances on its head.

Mr. President, I also have grave concerns with the language pertaining to targeted tax benefits. This language is cleverly written that ultimately prohibits the President from vetoing new targeted tax benefits. If we want to grant the President a line-item veto, let us at least do it the right way. Let us at least let the President strike new tax expenditure.

Moreover, I urge all my colleagues from small States to read this legislation carefully, because as it is written, the President has the power to strike very specific language including charts and tables. Mr. President, would have the power to strike funding for a single State if an appropriations bill or report includes a chart breaking out spending per State. We know the President is not going to strike funding from another State. But, what keeps the President from cutting funds in smaller States?

Mr. President, this again reminds me of the horse trading I experienced in my home State legislature. This legislation allows the President a threshold of having to protect congressionally approved legislation from the President's veto pen—legislation that was debated, considered and agreed to by Congress—and agreed to by the President. Mr. President, this threshold is a threshold of having to protect the process we crafted this legislation. It should be written clearly and carefully—without ambiguity. We should craft legislation that doesn't exempt specific tax breaks, one that doesn't allow a President to attack entitlements, and one that doesn't hold small States hostage. So, Mr. President, I urge my colleagues to vote against this legislation. The line-item veto is not the solution to our deficit problems. We know what needs to be done to reduce the deficit, and we have done it here on this floor over the past 3 years. We know the line-item veto is not the tool needed to accomplish that goal, but rather, just a feel-good gimmick that puts off the tough decisions.

Mr. FEINGOLD. Mr. President, this issue is not simple, nor is it easy.

If it were, there would be a larger consensus on how we should proceed in this area. I supported the version of S. 4 that passed this body—the so-called separate enrollment approach. Though that legislation was flawed, I was willing to support that experimental line-item veto authority to provide the President with some additional authority to eliminate inappropriate spending.

I do not believe the line-item veto is the whole answer to our problem, or even most of the answer, but it certainly can be part of the answer.

The legislation before us today, too, is flawed, but I am willing to give this new mechanism a chance to work, and to see if it works over the next several years. Like the version of S. 4 that passed the Senate, this measure also has a so-called sunset clause which terminates the expanded veto authority unless Congress takes action.

If the Congress decides, which it may well do, that we have gone too far in delegating authority to the President, the sunset clause will make it much easier to terminate the experiment, if necessary. The burden will be on those who want to retain the authority. However, in this case, the sunset clause allowed me to support a measure with which I am far from satisfied. Without a sunset clause, Congress would have to pass a bill to repeal the line-item veto authority. It is likely that the President would veto such a bill, and unless two-thirds of the members of both Houses were to override that veto, the President would retain this extraordinary new power.

Mr. President, though the continuing Federal budget deficits justifying granting this temporary authority to the President on a trial basis, I do have serious concerns about this proposal, which I want to highlight, and will continue to monitor. Possibly my biggest concern is the effective threshold of two-thirds vote in each House to overcome this new expanded veto authority. That kind of threshold is provided in the Constitution for entire bills, but extending that authority for individual sections of a bill would be unconstitutional. There are many uncertainties in this new authority that we are providing the President, and no one can anticipate all the potential abuses that might flow from this new authority.

Though we have no experience at the Federal level, those Members who have served in State government may have seen the use of line-item veto authority at the State level. Indeed, much of the support for a Federal line-item veto comes from the State experience. But, Mr. President, few other States, if any at all, have witnessed the abuses of line-item veto authority that we have seen in Wisconsin. That abuse has been bipartisan—Governors of both parties have used Wisconsin's partial veto authority in ways it is safe to say no one anticipated when that authority was first contemplated. For example, Mr. President, Wisconsin's current Governor, Governor Thompson, has used the veto authority not only to reduce the entire State budget, but to increase spending and increase taxes.

The two-thirds threshold compounds the uncertainty about possible abuses
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by making it that much more difficult for Congress to respond to that possible abuse.

Mr. President, another serious flaw in this measure are the provisions relating to tax expenditures. They are far from the language in the Senate-passed version of S. 4 relating to tax expenditures. The shift from Congress to the President in defining the precise material to be vetoed is potentially significant. Instead of vetoing or approving individuals minibills, as under the separate enrollment approach, the President decrees certain actions in whole rather than in parts—actions which effectively are given statutory authority because they are surmounted only by enactment of a disapproval bill.

The scope of these Presidential decrees are limited by the restrictions set forth in this bill, and though the intent of those proposing this new authority may be clear enough in their own minds, there cannot be one hundred percent certainty about the true scope of that authority until it is actually put into effect. The unintended or even unimagined consequence of this new authority may be its biggest flaw.

This is just what happened in my own State. It is difficult to argue that the recent legislation of Wisconsin’s partial veto authority ever intended that a future governor would be able to veto individual words within sentences or even individual letters within words, yet that is precisely what happened.

Successive court decisions gradually expanded the partial veto authority for Wisconsin’s Governors, to the point that whole new laws could be created with the veto pen.

Mr. President, would the temporary authority which this measure grants the President be abused in this fashion? Though I do not believe it will, we cannot be certain about what some court might rule in interpreting the restrictions spelled out in the bill.

In some instances, the proposal before us allows the President to exercise his new authority based on committee reports or the statements of managers, neither of which have the force of law, and neither of which have ever been the subject of a vote in either House. That is troubling.

I am disturbed, too, by the language in this proposal regarding so-called items of direct spending. In defining these items, the measure refers to specific provisions in the bill.

Mr. President, this definition is not at all self-evident. Is a provision of a law numbered section, or can it be an unnumbered paragraph as well? How small a unit of entitlement authority does the proposal intend to expose to the new Presidential authority? For example, if a clause in a sentence defines new entitlement authority in some way, can that clause be canceled without taking the entire sentence with it? If an entitlement authority be limited by the selective cancellation of one word if doing so meets the other stated formal requirements of the measure?

The proposal does not address that issue. It only mentions the words “specific provision of law” without further definition.

As someone who has seen just how creative a Governor can be with partial veto authority, this is a matter of serious concern to me.

Mr. President, there are a few safeguards built into this proposal that provide some comfort in this regard. As I noted before, the new authority sunsets in 8 years, so whatever amounts to an Byear trial period in which we can monitor this new Presidential authority, and we will.

Eight years represents two complete Presidential terms of office, and several election cycles within both Houses, ensuring a diverse set of partisan combinations under which this new authority can be tested, and enhancing the possibility that it will be used under different circumstances and with different ideological intent.

It should be noted that this new authority is established by statute, not as part of the Constitution, thus the measure avoids magnifying these potential problems by making a permanent change to our basic law. To the extent that Congress can selectively control this new authority in subsequent statutes, even prior to the expiration of the proposal before us, the statutory approach to the line-item veto or enhanced rescission authority is much less restrictive than a constitutional amendment.

Nevertheless, Mr. President, we cannot be certain how this proposed authority will be used, no matter how carefully we draft the restrictions on that authority. Those who support this measure bear a special responsibility in this regard. And to that end, should this measure become law, I intend to establish a regular review process to monitor how the new authority is used, how misused, how much deficit reduction is produced, and lost opportunities for deficit reduction.

Though temporary, this delegation of authority is significant, and close and continuing scrutiny is warranted, even necessary.

Mr. President, the debate we have had on this issue for over a year has been instructive for me. For some, the passage of a line-item veto authority for the President will only mean they can scratch it off a list, and move on to another issue.

But this issue does not end with our vote, it begins.

We are about to embark on an important experiment. Whether for the benefit of the country and our democratic institutions remains to be seen, but I believe it is an experiment worth performing.

I congratulate the senior Senator from Arizona and the Senator from Nebraska [Mr. Exon] for their work on this measure. I thank them especially for their past efforts on behalf of the amendment I offered to clean up the emergency appropriations process.
Though it was not included in the final version of this proposal, I very much appreciated their courtesy, and I look forward to working with them to find another vehicle for that worthy reform.

I yield the floor.

Ms. MOSELEY-BRAUN. Mr. President, our system of government is based on a separation of powers and checks and balances. That is the way the Founding Fathers structured it, and it is a system that has fostered America’s greatness for over 200 years. Yet, this bill would fundamentally change and unbalance that system by transferring power from Congress to the President.

Some argue that this bill is unconstitutional. In a letter to Congress, L. Ralph Mecham, secretary of the Judicial Conference, stated that he fears that this bill will violate the separation of powers. He writes, “The doctrine of separation of powers requires the Supreme Court to exercise the doctrine of judicial self-restraint so as to avoid the appearance of usurpation of powers.”

Further, an article in today’s New York Times stated that the line-item authority poses “a threat to the independence of the judiciary because a President could put pressure on the courts or retaliate against judges by vetoing judicial appointments.”

The article stated that Judge Gilbert Merritt, chairman of the executive committee of the Judicial Conference of the United States, stated that “judges were given life tenure to avoid such passions.”

In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public’s cynicism because it will not solve our country’s budget crisis. Congress is already having difficulty passing its 12th continuing resolution. Moreover, although this bill’s scope is limited, and its potential rescissions are enormous.

The judiciary against interference from any branch is one of the most important components of our Constitution. The Constitution clearly states, “The judicial power of the United States shall be vested in one Supreme Court and in such inferior Courts as Congress may from time to time ordain and establish.”

The President can only veto the Appropriations Committee’s bill or the Senate’s version of the bill. But the President can sign a Conference Committee’s report which is not superseded by Congress. Therefore, the President can sign a Conference Committee’s report which is not superseded by Congress.

The Founding Fathers did not want the President to have the power to cut off spending Congress has deemed necessary. Moreover, this bill is contrary to its intended purpose: Deficit reduction. Some of my colleagues did not support the balanced budget amendment to the Constitution because they supported it because it covers every dollar of spending and taxing. This bill does not. Furthermore, the budget amendment did not upset the balance of powers between the branches. This bill does upset the balance of powers. I believe that this conference agreement will upset the balance of powers.

There is a cliche that to every problem there is a simple wrong solution. Do we have a deficit problem? Yes. Will this bill solve our fiscal crisis? No. This bill is the wrong solution to our deficit problems. It is almost solely aimed at discretionary spending, which is clearly not one of the major causes of the budget crisis the Federal Government is facing.

I served on the Bipartisan Commission on Entitlement and Tax Reform. If we do not act, by the year 2012 entitlement spending will outstrip revenues. So discretionary spending could be cut to zero and still not solve our problems. Domestic discretionary spending has not grown as a percentage of the GDP since 1960. If we had a balanced budget, domestic discretionary spending comprises only one-sixth of the $3.5 trillion Federal budget, and that percentage is steadily declining.

In practice this bill will have a minimal impact on the deficit. Yet this bill will have a high impact on the level of the public’s cynicism because it will not solve our country’s budget crisis. Congress is already having difficulty passing its 12th continuing resolution. Moreover, although this bill’s scope is limited, and its potential rescissions are enormous.

Should the President proceed to veto the disapproval bill, it would take two-thirds of the Members in each Chamber to override the President’s veto. Since we have not even been able to pass a budget this year, I tremble to think what adding additional steps to the process will do to Congress’ ability to function.

Clearly this is the most significant delegation of authority to the President that we have seen in over 200 years. If Congress passes this conference report we will abdicate our authority guaranteed to us under the Constitution, and give it to the President. Moreover, although this bill seeks to solve our fiscal problems, it could also serve to indirectly increase spending. For instance, if the Administration sought to increase spending for a mandatory program, he could lobby the Member to support his initiative by threatening to line-item out all of the appropriations for projects in that Member’s district. As my friend Ab Mikva wrote in the March 25th edition of Legal Times, “For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an overpowering Congress, the current balance of power is just right.”
Mr. LAUTENBERG. Mr. President, I rise to express my opposition to this conference report. There is a right way and a wrong way to provide the President with a line-item veto. This is the wrong way.

Mr. President, I have supported a line-item veto in the past. I believe that the President should have greater authority to weed out wasteful tax breaks and unnecessary weapon systems.

But this legislation goes too far. I have three major objections to this conference report:

First, this legislation cedes too much power to the President. Under this proposal, any President and one-third plus one in the House can stop any appropriation legislation much further than the so-called separate rate enrollment bill that passed the Senate. The legislation before us, in effect, allows the President to veto report language and tables in committee reports. This means that the President can veto any improvement for Newark but keep funds for Kennedy and LaGuardia airports. And the only way to override this type of veto is to get two-thirds of the Members in both House to support an individual item—which is highly unlikely.

The President of the United States already has awesome constitutional power. Look at what has happened in the past 6 months.

The President vetoed a Republican budget that made huge cuts in Medicare and Medicaid to pay for tax breaks for the rich. He stopped this cold.

He also vetoed a welfare reform bill that would have doomed 1.5 million children to live in poverty.

Finally, he vetoed spending bills that made deep cuts in education, environment, and community policing.

Mr. President, the Congress was never able to override these vetoes. This demonstrates how powerful the President can be when it comes to vetoing unfair budget priorities. We should not provide the chief executive with this new power on top of the tremendous power he already possesses.

Second, this legislation makes a mockery of applying the line-item veto to tax breaks. The Senate bill originally allowed the President to use the line-item veto to stop some tax breaks. These breaks were defined far too narrowly. But even this language did not survive conference.

This conference report only allows the President to veto tax items that affect fewer than 100 persons. This means that Congress can pass a tax break that only applies to people with incomes over $1 million and the President could not single this out. Furthermore, the language also exempts other classes of persons from the tax provisions of the bill. One such exemption is property.

Therefore, if Congress passed a tax break for 99 owners of a certain type of yacht, the President could not veto this provision.

In summary, this legislation allows the President to use the line-item veto to reject provisions his aides and the environment have set for millionaires. This is preposterous.

Finally, I object to the Republican political hypocrisy that went into choosing an effective date and sunset date for this legislation.

This bill was a part of the so-called Contract With America. The House passed its version of this bill on February 6, 1995. The Senate passed its version on March 23, 1995.

During debate on this legislation, I heard many Republicans in both Houses say that they were so committed to passing this legislation that they were even willing to give this power to a Democratic President. They argued that the important line-item veto was to cut out wasteful spending and unnecessary tax breaks.

Despite all of the clamoring by the Republicans, they began to drag their feet so that they would not have to give this power to President Clinton. They delayed naming conferees on the bill. They stalled on calling a meeting for the conferees. They kept dragging it out so that they could pass the fiscal year 1996 appropriations bill before the line-item veto bill became law.

During this period of inaction, the Republican majority sent President Clinton a pork-laden Defense appropriations bill that spent $7 billion more than the Pentagon wanted. This is what President Clinton really needed the line-item veto—so he could reject this $7 billion in unnecessary spending. But he did not have this tool then. The Republicans were simply playing politics with the line-item veto bill.

Now, we have both an entire new set of dates in this legislation. This bill will now go into effect on January 1, 1997, and it will last 8 years.

Mr. President, this is so blatantly political. But this is not the reason why we should reject this conference report. We should vote this down because it cedes too much power to the President and renders him powerless to fight tax breaks to the wealthiest Americans.

I urge my colleagues to reject this conference report. I yield the floor.

Mr. CRAIG. Mr. President, I rise in support of S. 4, the conference report on the Line-Item Veto Act. The Senate is now wrapping up a long-overdue and historic debate.

I note that two words in particular sound very good in this debate: conference report. There must be many Members in both the Senate and the other body who have wondered if they will ever be able to use words in connection with the line-item veto.

I want to recognize and commend the leadership and longstanding commitment that Senators McCain and Coats have shown on this issue, as well as Chairman Domenici and Chairman Stevens, for their work in shepherding this legislation through committee, earlier passage in the Senate, and now, the conference process.

Mr. President, I have always appreciated the leadership of our distinguished majority leader, Senator Dole, in bringing this vital reform to the floor. His name was at the top of this bill when several of us first introduced S. 4 on the first day of this 104th Congress.

On January 4, 1995, and he has been solidly committed to passage of this landmark legislation.

There are three principal reasons to enact this kind of reform:

First, a line-item veto will promote fiscal responsibility.

This is a major step on our way toward a balanced budget.

For more than 20 years, since the President was hamstrung by some of the lesser provisions of the 1974 Improper Executive Control and Budget Act, Congresses have ignored with impunity most of the Presidential recommendations to rescind spending authority for individual items.

Now, at least some obnoxious, unwarranted spending will be struck down.

Opponents of this bill have argued that it would lead to more spending, as Presidents use the leverage of the line-item veto to get more spending for their pet programs, or as Congress loads still more spending into bills, in hopes that at least some of it will get by the President. Alternatively, they argue that Presidents will abuse this power and fundamentally distort the balance of constitutional power between the executive and legislative branches.

But the histories of the 43 States that have given their Governors this veto authority do not bear out these dire—and purely theoretical—warnings.

The experience of the States with the line-item veto, including that of my State of Idaho, has been uniformly favorable.

And, looking back over the last two or three generations, we see that State governments have increased spending and taxes at much lower rates than the Federal Government.

It is an amazing concept for some in Washington, DC, but, when you assign someone responsibility—in this case, the responsibility that comes to chief executives with line-item veto authority—they often live up to high expectations. That has been the experience of the States.

Alone, the line-item veto process is not going to be enough to balance the budget.

What we really need is to take up the balanced budget amendment to the Constitution once more, pass it, and send it to the States—send it to the people for ratification.

I challenge President Clinton, who at least saw the light on the line-item veto, to support the balanced budget.
amendment as well, and help pass it through the Senate so we can attack the cancerous Federal debt on a larger scale.

Second, the line-item veto will improve legislative accountability and produce a more thoughtful legislative process.

Starting when this act takes effect, Congress will be forced to reconsider questionable spending items and target tax breaks—items that Congress would never pass in the first place if those items were considered on their own merits—items that just do not stand up under any amount of public scrutiny.

It would cast an additional dose of sunlight on the legislative process. We are all familiar with the rush to get the legislative trains out on time. That means bills and reports spanning hundreds of pages that virtually no one is able to read—much less digest—in the day or two that they are before the body.

Moreover, any more it seems that virtually every appropriations bill—even the 13 regular bills—and virtually every tax bill, is a huge bill.

Knowing that any individual provision or rider will return to Congress one more time to stand on its own merits will promote more responsible legislation in the first place.

In short, embarrassing items will not be sneaked into these bills in the first place.

Third, a line-item veto would improved executive accountability.

There is always some concern that the line-item veto would transfer too much power from the Congress to the President.

First, I suggest that is not such a bad thing. The Framers of the Constitution never envisioned 1,500-page, omnibus bills presented to the President on a take-it-or-leave-it basis.

Second, the changes at the constitutional system of checks and balances—it is a correction. The system is broken. This is one of the first steps in fixing it.

The supposed blackmail that Presidents will exert over Congress as a result of the line-item veto, is nothing, compared what kind Congress has exerted for years on the President.

A President will rarely, if ever, risk closing down an entire department in a mere attempt to take out a handful of earmarked, local benefits.

But let me also differ a little with the presumption that a radical shift of power would take place.

Many of us on both sides of the aisle have suggested, at different times, that Presidents are not always serious about the rescissions messages they send to Congress.

And, sometimes, the volume of rescissions they propose do not live up to tough talk about what they would do if they had the line-item veto.

It is time to call the President's bluff—and I mean every President, because this is a bipartisan issue.

For years now, we have seen groups like Citizens Against Government Waste and others come up with billions of dollars in long lists of pork items. Once the President starts using the line-item veto authority, he or she will have to answer to the people if the use of that authority doesn't match the Presidential rhetoric.

Congress would not lose the power of the purse—but the President will soon be expected to use the power of the spotlight of heightened public scrutiny.

Mr. Dole. The PRESIDING OFFICER (Ms. SNOWE). The majority leader.

Mr. Dole. Madam President, I ask unanimous consent that a vote on the adoption of the conference report accompanying S. 4, the line-item veto bill, occur at 7 p.m. this evening, with the time between now and the vote to be equally divided between Senators McCAIN and BYRD.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, I rise in support of the position of the Senator from Virginia, Mr. Byrd, on the line-item veto.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. BYRD. How much time do I have under my control, the Chair?

The PRESIDING OFFICER. The Senator has 25 minutes.

Mr. BYRD. Twenty-five minutes. I yield 5 minutes to the distinguished Senator from Louisiana.

Mr. J. JOHNSTON. I thank the Senator. Madam President, this matter is not about balancing the budget, it is not even about the size of the deficit. This matter is about the relative power of the Chief Executive of the United States and the Congress of the United States. This Senate, this Congress, this Senator would want to give up its constitutional powers, which, by the way, I do not believe under the Constitution they have the right to do even if they wish to do that foolish thing, but why we would want to do that, I do not know.

I am particularly surprised, Madam President, that some of my colleagues on the other side of the aisle who fought so hard, for example, for star wars, why they would want to give to the President the right to veto star wars. I happen to have been an opponent through the years of star wars, at least at the levels of expenditure—$33 billion has been spent on star wars so far. I think that is a tremendous waste. But, Madam President, I defend the right of this body and of this Congress to set those priorities. Why you would want to give it to the President to be able to change a bill already signed by this body into law is picking that bill without taking out the whole bill, I do not know, Madam President.

Yesterday, there was an article in one of the Louisiana papers in which it said, "Louisiana delegation gets piece of pork." They went on to describe an appropriation that Congressman LIVINGSTON and I had gotten in the New Orleans area because we had a flood down there of biblical proportions, over 20 inches of rain in a 24-hour period, seven people killed, $1 billion of damage. We were able to respond to that issue.

They went on to define "pork" as that which was not in the President's budget. If the Congress exercised its proper function of the Constitution, the power of the purse, then that was pork, according to this article and according to the National Taxpayers Union. But had it been in the President's budget, it would have been perfectly all right.

The iddly of that kind of formulation, Madam President, is to me, abolutely incredible. Coming from a newspaper article, it is not unexpected because that is the kind of thing that people like to read. But coming on to the floor of this United Senate, saying it is the White House that knows best, it is—and we are not talking about the President; we are talking about the nameless, faceless gnomes in the White House who would be setting policy, making policies, making the decisions about our constituents.

Our constituents would be coming to us, as in the case of this 20-inch flood. You bet I was down there after the flood, as were my colleagues, going through the homes, looking at the devastation, trying to sympathize with the people, they demanding in turn that we do something about this terrible tragedy. Our colleagues are saying, "Look, if it's not in the President's budget, it should not be part of the bill. It is up to the White House to set those priorities."

Madam President, there was nobody from the White House down in Louisiana to see that flood. They could not have been down there. The Office of Management and Budget does not have that kind of travel budget. They did not go down and look at the individual problems of individual States. That is the job for elected representatives. That is what the re-dactors of our Constitution had in mind. That is why they put the power of the purse in the Congress.

We are closest to the people, and we respond to them. To leave all of that power in, as I say, not the President—maybe the President would decide on the great or some other like that, but the accumulation of items in that budget would be decided by OMB. And what would be the policy of OMB? They would have to have broad policies, such as to say, If it is not in the President's budget, we are going to veto it. We are going to treat everybody alike.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. J. JOHNSTON. One additional minute.

Mr. BYRD. I yield 1 additional minute.

Mr. J. JOHNSTON. Madam President, the shift in power which this would
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B. BRID. Madam President, I thank the distinguished Senator. I yield the remainder of my time to Senator SARBANES.

Mr. SARBANES. Ten minutes?

Mr. BRID. Ten minutes.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 10 minutes.

Mr. BUMPERS. Would the Senator from West Virginia give me 1 minute prior to the Senator from Maryland speaking and it not come off the Senator's time?

Mr. BRID. I yield 10 minutes to Senator SARBANES, but first 1 minute to Senator BUMPERS.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator from Louisiana for a very powerful, cogent statement. No. 2, I want to say to my colleagues that, if by some chance the Supreme Court does not rule this unconstitutional, you will never be able to take this power back. Thirty-four Senators can keep you from ever taking this power back. It will be gone forever.

When the Framers assembled in Pennsylvania, in Philadelphia, in 1787, the one thing they knew above everything else was that they had all the kings they wanted. They wanted no more kings. And they succeeded admirably. We have had 43 Presidents and no kings—until now. We are doing our very best to transfer kingly powers to the President of the United States. I thank the Senator for yielding.

Mr. SARBANES addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I want to express my very deep appreciation to the distinguished Senator from West Virginia, Senator BYRD, for the extraordinary statement which he made earlier today on this issue. It is my prediction that, if this measure passes and is implemented, history will look back on this movement and say that was a critical turning point in our constitutional system and that it was the Senator from West Virginia, above all others, who stood on the floor and warned of what this would bring about; that it was the Senator from West Virginia who understood our existing constitutional system the best and saw the dangers inherent in this proposal.

Part of what is happening here is that, in my view, we are seeing a realization of the reality of addressing important national problems. There is a skilled craftmanship in addressing problems of public policy which members of a legislative body are supposed to bring to the table. Anyone can get up and hold a hearing on a problem. The question is, can you formulate an appropriate response? As the distinguished Senator from Louisiana said, this proposal is not really about balancing the budget. You balance the budget by tough-minded decisions on the budget, which the President and the Congress have been making in recent years.

What is happening here is an enormous transfer of authority from the legislative branch to the executive branch that completely contravenes and contradicts the Constitution, so much so that I believe when tested in the courts, this measure will be found wanting. What will I oppose it to be the case. This proposal gives the President the power, or purports to give the President the power, once he signs a piece of legislation into law, to then take out of that law various items—actually, as many as he chose. An arrangement which is called rescinding appropriation items—that unmaking of existing law. The Congress then, in order to override that rescission, would have to pass a disapproval bill which the President can veto. Once he vetoes the disapproval bill it takes a two-thirds majority in both Houses to override the President's rescission.

Thus, under the proposal before us, the President, as long as he can hold on to the third plus one of either the Senate or the House—not both bodies; either the Senate or the House—can determine every spending priority of this country. Think of that. The President and 34 Senators, or the President and 146 Members of the House—not "and" but "or"—can determine every spending priority of this Nation. Obviously this represents a fundamental reordering of the separation of powers and the check and balance arrangements between the legislative and the executive branch in our Nation's Constitution.

Unfortunately, there is a tendency to dismiss such broad-reaching constitutional questions. They were, however, very much at the forefront of the thinking of the Founding Fathers when they devised the Constitution in Philadelphia in the summer of 1787; a Constitution that I might observe has served the Republic well for more than 2 centuries. As the able Senator from West Virginia has observed a very thoughtfully balanced system was put into place and it has served this Nation well. Obviously, when we consider changing our Nation's basic charter we need to be very careful and very prudent.

Now, I submit it does not take great skill or vision to have a strong executive. Lots of nations have strong executives. In fact, if a country's executive is strong enough, we call it a dictatorship. If we review history, even look around the world now, we can see clear examples of this. It is one of the hallmarks of a free society to have a legislative branch with decisionmaking authority which can open up the check and balance upon the executive. Another hallmark is to have an independent judicial branch which can also operate as a check and balance in the system. It should be noted that we have received a letter from the Judicial Conference of the United States expressing their very deep concern about this measure and indicating that they feel it undermines the independence of the judicial branch of our Government.

That letter states in part:

The Judiciary believes there may be constitutional implications if the President is given independent authority to make line-item vetoes of its appropriations acts. The doctrine of separation of powers recognizes the vital importance of protecting the Judiciary against interference from any President.

The Senator from West Virginia, to his enormous credit, is a great institutionalist. He believes in the institutions of our Nation and is concerned with maintaining their strength and vitality and resists the political fad of the moment. Our framers established a balanced Government with independent branches, not only an executive with power and authority, but a legislative branch with power and authority, and a judiciary that is independent. This measure significantly erodes the arrangement which has served the Republic well for over 200 years.

I invite all of my colleagues to stop and think for a moment about how this bill, which opens up the check and balance for the executive branch, for the President, to bring enormous pressure to bear upon the Members of the Congress and therefore markedly affect the dynamics between the two branches. The President could link—easily link, obviously will link, in my judgment—unrelated matters to a specific item in the appropriations bill. Suppose a Member is opposing the President's policy—perhaps somewhere in the world our national security policy; perhaps a nomination which the President had made—and the President receives a bill which contains in it an item of extreme importance to the Member's district or State, justified by the President, by the President's policy, which links the item. He knows it is meritorious. But at the same time, he has this other issue that he certainly hopes he does not have to vote on. He knows it is meritorious. But at the same time, he has this other issue that he certainly hopes he does not have to vote on. He knows it is meritorious. But at the same time, he has this other issue that he certainly hopes he does not have to vote on. He knows it is meritorious. But at the same time, he has this other issue that he certainly hopes he does not have to vote on.
My friend from Louisiana spoke of how the line-item veto power would be used to directly neutralize congressional policy on a particular issue. A majority is in favor of a certain policy, the President pulls it out and negates it, he disapproves of one-third of one House and that is the end of it—even though a clear majority in both Houses of the Congress wanted the policy.

The next step beyond rendering the congressional opinion null and void on a specific issue itself, is to link that issue to some other unrelated issue on which the President is seeking to obtain leverage over the Member of Congress. In fact, in the hands of a vindictive President, the line-item veto could be absolutely brutal. I want to lay that on the record today. In the hands of a vindictive President the line-item veto could be absolutely brutal. But you would not need a vindictive President for abuses. Presidents anxious to gain their ends, as all Presidents are, will use this weapon to pressure legislators.

Mr. J. Johnston. Will the Senator yield?

Mr. SARBANES. I am happy to yield to the Senator.

The PRESIDING OFFICER. The time of the Senator is expired.

Mr. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. BYRD. I yield 2 additional minutes to Senator SARBANES.

Mr. SARBANES. I yield to the Senator from Louisiana.

Mr. Johnston. Madam President, I wonder if the Senator finds this parallel: In a conference report, where the Senate and the House go to a conference committee, there are bargains struck, and finally a bill put together. Would it not be somewhat like being able to strike a bargain, putting the bill together, signing off on it, and then after the bill is signed, have one House strike all the items that the other House wanted?

Mr. SARBANES. I yield to Chairman Johnston. You could absolutely redo the legislation.

I ask unanimous consent to have printed at the end of my remarks an article written by Judge Abner Mikva on this very point, called “Loosening the Glue of Democracy.”

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JOHNSON. Madam President, the Senator from West Virginia made a constructive proposal, which was just tabled, which would have allowed the President to propose rescissions to the Congress for consideration on an expedited basis, with the Congress having to vote on those proposals, and with a majority vote required to approve the rescission. This would have enabled the President to spotlight those items of which he disapproved and required a congressional vote on them but would not have altered our basic constitutional arrangements.

The line-item veto tool contained in this legislation will not, in my judgment, become a way to delete appropriation items, but rather a tool and a legislative strategy used by the White House and executive branch to pressure Members on their positions on unrelated items. It will become a heavy, coercive weapon of pressure.

This is a dangerous departure from past constitutional practice, drastically shifting the balance between the executive and legislative branches. It will fundamentally alter our constitutional arrangement to the detriment of government, which has served well our Republic and been the marvel of the world.

Madam President, I close by again expressing my deep gratitude to the Senator from West Virginia for so clearly and eloquently setting forth the severe problems connected with this proposal.

EXHIBIT 1

[From the Legal Times, Mar. 25, 1996]

LOOSENING THE GLUE OF DEMOCRACY

THE LINE-ITEM VETO WOULD DISCOURAGE CONGRESSIONAL COMPROMISE

(By Abner J. Mikva)

There is a certain hardiness to the idea of a line-item veto that causes it to keep coming back: Presidents, of course, have always wanted it because the line-item veto represents a substantial transfer of power from the legislative branch to the executive branch. Government purists favor the idea because the current appropriations process—whereby all kinds of disparate expenditures are wrapped or “bundled” into one bill so that the president must either swallow the whole thing or veto the whole thing—is very messy and wasteful. Reformers generally urge such a change because anything that curtails the power of Congress to spend has to be good.

My bias against the unbundling of appropriations and other legislative proposals has changed over the years. When I first saw the appropriations process, back in the Illinois legislature, it seemed to me that the ability to bundle dozens of purposes into a single bill. It also seemed unconstitutional since the Illinois Constitution had a “single subject” clause which stated that bills considered by the legislature were to contain only one subject matter. But the “single purpose” clause had been observed in the breach for many years by the House. When I first saw the bundling process work when a single bill, presented for final passage, appropriated money for both the Federal Work Practices Commission and a host of other commissions, including one to provide services for Spanish-American War veterans (there were two left in the state at the time) the House simply voted that it inhabited the downstate portions of Illinois. If I wanted to vote for the FEPC, I had to swallow all those other commissions, which I didn’t want. I invoked the constitutional clause. To my dismay, the legislature favored all the other commissions on separate votes, but the FEPC went down to defeat. That is how I learned that there are some pluses to the bundling process.

Bundling is very asymmetrical in effect and probably wasteful. It is also a legislative device to make the coalitions form and thus moves the legislative process forward.

Consider South America, where regional rivalries and political and economic interests make governing very difficult. The inability to form the political coalitions that are necessary in this country creates enormous pressure on the central government. This pressure is certainly one of the causes of the mini-revolts that perpetually arise. The dictators feel excluded from the process, while the majority (or the military regime) exercise their power without taking care of the depressed areas of the country.

It is more difficult to do the same have-nots in the United States. First of all, members of Congress are elected as representatives of geographic areas, rather than as representatives of parties. We have a business man who starts thinking too much like a national legislator and forgets the parochial interests of his constituents.

Second, the separate elections of the president and Congress creates the necessity for the two branches to cooperate in setting priorities. Even that take into account the needs of all the sections and groups in the country becomes essential. When urban interests wanted to promote a food program for the cities, for example, they formed a coalition with agricultural interests, and food stamps were joined with farm subsidies. It is true that bundling encourages the merger of bad ideas with good ideas, and diminishes the ability of the president to undo the package. A line-item veto, which would allow the president to take one piece of an appropriations bill (or, under some proposals, reject disparate pieces of any other bill), makes the whole process more rational. It makes it more likely to form the political coalitions that hold the disparate parts of our country together.

City people usually care about dams and farm policy. Their rural counterparts don’t think much about mass transportation or urban renewal or housing policy. If the two groups of representatives don’t have anything to bargain about, it is unlikely that either side’s concerns will receive appropriate attention.

On the other side of the line-item veto is precisely the reason why almost all presidents try to get rid of the system: Congress is the only real power that Congress has and the line-item veto transfers the power of the purse, the power from Congress to the president. For those of us who think that the executive branch is strong enough, and that an imperial presidency is more of a threat than an opposition Congress, the current balance of power is just right.

That has been the gist of Sen. Robert Byrd’s opposition to the line-item veto. The West Virginia Democrat has argued that the line-item veto transfers the power of the purse, the line-item veto would diminish that power substantially. So far, he has prevailed—although last year, the reason he prevailed had more to do with the Republicans’ unwillingness to give such a powerful tool to President Bill Clinton. But now the political dynamics have changed. The Republicans in Congress can no longer stand idly by as the incumbent president—unless he gets reelected—and their probable presidential candidate, Senator Majority Leader Robert Dole, has recently made clear that he wants this passed. Chances for the line-item veto are vastly greater.

There are some constitutional problems in creating such a procedure. The wording of the Constitution suggests pretty strongly that a bill is presented to the president for his signature or veto in its entirety. It will take some creative legislative shenanigans to form such a “technicality.” I reluctantly advised the president last year that it was possible to draft a line-item veto law that would pass constitutional muster, which involved a Ruben Goldberg plan that “preserved that the omnibus appropriations
Madam President, again I am proud that today the Senate is passing the conference report on the Line-Item Veto Act of 1996. Giving line-item veto authority to the President is a promise we made to the American people in the Contract With America, and it is a promise we are following through on today.

Line-item veto seems to be the one thing that all modern Presidents agree on. All of our recent Presidents have called for the line-item veto—both Democrats and Republicans alike. And for good reason. The President, regardless of party, should be able to eliminate unnecessary pork-barrel projects from large appropriations bills.

Most of our Nation's Governors have the line-item veto. Some States have had line-item veto since the Civil War. There's a lot of experience out there in the States that shows us this is a good idea; 43 Governors have the line-item veto, and now—finally—the President will, too.

President Clinton and I have talked about the Line-Item Veto Act. He wants the line-item veto and we both think it is a good idea. Certainly, a line-item veto is not a cure-all for budget deficits. No one is pretending it is the one big answer to all of our budget problems.

But it is one additional tool a President can use to help unnecessary spending, to help us fulfill our pledge to American taxpayers for less Washington spending. Line-item veto has a lot of support in the Senate. We passed our version of the bill in the Senate just about a year ago on March 17, 1995 with the support of 69 Senators.

But I know some are worried that it shifts the balance of power away from Congress and to the President. Well, appropriations bills that go on for hundreds of pages have already altered the dynamic between the President and Congress from what it was 200 years ago.

Even so, for those who aren't so sure line-item veto is the right approach, this bill has a sunset in it. We will try this experiment for a few years and see if it works. I am confident it will. It is an idea whose time has come.

Mr. President, I yield 3 minutes of my leader time to the Senator from Nebraska, Mr. Exon.

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expenditures. That is right, Mr. President. It is still pork, but it will be riveted onto a revenue bill or a budget reconciliation bill—like the one the Republican majority passed last fall. Call it a tax loophole or whatever you want, it is still just as wasteful, and it is still just as shameful as appropriated pork spending.

This problem of tax expenditures is not new. We have visited it many times, but with little resolution. The Budget Committee, in its committee hearings going back to 1993 on the budgetary effects of tax expenditures, OMB Director Dr. Alice Rivlin testified, and I quote, “Tax expenditures add to the Federal deficit in the same way that direct spending programs do.”

I believe, and many of my colleagues on both sides agree, that if we are serious about cutting wasteful spending, if we are serious about reducing the deficit, if we want to be about a credible line-item veto, we should include special interest tax loopholes in the list of what the President can line out.

What should shine forth from this conference report is an attack on both wasteful appropriated spending and tax benefit pork. But the long arm of the special interests reached into the conference and turned off the lights when tax loopholes were put on the table.

From what I have seen of the conference report language, it could be virtually impossible for the President to veto special interest tax breaks, or as they are now called, limited tax benefits. There are so many exceptions that even a President worth his salt will be able to write legislation in such a way that they will not be subject to the line-item veto procedure. And mark my words, they will.

The conference report language defines a tax benefit as a corporate income tax benefit, a revenue-losing provision that does one or two things. It could provide a Federal tax deduction, credit, exclusion, or preference to 100 or fewer beneficiaries. What is more, there are exclusions for tax break victims who are lobbyists, or how tax lobbyists, or how the industry, engaged in the same type of activity, owning the same type of property, or issuing the same type of investment.

The exclusions do not end here; quite the contrary, they are expanded. There are exceptions for individuals with different incomes, marital status, number of dependents, or tax return filing status. For businesses and trade associations, the exclusion could be based on size or form.

That is so limited, it does not exist. It is nearly impossible to think of any provision that it would cover. In fact, I do not believe that more than one or two of the dozens of tax expenditures in the last year’s Republican budget reconciliation would be subject to a Presidential line-item veto under the report language. And that bill was drafted before the lobbyists needed to draft their way around the line-item veto.

The exceptions are troubling enough, but it gets worse. Who defines a targeted tax benefit for the purposes of the line-item veto? I was surprised to learn that it will be the Joint Committee on Taxation. I, certainly, do not intend to disparage the committee and its fine members, but this oversight duty strikes this Senator like the proverbial fox guarding the henhouse. This conference report would make Aesop proud.

This is how it works. Under the provisions of the conference report, Joint Committee on Taxation will review every tax bill and decide whether the bill includes any tax loopholes, called limited tax benefits. The Joint Committee then gives its ruling to the conference committee, which gets to choose whether to include that information in its conference report. Recall that it is very often the staff of this same Joint Committee on Taxation that drafts the tax loopholes in the first place.

Here is the kicker. If the Joint Committee on Taxation is included, the President can rescind only, and I repeat, only those items identified in the legislation as limited tax benefits. The Joint Committee declaration is more than a piece of paper. It is a declaration of immunity for what could very well be a limited tax benefit. It is an inoculation against a Presidential line-item veto. It is the magic bullet for tax lobbyists.

I do not believe that any of my colleagues fell off the turnip truck yesterday. We know how lobbyists work. I guarantee you that they will be storming over Joint Committee like the sand hill cranes returning to the Platte River in Nebraska. Joint Committee will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, I am disappointed by the final product the conference brings to the floor. I know how lobbyists work. I guarantee you that they will be storming over Joint Committee like the sand hill cranes returning to the Platte River in Nebraska. Joint Committee will be thick as thieves with tax lobbyists. And for good reason, the committee will have the sweeping power to grant unprecedented immunity to Tom, Dick, or Harry with a sweetheart tax deal.

Madam President, 43 Governors currently have constitutional authority to reduce or eliminate items or provisions in appropriation measures. My home State of South Carolina provides this authority, and I found it most useful during my service as Governor. Surely the President should have authority that the Governors now have to check unbridled spending.

It is widely recognized that Federal spending is out of control. The Federal budget has been balanced only once in the last 35 years. Over the past 20 years, Federal receipts, in current dollars, have grown from $279 billion to more than $1.3 trillion. In the meantime, Federal outlays have grown from $332 billion in 1975, to more than $1.5 trillion last year, an increase of greater than $1.1 trillion. Annual budget deficits have reached $200 billion, with the national debt growing to more than $5 trillion.

Madam President, it is clear that neither the President nor the Congress are effectively dealing with the budget crisis. The President continues to submit budgets which contain little spending reform and continue to project annual deficits.

If we are to have sustained economic growth, Government spending must be significantly reduced. A balanced budget amendment, which I am hopeful will still be passed this Congress, and line-item veto authority would do much to bring about fiscal responsibility. But I have my doubts that more time and more debate will produce a different result—a superior product. I tell my colleagues that giving the President at least some power to rein in wasteful spending is better than nothing. I urge my colleagues to do the same.

I yield my remaining time.

Mr. MCCAIN. Madam President, I yield 9 minutes to the Senator from South Carolina, Senator THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Madam President, I rise in support of the conference report accompanying S. 4, the Line-item Veto Act. For many years, I have been a supporter of the authority to the President to disapprove specific items of appropriation presented to him. On the first legislative day of this Congress, I introduced Senate Joint Resolution 2, proposing a constitutional amendment to give the President line-item veto authority.

Presidential authority for a line-item veto is a significant fiscal tool which would provide a valuable mechanism to reduce and restrain excessive appropriations. This proposal will give the President the opportunity to approve or disapprove individual items of appropriation which have passed the Congress. It would increase the President’s authority to reduce the dollar amount legislated by the Congress.

Madam President, 43 Governors currently have constitutional authority to reduce or eliminate items or provisions in appropriation measures. My home State of South Carolina provides this authority, and I found it most useful during my service as Governor. Surely the President should have authority that the Governors now have to check unbridled spending.
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Amendment and repeal of statues no less than enactment must conform with article I.

This conference report comes up with a new procedure which does not con- form with article I and says that the President may cancel—that means re- peal—a certain point of the law of the United States of America. He can with his pen on day 1 create a law by signing our bill, and on day 2, 3, 4, 5, or 6 cancel what is then already the law of the land.

Madam President, the Constitution will not tolerate that. We should not even attempt to do such a thing. There have been many reasons given for why the line-item veto in one version or an- other would be useful in terms of defi- cit reduction. There are ways constitutionally of doing it. The Senator from West Virginia made that effort earlier this afternoon. The current conference report before us simply cannot stand muster.

Again, thank my friend.

Mr. McCain. Madam President, how much time remains?

Mr. SARBANES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. SARBANES. In fact, the Consti- tution says:

Every Bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; if he ap- prove it, he shall sign it; but if he shall return it, with his Objections...

I do not see how constitutionally a President can sign a bill, make it the law, and then undo the law through a lockbox, ensuring that all legislation to accomplish that purpose

I would like to take this opportunity to thank some people for their extraor- dinary work on this. I acknowledge Senator Byrd's articulate and worthy opposition to this message throughout the years that we have been debating it. Anyhow, I want to thank Sena- tor Domenici and Senator Stevens for helping us at a critical time. They were key to a strong, workable compromise on the issue. Senator Dole's leader- ship, his decision to make this happen, to break the impasse and achieve a compromise, was critical to our our success. Particularly, it is a privi- lege for me to thank my friend and col- league, John McCain from Arizona, for his efforts in this regard. I deeply re- spect his determination. He has been tireless in his fight against the current system and the status quo. He has per- severed in long odds, in the face of what often looked like a losing battle. We joined together 8 years ago in a commitment to pass a line-item veto, and it has been my privilege to partner with him in this effort.

Madam President, this measure, in my opinion, is the most important Government reform that this Congress for many Congresses has addressed. Yes, a line-item veto will help reduce the deficit. Yes, a line-item veto will eliminate foolish waste. But our ultimate objective is different. Our current budget process is designed for decep- tion. It requires the disingenuous of several kinds.

When we send spending to the Presi- dent that cannot be justified on its merits, it is attached more often than not to important appropriations bills. This has tended, first, to tie the Presi- dent's hands, leaving him with a take- it-or-leave-it decision on the entire bill.

Second, it is used as a means of ob- scoring spending in the shuffle of un- counted billions of dollars of appropria- tions.

When we hide our excess behind a shield of vital legislation, our aim is plain. We do it to mask our wasteful spending by confusing the American taxpayer. We have created a system that avoids public ridicule only be- cause it consciously attempts to keep our citizens from knowing how their money is spent. This is not a rational process. This is a deception. It is a trick, and it must stop. It is more than abuse of public money; it is a betrayal of the public trust.

But now we have an opportunity to end that abuse and restore that trust. We have a chance to pass legislative line-item veto in a form that has gained support from both parties and in both Houses of Congress. We have the power to make our goal of budget reform a reality. It is not all that we need to do, but it is a huge leap for- ward.

The line-item veto is designed to con- front our deficit and to save tax- payers' money. We have shaped this legislation to accomplish that purpose through a lockbox, ensuring that all
the savings canceled by the President go forward toward deficit reduction. The line-item veto is not a budgetary trick. Unlike the appropriations process that currently exists and has existed from the beginning of this legislation, it is not a check on budget. Nor are pay dates altered. It is a substantive change aimed at discouraging budget waste by encouraging the kind of openness and conflict that enforces restraint.

We have reached a historic decision, a historic moment. The first line-item veto, as I said, was introduced 120 years ago, interestingly enough, by a Congressman from West Virginia, Charles Faulkner. It died then in committee, and since then nearly 200 line-item vetoes have been introduced, each one buried in committee, blocked by procedures or killed by filibusters.

Today we have not been blocked. Today we have not been killed. And this issue will no longer be ignored or no longer denied. The House and the Senate are in agreement. The President is in agreement. The public is in agreement. And now just one final vote remains.

This measure is a milestone of reform. It is the first time that the Congress will voluntarily part with a form of power it has abused. That is the result of a public that no longer accepts our excesses and excuses. But it is also evidence of a new era in Congress, a new Congress that has been introduced, each one buried in committee, blocked by procedures or killed by filibusters. The rules and customs of the Senate may have changed, but only renewed respect for the honor and dignity of this body who loves his country more, than I.

Ten years may be but a moment in the life of this venerable institution, but it is a long time to me. In a few minutes, the issue will be decided. I am immensely proud that the Senate is now apparently prepared to adopt S. 4, the line-item veto conference report, that its adoption by the other body is assured, and that the President of the United States will soon sign this bill into law.

I am deeply grateful to my colleagues who have worked so hard to give the President this authority. I wish to first thank my partner in this long, difficult fight, my dear friend, the Senator from Indiana, [Mr. COATS]. His dedication to this legislation has been extraordinary and its success would not have been possible absent the great care and patience he has exercised on its behalf.

I would like to thank Frank M. Buskey, my staff and Sharon Soderstrom and Megan Gilly on Senator COATS' staff.

Madam President, I am grateful to the chairman of the Budget Committee, Senator DOMENICI, and the chairman of the Governmental Affairs Committee, Senator STEVENS. There have been moments in our conference when my gratitude may not have been evident, but I would not want this debate to conclude without assuring both Senators of my respect for them and my appreciation for their sincere efforts to improve this legislation. We may have had a few differences on some questions pertaining to the line-item veto, but I know we are united in our commitment to the success of S. 4.

I also wish to thank the assistant majority leader, Senator LOTT. As he often does, amidst the confusion and controversies that often define conferences, he managed to identify the common ground and bring all parties to fair compromises and broad agreement.

Finally, let me say to the majority leader, Senator DOLE, all the proponents of the line-item veto know that without his skillful leadership, without his admonition to put differences over details aside for the sake of the principle of the line-item veto, we would not now stand at the threshold of accomplishing something of real consequence to this Nation that is, as former baseball great Reggie Jackson once described himself, "the straw that stirs the drink" around this place.

The rules and customs of the Senate are revered as a no action but, rather, for their restraining effect on ill-considered actions. Few things of real importance would ever occur here without Senator DOLE's leadership. The advocates of this legislation have cause to celebrate his leadership today, but I think even the opponents of this particular measure could refer to the many occasions when all Senators have had cause to celebrate Senator DOLE's leadership of the Senate.

Madam President, the support of my colleagues for the line-item veto have made this long, difficult contest worthwhile and an honor to have been involved in, but even greater honor is derived from the quality of the opposition to this legislation. And every Senator is aware that the quality of that opposition is directly proportional to the quality of one Senator in particular, the estimable Senator from West Virginia, Senator BYRD.

I would like to indulge a moment of common weakness of politicians. I wish to quote myself. I wish to quote from remarks I made 1 year ago when we first passed the line-item veto. I said at that time that "Senator BYRD distinguished our debate, as he has distinguished so many of our previous debates, as he has distinguished today's debate, "with his passion and eloquence, his wisdom and his deep abiding patriotism. Although Senator BYRD and I have eagerly sought opportunities to contend with Senator BYRD, that was, to use a sports colloquialism, only my game face. I assure you I have approached each encounter with trepidation. Senator BYRD is a very formidable man."

Madam President, I stand by that tribute today. If there is a Member of this body who loves his country more, who revere the Constitution more, or who defends the Constitution more effectively, I have not had the honor of his acquaintance. Should we proponents of the line-item veto prevail, I will take little pride in overcoming Senator BYRD's impressive opposition but only renewed respect for the honor of this body as personified by its ablest defender, Senator ROBERT BYRD.

Senator BYRD has solemnly adjured the Senate to refrain from unwittingly violating the Constitution. As I said, his love for that noble document is professed and practiced by a devoted public servant. I, too, love the Constitution, and although I cannot equal the Senator's ability to express that love.
Like Senator Byrd, my regard for the Constitution encompasses more than my appreciation for its genius and for the wisdom of its authors. It is for the ideas it protects, for the Nation born of those ideas that I would ransom my life to defend the Constitution of the United States.

It is to help preserve the notion that Government derived from the consent of the governed is as sound as it is just that I have advocated this small shift in authority from one branch of our Government to another. I do not think the change to be as precipitous as its opponents fear. Even with the line-item veto authority, the President could ill-afford to disregard the will of Congress. Should he abuse his authority, Congress could and would compel the redress of that abuse.

I contend that granting the President this authority is necessary given the gravity of our fiscal problems and the inadequacy of Congress’ past efforts to remedy them. I do not believe that the line-item veto will empower the President to cure Government’s insolvency on its own. Indeed, that burden is and it will always remain Congress’ responsibility. The amount of money that may be spared through the application of the line-item veto are significant but certainly not significant enough to remedy the Federal budget deficit.

But granting the President this authority, I believe, a necessary first step toward improving certain of our own practices, improvements that must be made for serious redress of our fiscal problems. The Senator from West Virginia reveres, as do I, the custom of Congress nor any of its Members to note that this very human institution can stand a little reform now and then.

Madam President, I urge my colleagues to support the line-item veto conference report and show the American people that, for their sake, we are prepared to relinquish a little of our own power.

I am very pleased to be here on this incredibly historic occasion. I yield the remainder of my time.

Mr. BYRD. Will the Senator yield?

Mr. MCCAIN. I am happy to yield.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I think of an old fable about two frogs. They both fell into a churn that was half filled with milk. One of the frogs immediately turned over, gave up the fight, and perished. The other frog kept kicking until he churned a big pat of butter. He mounted the butter, jumped out of the churn, and saved his life.

The moral of the story is: Keep on kicking and you will churn the butter.

Madam President, I say this in order to congratulate Senator McCain and Senator Dole especially, for their long fight and for their success in having gained the prize after striving for these many, many years. They never gave up. They never gave up hope. They always said, “Well, we will be back next year.”

So I salute them in their victory and, as for myself, I simply say, as the Apostle Paul, “I have fought a good fight, I have finished my course, I have kept the faith.”

I thank all Senators.

Mr. COATS. Will the Senator yield, if I could just respond to that?

First of all, that is a high compliment and I am sure I speak for both Senator McCaín and myself in thanking you for that.

But, second, I leave here, after this vote, with the vivid picture in my mind that the Senator from West Virginia is still kicking the churn on this issue, and that the final chapter probably is not written yet.

I admire his tenacity also, and I think he has gained the respect of Senator McCaín and I and everyone else for his diligence in presenting his case.

Mr. BYRD. I thank the Senator.

Mr. McCaín. I yield my time.

The PRESIDING OFFICER. The question is on agreeing to the conference report on the line-item veto.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the conference report; the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The result was announced, yeas 69, nays 31, as follows:

Mr. DOLE. Pursuant to a previous unanimous consent agreement, I now call up Senate Concurrent Resolution 49, correcting the enrollment of the farm conference report.

The PRESIDING OFFICER. Under the previous order Senate Concurrent Resolution 49, a concurrent resolution to correct the enrollment of H.R. 2854 previously submitted by the Senator from Indiana is agreed to.

The concurrent resolution (Senate Concurrent Resolution 49) was agreed to as follows:

CORRECTING THE ENROLLMENT OF H.R. 2854

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives, in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs, shall make the following corrections:

In section 215—

(1) in paragraph (1), insert “and” at the end;

(2) in paragraph (2), strike ‘‘;’’ and at the end and insert a period; and

(3) strike paragraph (3).
AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report the conference report to accompany H.R. 2854.

The assistant legislative clerk read as follows:

The committee on conference on the disagreement between the two Houses on the amendment to the bill (H.R. 2854) to modify the operation of certain agricultural programs, having met, after full and free debate and having agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 25, 1996.)

The PRESIDING OFFICER. Debate on the conference report is limited to six hours; 2 hours under the control of the Senator from Indiana, Senator LUGAR; 1 hour under the control of the Senator from Vermont, Senator LEAHY; and 3 hours under the control of the Democratic leader or his designee.

Mr. DOLE, Madam President, I hope most, if not all, of the debate will be used this evening. I know the Senator from Indiana, the chairman of the committee, is here and prepared to debate. I know there are some others who may want to be heard tomorrow. But hopefully we can conclude action on this tomorrow morning and get it over to the House so they can conclude it before they take up health care; otherwise, we are going to have a problem getting it passed before the Easter recess.

So there will be no further votes tonight. That has already been announced. I thank the chairman of the committee. I think Senator LEAHY is also going to be here for some debate. I know the distinguished Democratic leader has time reserved.

Mr. DASCHLE addressed the Chair. The PRESIDING OFFICER. The minority leader.

THE DEATH OF EDMUND S. MUSKIE

Mr. DASCHLE. On behalf of myself, Senator DOLE, Senator COHEN, and Senator Skow, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 234) relative to the death of Edmund S. Muskie.

Whereas, the Senate fondly remembers former Secretary of State, former Governor of Maine, and former Senator from Maine, Edmund S. Muskie,

Whereas, Edmund S. Muskie spent six years in the Maine House of Representatives, becoming minority leader,

Whereas, in 1954, voters made Edmund S. Muskie the State's first Democratic Governor in 20 years,

Whereas, after a second two-year term, he went on in 1958 to become the first popularly elected Democratic Senator in Maine's history,

Whereas, Edmund S. Muskie in 1968, was chosen as Democratic Vice-Presidential nominee,

Whereas, Edmund S. Muskie left the Senate to become President Carter's Secretary of State,

Whereas, Edmund S. Muskie served with honor and distinction in each of these capacities:

Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Edmund S. Muskie, formerly a Senator from the State of Maine.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today it doth hereby order the Clerk to enter the following resolution:

Resolved, That the Secretary communicate the following resolution to the House of Representatives:

The PRESIDING OFFICER. Is there objection to the immediate consideration of this resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DASCHLE, Mr. President, in the earliest days of our Nation, George Washington said it was the duty of public servants to "raise a standard to which the wise and the honest can repair."

In his more than five decades as a public servant, Senator Edmund Muskie not only raised the standard of wisdom and honesty in public office. On many occasions and in many ways, he set the standard.

Today I join my colleagues and, indeed, all of America, in saying goodbye to this extraordinary American. Senator Muskie served two terms as Governor of Maine—something of a minor political miracle in such a rock-ribbed Republican State.

He also served with great dignity and distinction as our Nation's Secretary of State under President Carter.

But it was his service in this Chamber, and as his party's candidate for Vice President, for which Senator Muskie will be best remembered—and rightly so.

In 1974, I came to Washington as a Senate staffer. Senator Muskie had already served 15 years.

What first impressed me about him was his compassion, and his unshakable belief in the infinite possibilities of America. It was a belief he learned from his immigrant father, a belief that animated his entire life.

Ed Muskie knew that government could not guarantee anyone the good life. But government has a responsibility to help people seize possibilities to make a good life for themselves, their families and their communities.

He held other beliefs deeply as well. Ed Muskie believed that we have an obligation to be good stewards of this fragile planet.

"No matter how much the Federal partner provides," he said, "no Federal legislation, no executive order, no administrative establishment can get to the heart of most of the basic problems confronting the state governments today."

Ed Muskie believed that politics ought to be a contest of ideas, not an endless series of personal attacks.

Rather than counter-attack, Senator Muskie appealed for reason and decency and truth. I want to quote from a televised speech he made back then, because I think it bears repeating today.

"In these elections *** something has gone wrong," he said.

There has been name calling and deception of an unprecedented volume. Honorable men have been slandered. Faithful servants of the country have had their motives questioned and their patriotism doubted. . . .

The danger from this assault is not that a few more Democrats might be defeated—the country can survive that. The true danger is that the American people will have been deprived of that public debate, that opportunity for fair judgment, which is the heartbeat of the democratic process. And that is something the country cannot afford.

Senator Muskie went on to say:

"There are only two kinds of politics. They are not radical or reactionary, or conservative and liberal, or even Democratic or Republicans. They are only the politics of fear, and the politics of trust."

"Senator Muskie believed in the politics of trust. And he believed in honest negotiation. Testifying before the Senate a few years ago, Senator Muskie said, "There's always a way to talk.""

"There is always a way to talk."

In his later years, Senator Muskie helped found an organization called the Center for National Priorities to find new ways to talk in a reasoned manner about the big problems facing our nation.

Today, we mourn Ed Muskie's death. But let us also celebrate his extraordinary life. And let us re-dedicate ourselves to the beliefs that shaped that life.

The belief that America is and must remain a land of possibilities—for all of us.

The belief that we must protect our environment.

The belief that it takes more than money alone to solve our problems. It takes hard work and personal responsibility, and people working together.

Let us re-dedicate ourselves to Senator Muskie's belief the politics can and should be a contest of ideas, and...
that we have a responsibility to talk straight to the American people. And let us remember that we have a responsibility to talk straight to each other. There are many great and urgent issues facing this chamber. This is the time in a long while to direct those signals to Washington, and to his many friends the world over.

Ed Muskie is gone. But we can keep his spirit alive in this chamber. The choice is ours.

In closing, I offer my deepest condolences to Senator Muskie's widow, Jane, to their children, and to his many friends the world over.

The PRESIDINGOfficer. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 234) was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DASCHLE. I yield the floor.

AGRICULTURAL MARKET TRANSITION ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDINGOfficer (Mr. GORTON). The Senator from Indiana.

Mr. LUGAR. Mr. President, it is a privilege to bring before the Senate H.R. 2854, the Agricultural Improvement and Reform Act. The farm bill that we are to pass after this debate will make the most sweeping changes in agricultural policy since the days of the New Deal. These changes begin a new era in which markets rather than Government will dominate farm decisions.

H.R. 2854 offers farmers more freedom to plant crops without Government constraint than they have had in decades. The legislation turns farm programs from an uncontrollable entitlement to a system of fixed and declining income-support payments. From now on, the Federal Government will stop trying to control how much food, feed, and fiber our Nation produces. Instead, we will trust the market for the first time in a long while to direct those signals.

Farmers during this time will not be left unprotected in a sometimes unforgiving world marketplace. H.R. 2854 provides new protection against export embargoes, ensuring that the United States will be a reliable supplier of agricultural products. The bill also strengthens our successful export credit programs, placing new emphasis on high-2854 expenses that now constitute more than half of our overseas sales.

Back at home in this country, where resource conservation is increasingly important not only to producers but to all citizens, this bill offers new incentives to help us put natural resources wisely. The Environmental Quality Incentive Program will share the cost of measures that enhance water quality and control pollution. The Conservation Reserve Program will be renewed through the year 2002, extending the many environmental benefits of that historic program.

This legislation will require more responsibility of taxpayer money. For example, the Farm Service Agency has been compelled by law to make new loans to borrowers who are already delinquent. This bill will end that practice and other abuses of our lending programs.

H.R. 2854 authorizes food stamps and other important nutrition programs. It consolidates and streamlines rural development programs. It repeals dozens of outdated or unfunded Federal programs and requires that the payments differ from the so-called deficiency payments now made under current law because the contract payments are unrelated to market price levels.

Farmers will be required to maintain their farm in agricultural use, to comply with some limitations on the planting of fruits and vegetables and to meet conservation requirements. The Federal Government will no longer tell them how many acres to plant or rigorously control their planting choices. This bill deregulates U.S. production agriculture.

As we approach the day when this bill will become law, I wish to salute the ranking Democratic member of the Agriculture Committee, Senator PATRICK LEAHY of Vermont. When he was chairman of the Agriculture Committee, I asked him if he could be a bipartisan partner I could. He has extended the same courtesy to me. H.R. 2854 is a better bill because of that partnership.

At the same time, I also want to praise the chairman of the House Agriculture Committee, Mr. PAT ROBERTS of Kansas. His tenacity led to reforms that a short time ago were clearly unthinkable.

However, those who most deserve this salute is the agriculture producers of the country that we all serve. They are the reason this Nation exceeds all others in the productivity of our agriculture system and in the abundance of our food supply. I am proud, until now, the Farm Service Agency, Government that stands behind them without standing in their way. They want a farm bill that is designed for the new century. We have given that to them. That is what this bill represents.

The act that we are discussing tonight, the act that we are debating this evening, will mark a future of opportunities, a future beyond risk but full of challenge, and a future in which American farmers can compete, excel, and prosper. But I feel that, Mr. President, the FAIR Act is, in fact, good for farmers for these reasons. First of all, flexibility. Under the FAIR Act, the act that we are debating this evening, farmers will be able to plant the mix of crops that best suits their region rather than rely on Government direction and market opportunities. That is extremely important. That is at the heart of this bill.

The United States stands at a remarkable point in history in which we have the opportunity to sell our high-value exports that now constitute more than half of our overseas sales. The United States stands at a remarkable point in history in which we have the opportunity to sell our high-value exports that now constitute more than half of our overseas sales. The United States stands at a remarkable point in history in which we have the opportunity to sell our high-value exports that now constitute more than half of our overseas sales.
past, we estimated in the last farm bill—a 5-year farm bill, as opposed to the 7-year bill in front of us today—that the cost of this in terms of the outlays for the program crops of corn, wheat, cotton, and rice, would be $41 billion over a 5-year period, and $35 billion a year for those crop deficiency payments. But, in fact, Mr. President, it turned out that the bill cost $57 billion—16 billion more. Taxpayers have asked Members of the House and Senate, “How could you have missed the mark and estimates a $41 billion item in mind, and it turned out to be $57 billion?

Well, Mr. President, the weather intervened, and various other legislative emergencies intervened. All sorts of things intervened. They always do in agriculture, given world conditions. Mr. President, we went out confidently from the last farm bill discussion in 1990 with a $41 billion item in mind, and it turned out to be $57 billion.

In this particular case, Mr. President, the dollars that are going to be spent for these programs at the beginning, and they decline each year for 7 years. They are known to Congressmen and the press, and they are known to farmers at the time. You have to sign a contract and know exactly what the payments are going to be for 7 years if he or she continues to farm, makes agricultural use of that land, complies with conservation requirements, and does not plant tobacco. Tobacco farmers are the only stipulations. That is a large difference, as I mentioned before. Having signed up, that is the last visit the farmer may need to pay to the USDA office, or any other USDA office. That is a big change in the life of agricultural America.

Let me simply point out that the Government will no longer tell farmers which crops to plant. I have mentioned that before, but let me highlight that again.

Since the time that my father, Marvin Lugar, who was farming in Marion County, IN, in the 1930’s, was forced to destroy a portion of his corn crop and a good part of the hogs that he had on the farm, under what were supply and control dictates of the New Deal—and I will just explain that again, Mr. President. The thought then was that if you left farmers to their own devices, they would always produce too much, too many of one thing. Farmers, because they are self-sufficient and produce a lot of corn and beans in Indiana—but as somebody who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farmers might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand. I have no doubt that, as an antidote for those arguments, Senators will come on the floor, being unacquainted with agricultural economics, and not having any corn of their own in the situation, and will talk about the ‘destruction of the family farm,’ and about a decline in income.

Mr. President, I come before this body, as all Members know, as one who has 604 acres of land—about 250 acres, average; in corn; about 200 acres, average, in soybeans, each year. It is not a hobby farm. It is a productive farm, a profitable farm. It is a farm that has made a profit for many, many years. I come to this debate not as someone who is arguing on behalf of constituents entirely—although my constituents produce a lot of corn and beans in Indiana—but as someone who has actually filled out the forms every year, who has had to comply with the rules of the game, who understands how farmers might be more profitable, who attends every meeting of the Indiana Farm Bureau annually and, in the counties, talks to farmers to understand precisely what is at hand. And I say, Mr. President, after 20 years in this body of debating farm legislation, this is the first time that I can go home to Indiana and say the future of agriculture is bright. We have an opportunity in terms of our upside potential for something magnificent in the generation of farming for those to whom we pass it along. I think that is critically important.

Mr. President, while we have tried to deal with this basic issue of freedom to farm we have also in both the House and the Senate attempted to deal meticulously with issues that are of importance to farmers all over this country by county and locale by locale.

In the conference between the House and the Senate, staff identified close to 500 items in disagreement. In some cases the disagreement came because one House or the other did not even mention the item and, therefore, it was...
new and we had to try to resolve it. But there was common interest. In the course of 2 days, Mr. President, because of the urgency of this legislation, Members resolved all of these issues.

This is why we were able to come tonight to this country and we will not complete our work until tomorrow. But I want to give hope to farmers that tomorrow will be the day in the Senate in which freedom to farm comes to pass because that will be a great day for agriculture in this country. I appreciate this opportunity to lay before the Senate tonight the essence of this legislation.

I reserve the remainder of my time. Mr. DASCHLE, Mr. President, Senator LEAHY, the ranking member of the Senate Agriculture Committee, had to attend to a family emergency and is therefore not able to participate in the debate tonight. I know that I speak for the Senate, Mr. President, in wishing him well as he attends to his personal business, and we look forward to hearing from him on this bill tomorrow.

Mr. President, I want to take just a few moments tonight. Let me begin by making a couple of general points. First, let me commend the distinguished chairman of the Senate Agriculture Committee for his work on this effort. He and I may not agree on the final product. We certainly may not agree on the right thing to enact on farm policy in this country. But I have no disagreement with him in the manner with which he has conducted his responsibilities as chairman. He is an extraordinary leader and a Senator who has earned profound respect on both sides of the aisle. And his skill and diligence in shepherding this bill to the floor again demonstrates why he is held in such high esteem.

I would like to draw attention tonight to the hour is late and we are debating legislation in the Senate this evening. I know that regard- less of the outcome we would all agree that we should never allow legislation this important to be considered so late in a Congress. We are debating with the 1995 farm bill in March of 1996. It is almost April. There is no excuse for that.

I do not fault the distinguished chairman of the Committee. But I certainly fault the fact that in both houses of the Congress, the appropria- tors have been little priority given among our Republican colleagues to get this legislation to the floor in time to allow us to adequately consider all of these very contro- versial issues or in time to provide more certainty to farmers than they have been given.

There is no excuse for this delay. This legislation should have been passed—or at least considered—at a much earlier date. I also take issue with the title “Freedom to Farm.” Farmers have had the freedom to farm—do whatever they wish—for decades. There is no requirement that farmers sign up for the farm bill. They are not compelled to live under the confines of whatever farm legislation we pass.

In every farm bill passed since leg- islation of this kind was enacted farmers have had the right to farm. Regardless of what happens to this legislation, they will continue to have the freedom to farm.

Permanent law guaranteed the free- dom to farm. If people did not want to be required to comply with the regulations and the legislation as it was enacted, they had the right not to do so. There was no requirement.

So now those who have opposed farm programs are saying to farmers, you do not have the right to advantage yourself under farm legislation at the end of 7 years because we are going to take away your options with regard to free- dom to farm or anything else. We are going to phase out the partnership the government has had with agriculture. I believe that that merits a great deal of debate. We ought to be discussing with a lot more care.

Regardless of whether or not this legislation passes—I assume it will—I have every expectation we will be back again next year dealing with this issue of the phaseout of farm programs.

I come to the floor with tonight the realization that there are some good things in the bill. I want to address these brief comments. There are a number of things I find to be most difficult to accept, most problematic as I consider the advantages and disadvan- tages of this legislation.

Perhaps the most significant dis- advantage I find in the legislation before us tonight is that it fails to pro- vide the safety net we have always guaranteed farmers in those times when they found themselves in extrao- rdinary circumstances, whether they be economic or natural. Loan rates are capped. There is no opportunity for loan rates to go up. We all know what an important financial and economic tool the loan rate system has been in farm legislation for a long time. There is no opportunity now for loan rates to go up. They can go down. They will never go up.

The opportunity we provided farmers to store their own grain on their own farms—the freedom to store their own grain, if you will—has now denied farm- ers. The farmer-owned reserve has been eliminated. Why that is the case I am not sure. Why do we not give farmers the freedom to farm when it comes to storing their own grain is something that I will leave to others to explain.

We have eliminated the Emergency Livestock Feed Program. South Dakota had 10 inches of snow this week- end. Everything was shut down, while livestock producers are calving all through my State. The Livestock Feed Program was an important tool in times of disaster. This may not qualify. But there have been times just like this when it did, and farmers averted themselves of the Emergency Livestock Feed Program. But as a re- sult of the passage of this legislation it is no more.

There is some flexibility but not for all. Vegetable producers are treated differently. Supposedly there is a sig- nificant premium from the market—not the Govern- ment. But I must say there is not a freedom to farm in all cases. Potato producers are not given the freedom to farm. Other producers that are still working under mandates of the same constraints they have had to work under in past years, and they are going to continue to be confronted with constraints in the future. We do not have the freedom to farm in all cases for all commodities under this legislation. So let no one be misled in that regard.

The deficit increases the first 2 years under this legislation by $4 billion—$4 billion in increased costs to the Federal Treasury. In large measure the reason for that is very simple. We are going to pay farmers regardless of price. We will see record prices for wheat, perhaps record prices for corn, and we may actually also see record payments from the Federal Government to the same producers.

The ultimate effect of that will be very simple—somebody is going to pay. The taxpayers could be billed more than $4 billion in the next 2 years alone as a result of that.

Research programs are shortchanged. As one who had the good fortune to chair the research subcommittee in past Congresses, I am very concerned about the economic and research message on research—to say 2 years from now we will decide it is not enough. Re- search programs take longer than that. The clear blueprint we must lay out through research on what we intend to do in agricultural production, espe- cially on the applied side of research, needs to be addressed. So to say that for some reason we will deal with that later, we will deal with that in a year or two, is just unacceptable.

Commodity programs also are treated in the same manner. Food stamps, as everyone now knows, will only be reau- thorized for 2 years in a 7-year bill. We are going to pay farmers for 7 years whether or not the price is warranted, but people on food stamps will only have the certainty of getting whatever assistance we can provide in this legis- lation for 24 months. After that, who knows. We did not say that about farm- ers, but we are going to say that about record levels of food stamps. You have to pay kids out there who are getting less con- sideration than producers who may not even plant a crop.

Finally, Mr. President, of all the flaws, the one that I have added to in a couple of my comments tonight, the fact that producers, regardless of price, regardless of need, regardless of produc- tion, will receive a payment is something that I think is just uncon- nected from the market. It is that business of doing that. It will come back to haunt us. It will come back to under- mine the credibility of farm programs in the long run.
Nobody ought to be misled about that. It is wrong. Call it what you will—a transition payment, a deficiency payment—it is a welfare payment. It is wrong. Farmers are not comfortable with that. I do not blame them for rolling the dice, taking this legislation to Congress. There was every expectation that Congress will come back at some point with clearer heads and a much better understanding of the importance of the partnership between our Government and our agricultural industry and recognizing that some continuation of farm programs is necessary.

So if I were a farmer, I would say, “Well, look, if I am going to get a good price and I am also going to get a good payment, why not take it? Why not accept it?”

If I were a farmer, as pressed as they are today, I would take it, too. I would not argue against it. But that does not make it right. Economically and financially, it is right for every farmer. If they have the legal right to do it, they should do it. But as policymakers, it is not right for us, if we are providing huge payments to farmers at times when farm prices are as high as they are.

So, Mr. President, for all those reasons, I intend to oppose this legislation. I will vote against it tomorrow. I hope that we will come back and recognize that we can do better than this. We need to do better than this. While that has not happened in this Congress, in 1996, I hope it does happen early next year.

I commend the chairman and others for the balance they have shown in other areas. The fact that we continue the Conservation Reserve Program is a good aspect of this legislation, and I support it. I am pleased that people recognize the importance and the tremendous contribution to conservation the CRP has made for many years.

I am pleased that the Fund for Rural America has been provided for in this bill, ensuring that we address the needs of rural America. One of the key opportunities for us in rural areas now is the one I hope this legislation provides in creating new value-added product development. Value-added product development is our long-term future in agriculture. Hopefully, through the Fund for Rural America, value-added processing facilities of all kinds can be considered, financed and built.

I am glad that the increased flexibility this legislation represents is something we ought to applaud. Simplification is something that I think is more uncertain, but I do believe the goal intended in this legislation to simplify our current program is something everyone supports.

Perhaps, of all things, retaining permanent law is one of the most important aspects of this legislation that I am very enthusiastic about and certainly appreciate having.

This farm bill, Mr. President, is long overdue. It did not happen in 1995. It will now happen in 1996. 1995 is wasted. It was tied to the budget—the first time this has happened since 1947. Unfortunately, it has taken too long. Unfortunately, we are now at a time when farmers need certainty more than ever. It is too late to start over. The winter wheat crop will soon be harvested. Southern crops are already in hand. Midwestern farmers are already beginning to plan their planting for this year. They do not know what the farm programs will be until we enact them into law.

The time for transition is long overdue. The President has indicated he will sign the farm bill. He is forced to sign a bad bill because of the late date. He, as I do, has deep concerns about the safety net and the decoupling this represents. He has pledged to propose new legislation next year. I believe the public will demand it in less than a year’s time.

The bottom line is we have to go back and make improvements, do a better job in a constructive way of addressing the deficiencies that I have pointed out tonight. To paraphrase a famous actor in a popular movie, “We will be back.”

I yield the floor.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The chairman of the Senate Agriculture Committee.

Mr. LUGAR. Mr. President, I yield 10 minutes to the distinguished Senator from Washington [Mr. GORTON].

The PRESIDING OFFICER. The Senator from Washington has been yielded 10 minutes.

Mr. GORTON. Mr. President, the distinguished chairman of the Senate Agriculture Committee, the Senator from Indiana, has spent much of his time over the course of the last year as a candidate for President of the United States. He traveled about the country, speaking calmly, without invective, with common sense to the American people.

The American people in large measure did not listen to that message, thoughtful as it was. In his usual gracious fashion, the Senator from Indiana, when that became apparent, withdrew, and endorsed the candidacy of our joint good friend, the majority leader of this Senate.

I must say that in some sense the loss of the people of the United States in that candidacy directly resulted in the great gain to the people of the United States. In the construction of this farm bill, we will not have the benefit of the most dramatic change in agricultural policy since the 1930’s, one of great thoughtfulness and great promise not only for our agricultural community but for the people of the world in providing for them more and better food prospects.

So I express my deep gratitude to the Senator from Indiana for the job he has done for the people of the world, the people of the United States, and most specifically the farmers and agricultural businesses of the State of Washington.

I cannot let this part of my remarks go without also remarking on the actions of the Acting President of the Senate, the Senator from Idaho. I believe he is the only western member of the Agriculture Committee who specifically directed his attention at the needs for various policies for the farm community of the Pacific Northwest. We are here tonight, and his attention to the problem of those ranchers is a matter for which I am most grateful. But particularly the Senator from Idaho was an eloquent advocate of the so-called Brown amendment during the debate over the farm bill. That was an issue of great importance, not just to people in agriculture but to people in cities and towns and communities all over the West.

The President of the United States, in his State of the Union Address, repeatedly spoke about a smaller and less intrusive Government. But agency after agency in his administration in Washington, DC, has been busily attempting to exercise new authority and more control over the lives of the people of the United States and most particularly over their lives in the West, where water is such a great necessity. This aggrandizement was particularly evident as the administration and Forest Service has been attempting to require water permit holders, some with permits more than 100 years old, in many Western States literally to donate to the Forest Service a significant portion of their water rights as a condition for their issuance or reissuance of their permits.

Led by the Senator from Idaho, the conferees agreed at least to an 18-month moratorium on these Forest Service demands. They agreed to create a water task force to study Federal water policy and water rights across Federal lands, and no later than 1 year after the enactment of this bill to submit recommendations to the Congress on the best to resolve the controversy.

Obviously, I would have preferred, as the Senator from Idaho would have preferred, to see language that would have permanently prohibited the Forest Service from this practice. But at least this gives us relief for the time being and an opportunity to take an objective look at these demands and to deal with them at length in the Congress later. So I must say that Washington State agriculture thanks the Senator from Idaho for his magnificent work in that connection.

Overall, the 1996 farm bill is a wonderful step forward. As a member of the Senate Budget Committee, I am delighted it makes a contribution toward a balanced budget both, as the Senator from Indiana said, in allowing us precisely to determine how much money will be spent with respect to income support and in the promise of a significant contribution toward a balanced budget within a 7-year period.

The more significant, however, the fact that this bill is a dramatic step toward a free market economy in agricultural policy. Farmers and ranchers all across...
enthusiastically support its adoption. I do not believe we are going to do less with the Freedom To Farm Act, with its hefty payments from taxpayers to the farm-ers who want to take over after older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed bonus. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

This may be very good news for dad, but it sure is bad news for the son or daughter who may want to take over the farm after dad retires in the year 2002. Older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed bonus. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

This conference report is also a sham to farmers. The so-called Freedom To Farm Act and allowed the farmers basically to plant what they want and get away from all that red-tape, but that was not good enough.

This conference report, in addition to all its other shortcomings, goes right through the safety net. I should explain, is something that has been inherent in farm policy as long as we have had farm policy, and that is to provide a safety net for family-size farmers when the prices of the product that they raise, for whatever reason, was drastically low. Again, I am very fearful that this Freedom To Farm Act, or its successor, whatever you want to call it, is built around transi-tion payments that are supposed to phase out in 7 years, the year 2002, when the budget is supposed to be bal-anced.

There were also those of us who have advanced policies to balance the bud-get in 7 years. One of them was the Freedom To Farm program, which I think this one is not. Example: The conference report retains a cap on loan rates. Loan rates are historically what the farmer used as his safety net. He could borrow money at a cap on a bushel and store that commodity and sell it at a later date if the price went up. He had that option. Or if the price stayed the same or went down, he would forfeit the crop.

These levels are inadequate in this bill: $1.89 for corn and $2.58 for wheat. For all practical purposes, that is the end of the farmer-owned reserve which was always a major portion of stability and the safety net that has served us, not perfectly, but well.

The conference report is bad particu-larly, I suggest, for beginning farmers. Older farmers who have their land paid for will cruise toward retirement with a large amount of a hefty taxpayer-financed bonus. I do not think there is any question but what we will hear more and more about these welfare payments to farmers because that simply is what it is. But this is only good for 7 years, we should understand.

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These levels are inadequate in this bill: $1.89 for corn and $2.58 for wheat. For all practical purposes, that is the end of the farmer-owned reserve which was always a major portion of stability and the safety net that has served us, not perfectly, but well.
Mr. President, as I said when I started out, the die is cast, and a week ago when some of my colleagues who were against this bill said they would request that the President veto it because it was so bad, I said I was not going to request the President to veto this farm bill. We have fought the good fight. We have had a chance at least to make the case that some of us very firmly believe. But the facts of the matter are, we are the latest ever in passing a farm bill, and that is hurting the farmers because we are in the planting season.

So, as bad as this bill is, I do not suggest that the President veto the bill because with all of the other partisan battles that we have going on right now with regard to the budget, we could get ourselves in the position where we would have the same inefficient耦合 programs as we do in managing the overall Government of the United States, with a series of continuing resolutions, and evidently we are going to have the 11th and 12th continuing resolutions to fund this fiscal year, and this fiscal year is already halfway over. Pretty bad record. We should do things the right way.

I talked a few moments ago, Mr. President, about how I thought this program was a disaster in view of the millions of dollars in surpluses that are available with regard to what this is going to cost. The total cost of $47 billion; $36 billion of that will go directly to farmers, as another speaker said, with a chance to make more money than they ever made before.

I think it is wonderful. I support the concept of the marketplace. When the farmer can make a good living, an outcome of that is that the price of the marketplace, that is fine with me. That is the way it should work. But what this particular measure overlooks is that there is no safety net, and there will not be after 7 years when the price goes down. I think, Mr. President—and I yield myself what additional time I might need under the time reserved for the minority leader—I would like to explain to the Senate just how bad this program is and how I think the well will be poisoned so that we can never ever again muster the votes in the House or the Senate for a workable farm program.

Under the freedom to farm bill, with its transition payments, let us talk about what is happening. I would like to give you a specific or two. Under the act that was passed, let us take a 500-acre corn farm—that is not small; that is not big; that is probably somewhere near the average—a 500-acre corn farm. The formula for the bushel—and that is not a high or a low yield; that would be somewhere in the middle, somewhere in the average—and the cash market price that that farmer received for growing 120 bushels on a 500-acre corn farm was near the average cash price in the marketplace of $3.10—and it is near $3.40 today, so this is just an approximation—you take the 500 acres at 120 bushels per acre, that is 60,000 bushels, and you measure that 60,000 bushels by the cash price of $3.10, Mr. President, and you find that that particular farmer would have a gross cash income of $186,000 for 1 year. That is not net; that is gross.

Under the transition payments that are essential to this particular measure, that same farmer would receive an additional check, which I can only say is probably welfare, of $22,000 from the Government on top of the $186,000 of gross cash income, obviously for a gross income of well over $200,000.

There is nothing wrong, Mr. President, with the present situation of a good price in the marketplace for corn. But it is terribly wrong, in my view, when we are trying to cut down the present costs of Government and when we are attacking welfare payments that have to be cut, to envision, as has been described on the floor of the U.S. Senate, that these transition payments will continue regardless of what happens.

That means, Mr. President, that even if the farmer does not plant a crop under the example that I just gave, if he did not do anything, he would receive the $22,000 payment, I guess, for owning the land.

I am very concerned about this bill. I will not take any further time of the Senate tonight because, as I said, the die is cast. I will vote against this bill tomorrow for the reasons that I expressed tonight. If anyone should ever be interested in the further details, I would make reference to the Congressional Record of March 12, 1996, when this Senator went into great detail and cited background materials, who understand farm policy and why we are voting against this measure.

It is bad farm policy. It is bad Government policy. But I certainly agree, Mr. President, that it is good for the established farmer over the next 7 years. But what about you, Mr. President? If I might put this a little further. If you are a 57-year-old farmer today, with your land paid for, you are going to have not only a good income, but a handsome income for the next 7 years. If you are 57 or 58 years old, which the average farmer in the United States is today, and you accept this program, you are going to be in pretty good shape, I would suggest, for the next 7 years.

So, what about the son or daughter who wants to take over the farm? This measure, I emphasize once again, in my opinion, will poison the well that we might never be able to have the stability that is necessary, because farming is a risky and expensive business, to provide the safety net that I think is absolutely essential for the stability of our farms after the year 2002.

I do not want to be overcritical of many of my friends that I have worked with on farm policy for a long, long time. They may have—many of them do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land. We will see how it works out for the farmers. I am sure that they do have—sincere beliefs that this is a good farm program. My experience and my study of the bill indicates that that is not the fact. But I also realize and recognize that the majority in the House and the majority in the Senate do not agree with me. I think the President has no option, given the late date that we are finally getting around to passing a farm bill, that this measure, against my wishes, will become the law of the land.
daughters? What will happen to them? Here, honest Senators will disagree. My own view, having four sons, and trying very hard to make certain that the farm can be passed along to them, as my dad passed along the farm that I now work on today, I have a lot of optimism for them.

I believe, Mr. President, that the income that will come to farmers in the next 7 years will lead to an increase in land values. I believe the Lugar farm will make a great deal; it is in 7 years. I believe there will be income throughout that 7-year period of time which will make it even stronger than it is now. That is the legacy we pass along. We do so, I think, as farmers, as Senators, as people trying to deal in good farm policy.

Let me just point out that the Senator from Nebraska is correct that the loan rate for corn at $1.89 does not change in this bill. It is capped. Mr. President, we have already discussed the way this evening that the loan rate in some elevators around the country approaches $4. The Senator from Nebraska pointed out, using perhaps an average price predicted for 1996, $3.10, which is well above both the target and the loan rate, $3.00. The loan rate simply is irrelevant with the price of corn at $3.10 or $3.90. It does not come into play.

The Senator might remind me what goes up and down, and cycles curve. I understand that, Mr. President. This is one reason why a safety net is pertinent. The distinguished Senator has pointed out the safety net is gone, but, in fact, the safety net is alive. We are arguing maybe about the size of it. The Senator from Nebraska is correct that the support price clause is the best way to guarantee the reforms necessary for American farmers to compete in an increasingly global market. The most important aspect of this bill is that we have accomplished reform without jeopardizing our fragile rural economy by the process. An active member of the Agriculture Committee, I can attest that we have been very careful to allow for economic adjustment in these communities, and have allowed our farmers the opportunity to participate in the decisionmaking process. This is Democracy at its finest.

The new farm bill is benevolent in its flexibility and in maintaining establishing a traditional safety net for producers. No longer will farmers in my home State of Georgia be required to simply plant for the program. These farmers can now evaluate the market conditions and plant the crops that will allow them to reap the greatest profit. This liberation of our hard-earned work will allow the 1996 farm bill to lead to greater export potential as production levels for the higher-demand products will rise. The bill, most importantly, will protect farmers by maintaining standard marketing loan structures while providing market transition payments. This framework will promote economic stability in many of our poorest counties. In addition to these basic farm programs, we reauthorize important discretionary programs, such as the Trade, Nutrition, Conservation, Rural Development, Research, Promotion and Credit titles. These programs are vital to the State of Georgia. They will allow for continuing research efforts at our university, the students, will provide nutritious meals for Georgia’s children, will keep Georgia soil on Georgia fields, will maintain active rural lending along with an array of other integral functions. In sum, this farm bill is simply good for Georgia and the Nation.

I am pleased that this farm bill retains the same operating provisions of the successful Marketing Loan Program which were contained in current law. This program has proven to be greatly beneficial for commodities such as cotton and rice. The Marketing Loan Program continues to achieve the objectives of minimizing forfeitures, the accumulation of stocks, and government costs while providing competitive marketing in domestic and international markets. In order to maintain consistency in the operation
of this program, it is the intention of the managers of this conference report that the Secretary of Agriculture extend the provisions of current regulations governing entry into the marketing loan and establishment of the repayment rate. Also, it is the intention that the Secretary of Agriculture continue to establish the prevailing world price for upland cotton in the same manner utilized for the 1991 through 1995 crops.

This farm bill preserves and enhances many of our successful environmental and conservation programs. For example, the Conservation Reserve Program is reauthorized and existing participants are eligible to reapply upon expiration of their contracts. The Wetlands Reserve Program is a new cost-share program for landowners, which will promote the implementation of essential management practices to improve wildlife habitat.

I fail to see how this farm bill conference report would cause a great deal of confusion and economic hardship for many of our Nation's farmers. This outcome will not be acceptable for farmers, consumers or taxpayers. Our farmers have a right to go to work for a living, but they need to know what the programs are going to be so they can make rational and thoughtful decisions. The Government's role in providing stability and an orderly transition to a market economy in agriculture is very important, and our commitment to this goal can be seen in this farm bill conference report.

This farm bill ensures our commitment to protecting and building up our public and private investments in agriculture and rural America. Mr. President, it is time to act and I urge my colleagues to support passage of the farm bill conference report.

Mr. LUGAR. Mr. President, I point out that these Senators, Senator COVERDELL and Senator COCHRAN, are distinguished members of the Agriculture Committee and have contributed substantially to the legislation we have before the Senate.

I yield the floor, Mr. President, that the CBO budget scoring for this farm bill for the conference agreement on H.R. 2854 comes in at a savings of $2.134 billion under the December 1995 CBO baseline. I simply state that as a matter of fact, because there has been argument as to whether there is a budget implication, I am simply pointing out there is. It is down $2.1 billion, and the baseline of December, 1995, as the Chair knows, is significant, because that came after this abundant year of good farm prices which have had.

Those farm prices meant a savings to the taxpayers of about $8 billion. If we had been scoring this, as the Chair knows from his service on the Budget Committee—and on this very subject, he authored legislation to try to make certain savings at least were reasonable—as I calculate it, the savings during the year through the market were about $3.6 billion and $2 billion more is going to occur in this 7 years. That is substantial change in terms of the budget of the United States. I think that is important to introduce.

Mr. EXON. I yield myself off the time of the gentleman.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I think the Senator from Indiana knows my high respect for him. We have worked together on many occasions over the years. I happen to think that he was one of the better qualified Republican candidates for President of the United States, and I saw the gentlemen's type of campaign that he ran. I was rather surprised that he did not catch on more than he did, but then, gentlemen do not always win.

We are at odds under the present bill. My point is, I want to drive it home once again, the Senator from Indiana and dedicated to Agriculture Committee will monitor and look at this program as we go down the road. My point is—and I might be wrong, and I hope I am—but the farm program that is initiated with this freedom-to-farm act and the transition payment that go therewith, will put on the well that even if the Agriculture Committee of the House and Senate think changes should be made, the public mood at that time will be to say, "What are you telling us? You have been giving this money away, chunks of billions of dollars, whether corn is $3 a bushel or $4 a bushel, and now you want to change it."

The main difference of opinion on this whole matter between the Senator from Indiana, my friend, and myself is that I do not think the concept that he is outlining, while it sounds like a better scenario to me than what this bill is intending to do, I am simply afraid there will not be the votes in the Senate or the House to make changes that the Senator from Indiana has at least indicated might be made and might be recommended at some further date. That is the crux, I think, of the difference between the point of view being expressed by the Senator from Indiana and the Senator from Nebraska.

I yield the floor.

Mr. LUGAR. Mr. President, I ask for the amount of time that remains under the control of the three Senators.

The PRESIDING OFFICER. The Senator from Indiana controls 84 minutes; the Democratic leader controls 138 minutes; and Senator LEAHY from Vermont controls 60 minutes.

MORNING BUSINESS

Mr. LUGAR. I ask that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOW MUCH FOREIGN OIL IS CONSUMED BY UNITED STATES?

Mr. HELMS. Mr. President, the American Petroleum Institute reports that, for the week ending March 22, the U.S. imported 6,594,000 barrels of oil each day, 347,000 barrels more than the 6,247,000 barrels imported during the same period a year ago.

Americans now rely on foreign oil for more than 50 percent of their needs, and there is no sign that this upward trend will abate. Before the Persian Gulf war, the United States obtained about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil—by U.S. producers using American workers? Politicians had better ponder the economic calamity that will occur in America if and when foreign producers shut off our supply, or double the already enormous cost of imported oil flowing into the U.S.—now 6,594,000 barrels a day.

THE BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, March 26, 1996, the Federal debt stood at $5,066,587,916,694.66.

On a per capita basis, every man, woman, and child in America owes $19,154.54 as his or her share of that debt.

PROpane EDUCATION AND RESEARCH ACT

Mr. FAIRCLOTH. Mr. President, I rise today to speak on behalf of the Propane Education and Research Act.

Mr. President, North Carolina depends heavily on the use of propane as an energy source. As a matter of fact, our State ranks as the sixth largest consumer of propane fuel in the country—consuming over 500 million gallons in 1994 alone.

Propane is a low-cost energy source. For this reason, residential and farm use is abundant throughout our State. The propane industry has recognized that consumption is on a steady rise. To respond to the increased demand on the industry, producers and marketers have recognized a real need to launch a research and development program of their own. They know that a strong research and development program would enhance the safety of propane and create greater efficiency in its use, and assist them in exploring the endless opportunities of new usages.
But to truly understand propane, you must take a hard look at the makeup of the industry. The industry is only 165 producers strong with about 5,000 retail marketers. The resources necessary to implement a strong research and development program for this industry are limited.

That's where the Propane Education and Efficiency Act comes into focus. PERA provides the propane industry an opportunity to establish a checkoff program that would collect one-tenth of one cent on the sale or distribution of the wholesale cost of propane. The proceeds would go toward a fund designed for research and development, education and safety.

Propane is the only energy source that is not supported by Federal research dollars. This industry-financed program gives an industry with limited resources the opportunity to enhance their product without coming to the Federal trough for help.

I commend the leadership of propane industry leaders in North Carolina and the Nation as a whole for recognizing their needs and taking the initiative to find a solution that will work without an increased burden on taxpayers.

As an original cosponsor of this bill, I thank the Governor for his willingness to introduce this important piece of legislation. I stand ready to assist my good friend from Arizona in any way to see that this bill moves forward.

I thank the Chair.

Mr. WARNER. Mr. President, as chairman of the Senate Committee on Rules and Administration, and as a proud Virginian, it is my pleasure to commend a fellow Virginian, Mr. John Kluge of Charlottesville, VA, for his contribution to the Library of Congress.

Born in Chemnitz, Germany, Mr. Kluge came to America when he was 8 years old and has become one of the Nation’s most successful and highly regarded businessmen and one of its most generous humanitarians.

In 1990, John Kluge became the first chairman of the James Madison Council of the Library of Congress. The Madison Council, the Library’s first private-sector support group in its 190-year history, plays a vital role in raising the visibility of the Library and promoting awareness and use of its collections. Its members include leaders in business, science, and philanthropy from across the Nation who are known for their commitment to education and scholarship. In its short history the Madison Council has funded over 50 programs, including fellowships for young scholars, publications and television programs, public exhibitions, scholarly conferences, centers of excellence that draw top thinkers to the Library to use and enhance its collections, a special acquisitions fund, and much more. Just recently, the council reached its goal of 100 founding members, set by John Kluge 6 years ago.

John Kluge has been the foremost private donor in the Library’s history, personally giving nearly $8 million to the Library. His biggest single contribution was $5 million for the National Digital Library, which is the brainchild of the Librarian of Congress, James Billington. Launched in 1994 with commitments of support from the private sector, the Library today is a world-renowned institution. As an example, Mr. Kluge, the National Digital Library is providing free unique content for the information superhighway opening new gateways to education for all Americans. Other projects to which John Kluge has generously include the magnificent Vatican Library exhibition, the Leadership Development Program, an exhibition of here-tofore unseen documents from the Soviet state archives, and purchase of a major collection of sound recordings.

By personally working on behalf of the Library of Congress, arranging meetings with potential supporters, giving of his own personal time, and bringing together an outstanding group of distinguished individuals who truly care about their national library and support it with their time, ideas, and financial contributions, John Kluge has made the Madison Council what it is today—a model of how the private sector can focus its resources within a public institution and make an important difference.

Because of John Kluge, millions of Americans know about our Nation’s great Library which Congress has built and supported for almost 200 years, and they understand its importance in the history of our Nation.

John Kluge is one of the great philanthropists in America today. His contributions to the Library of Congress and the Nation have been immense. It is my privilege to commend him for his achievements.

MINIMUM WAGE

Mr. SARBANES. Mr. President, I rise today to express my strong disappointment that the Republican leadership will not allow a straight up-or-down vote on legislation to increase the Federal minimum wage. The Congress is long overdue in acting upon legislation which would establish a more realistic wage standard for the American worker and I would hope that the Senate has the opportunity to express its will on this matter—one so critical to working families in the near future.

It would seem to me that the issue is a relatively simple one. As many of my colleagues will recall, under the Bush administration, the Senate voted overwhelmingly to enact an increase similar to the one being proposed today. In 1999, by a vote of 89-8, the Senate approved legislation which raised the minimum wage by 45 cents in 1999 and again in 1991 to bring it to its current level of $4.25 per hour. The proposal being put forth by myself and others would be the equivalent of a 15-cent increase—45 cents this year and another 45 cents in 1997—raising the minimum wage to $5.15. It is my strongly held view that such an action, like that taken in the 101st Congress, would appropriately reflect the values and beliefs at the very core of our society—the idea that if you work hard and play by the rules, you deserve the opportunity to get ahead.

In my own State of Maryland, the city of Baltimore has been at the forefront of efforts to assure hard-working Marylanders receive a decent living wage. Just last year, Baltimore’s Mayor Kurt Schmoke signed the Nation’s first prevailing wage law which stipulates that all new or renegotiated contracts with the city of Baltimore must provide a minimum wage of at least $6.10 per hour. Baltimore’s ground-breaking public policy initiative should serve as an example to cities across the Nation and, in my view, provides an ideal model for the U.S. Congress.

As we all well know, the real value of the minimum wage has deteriorated markedly since 1979. At its current level of $4.25 per hour, the minimum wage will fall to its lowest real value in 40 years if Congress fails to take action. In the late 1950’s the real value of the minimum wage was more than $5 per hour by today’s standards and in the mid-1960’s it peaked at $6.28.

However, Congress’ failure to respond to inflation over the past 20 years has resulted in a 27-percent decline in the real value of the minimum wage since 1979 and a 50-cent drop since 1991. Since April 1991, the cost of living has risen 11 percent while the minimum wage has remained constant at $4.25.

The decrease in the value of the minimum wage has served to widen the gulf between the wealthiest and the poorest of our society. In an effort to offset this decline, I strongly supported President Clinton’s expansion of the Earned Income Tax Credit (EITC) which raised the income of 15 million Americans—helping 2 million of those above the poverty line. However, this is not enough. Even with the EITC expansion, a family of three with one full-time wage earner working year round at the current minimum wage brings home $8,500 and could receive a tax credit of $3,400 for a total annual income of $11,900. According to the Congressional Budget Office (CBO), the poverty level for a family of three in the United States stands at approximately $12,557. Therefore, at the current minimum wage, workers can work full-time for an entire year, qualify for the EITC and still fall some $657 below the poverty line. While the EITC is a critically important public policy initiative to assist low-income families, it should not be viewed as a substitute for a consistent, decent wage.

Opponents of increasing the minimum wage frequently argue that the typical minimum wage earner is a teenager, simply working to earn a little extra spending money and that the Government should not be supplementing the incomes of this
Some argue that the economy cannot afford an increase in the minimum wage; that an increase in the minimum wage would ultimately rob the economy of jobs and income as businesses would be forced to pay fewer workers more. This is simply not true. A close review of recent evidence clearly demonstrates that a reasonable increase in the minimum wage does not result in huge job losses. A frequently cited 1992 study by Princeton economists David Card and Alan Krueger examined the effects of a minimum wage increase in New Jersey found “no evidence” that a rise in New Jersey’s minimum wage reduced employment opportunity. In fact, just the opposite was true. In companies that paid the higher wage in New Jersey with those in Pennsylvania, Card and Krueger found the employment trends to be stronger in New Jersey, the State with the higher minimum wage. Similarly, Harvard economist Richard Freeman found in his 1994 study that “moderate legislated increases did not reduce employment and were, if anything, associated with higher employment in some locales.”

Mr. President, it is clear that the American economy cannot not only afford a reasonable rise in the minimum wage, but could actually benefit from such an increase. In fact, it stands to reason that more money in the pocket of the American worker means that more money is being spent and purchasing power is increased. The minimum wage proposal now before us would give the American worker an additional $1,872 in annual income. In Maryland alone, it would mean an increase for more than 400,000 workers. It may not sound like much to some in this Chamber, but it can make all the difference to a family struggling to heat their home, pay for groceries, or provide adequate health care for their children.

While economic considerations are an important aspect of this debate, neglecting to recognize the fundamental value of ensuring a living wage for American workers would compromise principles that are integral to the fabric of our society. Historically, Congress has acted to guarantee minimum standards of decency for working Americans. Measures to protect workers from unsafe and unfair working conditions were enacted under the belief that, as a society, we should support a basic standard of living for all Americans. It is in this spirit that minimum wage laws have been updated through the years.

As long as Congress fail to act, we send the message to working families across the country that hard work and sound living are not enough. Nearly two-thirds of minimum wage earners are struggling to achieve a decent standard of living for themselves and their families. The objective of the minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance. An hourly rate of $4.25 is not enough to cover the average living expenses of a family of three. It is unthinkable that in what is arguably the wealthiest Nation in the world, there are families out there right now having to choose between food for their children and heat for their homes. If a family of three can barely get by on $4.25 an hour, how can a single mother—trying to stay off welfare—be expected to be able to provide food, clothing, shelter, medical care and child care on the current minimum wage? Instead of maintaining barriers to self-sufficiency, we should be helping to tear them down.

Mr. President, Americans want to work. They want to be able to adequately provide for their children and their families. But they are working harder for less and are becoming increasingly frustrated in the process. It is critical that we recognize the reality of minimum wage earners and take steps to help them rise above poverty. President Roosevelt once called for “a fair day’s pay for a fair day’s work.” The American worker deserves no less.

UNITED STATES/FRANCE AVIATION RELATIONS

Mr. PRESSLER. Mr. President, I rise today to discuss the important issue of United States aviation relations with the Government of France. Although the immediate crisis concerning the current situation—the spring season apparently has been resolved, I remain very concerned about the state of U.S./French aviation relations.

As a result of France’s decision in 1992 to renounce the bilateral aviation agreement that existed between our two countries, France currently is our only major aviation trading partner with whom we do not have an air service agreement. In the absence of such an agreement, U.S. and French carriers continue to fly between our two countries, but they do so at the pleasure of each government and without the necessary flexibility to increase or change service when market demand warrants. Essentially, U.S./French air service is frozen as if the clock stopped in 1992.

In a speech before the International Aviation Club of Washington last month, I spoke at some length about this important air service situation burning brightly on the European continent. In hailing the enormously important U.S./German open skies agreement signed several weeks ago, I noted that nearly 40 percent of U.S. travel to Europe will now go to or connect through open skies, and I asked for unanimous consent that the text of the speech to which I referred be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. PRESSLER. Although this wave of air service liberalization touches France on three of its borders, France stands seemingly oblivious to the competitive air service forces besieging it. The fact of the matter is while its European neighbors are reaching out to embrace the future of global aviation with the enlightened view that the economic benefits of competitive air service relations with the United States are a two-way street, France continues to cling to the past. This choice is not without significant adverse consequences for France’s economy.

It is imperative to examine precisely France’s air service policy with respect to the United States? It appears that policy can be best described as “managed stagnation.” In an attempt to rebalance the market share of state-owned Air France vis-a-vis the highly competitive U.S. carriers, France has made the unfortunate decision to forego the tremendous air service growth other European countries are experiencing in their air service relationships with the United States. Ironically, some of the European new air service opportunities Europe will now go to or connect through France’s restrictive air service policy have driven away to other countries.

According to a recent statement by Anne-Marie Idrac, the French State Secretary for Transport, France “is not any worse off” for its decision to renounce the U.S./French air service agreement. Economic analysis, however, paints a very different—and quite opposite picture. This analysis shows France’s policy of managed stagnation is a recipe with a very bad aftertaste for the French economy. Let me explain.

First, the adverse economic consequences of France’s air service policy is best illustrated by a comparison with the recent experiences of the Netherlands. In 1991, both the U.S./French and U.S./Dutch air service markets experienced tremendous growth. Dutch air service market grew 21 percent and 14 percent respectively. In 1992, however, aviation relations with France and the Netherlands turned abruptly in opposite directions. Around
the same time France renounced the U.S./French bilateral aviation agreement, the Netherlands opted to enter into an open skies agreement with the United States.

What has resulted from these decisions? In the Netherlands passenger market has grown at a rate of 10 times faster than the U.S./French market. Between 1992 and 1994, scheduled passenger service between the United States and the Netherlands grew 38 percent. In contrast, France's decision to renounce the U.S. air service agreement caused passenger growth in the U.S./French market to abruptly halt. Scheduled passenger traffic in the U.S./French market grew a measly 3 percent during that period, compared to 21 percent in 1991, the year immediately prior to renunciation.

The net effect of these vastly different policies also is illustrated dramatically by the aggregate size of both countries' passenger market with the United States. In 1991, the U.S./French passenger market was 100 percent larger than the U.S./Dutch market. By 1994, it was just 60 percent larger. What a difference two air service policies with the United States can make!

Importantly, the trend of France foregoing tremendous air service opportunities is reflected elsewhere in Europe as well. For instance, between 1992 and 1994 scheduled passenger traffic between the United States and Switzerland grew 30 percent—ten times faster than it did in the French market. Amazingly, this tremendous growth does not reflect the U.S./Switzerland open skies agreement either. As was the case in the Netherlands, the U.S./Switzerland open skies agreement will likely cause that rate of growth to accelerate. The more mature U.S./British air service market also experienced strong growth—10 percent—during this same period.

Unfortunately, France has succeeded at stagnating the U.S./French passenger service market at a time when new transatlantic air service opportunities for European countries with the United States abound.

Second, at a time when revenue from connecting passenger traffic is increasingly important, France's air service policy is drying up U.S. connecting traffic at Paris' two key international gateway airports, Paris-Charles de Gaulle and Orly. Between 1992 and 1994, scheduled connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports. Let me repeat this astonishing fact. Connecting traffic carried on U.S. airlines fell 55 percent at the Paris airports between 1992 and 1994.

Where did this connecting traffic go? One need look no further than competing airports on the European continent. During the same period, U.S. airline connecting traffic grew 24 percent, while France's declined 329 percent at Amsterdam's Schipol Airport. The recent U.S./German open skies agreement, as well as open skies agreements the United States signed last year with neighboring countries including Belgium and Switzerland, will surely cause the rate of ongoing connecting passenger traffic diversion away from Paris airports to accelerate. In particular, I fully expect German airports will press France hard in this competition for connecting passenger traffic.

Third, Air France, the intended beneficiary of France's decision to renounce the U.S./French air service agreement, has been caught on flak as a result of France's policy of managed stagnation. It is true that state-owned Air France has increased its share of the U.S./French market from 29 percent in 1992 to 37 percent in late 1995. However, this rebalancing of market share, which in large part resulted from U.S. carriers routing connecting passengers to international gateway airports in other continental European countries, has come at an inordinately high price. A fact that indicates France's decision to tear up its air service agreement with the United States, Air France is isolated as the only major European carrier that does not have an alliance with a U.S. carrier. Quite correctly in my view, our Department of Transportation has indicated it will not approve any code-sharing alliance between Air France and a U.S. carrier until France agrees to enter into a sufficiently liberal air service agreement with the United States.

What is the practical consequence for Air France? Every major European carrier has access to feed traffic from the very lucrative U.S. domestic market except Air France. To make matters worse for Air France, if the United Airlines and Delta Air Lines alliances with European carriers are granted antitrust immunity, in combination with the Northwest/KLM alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on code-sharing alliances. Without a doubt, France's air service policy with the United States has placed Air France at a severe competitive disadvantage in the transatlantic and connecting service markets.

A recent paper by the Commission of the European Communities on U.S./E.C. aviation relations made this point well. According to the E.C., "the commercial advantages of strategic alliances are so large that it is basically impossible for a major European carrier with the ambition to become (or remain) a global player, not to enter into an alliance with a U.S. partner." The E.C. is absolutely correct. France's decision to continue to follow an air service agreement with the United States is threatening Air France's long-term future as a global player.

Mr. President, France's aviation policy with the United States is not only incompatible with the increasing rate of air service liberalization sweeping Europe, it also is badly out of step with France's own domestic air service policy. Earlier this year, France opened its skies to domestic competition thereby ending the virtual monopoly of Air Inter, the domestic wing of Air France. This forward looking domestic policy came about because France realized it needed to better position Air Inter to compete next year in the deregulated intra-European air service market.

Unfortunately, France has failed to apply this same vision to its air service policy with the United States. In marked contrast, France continues to adhere to the past and it uses government restrictions to protect Air France from competition in the increasingly liberalized transatlantic market.

The huge economic costs the French economy is bearing as a direct result of France's misguided air service policy with the United States reminds me of an editorial I read earlier this year shortly after Thailand abandoned its economically disastrous experiment with renunciation of its air service agreement with the United States. The editorial, published in the Bangkok Post on March 27, 1996, editorial from the Bangkok Post astutely called Thailand's decision to renew formal aviation relations with the United States "a victory for common sense."

Let me add Thailand's decision was also a victory for freedom and a looking economic policy. In condemning the economic folly of Thailand's failed experiment, the Bangkok Post added "every airline that comes here or increases its frequency is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect." I ask unanimous consent that the text of the editorial from the Bangkok Post to which I have referred be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, let me conclude by saying I hope France will recognize its air service policy with the United States is an economic failure that is exacting a very high cost in terms of lost jobs and other commercial opportunities. To remedy this situation, I hope France will renew its formal aviation relations with the United States by agreeing to a liberal air service agreement. As the Commission of the European Communities recent study on EC/US aviation relations states, "If France remains with the United States with a restrictive air service policy place themselves at great economic risk as the wave of air service liberalization continues to sweep across Europe.

EXHIBIT 1

REMARKS OF SENATOR LARRY PRESSLER, BEFORE THE INTERNATIONAL AVIATION CLUB OF WASHINGTON, DC, FEBRUARY 14, 1996

Bruce, thank you for your kind introduction. I am pleased to join the long list of outstanding speakers who have been privileged to share their views on international aviation policy with this distinguished group. I also thank the individuals who graciously accepted invitations to join me at the head table today. My friend...
Ambassador Chrobog and I met through our mutual love of opera. We also share a belief that the economic benefits of liberalized trade between nations is a two-way street. Mr. Ambassador, I believe that the Government of Japan acted contrary to the spirit and intent of the Bogor Declaration.

Third, the Government of Japan’s appeal for the United States to “equalize” aviation opportunities in the Pacific region is misdirected. Market forces, not the U.S./Japan air service agreement, has tilted transpacific market share advantage in favor of U.S. carriers.

As I have said in the Senate numerous times, the disparity in transpacific market share is due in large part to Japanese carriers—which labor under heavy government regulation—cannot compete with our more efficient carriers whose operating costs are substantially lower than their Japanese counterparts. If equality of transpacific market share is what the Government of Japan seeks, it should look no further than to itself. Our carriers are taking steps to position themselves to compete more effectively with U.S. carriers.

It is critical we not forget that just 30 years ago, under the very same bilateral agreement that the Government of Japan now criticizes, Japanese carriers had a larger market share on transpacific routes than U.S. competitors.

Fourth, an agreement by the Government of Japan regarding the limited Fifth Freedom opportunities of our carriers must be put in proper context by considering the enormous barriers that Japanese carriers are exploiting between the Asia-Pacific market and the United States. Viewed from this perspective, Japan’s criticism of the U.S./Japan agreement is somewhat remarkable when one considers it comes from a major trading partner with whom the United States has a trade deficit of more than $67 billion.

Finally, in a floor speech on October 27th, I called on our so-called MOU carriers to support their position that the cornerstone of our negotiating strategy with Japan should be to trade away the rights of our 1992 carriers. Having seen no such study, today I renew my call for the MOU carriers to make their case with numbers, not rhetoric. I find it a bit odd that MOU carriers who criticize DOT for not doing adequate prenegotiation economic analysis are now pushing DOT to rush into passenger talks, even though these carriers have yet to provide the economic analysis which supports their position.

Turning to Europe, let me first say that if the identity of the author of Primary Colors is the key to success, most of the European carriers are the story of their own failure. The United Kingdom deserves great credit for anticipating and taking the lead when it is filed, regardless of when the agreement goes into effect. I feel compelled to add that I am somewhat mystified that some of our U.K. partners continue to sit on their hands and do nothing short, at the same time they reap the benefits from their excellent leadership in international aviation policy.

On November 10th, Malcolm Rifkind, the U.K. Secretary of State for Foreign and Commonwealth Affairs, gave a very important speech in which he advocated nothing less than transatlantic free trade. He called for “political will and vision” to bring this goal about. Pledging that “Britain will be at the forefront of a new economic liberalization across the Atlantic,” Minister Rifkind noted the United Kingdom has been leading the way and said Britain would continue to do so.

The United Kingdom deserves great credit as a shining beacon for liberalizing trade in the U.S./E.U. market generally. However, its policy in the area of transatlantic air services is far out of step with the principles of free trade.

Let me share two truly remarkable facts which I believe dramatically change the status quo. Last year, British Airways had a larger share of the U.S./U.K. passenger market than all U.S. carriers combined! Also, data shows that in terms of U.S./U.K. market share, two of the top three carriers are British airlines! Without question, market forces are not controlling the distribution of air service opportunities between the United States and Britain.

How will competitive forces unleashed by a U.S./German open skies agreement pressure Britain to reassess its mistaken policy which tarnishes an otherwise very impressive record on liberalizing transatlantic trade? The answer lies at two levels: heightening competition by continental European airports for connecting passenger traffic and enhanced competition by U.S. carrier alliances against British airlines.

London always will be a popular destination for passengers originating in the United States. That is not to say, however, that in this era of global networks, connecting passengers will continue to feel a compelling need to use Heathrow rather than airports such as Amsterdam’s Schipol, Frankfurt or the new one planned at Berlin-Brandenburg. Cultural and business links to the United States remain strong, but so do opportunities for passengers originating in the United States. Times have changed.
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Liberalization of air service markets on the European continent have created new connecting service options. Evidence already clearly shows connecting traffic is being diverted from London. Statistics dramatically illustrate this point. Between 1992 and 1994, connecting traffic carried on U.S. airlines grew just 3 percent at Heathrow. During the same period, U.S. carriers运送 traffic grew 24 percent at Frankfurt and an astounding 329 percent at Schiphol! An open skies agreement with Germany will greatly accelerate the rate of this connecting passenger diversion.

These statistics are very interesting but should be relayed to a matter of British policymaker? Absolutely. This trend should raise serious concerns considering that last year alone connecting traffic accounted for more than $1 billion pounds of export earnings for the United Kingdom.

A U.S./German open skies agreement will also make U.S. airlines with European carriers even more formidable competitors in the U.S./Europe air service market. This will not be a welcome development for British carriers. If the United and Delta alliances are granted antitrust immunity, in competition with the Northwest alliance, nearly 50 percent of passenger traffic between the United States and Europe will be carried on fully integrated alliances.

Will this pose a competitive challenge for British carriers? Investors in British Airways sure thought so. According to a Financial Times report, last week, despite a nearly 30 percent drop in annual profit, British Airways public attack antitrust immunity last month at an ABA conference also is very telling on this point. Private, British Airways/shareholders, management and British Airways airline for their alliance with US Airways.

So where do we go from here? I think U.S./UK negotiations should resume, but not on the terms of the October offer which was highly conditioned and essentially allowed the British to pick which U.S. carriers competed against British carriers in what markets. Instead, I encourage the British to the table with a question, a bigger, bold, and braver vision will prevail in our aviation relations between the United States and Britain. The British. Let me close by saying an open skies agreement would not trigger the benefits of the bill I introduced.

I am keenly aware this is a sensitive political issue for the British government. Not long after I suggested this last July in London, I received the Heathrow Noise Coalition politely telling me to mind my own business. One thing is clear, however, the British do not have a monopoly on foolishness with respect to Fly America traffic. I need not tell you that this audience that Heathrow access is a hot button political issue in the United States and, quite frankly, an issue that is straining relations between our two countries.

Let me close by saying an open skies offer that would not trigger the benefits of the bill I introduced would be the product of vision by both countries. I hope the same long-term economic vision will prevail in our aviation relations with Japan and the British. Again, thank you for the opportunity to join you today.

Exhibit 2

[U.S.-Thailand aviation deal a victory for common sense]

After five years of going eyeball to eyeball, the US and Thailand finally concluded an aviation agreement last January 30. Who wins? Who loses? Thailand. It had to be scrapped and reversed. After all, Delta had pulled out of mainland, both Northwest and United Airlines had reduced their frequencies. Lest anyone forget, that was the original intention for scrapping the agreement in November 1990. When the impact of that hit the tourism industry between the eyes, the backlash was instantaneous. In barely four rounds of informal and formal talks, an agreement materialized where about seven previous rounds had failed.

There are many reasons for this agreement, and the speed at which it was pursued, and most important among them is that it risked becoming a serious political liability for Thailand's aviation negotiators who were running out of reasons for maintaining their hardline stand. The blast from the Association of Thai Travel Agents and its independent sponsors was that the United States was one facet of the mounting pressure. Then there was all this talk of open-skies and aviation liberalization. What about the ASEAN and APEC umbrella they flew under? Thailand was being increasingly isolated as the US patched up its aviation differences, one by one, with other Asian and European countries. On the cargo front, the US-Filipino aviation agreement had opened a window of opportunity for Federal Express to deliver overnight what once took five days. A move that would leave Thailand's own Global Transpaku project wallowing in the water. The American Society of Travel Agents understood that. And in November, bringing 10,000 agents who would wonder how they are supposed to promote tourism to Thailand when the tourists can't fly there.

Moreover, the void was preventing the full consumption of the United Airlines-Thailand international tie-up. Both of Thailand's key aviation negotiators, the director-general of the aviation department and the permanent secretary of the ministry of communications and transport, are on Thailand's board. By continuing to stall on the agreement, they were effectively hampering the progress of Thai. And soon coming to town as keynote speaker of the PATA conference in April is Barry Greenwald, the chairman of United Airlines who, lest anyone forget, recently tongue-lashed Japan's restrictive aviation policy and who would have no problem with a similar riposte at Thailand's had an agreement not been reached by then.

There was simply no way that Thailand could have won this battle. But neither is the agreement a victory for the United States. It is a victory for public pressure and the power of the Thai tourism industry, especially groupings like the Association of Thai Travel Agents and people like Anant Sirsuvan who had the gumption to stand up and be counted, at considerable risk to himself and his own company, the East-West Group. While many other operators serve on committees and use their positions for personal aggrandizement, Mr. Anant stuck his neck out, and won.

Several months ago, this newspaper, too, called for a national outrage. "Suddenly, things began moving.

I have been asked before, and it needs to be said again, global aviation is administered by rules and not by any federal laws. It's the airlines that are being held hostage by archaic and backward 50-year-old rules that governments are having extreme difficulty dismantling. There is no logical explanation for the structure more than; it's just the way it's done, especially in the absence of an alternative. Every country has to take its own course of action. In Thailand's case, every airline that comes here or increases its frequencies is investing more in the country, providing more jobs, bringing more tourists. Restricting those operations necessarily has the reverse effect.

Foreign airlines serving Bangkok now need to forge stronger relationships with Thai hotels and tour operators, work with them, and use their political and economic strength to get what they want. This approach must, under no circumstances, be adversarial or aggressive, but always rational and constructive. If Thailand is in the dumps, and likely to remain there for at least a few years as it seems to be regaining its economic strength, there is no reason why other airlines should be hampered from raising their frequencies and bringing more tourists to spend their money in Thailand.

The U.S.-Thailand deal is a clear victory for the concept of conducting the aviation business in an open and competitive manner. Because no matter what happens, it should always be the public that should benefit.

Tribute to Edmund S. Muskie

Ms. Mikulske. Mr. President, I rise to pay tribute to the remarkable life of Edmund S. Muskie.

He was a great American, a true statesman, and I'm proud to say, a good friend.

Mr. President, I am the first woman of Polish heritage ever elected to the Senate, and Mrs. Muskie was a great help to me in my election, since we shared a common heritage and a common set of values. He was gracious in helping me to learn the ways of the Senate. He was a
strong mentor, and I have always been appreciative of the sound advice and concrete suggestions he offered to me. He offered all of us a model of what a Senator should be. He stuck to principles, never afraid to take on the powers that be. He fought hard for what we believed in, but there were no grudges. Edmund Muskie believed, as I do, that programs must deliver what they promise.

He made change his ally, and was never far behind the path we had been doing wasn’t working, he fought to fix it. And he sought always to build consensus, to serve as a voice of moderation and practicality—in keeping with his New England roots. I was proud to be a national co-chair of his campaign for the Presidency in 1972. It still strikes me as a great injustice that this good and decent man never had the opportunity to hold the highest office in the land. What a wonderful President he would have been.

Throughout his career, he realized his dream of becoming President, his contributions to our Nation were immense.

Edmund Muskie deserves the thanks of all Americans for his decades of public service. All of us who cherish our wilderness deserve, in a very real and special way, gratitude for his steadfast defense of our environment as a distinguished Senator for 21 years. He was the father of the Clean Air Act and the Clean Water Act. The air we breathe is cleaner and the water we drink is purer, in large part because of Senator Muskie’s dedication to environmental protection.

Those of us who care about fiscal responsibility—about making sure that America’s hardworking taxpayers get a dollar’s worth of services for a dollar’s worth of taxes—owe him thanks for his stewardship of the Senate Budget Committee. As Chairman of the Committee, Senator Muskie fought to curb excessive Federal spending, while also ensuring that the Government did not turn its back on those seeking a helping hand.

We owe him thanks for his service as Secretary of State under President Carter. He undertook that important responsibility at a difficult and sensitive time—while the President was working to free American hostages being held in Iran. And he fulfilled his duties with honor and wisdom. Those of us who are Democrats also owe him a debt—virtually single-handedly he revitalized a dormant Democratic party in his beloved state of Maine. He became Maine’s first Democratic Governor in 20 years.

Without him, the Senate might never have been honored by the service of our former Majority Leader, George Mitchell, and the United Nations might never have benefitted from the enormous contributions of Madeline Albright. He mentored them both, providing them with some of their first experiences in government.

Mr. President, America is a better place because of the dedicated public service over many decades of Edmund S. Muskie. I thank him and honor him for his service to our country.

My thoughts and prayers go out to his wife, Jane, his children and the entire Muskie family.

THE PASSING OF WILLIAM JENNINGS DYESS

Mr. HEFLIN. Mr. President, William Jennings Dyess, a long-time Foreign Service officer and State Department official, passed away on March 27, 1996, at his home here in Washington. He was buried in his hometown of Troy, AL. An alumnus of the University of Alabama, where he received his B.A. and M.A. degrees and earned a Phi Beta Kappa key, Bill Dyess served for 25 years in the Foreign Service.

The University of Alabama National Alumni Association recently announced that a scholarship endowment had been established in his memory. I would like to extend my thanks to the endowment committee for its generosity.

Bill’s passion for journalism found him at the University of Missouri, making Phi Eta Sigma his alma mater. The education increased his desire to return to his home state. Entering the University of Alabama to train as a political scientist, Phi Beta Kappa honors and graduated with a B.A. in 1950 and an M.A. in 1951. Although poor eyesight precluded his playing football, Bill’s time at the University fueled his love for the sport. A Rotary International Scholarship, awarded by the Troy Chapter, took him to post-graduate work at Oxford University (St. Catherine’s College). Later, he studied at Syracuse University’s Maxwell School.

After college, Bill began a career that would take him far away from his hometown roots. In 1956, he went on a tour with U.S. Army Intelligence in Berlin from 1953-1956. In 1958, Bill left his Ph.D. studies at Syracuse to enter the foreign service of the U.S. Department of State. Serving primarily as a political officer in Belgrade, Copenhagen, and Moscow, and as chief of liaison in Berlin, he soon became a European specialist. In Washington, D.C., he served on inter-agency committees and worked towards lifting arms embargoes. In the next 20 years, he served in both the State Department and the U.S. General Accounting Office.

Over the years, Bill’s duties frequently brought him into contact with the U.S. Congress, where his work on inter-agency committees made him well-known in both levels of government. He received the State Department’s Superior Honor Award and Meritorious Honor Award. White House briefing materials went to his position as the U.S. ambassador to The Netherlands.

As Ambassador, Bill was responsible for every phase of U.S.-Dutch relations, including military installations. He was credited with persuading Dutch officials to reduce their posture on fulfilling NATO goals after the peace movement’s protests stirred powerful anti-American sentiment. Bill enjoyed strong ties with the Dutch business community, the largest direct investor in the U.S. from abroad. Before his retirement in 1983, The Netherlands awarded him the Grand Cross in the Order of Orange-Nassau, the highest decoration given to foreigners.

For Bill, retirement from government service was not an option. After leaving government service, he started his own consulting business, Dyess Associates, Inc., in Washington, DC. Clients—did not work for foreign governments—were in manufacturing, shipping, and oil explorations.

Aside from running his own business, Bill was able to devote much of his time to the alumni activities of both Oxford University and the University of Alabama. He was particularly active with his local Alabama alumni chapter, the National Capital Chapter, where he promoted alumni-reunion activities and other fundraising events. Serving as honorary scholarship chairman, he managed to ensure that the University of Alabama received generous contributions from donors.

An avid college football fan, Bill was a loyal supporter of the Alabama Crimson Tide. He read a book a week and was devoted to the subject of astrophysics. Bill was fluent in German, Russian, and Serbo-Croatian. After a long bout with prostate cancer, at 66 Bill passed away at his home in Washington, DC, and was buried with full military honors at Green Hills Cemetery in Troy, Alabama, next to his parents, William A. and Mabelle Dyess. His beloved Jack Russell terrier, Pistol Ball, live in Washington, DC.
In memory of Bill's dedication to public service, his friends, with his family's support, have established a scholarship endowment at the University of Alabama National Alumni Association.

**NEAL BERTE'S 20 YEARS AT BIRMINGHAM-SOUTHERN COLLEGE**

Mr. HEFLIN, Mr. President, Dr. Neal R. Berte recently celebrated his 20th year as president of my undergraduate alma mater, Birmingham-Southern College. He has been, and continues to be, an outstanding spokesman, administrator, and scholar-leader of one of the Nation's very best liberal arts colleges.

A native of Ohio, Dr. Berte and his wife, Anne, have four grown children and two grandchildren. He obtained his bachelor's, master's, and doctoral degrees all at the University of Cincinnati. A member of Phi Beta Kappa, he holds honorary doctorates from Birmingham-Southern College, the University of Cincinnati, and several institutions of higher learning. He served as an associate professor at the University of Alabama from 1970 through 1974 and as the university's vice president for educational development from 1974 until 1976. He also served as dean of the university's College of Business from 1976 until 1979, when, on February 1, he became president of Birmingham-Southern College.

Dr. Berte is recognized as one of the most accomplished, successful educators of our time. Under his stewardship, Birmingham-Southern's endowment has increased from $14 million to $82 million and its student population, made up of some of the brightest high school graduates in the State and Nation, has more than doubled. Acceptance of its graduates to medical and law schools is among the highest in the South and its outstanding faculty has increased by 66 percent during his tenure as president. He has also overseen the construction of eight new campus buildings.

The campus of Birmingham-Southern, known as The Hilltop, has an atmosphere of learning and of intellectual achievement. This atmosphere is reflected in the fact that the school is consistently recognized as one of the top national liberal arts colleges by such prestigious publications as U.S. News and World Report, National Review, Money Magazine, the Insider's Guide to the Colleges, Southern Magazine, and the Baccalaureate Review.

The National Review's College Guide has said, "An abundance of graciousness, a tradition of academic excellence, and close student-faculty relations have made Birmingham-Southern College one of the standout liberal arts colleges in the South." U.S. News calls it a "*** trailblazer for higher education of the future." These kinds of accolades are a direct reflection of the school president's strong commitment to excellence, dedication, and superb leadership skills.

Birmingham-Southern College's graduates of all ages speak often of the deep pride and affection they have for their alma mater. Indeed, the school enjoys an uncommonly strong level of support among its loyal and generous alumni. Even those of us who were students there long before Dr. Berte's arrival 20 years ago have enjoyed a recognized sense of Birmingham-Southern since he became president.

Birmingham-Southern does not have a football program, but its basketball team has won two National Association of Intercollegiate Athletics (NAIA) championships in the past 7 years, most recently in 1995. Its baseball team has advanced to the NAIA World Series on three occasions.

Dr. Berte's many honors and awards include his induction into the Alabama Academy of Honor; his selection as Birmingham's Citizen of the Year; his selection as one of the 100 Most Effective College Presidents by the Council for Advancement and Support of Education; and his recognition as one of America's Leaders in Higher Education by the American Council on Education.

Birmingham's morning newspaper, the Post-Herald, carried a front-page feature on his life and career on February 6 and an editorial on his tenure at Birmingham-Southern the next day. I ask unanimous consent that the text of these articles be printed in the Record.

I want to commend and congratulate Dr. Neal Berte for his impeccable leadership, clear vision, and total dedication to the education of the future. These kinds of measurements, turned it into a success.

From the Birmingham Post-Herald, Feb. 6, 1996

BERTE LOOKS TO THE FUTURE AT BSC

(By Michaelie Chapman)

When you ask Neal R. Berte about his future, expect him to talk about his goals for Birmingham-Southern College. Berte celebrated his 20th anniversary as president there Thursday. He has had plenty of opportunities to go elsewhere but said, "I feel sort of content."

That's not to say Berte has no goals for the next 20 years there will be just as productive and vibrant as his first. It could not be in more capable hands.

Berte is an example to his students, whom he expects to get involved in the community. His chairman of Leadership Birmingham and the Birmingham Business Leadership Group, executive officers of 45 of Birmingham's largest businesses.

His past positions have included chairman of the Birmingham Area Chamber of Commerce and campaign chairman and president of the United Way of Central Alabama. He's also Birmingham's Citizen of the Year and been inducted into the city's Distinguished Gallery of Honor.

Birmingham-Southern students follow in Berte's footsteps in their interest in community involvement. "Every year, over half of our students and faculty are out in service to others," Berte said.

We've been here long enough that I've seen them go out and work in terms of their careers but also make a difference as far as their civic involvements, in the life of the communities where they live, in the life of their churches.

Berte said he gets to know the names of most students. "We work at trying to treat each student as an individual. ... I think somehow knowing someone's name does make a difference, so I work at it," he said.

Students who get up early to exercise can find Berte in the college's old gym at 6 a.m. either running or doing weight training. He's in his office by about 8:30 a.m. and spends many evenings on campus functions or events around town.

Ed LaMonte, a Birmingham-Southern professor who is on leave while serving as interim superintendent of Birmingham schools, said Berte is an excellent example of leadership.

He has simply stepped forward time after time to play a very important role in what is in the best interest of the city. ... He has, on occasions, played a role that has cost him a bit in terms of support but he has served the community well," LaMonte said.

"He's the personification of the word 'leader,'" said Don Newton, president of the Birmingham Chamber of Commerce. "I have never seen him tackle anything that he didn't complete the task."

Herbert A. Sklenar, chairman of the Birmingham-Southern Board of Trustees, believes Berte's involvement in the community is part of the reason why the school is doing so well.

"He took an institution that had a great tradition and history but was faltering somewhat and has turned it around and, by all kinds of measurements, turned it into a success," Sklenar said.

Twenty years ago, Berte said, "There were some large problems ... that probably were reflective of many colleges and universities across the country. ... We had a declining enrollment. We were operating on a deficit budget. I think it's fair to say the general public did not have a real positive attitude about the value of liberal arts education."

But the trustees were committed, the faculty was outstanding and the students were capable, he said.

Berte pulled all those forces together and began improving the school, which had about 450 students when he arrived. The current enrollment is 1,300.

Other things are changing at Birmingham-Southern as well—much of it as part of the Toward the 21st Century Campaign, a $64 million fundraising effort that began last May. Pledges for $46 million have been received so far.

Berte is proud that the endowment has grown to $82.2 million from $14 million.

In the past few years, Birmingham-Southern has gotten considerable national recognition from magazines, publications and foundations that rate colleges and universities.

"That's good for Birmingham-Southern ... but I'd like to believe it also is good for Birmingham and for Alabama," Berte said.
20 YEARS OF LEADERSHIP

Two years ago, the future looked dim for many small, private liberal arts colleges. Declining enrollments and troubled financial conditions forced many such schools out of existence. Others survived by abandoning much of their distinctiveness through mergers into larger universities or by becoming taxpayer-funded institutions. People were even questioning whether a liberal arts education had any value.

Among the colleges in trouble was Birmingham-Southern College. Enrollment was down significantly, the college had a budgetary deficit, and its president had changed hands several times in a very short period.

Then, on Feb. 1, 1976, Neal Berte became college president. Under his leadership, the Methodist institution enhanced what were still strong academic programs, rebuilt its finances and reversed the erosion of a tradition of community involvement.

If Berte had done nothing more in the past 20 years than restore Birmingham-Southern to a position as one of the best liberal arts colleges in this part of the country, he would deserve high praise. But as anybody who follows public life in this community must realize, he has done much more.

There is hardly a facet of civic life that has not been affected—for the better—by Berte. He has served on and chaired several major city and state boards.

He has worked hard to bring other leaders and potential leaders together in ways that improve Birmingham for all of us. He has been a much-needed catalyst for change.

Anybody seeking an example of what being a leader means need look no farther than the Birmingham-Southern hilltop campus and the office of Neal Berte.

REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT FOR CALENDAR YEAR 1994—MESSAGE FROM THE PRESIDENT—PM 135

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance.

To the Congress of the United States:


WILLIAM J. CLINTON.

THE WHITE HOUSE, March 27, 1996.

MESSAGES FROM THE HOUSE

At 10:14 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversay and the Americans who have served as Peace Corps volunteers.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 146. Concurrent resolution authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.J. Res. 158. Joint resolution to recognize the Peace Corps on the occasion of its 35th anniversary and the Americans who have served as Peace Corps volunteers; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of February 9, 1996, the following measure was placed on the calendar:

H.R. 849. An act to amend the Age Discrimination in Employment Act of 1967 to reestablish an exemption for certain bona fide employment plans applicable to State and local firefighters and law enforcement officers; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2189. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Secretary of State Determination relative to Israel; to the Committee on Foreign Relations.

EC-2191. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, the report on agency compliance with respect to unfunded mandates reform; to the Committee on Governmental Affairs.

EC-2192. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report relative to cost of travel and privately owned vehicles of federal employees; to the Committee on Governmental Affairs.

EC-2193. A communication from the Chairman of the Board of Governors of the Federal Reserve, transmitting, pursuant to law, a report relative to the implementation of its administrative responsibilities during calendar year 1995; to the Committee on Governmental Affairs.

EC-2194. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2195. A communication from the Vice President and General Counsel of the Overseas Private Investment Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2196. A communication from the Chairman of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2197. A communication from the Board Members of the Railroad Retirement Board, transmitting a draft of proposed legislation to amend the Railroad Retirement Act to conform the statute of limitations with respect to the creditability of compensation for any railroad retirement benefits payable under the Railroad Pension Act. The act to the Committee on Labor and Human Resources.

EC-2198. A communication from the Secretary of Transportation, Commonwealth of Virginia, transmitting, pursuant to law, the final report on the I-66 HOV-2 Demonstration Project; to the Committee on the Environment and Public Works.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table, as indicated:

POM-523. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on the Judiciary.

"SENATE CONCURRENT RESOLUTION 1004

Whereas, separation of powers is fundamental to the United States Constitution and the power of the federal government is strictly limited; and..."
‘Whereas, under the United States Constitution, the states are to determine public policy; and
‘Whereas, it is the duty of the judiciary to interpret the law, not to create law; and
‘Whereas, our present federal government has strayed from the intent of our founding fathers and the United States Constitution throughout the entire federal mandate; and
‘Whereas, these mandates by way of statute, rule or judicial decision have forced state governments to serve as the mere administrative arm of the federal government; and
‘Whereas, federal district courts, with the acquiescence of the United States Supreme Court, have imposed taxes or required an increase in taxes to comply with federal mandates; and
‘Whereas, these actions violate the United States Constitution and the legislative process; and
‘Whereas, the time has come for the people of this great nation to further define the role of the courts in their review of federal and state laws; and
‘Whereas, several states have petitioned the United States Congress to propose an amendment to the Constitution of the United States of America; and
‘Whereas, the amendment was previously introduced in Congress; and
‘Whereas, the amendment seeks to prevent federal courts from levying or increasing taxes without representation of the people and accountability of those who have elected them; and
‘Whereas, the State of Arizona desires that the United States Congress acknowledge and act upon this expression of the intention of the appropriate federal mandates without the necessity of those states calling a constitutional convention as authorized in Article V of the Constitution of the United States: Therefore, be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:
1. That the Congress of the United States prepare and submit to the several states an amendment to the Constitution of the United States to add a new article providing as follows: ‘Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof; or an official of such state or political subdivision, to levy or increase taxes.’ Be it further

Resolved, That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to the committee of the Senate and House of Representatives, for the purpose of proposing an amendment to the Constitution of the United States:

POM-52A. A concurrent resolution adopted by the Senate of the State of South Dakota; to the Committee on the Judiciary.

‘HOUSE CONCURRENT RESOLUTION NO. 110 POM-526. A concurrent resolution adopted by

Resolved, by the House of Representatives, and to each member of the Legislative Council of the State of Arizona, the Senate concurring therein, that application is hereby made pursuant to Article V of the United States Constitution for the purpose of proposing an amendment to the Constitution reading substantially as follows: ‘Neither the Supreme Court nor any inferior court of the United States shall have the power to instruct or order a state or political subdivision thereof, or an official of such state or political subdivision, to levy or increase taxes; and be it further

Resolved, That this resolution constitutes a continuing application in accordance with Article V of the Constitution of the United States and be it further

Resolved, That this legislative body re...
POM–527. A resolution adopted by the Senate of the Legislature of the State of Kansas; to the Committee on Labor and Human Resources.

"Whereas, improving patient access to quality health care is a paramount national goal; and

Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

Whereas, minimizing the delay between discovery and eventual approval of a new drug, biological product or medical device derived from research conducted by innova-
tive pharmaceutical and biotechnology companies could improve the lives of millions of Americans; and

Whereas, current limitations on the dis-
semination of information about pharma-
taceutical products reduce the availability of information to physicians, other health care professionals and patients, and limits the right of free speech guaranteed by the First Amendment to the United States Constitution; and

Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expen-
tive; therefore, be it

Resolved by the Senate of the State of Kan-
sas, That the Congress of the United States of America to take all the measures directed to vindicating the memory of these four people, preventing the strategy of repression of the Cuban gov-
ernment against dissident groups and to attain the establishment of a democratic sys-
tem of government in Cuba, based on respect for human dignity. Be it

Resolved by the House of Representatives of Puerto Rico: "Resolved by the House of Representa-
tives of the Commonwealth of Puerto Rico; to the Committee on Foreign Rela-
tions.

"H.R. 5231

"The House of Representatives, as a body representing the People of Puerto Rico, deems it prudent to express to the Cuban community the indignation of the People of Puerto for those vicious murders and to urge the President and the members of the Con-
gress of the United States of America to start the process of reform in Cuba, as a step toward the establishment of a democratic government based on principles of human rights and respect for human dignity. Be it further

Resolved by the Senate of the State of Kansas; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT RESOLUTION 18

"Whereas, improving patient access to quality health care is the number one na-
tional goal; and

"Whereas, the key to improved health care, especially for persons with serious unmet medical needs, is the rapid approval of safe and effective new drugs, biological products and medical devices; and

"Whereas, two thirds of all new drugs ap-
proved by the Food and Drug Administration were approved first in other countries with approval of a new drug currently taking 14.8 years; and

"Whereas, the United States has long led the world in discovering new drugs, but too many new medicines first are introduced in other countries, with forty drugs currently approved in one or more foreign countries still in development in the United States or awaiting FDA approval; and

"Whereas, the lack of competition is hurting the industry to discover and efficiently develop safe and effective new medicines and for the FDA to facilitate the development and approval of safe medicines sooner; and

"Whereas, the lack of competition and a broad bipartisan consen-
sus that the FDA must be re-engineered to meet the demands of the twenty-first cen-
tury; and

"Whereas, the current rules and practices governing the review of new drugs, biological products and medical devices by the United States Food and Drug Administration can delay approvals and are unnecessarily expen-
tive; therefore, be it

Resolved by the Senate of the United States of America: To address this important issue by enacting comprehensive legislation and to provide for the rapid review and approval of innovative new drugs, biological products and medical devices, without com-
promising patient safety or product effec-
tiveness; and be it further

"Resolved, That the Clerk of the House of Delegates be hereby directed to transmit ap-
propriate copies of this resolution to the President of the United States, the Speaker of the United States House of Representa-
tives, the President of the United States Senate, and to each member of the West Vir-
ginia Delegation of the Congress.

POM–529. A resolution adopted by the Legis-
lature of the Commonwealth of Puerto Rico; to the Committee on Foreign Rela-
tions.

"SEC. 2. To urge the President and the mem-
ers of the Congress of the United States of America to take all the measures needed to prevent the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity.

SECTION 1. To express the repudiation and indig-nation of the House of Representatives of Puerto Rico for the cowardly murder of four (4) members of the humanitarian or-ganization "Brothers to Rescue" by the armed forces of the totalitarian regime of Fidel Castro.

SECTION 2. To urge the President and the members of the Congress of the United States of America to take all the measures needed to prevent the strategy of repression of the Cuban government against dissident groups and to attain the establishment of a democratic system of government in Cuba, based on respect for human dignity.

SECTION 3. This Resolution shall be trans-
lated into the English language and remitted to the President of the United States and to the President and Speaker of both Bodies of the Congress of the United States of Amer-
ica.

SECTION 4. A copy of this Resolution shall
also be remitted to the Ambassadors of the United States of America and of Cuba at the United Nations Organization as well as to the Secretary General of said International Organization.

SECTION 5. This Resolution shall take ef-
fact immediately after its approval.

POM–530. A resolution adopted by the Leg-
slate of the Virgin Islands; to the Com-
mittee on Energy and Natural Resources.

"RESOLUTION NO. 1552

"Whereas, in 1968 and 1973, the Congress of the United States found it necessary to enact the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and

"Whereas, in considering the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, and

"Whereas, Hurricane Luis which threatened the United States Virgin Islands with Category 4 force winds and resulted in some physical damage to the territory; and

"Whereas, Hurricane Andrew which sustained and gusting winds devastated the United States Virgin Islands, particularly St. Croix, and South Carolina in 1989, resulting in dam-
age in the billions of dollars; and

"Whereas, Hurricane Andrew's high sus-
tained and gusting winds have devastated certain areas of the United States Gulf coast and the Mexican coast; and

"Whereas, from time to time, flood disasters have created personal hardships and eco-

Whereas, in light of a long history of hur-
ricanes and their accompanying windstorms and associated death and destruction in the Unit-
ed States, its possessions in the Caribbean and the Pacific; and

"Whereas, the migration of people to coastal areas of the United States, including the United States Virgin Islands, and the increasing property losses suffered by flood victims, most of whom are still inade-
quately compensated despite receiving dis-
ar."
"Whereas, recent scientific warnings about global warming and its effect on global weather patterns are predicting more frequent and intense hurricane activity; and
"Whereas, the periodic absence of the "El Nino" phenomenon increases the likelihood of the formation of hurricanes; and
"Whereas, the weather patterns are predicting more frequent and intense hurricane and windstorm activity affecting the United States and its territories and possessions (including the U.S. Virgin Islands) present the same, or similar, considerations which led to enactment of the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973; and
"Whereas, the following is from the National Flood Insurance Act:
"(1) Windstorms have created personal hardships and economic distress which have required unforeseen disaster relief measures and have placed an increasing burden on the Nation's resources.
"(2) Installation of preventive and protective works... have not been sufficient to protect adequately against growing exposure to future [windstorm] losses.
"(3) As a matter of national policy, a reasonable scheme of risk management is required to control windstorm losses.
"(4) If such a program is initiated... it can [be] implemented when the risk of windstorm losses is through a program of [windstorm] insurance.
"(5) Many factors have made it uneconomic for the private insurance industry alone to make [windstorm] insurance available to those in need of such protection on reasonable terms and conditions.
"(6) A program of [windstorm] insurance with large-scale participation of the federal government, as authorized in Section 294(g) of the National Flood Insurance Act of 1968, is feasible and can be initiated.
"(7) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from [windstorms].
"The nation cannot afford... the increasing losses of property suffered by [windstorm] victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits.
"It is in the public interest for persons already living in [windstorm-prone] areas to acquire insurance coverage on reasonable terms and conditions, and to make an increasing number of persons... acquire... insurance.
"(8) Resolved by the Legislature of the Virgin Islands, that the coasting trade legislation be repealed; and
"Whereas, a proposal has been made to the United States Congress to sell facilities used by the Southeastern Power Administration (SEPA) which is headquartered in Elbert County, Georgia, to the United States; and
"Whereas, these facilities, which include aluminum smelting and refining operations, provide electric power and reserves for Georgia; and
"Whereas, a proposal has been made to the United States Congress to sell the United States'share of the Tennessee Valley Authority, which is operated by the United States Army Corps of Engineers, to the United States; and
"Whereas, these facilities, which include electric power, provide electric power and reserves for Tennessee; and
"Whereas, maintenance for these facilities; and
"Whereas, the revenue from the electricity generated by the hydroelectric dams can be used to pay for the retirement obligations of the construction bonds and costs of operation and maintenance for these facilities.
"Resolved by the House of Representatives, that the members of this body urge the President and the Congress to consider... the economy of said territory. See American Maritime Association vs. Blumenthal, 590 F. 2d 1156, 1156-69 (D.C. Cir. 1979).
"Resolved by the Legislature of Puerto Rico: "SECTION 1. The Legislature of the Commonwealth of Puerto Rico requests the Congress of the United States of America that by virtue of its full power to legislate over Puerto Rico under the Territorial Clause of the Federal Constitution, to amend the coasting trade laws to exclude Puerto Rico from the scope of application of said laws. Specifically, it is herein proposed:
"a. that the text of Title 46, Section 293 of the United States Code... be amended to eliminate all reference to Puerto Rico and to integrate the current text of Section 293(a) of that same Title 46 to read as follows: 'The seacoasts and navigable waters of the United States shall be divided into five districts; the first to include all the collection districts on the seacoasts and navigable waters, as far east as the Raquette River, New York; the third to include the collection districts on the seacoasts and navigable waters, as far east as the boundary of the State of California and the northern boundary of the State of Washington; the fifth to consist of the State of Hawaii'; and
"b. that the present Section 293(a) of Title 46 of the United States Code be repealed.
"Resolved by the Legislature of Puerto Rico: " SECTION 2. Copies of this resolution shall be forwarded to the President of the United States, each member of the United States Congress, the Governor and the Legislature of every state and possession of the United States, each state legislature and its respective Congress. Copies of this resolution shall also be forwarded to the Governor and the Legislature of every state and possession of the United States, each state legislature and its respective Congress. Copies of this resolution shall also be forwarded to the President of the United States, each member of the United States Congress, and the Governor and the Legislature of every state and territory.
Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

POM-534. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources.

Resolved, That the Legislature of the State of Alaska requests the manager of CAL-FED to develop comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the CAL-FED program recognizes the need to expand participation to include all impacted parties and the interested public; and has established a number of efforts including the Bay Delta Advisory Commission and monthly public workshops to do so; and

Whereas, the success of the CAL-FED program is vital to the environmental and economic well-being of the state; now, therefore, be it

Resolved, That the Congress is urged to pass

Whereas, of the 300 United States Army air planes of the morning, the Jap nese destroyed 140 and damaged 80, most of which were attacked on the ground, and the attack heavily damaged 6 Oahu air bases; and

Whereas, the 3 Pacific Fleet aircraft carriers stationed at Pearl Harbor were fortunately not in the harbor at the time of the attack.

Resolved, That the legislative history recognized that land is power and that the centralized federal government with a substantial land base would eventually overwhelm the states and pose a threat to the freedom of the individual; and

Whereas the original 13 colonies and the next five states admitted to the Union were granted fee title to all land within their borders; and

Whereas all but two states admitted to the Union since 1802 were granted the same rights of land ownership granted the states admitted earlier; and

Resolved, That the Legislative History of the State of California requests the manager of the CAL-FED program to submit to the Legislature a semiannual report on January 1 and July 1 of each year, regarding the progress CAL-FED has made towards achieving comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.

POM-534. A resolution adopted by the Senate of the State of Alaska; to the Committee on Energy and Natural Resources.

Resolved, That the Senate of the State of Alaska encourages the people of the state to protect and use wisely natural resources such as the Delta; and

Whereas, the Delta is the single most important source of water for the people, farms, and industry in this state, providing water for more than two-thirds of all Californians; and

Whereas, the Delta is home to many aquatic species, including several endangered species; and

Whereas, it is imperative to maintain the water quality of the Delta; and

Whereas, it is the policy and the law of the state to protect and use wisely natural resources such as the Delta; and

Whereas, the Delta has not yet achieved a historic accord with the federal government and important state agricultural, urban and environmental water interests that calls for the development of a comprehensive solution for the Delta's environmental, water supply reliability, and water quality problems of the Delta; and

Whereas, the state, the federal government, and important stakeholder interests have initiated a program known as CAL-FED to develop comprehensive and long-term solutions to the problems of the Delta; and be it further

Resolved, That the State of Alaska requests the manager of CAL-FED to develop a right of access across 103b and 130b of ANILCA of land now known to contain high resource values that have been arbitrarily withdrawn from multiple use of ANILCA; be it

Resolved, That the Alaska State Senate respectfully requests that the federal government live up to the true intent of the Alaska National Interest Lands Conservation Act in all issues of access, and creation of additional Conservation System Units, and fully support exchanges of high resource value land with Alaska to enable Alaska to establish greater economic and infrastructure opportunities for the people of the state.

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Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to each Senator and Representative from California in the Congress of the United States, and to the Governor.
Whereas, although a Pearl Harbor Memorial was erected above the sunken Battleship U.S.S. Arizona in Pearl Harbor, it is fitting and appropriate that an additional memorial be constructed in Washington, D.C. memorializing the great sacrifice made by those Americans who perished at the hands of the Japanese in that surprise attack; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take every action necessary to ensure the construction, dedication, and maintenance of a Pearl Harbor Memorial in the nation's capital; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the United States House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment:

S. 699. A bill to amend the Ethics in Government Act of 1978 to extend the authorizations of appropriations for the Office of Government Ethics for seven years, and for other purposes (Rept. No. 104-244).

By Mr. STEVENS, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. Con. Res. 42. A concurrent resolution concerning the emancipation of the Iranian Bahai's community.

By Mr. SPECTER, from the Select Committee on Intelligence:


EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Gaston L. Gianni, Jr., of Virginia, to be Inspect general, Federal Deposit Insurance Corporation. (New Position.)

Stuart L. Werner, of Maryland, to be Under Secretary of Commerce for International Trade.

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)

Laurence H. Meyer, of Missouri, to be a Member of the Board of Governors of the Federal Reserve System for a term of 4 years. (Reappointment.)

Alice M. Rivlin, of Pennsylvania, to be a Vice Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

Alice M. Rivlin, of Pennsylvania, to be a Member of the Board of Governors of the Federal Reserve System for a term of 14 years from February 1, 1996.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. HELMS, from the Committee on Foreign Relations:

Lawrence Neal Benedict, of California, a Career Member of the Senior Foreign Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Cape Verde.

Alfred C. De Cotiis, of New Jersey, to be a Representative of the United States of America to the fiftieth Session of the General Assembly of the United Nations.

Ernest P. O. Toye, of the District of Columbia, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2001, (Reappointment.)

Aubrey Hooks, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

Henry Mckoy, of North Carolina, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2002, vice William H.G. Fitzgerald, term expired.

The following-named Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Congo.

Robert Krueger, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Botswana.

David H. Shinn, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Ecuador.

Lottie Lee Shackleford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1998, (Reappointment.)

David H. Shinn, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador Extraordinary and Plenipotentiary of the United States of America to Ethiopia.

Harold Walter Geisler, of Illinois, a Career Member of the Senior Foreign Service, Class of Career Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Haiti, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal and Islamic Republic of the Comoros.

Mr. HELMS, Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in prior the CONGRESSIONAL RECORDS OF March 6 and March 18, 1996, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The following-named Career Members of the Senior Foreign Service of the Department of State for promotion in the Ambassador Extraordinary and Plenipotentiary of the United States of America, Classification:

Career Members of the Senior Foreign Service of the United States of America, Class of Minister-Counselor:

Suzanne K. Hale, of Virginia.

Frank J. Pison, of New Jersey.

The following-named Career Members of the Foreign Service of the Department of State for promotion in the Foreign Service of the United States of America, Classification:

Career Members of the Senior Foreign Service of the United States of America, Class of Counselor:

Lloyd J. Flesch, of Tennessee.

James D. Guelff, of Maryland.

Thomas A. Hambry, of Tennessee.

Peter Kurz, of Maryland.

Kenneth J. Roberts, of Minnesota.

Robert J. Wicks, of Virginia.

The following-named persons of the aforementioned positions are indicated for appointment as Foreign Service officers of the classes stated, and also for the other appointments indicated herewith:

For appointment as Foreign Service Officers of Class One, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Alfred Thomas Clark, of California.

For appointment as Foreign Service Officers of Class Two, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Avery McNeil, of Virginia.

For appointment as Foreign Service Officers of Class Three, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Avery McNeil, of Virginia.

For appointment as Foreign Service Officers of Class Four, Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Avery McNeil, of Virginia.
The nominations ordered to lie on the Secretary's desk were printed in the Records of November 7, 1995, February 20 and 26, March 5, 6, 11, 14, and 18, 1996, at the end of the Senate proceedings.

*Col. William Weisler III, USAF to be brigadier general. (Reference No. 642.)

**In the Navy there is 1 appointment to the grade of lieutenant (j ohn M. Cooney). (Reference No. 715.)

**In the Air Force there is 1 promotion to the grade of brigadier general (Timothy J. McMahon). (Reference No. 832-3.)

*Maj. General Kenneth E. Eickmann, USAF to be lieutenant general. (Reference No. 886.)

**In the Army Reserve there is 1 promotion to the grade of colonel (Gary N. Johnston). (Reference No. 913.)

**In the Army Reserve there are 32 promotions to the grade of colonel and below (list begins with Pat W. Simpson) (Reference No. 914.)

**In the Army there are 67 promotions to the grade of major (list begins with Margaret B. Baines). (Reference No. 915.)

**In the Army Reserve there are 28 promotions to the grade of colonel and below (list begins with Anthony C. Crescenz). (Reference No. 916.)

**In the Navy there is 1 promotion to the grade of commander (Rex A. Auker). (Reference No. 917.)

**In the Navy and Naval Reserve there are 21 appointments to the grade of commander and below (list begins with Richard D. Boyer). (Reference No. 918.)

**In the Air Force Reserve there are 16 promotions to the grade of lieutenant colonel (list begins with Harold E. Burcham). (Reference No. 923.)

**In the Army Reserve there are 1,367 promotions to the grade of lieutenant colonel (list begins with Patrick V. Adamcik). (Reference No. 924.)


**Lt. Gen. John G. Coburn, USA for re-appointment to the grade of lieutenant general. (Reference No. 929.)

**In the Air Force there are 9 promotions to the grade of lieutenant colonel and below (list begins with Douglas W. Anderson). (Reference No. 929.)

**In the Navy there are 220 appointments to the grade of captain and below (list begins with Mark A. Admiral). (Reference No. 930.)

**In the Navy and Naval Reserve there are 43 promotions to the grade of lieutenant colonel (list begins with Robert J. Abell). (Reference No. 930.)

**In the Navy there are 667 appointments to the grade of captain and below (list begins with Michael P. Cavil). (Reference No. 940.)

**In the Air Force Reserve there are 283 appointments to the grade of lieutenant (list begins with James L. Abram). (Reference No. 950.)

Total: 2,700.

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:

*CONGRESSIONAL RECORD – SENATE*

March 27, 1996
By Mr. DOMENICI (for himself, Mr. FORD, Mr. DOLE, Mr. LOTT, Mr. HEP- LIN, Mr. SHELBY, Mr. FAIRCLOTH, Mr. SIMPSON, Mr. COCHRAN, Mr. INHOFE, Mr. THURMOND, Mr. MCGUIRE, Mr. HELMS, Mr. MC NELL, Mr. THURMOND, Mr. BURNS, Mr. JOHN STON, Mr. BINGHAM, Mr. NICK- LES, Mr. LUGAR, Ms. KASSEBAUM, Mr. COATS, and Mr. GRAMS):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training, research, and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

S. 1647. A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. SNOWE:

S. Res. 233. A resolution to recognize and support the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Mr. DOLE, Mr. COHEN, and Ms. SNOWE):

S. Res. 234. A resolution relative to the United States Olympic Committee's efforts to bring the 1999 Women's World Cup soccer tournament to the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND:

S. Res. 235. A resolution to proclaim the week of June 16 to June 22, 1996, as "National Roller Coaster Week"; considered and agreed to.

By Mr. LUGAR:

S. Con. Res. 49. A concurrent resolution providing for certain corrections to be made in titles of the bill (H.R. 1514) to modify the operation of certain agricultural programs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself, Mr. FORD, Mr. DOLE, Mr. LOTT, Mr. HELMS, Mr. SHELBY, Mr. FAIRCLOTH, Mr. SIMPSON, Mr. COCHRAN, Mr. INHOFE, Mr. MCKINNELL, Mr. THURMONT, Mr. BURNS, Mr. JOHNSTON, Mr. BINGHAM, Mr. NICKLES, Mr. LUGAR, Mrs. KASSEBAUM, Mr. COATS, and Mr. GRAMS):

S. 1646. A bill to authorize and facilitate a program to enhance safety, training, research and development, and safety education in the propane gas industry for the benefit of propane consumers and the public, and for other purposes; to the Committee on Energy and Natural Resources.

The PROPANE EDUCATION AND RESEARCH ACT of 1996

● Mr. DOMENICI. Mr. President, today I am very happy to introduce the Propane Education and Research Act of 1996. Propane is an extremely important source of clean-burning, domestically-produced energy in the United States providing fuel for cooking, heating, and hot water in over 7.7 million homes, half of all farms, and in millions of recreational applications. Even though propane is the fourth most used fuel in America, no Federal funds are spent on propane research. My legislation keeps that way and simply provides a mechanism that permits, does not require, industry to fund its own research and development [R&D] program for propane. This act would allow the propane industry, composed of over 165 producers and 5,000 marketers, to vote to establish a checkoff program to fund much needed R&D modeled after the many checkoff programs already established in Federal law. Collected from the industry at an initial rate of 3/4 of 1 cent per gallon of odorized-propane destined for the retail market—propane sales—the funds would support R&D, educational, and safety activities. Propane producers and marketers, who would bear the cost of the checkoff programs, have indicated broad support for the legislation.

Propane has traditionally served rural and suburban citizens who are beyond reach of most natural gas lines. The propane industry consists of mostly small businesses that individually cannot afford the necessary R&D, safety, and educational activities that result in enormous benefits to consumers. Some of these benefits include increased efficiency in propane appliances, safer handing and distribution, and an improved environment for Americans from this clean-burning fuel. Small businesses have not historically received direct benefits from federally sponsored energy R&D. This legislation does not fit the traditional heavy-handed way to energy research and development, but gives the propane small business community the flexibility and the framework to pursue research, safety, and education on their own.

There are similar programs in energy industries, however, such as the Gas Research Institute, the Electric Power Research Institute, the Texas Railroad Commission propane check-off, and similar State programs in Louisiana, Missouri, and Alabama. These programs have enjoyed considerable success, for example, the Gas Research Institute boasts a 400 percent return for each dollar collected and invested. Their work primarily benefits urban and suburban natural gas consumers, the propane legislation will benefit rural and suburban consumers, as well as urban and suburban propane consumers.

The agricultural industry, for example, which accounts for 7 to 8 percent of all propane consumed in the United States, will see substantial benefits from propane research and development. With even marginal increases in equipment efficiency, the agricultural propane users will reap large returns.

More efficient uses of propane in other businesses, such as home construction, will further increase the value of the return on investment.

The legislation I am introducing will not actually establish the propane checkoff, but calls upon the propane industry to hold a referendum among themselves, to authorize establishment of the checkoff before it can go into effect. If the industry, propane producers, and retail marketers, vote to establish the checkoff, then the Propane Education and Research Council consisting of industry representatives, will be formed to administer the program. The legislation also looks down the road and allows the industry to terminate the program by a majority vote of both classes, or by two-thirds majority of a single class.

A companion bill, H.R. 1514, was introduced in the House of Representatives and currently enjoys broad bipartisan support. This enthusiasm underlines the wide, regional appeal of this innovative approach to meeting our domestic energy research needs. Moreover, my bill foster industry's efforts toward efficient, clean fuels that benefit consumers—rural and suburban alike without Federal dollars and with minimal governmental involvement.

I encourage my colleagues to join me in cosponsoring this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1646

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Propane Education and Research Act of 1996".

SEC. 2. FINDINGS.

Congress finds that—

1. propane gas (also known as liquefied petroleum gas) is an essential energy commodity, that provides heat, hot water, cooking fuel, and motor fuel, and has many other uses to millions of Americans;

2. (B) the manufacture and distribution of propane for sale to propane users; and

3. the manufacture and distribution of propane utilization equipment.

4. propane is primarily domestically produced, and the use of propane provides energy security and jobs for Americans.
organization exempt from tax, under para-
graph 3 or 6 of section 501(c) of the Internal Revenue Code of 1986, that represents the pro-

(4) TERMINATION OF REFERENDUM.—The term "odor-
ized propane" means propane that has had odorant added to it.

(5) PRODUCER.—The term "producer" means a person engaged primarily in the sale of odorized propane to ultimate consumers or to retail propane dis-

(6) PROPANE.—The term "propane" means a hydro-
carbon, the chemical composition of which is predominantly CH₃, whether recovered from natural gas or from crude oil; and it includes liquefied petroleum gas or a mixture of liquefied petroleum gases.

(7) PUBLIC MEMBER.—The term "public member" means a member of the Council, other than a representative of producers or retail marketers, representing significant users of propane, public safety officials, academia, the propane research community, or other groups knowledgeable about propane.

(8) QUALIFIED INDUSTRY ORGANIZATION.—The term "qualified industry organization" means the National Propane Gas Associa-
tion, the American Propane Institute, a successor of the National Propane Gas Association or the Gas Processors Association, or a group of retail producers or marketers that collects at least 25 percent of the volume of propane produced or sold, re-
pectively, in the United States.

(9) RETAIL MARKETER.—The term "retail marketer" means a person engaged pri-
marily in the sale of odorized propane to ul-
timate consumers or to retail propane dis-
pensers.

(10) RETAIL PROpane DISPENSER.—The term "retail propane dispenser" means a person that sells, but is not engaged primarily in the business of selling odorized propane to ultimate consumers.

(11) SECRETARY.—The term "Secretary" means the Secretary of Energy.

SEC. 4. REFERENDUM.

(a) CREATION OF PROGRAM.—

(1) IN GENERAL.—The qualified industry or-
ganizations may conduct a referendum among producers and retail marketers for the creation of a Propane Education and Re-
search Council.

(2) EXPENSES.—A referendum under para-
graph (1) shall be conducted at the expense of the qualified industry organizations.

(3) REIMBURSEMENT.—The Council, if estab-
lished, shall reimburse the qualified industry organizations for the costs of the referendum accounts of the referendum.

(4) INDEPENDENT AUDITING FIRM.—The re-
ferendum shall be conducted by an independent aud-
iting firm. The referendum shall be conducted at the expense of the qualified industry organizations.

(5) VOTING RIGHTS.—Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the current calendar year. Voting rights in the referendum shall be based on the volume of propane produced or odorized propane sold in the current calendar year, as approved by the Council.

(6) TERMINATION OF REFERENDUM.—

(1) REFERENDUM.—On the Council's initia-
tive, or on petition by the Council by produc-
ers and retail marketers representing at least 5 percent of the volume of propane produced and sold, respectively, in the United States, the Council shall conduct a referendum to deter-
mine whether the industry favors termi-
nation or suspension of the Council.

(2) EXPENSE.—A referendum under para-
graph (1) shall be conducted at the expense of the Council.

(3) INDEPENDENT AUDITING FIRM.—The re-
ferendum shall be conducted by an independ-
ent auditing firm selected by the Council.

(4) TERMINATION OR SUSPENSION.—Ter-
mination or suspension shall take effect if ap-
proved by

(a) persons representing more than ¾ of the total volume of odorized propane in the producer class and more than ¾ of the total volume of propane in the retail marketer class; or

(b) persons representing more than ¾ of the total volume of odorized propane the person represents or a representative of an agricul-
tural cooperative; and

(c) all geographic regions of the country.

(b) REPRESENTATION.—In selecting mem-
bers of the Council, the qualified industry or-
ganizations shall give due regard to selecting a Council that is representative of the indus-
ty, including representation of—

(1) gas processors and oil refiners among produ-
cers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among pro-
ducers and retail marketers, including ag-
ricultural cooperatives; and

(4) all geographic regions of the country.

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall consist of at least 21 members, including—

(A) 9 members representing retail market-
eters;

(B) 9 members representing producers;

(C) 3 public members.

(2) QUALIFICATIONS.—Each Council member representing retail marketers or producers shall be fully owned by an employer or owner of a business in the industry that the member represents or a representative of an agricul-
tural cooperative.

(3) DISQUALIFICATION.—No employee of a qualified industry organization or other industry trade association shall serve as a member of the Council, and no member of the Council may concurrently serve as an of-

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cers;

(2) interstate and intrastate operators among retail marketers;

(3) large and small companies among pro-
ducers and retail marketers, including ag-
ricultural cooperatives; and

(4) all geographic regions of the country.
(1) LIMITATION ON EXPENSES.—The administrative expenses of operating the Council (not including costs incurred in the collection of the assessment under section 6) plus amounts granted under paragraph (2) shall not exceed 10 percent of the funds collected by the Council in any fiscal year.

(2) REIMBURSEMENT.—The Council shall annually approve the Secretary for costs incurred by the United States relating to the Council.

(3) LIMITATION ON REIMBURSEMENT.—A reimbursement under paragraph (2) for any fiscal year shall not exceed the amount that the Secretary determines is the average annual salary of employees of the Department of Energy.

(k) BUDGET.—

(1) REVIEW AND COMMENT.—Prior to August 1 of each calendar year, the Council shall publish for public review and comment a budget plan for the next calendar year, including the probable costs of all programs, projects, and contracts and a recommended rate of assessment sufficient to cover the costs.

(2) SUBMISSION.—Following review and comment under paragraph (1), the Council shall submit the proposed budget to the Secretary and to Congress.

(3) RECOMMENDATIONS BY SECRETARY.—The Secretary may recommend any program or activity that the Secretary considers appropriate.

(1) RECORDS.—

(a) IN GENERAL.—The Council shall keep minutes, books, and records that clearly reflect all of the actions of the Council.

(b) PUBLIC AVAILABILITY.—The Council shall make the minutes, books, and records available to the public.

(c) AUDIT.—The Council shall have the books audited by a certified public accountant at least each fiscal year and at such other times as the Council may determine.

(d) COPIES.—Copies of an audit under paragraph (3) shall be provided to all members of the Council, all qualified industry organizations, and any other member of the industry on request.

(5) NOTICE.—The Council shall provide the Secretary with notice of meetings.

(6) ADDITIONAL REPORTS.—The Secretary may require the Council to provide reports on the activities of the Council and on compliance with the reports of complaints regarding the implementation of this Act.

(m) PUBLIC ACCESS TO COUNCIL PROCEEDINGS.—

(1) IN GENERAL.—All meetings of the Council shall be open to the public.

(2) NOTICE.—The Council shall provide the public at least 30 days’ notice of Council meetings.

(3) MINUTES.—The minutes of all meetings of the Council shall be made readily available to the public.

(n) REPORT.—

(1) IN GENERAL.—Each year the Council shall prepare and make public a report identifying the operation and description of all programs and projects undertaken by the Council during the previous year and those planned for the upcoming year.

(2) RESOURCES.—The report shall detail the allocation and planned allocation of Council resources for each program and project.

SEC. 6. ASSESSMENT.

(a) IN GENERAL.—The Council may levy an assessment on odorized propane in accordance with this section.

(b) INITIAL ASSESSMENT.—The Council shall set the initial assessment at no greater than 10 cents per gallon of odorized propane sold and placed into commerce.

(c) SUBSEQUENT ASSESSMENTS.—Subsequent to the initial assessment, annual assessments shall be sufficient to cover the costs of the plans and programs developed by the Council.

(3) ASSESSMENT MAXIMUM.—An assessment shall not exceed 5 cents per gallon of odorized propane, unless approved by a majority of those voting in a referendum in the producer class and the retail marketer class.

(4) MAXIMUM INCREASE.—An assessment may not be raised by more than 10 cents per gallon of odorized propane annually.

(5) OWNERSHIP.—The owner of odorized propane at the time of odorization, or at the time of import of odorized propane, shall make the assessment based on the volume of odorized propane sold and placed into commerce.

(6) Due Date.—Assessments shall be payable to the Council on or monthly basis not later than the 15th day of the month in which the amount assessed is due.

(7) REPORTED PROPAINE.—Propane exported from the United States is not subject to the assessment.

(8) LATE FEE.—The Council may establish a late payment charge and rate of interest to be applied to assessments not paid to the Council any amount due under this Act.

(2) ALTERNATIVE COLLECTION RULES.—The Council may establish an alternative means of collecting the assessment if the Council determines that the alternative means is more efficient.

(d) INVESTMENT OF FUNDS.—Pending disbursement pursuant to a program, plan, or project, the Council may invest funds collected through assessments, and any other funds received by the Council, only in—

(1) obligations of the United States or an agency thereof;

(2) general obligations of a State or political subdivision of a State;

(3) an interest-bearing account or certificate of deposit with a member of the Federal Reserve System; or

(4) obligations fully guaranteed as to principal and interest by the United States.

(e) STATE PROGRAMS.—

(1) IN GENERAL.—The Council shall establish a program coordinating the operation of the Council with programs of any State established by any public education or research council created by State law, or any similar entity.

(2) COORDINATION.—The coordination shall include a joint or coordinated assessment collection program, reduced assessment, or an assessment rebate.

(3) REDUCED ASSESSMENT OR REBATE.—A reduced assessment or rebate shall be 20 percent of the regular assessment collected in a State under this section.

(4) PAYMENT OF ASSESSMENT REBATES.—An assessment rebate may be paid only to—

(a) a State education and research council created by State law or regulation that meets requirements established by the Council for specific programs approved by the Council; or

(b) a similar entity, such as a foundation established by the retail propane gas industry in a State that meets requirements established by the Council for specific programs approved by the Council.

SEC. 7. COMPLIANCE.

(a) IN GENERAL.—The Council may bring a civil action in a United States district court to compel compliance with an assessment levied by the Council under this Act.

(b) COSTS.—Costs of a civil action for compliance under this section may require payment by the defendant of the costs incurred by the Council in bringing the compliance action.

SEC. 8. LOBBYING RESTRICTIONS.

Nothing in this Act shall be construed to restrict the ability of any person to lobby in compliance with this Act or any other program relating to propane education and research organized and operated under the laws of the United States or any State.

SEC. 9. MARKET SURVEY AND CONSUMER PROTECTION.

(a) PRICE ANALYSIS.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Commerce shall prepare and submit to Congress and the Secretary a report examining whether operation of the Council, in conjunction with the cumulative effect of market changes and Federal programs, has had an effect on propane consumers, including residential, agriculture, process, and nonfuel users of propane.

(b) DETERMINATION BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall—
The report demonstrates that there has been a significant change in the proportion of propane demand attributable to various market segments.

(c) **Recommendations.**—To the extent that the report demonstrates that there has been an adverse effect on propane prices, the Secretary of Commerce shall include recommendations for reversing or mitigating the effects.

(d) **Frequent Reports.**—On petition by an affected party or on request by the Secretary of Energy, the Secretary of Commerce may prepare and submit the report required by this section at less than 2-year intervals.

By Mr. PRESSLER (for himself, Mr. CRAIG, Mr. LOTT, Mr. BENNETT, Mr. SIMPSON, Mr. STEVENS, Mr. MURKOWSKI, Mr. INHOFE, Mr. KYL, and Mr. THOMAS):

S. 1642—A bill to amend the Federal Land Policy and Management Act of 1976 to provide that forest management activities shall be subject to initial judicial review only in the United States district court for the district in which the affected land is located, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL LAND AND POLICY MANAGEMENT ACT OF 1976 AMENDMENT ACT OF 1996

Mr. PRESSLER. Mr. President, today I am introducing legislation to bring some common sense to the judicial review of land management activities. In 1995, every single proposed timber sale in the Black Hills National Forest was challenged by extreme environmental groups. Was this necessary? No. My legislation would prevent environmental activists from “court shopping” when they challenge Federal timber sales and other land management activities. Is this necessary? Yes. The Black Hills National Forest in western South Dakota, famous for its enormous stands of ponderosa pine, is an essential part of South Dakota’s economy. The Black Hills forest products industry includes 18 sawmills and 12 secondary manufacturers producing a full spectrum of lumber products, from housing quality lumber to particleboard and wood pellets. The list is endless. The industry sustains nearly 2,000 jobs. Preserving these South Dakota jobs and the future health of the forest requires careful management—both by the Forest Service and by the timber industry.

Mayor Drue Vitter, of Hill City, SD, said it best:

Good management of the forest by the Forest Service is a good cut for the timber industry. If we grom the forest well and keep it healthy, then we will have a healthy economy.

Mr. President, the very first Federal timber sale in the timber country took place in the Black Hills near Nemo, SD, in 1899. That same area has been harvested twice since then. Today, a new generation of healthy ponderosa pine stands tall and strong—a testament to the proper stewardship of our national forests.

Recently, however, proper forest management has been hindered by lengthy court challenges of Forest Service timber sales. Environmental extremists challenge almost every proposed Federal timber sale—not just in South Dakota but across the country.

In the past 10 years, the number of Federal timber sales has decreased dramatically. In 1990, the Forest Service issued nine timber sale decisions in the Black Hills National Forest. In 1994, the Forest Service issued only four timber sale decisions on the Black Hills.

Why the decline? Mainly it is due to the never-ending court challenges. These reductions threaten the health of the forest, cause sawmills to go out of business, and cause loggers and other workers to lose their jobs. This is bad for the forests. This is worse for South Dakota.

Angie Many, founder of the Black Hills Women in Timber organization, described the situation in a poignant letter to the editor of the Rapid City Journal newspaper. “When less timber sales = more jobs, = losing job. Losing major portions of the Black Hills National Forest to wildlife or insect infestations are increased . . . local mills shut down or decrease shifts, disembeying real people with effects that trickle to other businesses. . . . families like mine are torn apart as loggers and mill workers travel to other areas to find work . . . .”

Sad, Angie’s description is accurate. Often, when environmental extremists contest a Federal timber sale, they shop around for courts that will be most sympathetic to their environmental concerns and where they can get the longest delays. They seek court action in metropolitan areas—courts that frequently are busy and tend to be more liberal. Is this fair to loggers? Of course not.

“Court-shopping is a sad fact of life right now in South Dakota. Here’s an example: Two years ago, the Forest Service prepared the so-called Needles timber sale—a sale 6.77 million board feet in the Norbeck Wildlife Reserve. The Needles sale was aimed at thinning the stands of ponderosa pine which had become so dense from lack of management that wildlife no longer could survive there.

This presented the Forest Service with an opportunity—an opportunity to achieve a balanced approach to forest management. By thinning the forest, the Forest Service intends to create new habitat areas that would encourage the return of wildlife to the area. That’s good sense—a plan that would result in both economic and environmental benefits.

The problem also was needed to ensure the long-term health of the forest within the Norbeck Wildlife Preserve. The Preserve is deteriorating rapidly and poses a severe fire risk. A fire in this area would be devastating. It could destroy the forest and could cause permanent damage to the faces of the Mount Rushmore National Monument which lies within the Norbeck Wildlife Preserve. The Needles timber sale would reduce drastically the risk of fire in the area.

Like almost every Federal timber sale in the Black Hills, the Needles timber sale was challenged almost immediately by a coalition of environmental extremists. For the past 2 years, this case has been reviewed in the Denver court system—with no hope of receiving any further attention. This just is not right.

As many of my colleagues know, the Denver court system is currently one of the busiest in the Nation. The Needles timber sale is not a high priority for this court, particularly now that the Oklahoma bombing trial has been moved to Denver. But, this is what environmental extremists want. They get a delay. My bill would put an end to that.

My legislation would require that Federal land management activities—including timber sales—be subject to initial judicial review only in the U.S. District Court in which the affected Federal lands are located. Under my bill, the Needles timber sale could have been heard in South Dakota—where there is no caseload logjam, so to speak.

This bill means no more court shopping. No more court backlog. No unnecessary delays. No lost timber revenue. And most important, no lost jobs. A court in South Dakota will understand the needs of South Dakota’s forest and rangelands better than a remote big city, Federal court with a clear liberal bias.

Maurice Williams, the General Manager of Continental Lumber in Hill City, SD, agrees that South Dakotans are best equipped to determine how to manage the Black Hills:

The proof is on the ground. The Black Hills National Forest represents more than a hundred years of solid management. A judge who has never seen the Black Hills just isn’t qualified to decide how the forest should or should not be managed.

Mr. President, I agree with Maurice. I believe it is time to give States and conscientious timber harvesters the home court advantage. Already this legislation has been cosponsored by several of my colleagues, including Senators CRAIG, LOTT, BENNETT, SIMPSON, STEVENS, MURKOWSKI, INHOFE, KYL and THOMAS. I ask unanimous consent that a letter of support from the Black Hills Forest Resource Association be printed in the RECORD. I hope all my colleagues will take a close look at this bill and support its eventual passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:
Those who oppose any and all timber activities go to great lengths to obstruct the process. Frequently, they shop around for a court which supports their agenda. This usually creates a situation where the court making the ruling has neither a geographical connection nor a genuine first-hand understanding of the case and its consequences. Does this make judicial sense to any of my Senate colleagues?

Senator Pressler's proposal is direct and straightforward. It simply requires that the court which conducts the judicial review and renders the decision must include the land in question within its district. Why is a Denver court more qualified to review a Black Hills timber sale than one in South Dakota? Common sense says the opposite would be true.

Senator Pressler's approach will not prevent groups from challenging the timber sales on Federal lands. This proposal will not roll back any environmental statutes. To the contrary, it actually means that the judicial decisions will be made more promptly. Why would any of these groups not want their court challenges acted upon promptly?

Senator Pressler's plan also would cover other public policy issues like grazing permits and resource management plans. It makes sense that these judicial decisions, like timber sales, are made by those who will be directly affected, and who have the most knowledge of the situations.

Senator Pressler's approach can be characterized as a focused and precise fix to the underlying statutes. It is in keeping with the administration's "rifle-shot" procedure. The fundamental law is left in place and mere fine tuning occurs.

I ask all of my colleagues to give serious examination to this legislative proposal. It has merit and deserves both your support and your cosponsorship.

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ADDITIONAL COSPONSORS

S. 287

At the request of Mrs. Hutchison, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 287, a bill to amend the Internal Revenue Code of 1986 to allow homakers to get a full IRA deduction.

S. 953

At the request of Mr. Chafee, the names of the Senator from Massachusetts [Mr. Kerry], the Senator from Minnesota [Mr. Wellstone], and the Senator from New Hampshire [Mr. Smith] were added as cosponsors of S. 953, a bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots.

S. 969

At the request of Mr. Bradley, the name of the Senator from California [Mrs. Feinstein] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1099

At the request of Mr. Abraham, the name of the Senator from Arizona [Mr. Mc Cain] was added as a cosponsor of S. 1099, a bill to require Congress to specify the source of authority under the United States Constitution for the enactment of laws, and for other purposes.

S. 1183

At the request of Mr. Hatfield, the name of the Senator from Wisconsin [Mr. Feingold] was added as a cosponsor of S. 1183, a bill to amend the act of March 3, 1931—known as the Davis-Bacon Act, to revise the standards for coverage under the act, and for other purposes.

S. 1189

At the request of Mr. DeWine, the name of the Senator from Louisiana [Mr. Johnson] was added as a cosponsor of S. 1189, a bill to provide procedures for claims for compensation with respect to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products.

S. 1245

At the request of Mr. Ashcroft, the name of the Senator from Alabama [Mr. Shelby] was added as a cosponsor of S. 1245, a bill to amend the juvenile Justice and Delinquency Prevention Act of 1974 to identify violent and hardcore juvenile offenders and treat them as adults, and for other purposes.

S. 1397

At the request of Mr. Kyl, the name of the Senator from Kentucky [Mr. McConnell] was added as a cosponsor of S. 1397, a bill to provide for State control over fair housing matters, and for other purposes.

S. 1512

At the request of Mr. Lugar, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 1512, a bill to amend title 23, United States Code, to improve safety at public railway-highway crossings, and for other purposes.

S. 1610

At the request of Mr. Bond, the name of the Senator from Colorado [Mr. Brown] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1612

At the request of Mr. Helms, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 1612, a bill to provide for increased mandatory minimum sentences for criminals possessing firearms, and for other purposes.

S. 1613

At the request of Mr. Cochran, the names of the Senator from Iowa [Mr.
Whereas the 1999 Women's World Cup tournament will contribute to national and international goodwill because the tournament will bring people from many nations together in friendly competition; Now, therefore, be it

Resolved, That the Senate—

1. Recognizes and supports the efforts of the United States Soccer Federation to bring the 1999 Women's World Cup tournament to the United States; and

2. Requests that the President of the United States designate appropriate Federal agencies to work with the United States Soccer Federation to meet the Federation Internationale de Football Association's requirements for the 1999 Women's World Cup tournament host country.

Ms. SNOWE. Mr. President, I rise today to submit a resolution supporting the efforts of the U.S. Soccer Federation to bring the 1999 Women's World Cup tournament to the United States.

Soccer is one of the world's most beloved sports, and its popularity in the United States has grown rapidly over the past 20 years. The Women's World Cup tournament, held every 4 years, is the single most important women's soccer event; the 1995 Women's World Cup was broadcast to millions of fans in 67 nations. Hosting this event will contribute to national goodwill and be a clear signal that America is serious about encouraging female participation in sports. Indeed, this tournament would serve as a showcase of the best female soccer athletes in the world, and something to which girls and young women could aspire.

Already, girls' soccer has experienced an explosion in popularity. On the high school level, it is reported that 41,119 girls played soccer in 1980, while 191,350 played in the 1994-95 school year. That's a remarkable increase of over 400 percent.

This increase is reflected on the collegiate level as well. In 1981, 77 schools sponsored women's soccer. By 1995, that number grew to 617. And a recent national survey indicates that of all the Americans who played soccer at least once during 1994, 39 percent percent were women.

These are very encouraging numbers. They demonstrate that soccer is a very appealing sport to women, and they demonstrate that soccer is an excellent way to get girls and women excited about participating in sports.

We all know that sports are just as important an activity for girls and women as they are for boys and men. Through sports, girls and women can get a feel for the positive competitive spirit which was, until recently, almost exclusively the property of boys and men.

Women and girls who participate in sports develop self-confidence, dedication, a sense of team spirit, and an ability to work under pressure—traits which enhance all aspects of their lives. In fact, 80 percent of women identified as key leaders in Fortune 500 companies have sports backgrounds.

Hoping the United States host the Women's World Cup in 1999 would be an inspirational way to highlight the excitement of participation in sports, and the heights of greatness which women can reach in athletics. Indeed, it would give Americans the chance to see their own outstanding female soccer players in action.

The U.S. Women's national team won the inaugural title in 1991, and finished third in last year's event before sold out crowds.

The success of the 1994 Men's World Cup Soccer tournament in the United States allowed the U.S. to be ready to be the center of the soccer universe. Indeed, I think we all felt justifiable pride in providing the world with excellent venues as well as first-class transportation, security, communication, and accommodations.

In order for the U.S. Soccer Federation to submit a formal bid to the Federation Internationale de Football Association (FIFA) to host the Women's World Cup, it must show Government backing. In 1987, a similar resolution was agreed to demonstrate support for the U.S. bid to host the 1994 Men's World Cup. By agreeing to this resolution, we will officially recognize their efforts and request that the President of the United States designate appropriate Federal agencies to work with the U.S. Soccer Federation to meet FIFA's requirements for the 1999 tournament's host country.

I hope my colleagues that will join me in supporting this worthwhile effort.
Mr. THURMOND submitted the following resolution; which was considered and agreed to:

S. RES. 235

WHEREAS, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

WHEREAS, roller coasters have been providing fun since the 15th century;

WHEREAS, in 1885, an American named Philip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new down-hill speeds;

WHEREAS, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters;

WHEREAS, engineers working with computers have been able to create the safest, most thrilling rides ever;

WHEREAS, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

WHEREAS, the world’s oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

NOW, THEREFORE, the Senate proclaims the week of June 16 through June 22, 1996, as “National Roller Coaster Week”.

AMENDMENTS SUBMITTED

THE PRESIDIO PROPERTIES ADMINISTRATION ACT OF 1996

MCCAIN AMENDMENT NO. 3655
(Ordered to lie on the table.)

Mr. MCCAIN submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer; as follows:

At the appropriate place in the amendment insert the following:

“Notwithstanding any other provision contained in any other Act, nothing in this Act authorizing or requiring the Secretary of the Interior to acquire land shall be construed to take precedence or assume a higher priority over any other acquisitions undertaken by the Secretary of the Interior or the Secretary of Agriculture.”

THOMAS AMENDMENT NO. 3656
(Orders to lie on the table.)

Mr. THOMAS submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

On page 2, strike lines 20 through 23 and insert the following:

(2) Access by institutions of higher education—The State of Wyoming shall provide access to the property for institutions of higher education at a cost level that is agreed to by the State and the institution of higher education.

(3) Reversion—If the property is used for a purpose not described in paragraph (1) or (2), all right, title, and interest in and to the property shall revert to the United States.

HATCH AMENDMENT NO. 3557
(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(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 (U.S.C. 1712 and 1762).

(B) Release.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such land 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).

CROSS CANYON; UT00600035/CO00300265.

CO00700113A.

Squaw/Papoose Canyon; UT00600229/CO00300265.

Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3558
(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(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. 1783(c)). Such land 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).

(B) Release.—Except as provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by this Title are no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1783(c)). Such land 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).

CROSS CANYON; UT00600035/CO00300265.

CO00700113A.

Squaw/Papoose Canyon; UT00600229/CO00300265.

Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3659
(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(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. 1783(c)). Such land 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).

(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 sections 603(c) of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1762):

(1) Bull Canyon; UT00800419/CO00300265.

(2) Wrigley Mesa/Jones Canyon/Black Ridge Canyon West; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3660
(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(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. 1783(c)). Such land 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).

(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 sections 603(c) of the Federal Land Policy and Management Act of 1976 (U.S.C. 1712 and 1762):

(1) Bull Canyon; UT00800419/CO00100001.

(2) Wrigley Mesa; UT00600116/117/CO00700113A.

(3) Squaw/Papoose Canyon; UT00600229/CO00300265.

(4) Cross Canyon; UT00600229/CO00300265.

HATCH AMENDMENT NO. 3661
(Ordered to lie on the table.)

Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H.R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(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

(B) Release.—Except a provided in subsection (c), any public land administered by the Bureau of Land Management in the State of Utah not designated wilderness by the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(c)) such land shall be managed for the full range of uses as defined in section 103(c) of said Act (43 U.S.C. 1702(c)) and in accordance with land management plans adopted pursuant to section 202 of such Act (43 U.S.C. 1712).

HATCH AMENDMENT NO. 3662
(Ordered to lie on the table.)
Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H. R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

(a) Mr. MURKOWSKI to amendment No. 3564 submitted by Mr. BUMPERS to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H. R. 1296, supra; as follows:

(1) In lieu of the matter proposed insert the following:

In page 152, line 12, strike "Title," and insert the following thereafter: "title, so long as such activities have no increased significant adverse impacts on the resources and values of the wilderness areas than existed as of the date of the enactment of this title.

HATCH AMENDMENT NO. 3664
(Ordered to lie on the table.)
Mr. HATCH submitted an amendment intended to be proposed by him to amendment No. 3591 submitted by Mr. BRADLEY to amendment No. 3564 proposed by Mr. MURKOWSKI to the bill H. R. 1296, supra; as follows:

In lieu of the matter proposed insert the following:

"(3) Provisions relating to Federal lands.—(A) The enactment of this Act shall be construed as satisfying the provisions of section 103(c) of the Federal Land Policy and Management Act of 1976 requiring that exchanges of lands be in the public interest.

(B) In the case of any land transferred by the Secretary under this section, such land shall be managed for the full range of uses as defined in section 103(c) of such 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).

THE LEGISLATIVE LINE-ITEM VETO ACT OF 1996
BYRD AMENDMENT NO. 3665
Mr. BYRD proposed an amendment to the motion to recommit the conference report on the bill (S. 4) to grant the President the power of the President to reduce budget authority, as follows:

In lieu of the instructions insert the following:

"..."
(A) A motion in the House of Representatives to proceed to the consideration of a bill under this subsection shall be highly privileged and not debatable. An amendment to the motion in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) Debate in the House of Representatives on a bill under this subsection shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. The time shall be consumed or yielded back during consideration of the companion bill introduced in the Senate under paragraph (1)(A).

(D) A motion to reconsider a bill under this subsection shall be limited to 10 hours. The time shall be divided equally between those favoring and those opposing the bill. The time shall be consumed or yielded back during consideration of the application of the companion bill introduced in the Senate under paragraph (1)(A).

(E) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to 10 hours. The time shall be divided equally between those favoring and those opposing the bill. The time shall be consumed or yielded back during consideration of the application of the companion bill introduced in the Senate under paragraph (1)(A).

(F) If the Senate proceeds to consider a bill under this subsection, any Member of the Senate may move to strike any proposed cancellation of a budget item.

G. The President may transmit to Congress a special message proposing to rescind budget authority, the reasons why the budget item is proposed to be rescinded, and the amount, if any, of each budget item proposed to be rescinded.

H. The President may transmit to Congress a special message proposing to rescind budget authority, the reasons why the budget item is proposed to be rescinded, and the amount, if any, of each budget item proposed to be rescinded.

SEC. 2. EXPEDITED CONSIDERATION OF CERTAIN PROPOSED RESCISSIONS AND REPEALS OF TAX EXPENDITURES AND DIRECT SPENDING.

(a) IN GENERAL.—Title X of the Congressional Budget Act of 1974 is amended by inserting after the date of enactment of this Act; and

(b) TEMPORARY PRESIDENTIAL AUTHORITY TO RESCIND.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

(f) DEFINITIONS.—For purposes of this section—

(1) the term ‘appropriation Act’ means any general or specific appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

(2) the term ‘direct spending’ shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

(3) the term ‘amendments’—

(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

(B) an amount of direct spending;

(C) a targeted tax benefit;

(D) the repeal of any amount of direct spending or a targeted tax benefit; and

(E) the repeal of any targeted tax benefit; and

(F) the term ‘targeted tax benefit’ means any provision which has the practical effect of providing a different treatment to a particular taxpayer or a limited class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a limited class of taxpayers. Such term does not include any benefit provided to a class of taxpayers distinguished on the basis of general demographic conditions such as income, number of dependents, or other factors.

(b) EXERCISE OF RULEMAKING POWERS.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 et seq.) is amended by adding after section 1012 the following new subsection:

(1) The President shall by resolution provide for the establishment of a 20-calenda-day period (excluding Saturdays, Sundays, and legal holidays) commencing on the day after the date of enactment of the provision proposed to be rescinded or repealed; and

(ii) at the same time as the President’s budget.

(c) CLERICAL AMENDMENTS.—The table of sections for subpart B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item relating to section 1012 the following: ‘‘Sec. 1012A. Expedited consideration of certain proposed rescissions and repeals of tax expenditures and direct spending.’’

(d) EFFECTIVE PERIOD.—The amendments made by this section—

(1) take effect on the date that is 1 day after the date of enactment of this Act;

(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

(3) cease to be effective on September 30, 2002.”

BYRD AMENDMENT NO. 3666

Mr. BYRD proposed an amendment to amendment No. 3665 proposed by him to the motion to reconsider the conference report on the bill S. 4, supra, as follows:

Strike all after the first word in the subsection and insert the following: ‘‘instructions to the managers on the part of the Senate to disagree to the conference substitute recommended by the committee of conference and instead, inserting the text of S. 14 as introduced in the Senate on January 4, 1995 (with certain exceptions) which is as follows:’’

SEC. 1. SHORT TITLE.

This Act may be cited as the ‘‘Legislative Line Item Veto Act’’.
"(D) To the maximum extent practicable, the estimated fiscal, economic, and budgetary effect (including the effect on outlays and receipts in each fiscal year) of the proposed amendment on any budget item shall not exceed 4 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be in order to move to reconsider a bill under this subsection or to move to reconsider the vote by which the bill is agreed to or disagreed to.

"(C) Debate in the House of Representatives on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 2 hours, and appeals in connection therewith (including motions to reconsider the vote by which the bill is agreed to or disagreed to), shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designee.

"(B) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of the motion for reconsideration, any Senator during the consideration of any debatable motion or appeal shall be entitled to an additional time to argue in favor of the motion for reconsideration. The time shall be equally divided between the Senator and the Senator opposing the motion for reconsideration.

"(A) A motion to reconsider a bill adopted in the Senate under paragraph (1)(A) shall be in order if the bill is reintroduced in the House of Representatives, and the Senate shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(E) Except to the extent specifically provided in this section, consideration of a bill under this subsection shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any rescission bill introduced pursuant to the provisions of this section under a suspension of the rules or under a special rule.

"(3)(A) During consideration of a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order. A motion further to limit debate shall not be in order to move to reconsider a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(B) It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order. A motion further to limit debate shall not be in order to move to reconsider a bill under this subsection in the Senate, any Member of the Senate may move to strike any proposed cancellation of a budget item.

"(C) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designee.

"(D) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of the motion for reconsideration, any Senator during the consideration of any debatable motion or appeal shall be entitled to an additional time to argue in favor of the motion for reconsideration. The time shall be equally divided between the Senator and the Senator opposing the motion for reconsideration. The time shall be equally divided between the Senator and the Senator opposing the motion for reconsideration.

"(E) Debate in the Senate on any debatable motion or appeal in connection with a bill under this subsection shall be limited to not more than 1 hour, which shall be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of the motion for reconsideration, any Senator during the consideration of any debatable motion or appeal shall be entitled to an additional time to argue in favor of the motion for reconsideration. The time shall be equally divided between the Senator and the Senator opposing the motion for reconsideration.

"(F) The Senate shall be in session on each day of the second week of the Senate's session in the Senate under paragraph (1)(A) as amended if amended (under subparagraph (A)). Debate in the Senate on such bill introduced in the House of Representatives, and all debatable motions and appeals in connection therewith (including debate pursuant to subparagraph (D)), and any amendment offered under such section under paragraph (1)(A), as amended, shall not exceed 10 hours minus such times as may be added to the Senate under paragraph (1)(A) as amended if amended.

"(G) Debate in the House of Representatives on the conference report on any bill considered under this section shall not exceed more than 2 hours, which shall be divided equally between the majority leader and the minority leader. A motion further to limit debate shall not be in order. A motion to reconsider 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.

"(H) Amendments and divisions prohibited.—Except as otherwise provided by this section, no amendment, nor shall it be considered under this section in the Senate or the House of Representatives, nor shall it be considered under this section in a Committee of the Whole. No motion to suspend the application of this subsection shall be in order in the House of Representatives, nor shall it be considered in the House of Representatives to suspend the application of this subsection by unanimous consent.

"(I) Temporary Presidential Authority To Rescind.—At the same time as the President transmits to Congress a special message proposing to rescind budget authority, the President may direct that any budget authority proposed to be rescinded in that special message shall not be made available for obligation for a period not to exceed 45 calendar days from the date the President transmits the special message to Congress.

"(J) Definitions.—For purposes of this section—

"(1) the term `appropriation Act' means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations;

"(2) the term `direct spending' shall have the same meaning given such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985;

"(3) the term `budget item' means—

"(A) an amount, in whole or in part, of budget authority provided in an appropriation Act;

"(B) an amount of direct spending;

"(C) a targeted tax benefit;

"(D) the term `cancellation of a budget item' means—

"(A) the rescission of any budget authority provided in an appropriation Act;

"(B) the repeal of any amount of direct spending;

"(C) the repeal of any targeted tax benefit; and

"(D) the term `targeted tax benefit' means any provision which has the practical effect of providing a benefit in the form of a different treatment to a particular taxpayer or a particular class of taxpayers, whether or not such provision is limited by its terms to a particular taxpayer or a class of taxpayers. Such term does not include any benefit provided to a class of taxpayers based on the basis of general demographic conditions such as income, number of dependents, or marital status.

"(E) Exercise of Rulemaking Powers.—Section 904 of the Congressional Budget Act of 1974 (2 U.S.C. 621 note) is amended—

"(1) in subsection (a), by striking `and 1017' and inserting `1012A, and 1017'; and

"(2) in subsection (d), by striking `section 1017' and inserting `sections 1012A and 1017'.

"(C) Clerical Amendments.—The table of sections for part B of title X of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the next to last entry relating to section 302 the following:

"Sec. 1012A. Expedited consideration of certain proposed rescissions and reapproporations of tax expenditures and direct spending.

"(d) Effective Period.—The amendments made by this Act shall—

"(1) take effect on the date that is 2 days after the date of enactment of this Act;

"(2) apply only to budget items provided in Acts enacted on or after the date of enactment of this Act; and

"(3) be in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.
(3) cease to be effective on September 30, 2002."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. DOLE. Mr. President, I ask unanimous consent that Acquisition and Technology Subcommittee of the Committee on Armed Services be authorized to meet at 10:00 a.m. on Wednesday, March 27 in open session, to receive testimony on proliferation of weapons of mass destruction and the impact of export controls on national security in review of the defense authorization request for the fiscal year 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of the following nominees: the Honorable Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System; The Honorable Alice Rivlin, of Pennsylvania, to be a Governor and serve as Vice Chairman of the Board of Governors of the Federal Reserve System; Laurence Meyer, of Missouri, to be a Governor of the Board of Governor of the Federal Reserve System; Stuart E. Eizenstat, of Maryland, to be under Secretary of Commerce for International Trade; and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to conduct a mark-up of pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate for the purpose of conducting a hearing on Spectrum Use and Management.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, March 27, 1996, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 1605, a bill to amend and extend the Export Control Act in the Energy Policy and Conservation Act which either have expired or will expire on June 30, 1996, and S. 186, the Emergency Petroleum Supply Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DOLE. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Wednesday, March 27, at 9 a.m., Hearing Room (SD-406), on possible Federal legislative reforms to improve prevention of, and response to, oil spills in light of the recent North Cape spill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN AFFAIRS

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Foreign Affairs be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 10 a.m., to hold a business meeting to vote on pending items.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m., to hold a hearing on judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. DOLE. I ask unanimous consent that the Committee on Labor and Human Resources be authorized to hold a meeting during the session of the Senate on Wednesday, March 27, 1996, at 9 a.m. The committee will be in executive session on S. 1477, the Food and Drug Administration Performance and Accountability Act and the Older Americans Act Reauthorization, an original bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 9:30 a.m., to hold a hearing on campaign finance reform.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, at 2 p.m., in SH-219 to hold a closed briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. DOLE. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 27, 1996, to hold hearings on the Global Proliferation of Weapons of Mass Destruction, Part II.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Seapower of the Committee on Armed Services be authorized to meet on Wednesday, March 27, 1996, at 1:30 p.m., in open session, to receive testimony on the Navy’s submarine development and procurement programs in review of the Defense authorization request for fiscal years 1997 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRUE COMMUNITY SPIRIT

Mr. HOLLINGS. Mr. President, I would like to take a moment to acknowledge the passing of a truly admirable woman, Laura Toliver Jefferson, known affectionately and respectfully as Mother Jefferson. She was a tireless advocate for her community as well as a source of inspiration to those who knew her. Mrs. Jefferson will be remembered by all as the woman who fought over the course of nearly 30 years to get public sewer service for her community of Arthurtown, Little Camden, and Taylors. This was the area of South Carolina in which she was born, raised 10 children, one of whom she died at the age of 93. She will be greatly missed.

Mother Jefferson came to my attention when she was lobbying for a sewage system to be built in her community. That development was long overdue would be an understatement. We tried several different avenues year after year, but the funding kept getting denied or held up. Over the many years, the citizens of Arthurtown, Little Camden, and Taylors found themselves caught in a complicated and often frustrating bureaucratic process. Where another person might be enraged by the redtape, Mrs.
Jefferson remained undaunted, focused, and incredibly polite. Without ever complaining, she voiced the concerns of herself and her community. A local newspaper, the State, captured her humility and humor in an interview in 1965. “It ain’t no disgrace to be poor. It’s just inconvenient.”

After nearly three decades of fighting, the community finally received $3.9 million in Federal and State grants, and the construction began. On July 12, 1995, the people of Little Camden, and their neighbors got sewers and sewage system. They also got the opportunity to thank Mother Jefferson, in the form of a celebration at her house. As the crowd squeezed into her bathroom to share the communities’ very first toilet flush, she said “I’m so grateful that I’m lost for words.”

Mother Jefferson was one of the more articulate, gracious, determined people I have met. She was a truly good woman who participated in community affairs for an enormous difference in people’s lives. Her involvement and her spirit serve as a lasting lesson to us all. When writers or politicians talk about what makes America great, they are talking about people like Mother Jefferson. I send my sincere condolences to her family and friends. Like them, I will not forget her.

BUDGET CUTS AND EDUCATION

Mr. Simon. On March 12 the Senate voted to restore $2.6 billion in Federal funding for education. While this would still leave Federal support for education below 1995 levels, I was pleased to see the Senate take bipartisan action to at least partially reverse what was clearly an unwise decision. Senator Harkin, Senator Specter, and the other Senators who have shown strong leadership on this issue deserve a great deal of credit for their efforts.

Recently, the Chicago Tribune published an article on the effect that Federal education cuts would have for the State of Illinois and the city of Chicago. The article gave a compelling account of what such cuts would mean for the millions of students. I strongly urge the Senate to maintain its position in conference to prevent the harmful impact that the House-proposed cuts would have on Illinois and on the Nation.

I ask that the Chicago Tribune article be printed in the Record.

The article follows:

[From the Chicago Tribune, Feb. 13, 1996]

U.S. BUDGET CUTS IMPACT CHICAGO SCHOOLS

(By Nathaniel Sheppard, Jr.)

Three years ago, at least two fights a day broke out at Ravenswood Elementary School in Chicago’s rough and tumble Uptown community. That number is down to about two per month, according to school officials, largely due to a Peer Leadership project that is part of a nationwide program known as Safe and Drug Free Schools and Communities.

Despite the program’s success at Ravenswood and other city schools, it is at risk of becoming a casualty in the battle between Congress and President Clinton over the Federal budget.

It is one of several programs that could be crippled by a bill in Illinois’ share of Federal funds under the Title I program for the Nation’s neediest children.

The cuts are incorporated in a temporary spending bill, known as a continuing resolution, that is keeping the government functioning during the budget crisis.

Under the stopgap measure, Federal funding for Title I programs in the State is cut by $37.7 million in the 1995 fiscal year to $263 million in fiscal 1996.

The cuts could lead to substantial layoffs of teachers—as many as 600 in Chicago alone, according to Department of Education estimates—and could hobble programs that have become the centerpiece of national and State efforts to make schools safe, drug-free and internationally competitive by the year 2000.

The 30-year-old Title I program is the largest run by the Department of Education.

It provides remedial aid to more than 50,000 under-performing students in public and private schools, including two-thirds of all elementary schools.

The program also funds salaries for thousands of teachers and aides.

Congress passed the temporary spending bill in December after conferences running after parts of the government were shut down twice last year in the budget dispute.

Clinton has agreed to Republican demands to balance the budget in 7 years using economic assumptions of the Congressional Budget Office. But Democrats and Republicans still disagree over how deep some budget cuts should be.

Republicans argue that Democrats exaggerate the harm the cuts will cause and say that in several areas, their reforms will lead to increased spending programs.

Nationwide, cuts in the Title I program total $1.1 billion or 17 percent over last year, under the current continuing resolution.

That reduces spending to $7 billion for individualized instruction, smaller classes, after-school study programs, computers, projects to encourage parental involvement in schools and other strategies some educators say are critical to meeting the federally mandated year 2000 goal.

“The cuts are a serious problem that threatens the safety and well-being of 40 million children in public schools, teacher, principal, and support staff member in America,” said Secretary of Education Richard Riley.

Nationwide, safe and drug-free school and community programs would be slashed $107.8 million, Education Department officials say. That, they add, is enough to pay for 400,000 hand-held metal detectors, hire 3,300 security officers, keep 3,600 schools open for 3 hours of extra-curricular programs, hire 2,000 teachers for conflict-resolution courses and train 50,000 teachers and administrators in drug and violence prevention and education.

“For us, the impact will be devastating,” said Patricia McPherson, manager of the Safe and Drug Free Schools Program in Chicago. Its budget is cut 25 percent to $4.3 million in Chicago under the stopgap funding.

Statewide, cuts in the program total $4.7 million. Under even larger cuts proposed by House Republicans, the State would lose $20 million from the program.

Popular projects such as those at Sauganash and Ravenswood schools, and Amundsen High School could become skeletal programs.

The program at Amundsen seeks to change the climate of community violence.

OPERATION SAFE HAVEN AND THE ASSETS OF EUROPEAN JEWISH IN SWISS BANKS

Mr. D’Amato. Mr. President, I rise to discuss an issue of great emotion and importance to Holocaust survivors and their families. The issue at hand is an inquiry into the return, by Swiss banks, of assets deposited by European Jews and others in the years preceding the Holocaust.

From the 1930’s until the onset of the Holocaust, European Jews and others deposited funds and other assets in Swiss banks for safekeeping. In doing so, they were trying to avoid what some inevitably saw as the writing on the wall—namely, the mass murder and slaughter. Others did so, simply for business reasons. At the end of the war, however, a great many Swiss banks denied holding these assets.

Throughout the intervening years, the victorious Allies made several requests of the Swiss Government for cooperation in finding these assets. Several organizations, in addition to the Allies made repeated and determined efforts to persuade the Swiss to examine their banks and to find these missing assets.

For the Swiss though, the matter was simple, they did all that they could to
avoid any type of examination of their banking system, despite clear evidence of very deep cooperation with the Nazis. The Swiss hid behind their 1934 Bank Secrecy Act, claiming that they could not divulge the identity of their account holders. This is quite ironic in view of the fact that the 1934 Act was designed to protect the identity of the account holders from the Nazis. Now, they were using this same law to shield the assets from the survivors and the victims’ rightful heirs.

Finally, in a series of agreements and treaties with the Allies following the war, Switzerland reluctantly agreed to search their banks’ files for these assets. Finally, in 1962, the Swiss Bankers Association undertook a search through their records to find what assets, they denied holding in the first place. At the conclusion of this search, they found approximately 9 million Swiss francs, or some $2 million, belonging to 961 claimants. Nevertheless, some 7,000 claimants were turned down.

Numerous sources have questioned the validity of this search, but nothing was done beyond this until another search was performed in 1995. In this new search, according to the Swiss Bankers Association, a total of 893 accounts, holding $32 million were found. These accounts were said to have been dormant for at least 10 years and were opened before 1945. These numbers have been criticized, by a variety of sources, as vastly too small.

It is in this vein, as Chairman of the Senate Banking Committee, I have begun an inquiry into this situation. The inquiry will examine the procedures by which Swiss banks calculated the amount of assets in their possession.

In these post-war searches, in 1962-63, and most recently in 1995, the Swiss banks used different criteria to conduct their examinations. Therefore, the Banking Committee will evaluate how the banks searched their accounts, and what kind of accounts might have been missed. The Committee will try to discern if the searches were comprehensive enough to find all assets. While in the early stages of the search, my staff has found declassified military intelligence documents that detail a variety of fascinating facts vital to this inquiry. In “Operation SAFEHaven” a program of the Joint Treasury Department-Justice Department-State Department operation to locate and identify Nazi assets and loot assets in Europe, Military Intelligence officers filed a series of now-declassified reports. One of such document, dated July 12, 1945, details a list of 182 separate bank accounts held by Societe General de Surveillance S.A. of Geneva. These holders of these bank accounts were from Romania, Hungary, Bulgaria, Croatia, Moravia, Slovakia, France, Holland, and Denmark.

This important document is vital to understanding the issue of Holocaust assets in Swiss banks. More importantly, we must compare it to the declaration of the Swiss banks that they had no real assets in their possession, and to later fulfillment of some claims made with them. To start, I would like to know if these accounts are among those found in the post-war, 1962, and 1995 searches, and if not, where is the money now?

At this time, Mr. President, I ask that the above mentioned document be printed in the RECORD at the conclusion of my remarks.

Mr. President, this document proves vital to countering the claim that there were no assets, or very little. With the help of the Congressional Research Service, I would like to list the amount of assets, held in the various currencies reported, converted into dollars at the 1945 rate. Additionally, I will list the value of those assets in U.S. dollars accounting for inflation, as well as what the accounts would hold today with 3 percent, 4 percent, and 5 percent interest respectively. The amounts are as follows:

<table>
<thead>
<tr>
<th>Currency</th>
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<th>1995 amount</th>
<th>1995+3% amount</th>
<th>1995+5% amount</th>
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<tbody>
<tr>
<td>Swiss Francs</td>
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<td>$173,381</td>
<td>$196,931</td>
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<tr>
<td>French Francs</td>
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<tr>
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<td>74,488</td>
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<tr>
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<td>Total</td>
<td>2,411,552</td>
<td>2,049,541</td>
<td>2,049,541</td>
<td>2,049,541</td>
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Mr. President, as you can see, these amounts are of an incredible magnitude. If they are accurate numbers, there is a real problem and the Swiss banks have a lot of questions to answer, and I plan to pose questions to them today. I plan on actively pursuing this matter until I achieve an authoritative, accurate and final account of all assets that numerous Swiss banks continue to hold from this time period and to which the survivors and rightful heirs are entitled.

The document follows:

[SG-SW-105; Secret: No. 12100; Bern, Switzerland, Reference: SH No. 74, Date: July 12, 1945]

SAFEHAVEN REPORT


Reference is made to SAFEHAVEN Report No. 4 suggested by our informants, and also includes additional information in regard to other balances not heretofore reported. The attached list, which contains more detailed information relative to the property held than the earlier one, is said to be a complete list of all persons who are nationals and also residents of the countries; (2) to move funds out of their operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to insure that the funds would be safe from confiscation by their local authorities.

During the present investigation, however, a question was raised as to whether or not the above statement also were true for balances held for persons who are nationals and also residents of France, Holland, and Denmark. It is reliably reported that since 1941 S.G.S. has been criticized, by a variety of sources, as vastly too small.

"it is stated that the aforementioned funds and other property are beneficially owned principally by Jewish persons who are nationals of and residents of the abovementioned countries and who were employing (1) to profit from black market operations in local currencies of the Balkan countries; (2) to move funds out of their home countries; or (3) to insure that the funds would be safe from confiscation by their local authorities."

"The only countries for which we hold financial accounts are Romania and to a very
limited extent Bulgaria. We have never transacted such business for people in other countries."

"From the foregoing it would appear that our earlier remarks do not hold for nationals and residents of Hungary, Croatia, Moravia, Slovakia, France, Holland, and Denmark. This conclusion seems to be correct since at our request the Geneva Consulate discussed the memorandum of June 18, 1945, further with the S.G.S. and on July 2, 1945 advised in part as follows:

The memorandum of June 18 from S.G.S. is correct. On the French list all but the last two entries have been held since before the war. The last two were acquired from a bank in France in free exchange for the account of the persons mentioned. The Hungarian gold (as also the French gold) was deposited with the S.G.S. without its having any knowledge as to how it was acquired.

For your further information, we are advised by the Geneva Consulate in their letter of July 2, 1945, that all dollar balances are deposited in blocked accounts except one of $4,200 held for Maurice Moiso Rothmann, Bucharest, which is in the form of currency.

With regard to the balances held in French francs, the following was reported in the Geneva Consulate's letter referred to above:

"There is only one case involving a balance in the 'libel' list not noted in the above. The S.A.R. TRANSPORTURI EGER (on the Rumanian list involving 250,000 French francs) and those declared to the French Consulate here in Bucharest on July 18, 1945.

"Holdings shown on the French list should supposedly be declared by the owners. S.G.S. has no obligation to declare anything in these cases. It is not known for sure, but the presumption is that the French owners have not made any declarations in order to avoid taxation."

This information is reported to Washington and London for whatever further action may be desired.

We should like to request again that this information be regarded as extremely confidential and be regarded as it will not be disclosed to Swiss or other sources. The request is for the protection of our informants who appear to have been very cooperative.

Enclosures: 3 lists.

850.1/711.2

D. K. H. G. 

Original and heading to the Department

Two copies to American Embassy, London One copy to American Embassy, Lisbon


ENCLOSURES

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<td>4,000</td>
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<td>Israel</td>
<td>USD</td>
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Mr. LUGAR. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 235

Whereas, the roller coaster is a unique form of fun, enjoyed by millions of Americans, as well as people all over the world;

Whereas, roller coasters have been providing fun since the 19th century;

Whereas, in 1885, an American named Philip Hinckle invented a steam-powered chain lift to hoist coasters to new heights and new downhill speeds;

Whereas, advances in technology and a renewed interest in leisure and recreation have meant a resurgence for roller coasters; whereas, some engineers working with computers have been able to create the safest, most thrilling rides ever;

Whereas, there are an estimated 500 roller coasters worldwide, and more than fifty new projects underway in 1996;

Whereas, the world's oldest existing roller coaster, Leap-The-Dips, is located at Lakemont Park in Altoona, Pennsylvania, and is currently being restored;

Resolved, That the Senate proclaims the week of June 16 through June 22, 1996, as "National Roller Coaster Week".

UNANIMOUS-CONSENT AGREEMENT—H.R. 1296

Mr. LUGAR. Mr. President, for the information of all Senators, there will be a vote with respect to the farm conference report and a cloture vote with respect to the Kennedy amendment back-to-back, hopefully, by mid-morning. Also, the Senate is expected to consider the debt limit and the omnibus appropriation conference report prior to the close of business on Friday. The Senate could also be asked to resume the Presidio legislation. In addition, it is hoped that the Senate could also pass the charities bill, S. 1618. Therefore, votes can be expected throughout Thursday's and Friday's session of the Senate.

Mr. President. I add that, given the hour and the amount of time expired, it would appear that the votes with regard to the farm conference report are likely to come after noon, given the current situation. So Senators might be advised of that change, given the time that has expired this evening.

ORDER FOR ADJOURNMENT

Mr. LUGAR. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order following the remarks of Senators PRESSLER and GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

The chair recognizes the Senator from South Dakota.

Mr. PRESSLER. I thank the Chair. Let me say that my intention is to
Mr. PRESSLER. Mr. President, I am voting for the farm bill. I support the freedom-to-farm concept. This is not a perfect farm bill, but I find it somewhat ironic that some of my colleagues are voting against it, yet, urging the President to sign it, and then going out and criticizing it. It would be better to improve it and to be constructive.

Our farmers need a farm bill passed now. Many of them have already gone to the fields in our Nation. In South Dakota, they are meeting with their bankers, making their plans. It is time for us to pass a farm bill.

Mr. President, for years, we have had all this regulation and paperwork in agriculture. I come from a farm. I am a farmer. Last year, deficiency payments were sent out to the farmers. Then the commodity prices were high enough that the deficiency payments were sent back to the Department of Agriculture. All this requires a great deal of paperwork, and it costs the taxpayers a lot.

Let me commend Senator LUGAR and the managers of the farm bill; and Senator GRASSLEY and others, who have brought us a farm bill that will not only save taxpayers money, but will also help our Nation’s farmers and ranchers.

Mr. President, let me say that I think the most important farm bill besides this is a balanced budget because, if we have a balanced budget, we will be able to export our commodities and the commodity prices will be high enough that a balanced budget, we will have low interest rates and a stable dollar and high exports. That is what farmers and ranchers really want. They do not seek handouts. They want good prices on the world market. And they are there for us if we take advantage of it.

So there are many improvements we could make in this farm bill the next year or the year after. But let us pass it now. This is the best deal we can get at this time. If somebody had a better one, they should have brought it to us.

Mr. President, I ask unanimous consent to speak briefly on the farm bill, and then I want to introduce a piece of legislation, if I can do that as in morning business. The total time I will consume will be about 5 minutes.

THE FARM BILL

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them widely available. The common argument is that we should not interfere with a personal choice. A choice which is, according to the argument, a victimless crime. No one is harmed. What a cruel and insensate lie that is.

No wonder so many decent people who thought the Degrados feel like the country, or its culture leaders, has taken leave of its senses.

And one finds the argument and its logical consequences increasingly prevalent. Recently, a member of my staff learned that a bookstore right here in the Washington area had a whole display on how to process your own drugs at home. The display was full of books on how to start your own drug business in the comfort of your living room. This in a store in a suburban shopping mall frequented by teenagers and families. This is reminiscent of the 1960's. That was the last time we flirted with the "drugs-are-OK-for-everybody" theme. But this is not the 1960's and I had hoped that we had learned something from our past. Seemingly not. At least not some.

Turn on MTV or listen to much of the popular music these days and you get the drugs-are-OK message. First, leading political figures and cultural gurus openly discuss the idea of making drugs readily available at over-the-counter prices. Second, newspaper editors flirt with the idea of legalization. Third, movies and TV shows are once again introducing drugs as okay into their plots. Fourth, many of our political leaders are sending confusing messages. So far, the most notable comment from the President on drug use was, "I didn't inhale." Just think of the unfortunate signal that sends, however inadvertent. And fifth, one of the most remembered policy recommendations from this administration was the call by the Surgeon General for legalization.

Lately we have William F. Buckley, J r., repeating the legalization theme. And he is in good, or rather, bad company. Some newspapers, magazines, and a variety of pundits have picked up the theme. This does not mean, however, that this is an idea whose time has come. All of this fulminating over the virtues of drugs or the harm caused by preventing people from self-administering deadly substances, is limited to a few, if well-financed, individuals. But they have a disproportionate access to the media. A media that then broadcasts and enlarges on the theme, making it seem more influential than it really is. Unfortunately, this posture encourages young people to dismiss not only the harm that drugs cause but to question whether it is wrong to use drugs. And so, the hurt goes on.

After years of decline, after years in which teenage attitudes toward drugs was moving in the right direction, we now see signs that teenage drug use, heading back up. More disturbing, we see a decline in negative attitudes to drug use. We have not yet returned to the 1979 levels of abuse, but we have made notable gains in that direction. As recent studies show, an increasingly large percentage of high school kids now report frequent marijuana use. The age at which use is beginning is also dropping. Experts now recommend that we must begin our antidrug prevention message in grade school.

Meanwhile, the casualties mount. The most recent data, released by the drug czar's office, confirm—as if more confirmation was necessary—that drug use is on the rise among our children. For kids. This is particularly true of marijuana use. As we learned to our regret, marijuana is a gateway drug for further substance abuse. Heroin use is also on the rise. And much of the West and Middle West face a growing problem of methamphetamine use—the so-called workingman's cocaine. This drug is responsible for dramatic increases in family violence, in violent crime, and in hospital emergencies. What the numbers tell us is a depressing story of returning drug abuse.

We are still dealing with an addict population created by the drugs-are-OK arguments from the 1960's and 1970's. Our current hardcore addicts were the 15-, 16-, and 17-year-olds of the 1960's. Today, we are putting our 12-, 13-, and 14-year-olds at risk. We are mortgaging their futures and the lives of everyone they touch. We are exposing them to a cycle of hurt and suffering. I can imagine few worse irresponsible acts. The last time we did it unintentionally or by inattention. If we do this again, we can make no claim to ignorance. We cannot appeal to our innocence. What we do now, we do with full knowledge. We simply cannot let this happen again.

I would like to ask my colleagues to look at my remarks from the standpoint of it portraying the problem of drugs that a family in Iowa had, the Kay and Jim Degrado family of Marshalltown, IA. It tells a story about how early drug use of a child leads to greater and greater problems. It talks about crack babies, and in the case of this family a crack grandchild that has been adopted by this family—the problems that families get into down the road of time in fasion; all the crime that comes from illicit drug use.

I compliment this family for sharing their story with me and the granting of permission to me to discuss this issue on the floor of the Senate.

THE TRICKLE DOWN DEFECT

Mr. GRASSLEY. Mr. President, I have had a number of things to say lately about legislation. I refer to the moral posture I have mentioned these issues several times on this floor in the past few days. I wish to draw the attention of my colleagues to an example of what a void in clear leadership and guidance means. It illustrates what we might call the trickle down defect.

When there is uncertain leadership, when leaders are unclear on their true intent, their irresoluteness tramples down. Nowhere is this effect easier to detect than in this administration's drug policy. From almost the first day of this administration there have been mixed signals and muddled directions about our drug policy. While the words have pointed in one direction, actions have not supported. The drug issue fell off the agenda. The President called "time out" in the war on drugs.

Lately, the administration is moving to restore personnel to the drug czar's office. I am sure there is no connection between that move and the fact that this is an election year. Miraculously and suddenly, the President has learned what the American people have known all along. One of the most important tools in fighting drug abuse among kids is to provide consistent leadership—to have a consistent message. At one time, we had that. The most remembered phrase from the years before Mr. Clinton was "I just say no." Unfortunately, we lost that message.

The most remembered phrase of this administration is, "I didn't inhale." Today, a mixed and muddled message has trickled down through the bureaucracy. We have seen a falling off in effort. We have seen confused priorities. We have seen a decline in interagency coordination. We have not seen much in the way of leadership. What we have seen is rising drug abuse.

And, this lack of consistency has consequences. The latest example comes from just the past few days. The Centers for Disease Control, a Federal agency based in Atlanta and paid for by the taxpayers, cosponsored a conference this past weekend. The conference was held under the innocent title of "harm reduction." Unfortunately, that mild phrase conceals a bleak reality. Things are not always what they seem.

Many of the other cosponsors of the conference, such as the Drug Policy Foundation and the Lindesmith Center, are among the largest drug legalization lobbies in this country. The press release announcing the conference put out by the Drug Policy Foundation ends with a call, and I quote, "End the Drug War". The stated goal of these organizations is to get drugs legalized. The CDC, perhaps unknowingly, have associated themselves with this position. A position that is supposedly directly opposite of the administration's stated policy. What you want is a Government agency charged with dealing with controlling epidemics collaborating with those who want to legalize drugs, which would cause a major epidemic. This is a masquerade. But, it is clear that the CDC is confused about what our policy
is. Confused about their role in supporting that policy. But it should not come as a surprise.

Mixed up and muddled. Confused signals and uncertain direction. Actions that belie statements. This has been the recent legacy. No wonder people are confused.

When these things happen, who is responsible? Who do we look to? You have to look to the people who set the course. Remember that the CDC comes under the Public Health Service, which works for the Surgeon General. And who was our last Surgeon General? Joycelyn Elders. Recall that she was the one who sounded the call for legalization in the first days of the Clinton administration. There was never any meaningful response. Certainly the decimated Drug Czar's office could mount no convincing reply. Unfortunately, Dr. Elders' remarks remain fixed in public memory. Everyone remembers her, who remembers anything said by the Drug Czar? Or the President?

We have seen lately a born-again drug policy from the administration, the message is still unclear. Evidently, the CDC is still confused. But their confusion is no orphan.

When the message broadcast from the top is contradictory. When it is hedged with qualifiers. When the guidance is unclear, it should come as no surprise to find bungling at the bottom.

Here we have the Centers for Disease Control, part of our national effort to fight the war on drugs, lending its name and prestige against the war of drugs. The right hand of this administration does not know what the left hand is up to. Lack of leadership trickles down. Is it any wonder that teenage drug use is on the rise? Is it any wonder that kids are unclear on why it is both harmful and wrong to use drugs? When you do not know where you are going, is it any wonder that you get lost? The failure of leadership demands a high price.
TRIBUTE TO A CIA LEGEND, William L. Mosebey, J.R.

HON. BUD SHUSTER OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. SHUSTER. Mr. Speaker, I rise to pay tribute to William Mosebey who will receive, on Friday, March 29, 1996, the Central Intelligence Agency’s Distinguished Intelligence Medal from Director of Central Intelligence, John Deutch.

Bill Mosebey has served our country with distinction for 34 years in the faroff outposts of the cold war. In those years, he rose to the highest level in the Central Intelligence Agency’s clandestine service, but, more importantly he became a legend. Not since Chinese Gordon defended the gates of Khatoum has an officer reached the stature of William Mosebey. With a wry sense of humor, and a brilliant mind he managed and executed the most difficult of clandestine operations, fulfilling every objective set out for him. He served as a chief of station in four countries. In each of them, he spent his share of time recruiting and managing wellplaced human penetrations.

His arrival in any post was a sure signal that the country was high on our President’s priority list. His foes across the stark lines of the cold war knew that they were facing the ultimate professional—one whostands in the intelligence hall of fame with men like Richard Helms and Alan Dulles. At the same time, there was always time for a visit to the Bundu to add a new trophy to his wall.

Bill Mosebey is one of the unsung heroes of our great victory over Marxism, and there is also another unsung hero and that is his wife Carolyn. In Bill’s own words:

Whatever contribution I was able to make to our national effort over the years of the cold war and after was sustained by the fact that my wife managed and supported my wife who, without question, would go anywhere and do anything the job demanded. As far as I am concerned she is stamped ‘keep forever’ (an old KGB classification).

In Washington, a place that always made him long for the bush, he set an example for young officers. Never was there a time when he didn’t have a moment to walk a new recruit through the intricacies of running a spy. Always ready to open his home to a homecooked meal from Carolyn’s kitchen, he would entertain into the night with stories and laughter, but one came away from these evenings knowing that they had been in the presence of one of the great ones.

Mr. Speaker, Bill Mosebey is the Central Intelligence Agency’s “Riley Ace of Spies.” We owe him our gratitude and should shower him with our thanks. But knowing Bill, who has returned to his roots as a farmer in central Pennsylvania, he will be happy if the sun shines, if it rains after the spring planting, and the hunting remains good this fall. But, he should also be pleased knowing that he left the Central Intelligence Agency with honor, with a distinguished record, and my enduring respect, along with those in the intelligence community, for a job well done.

A TRIBUTE TO UNDERSHERIFF Ray Dorsey

HON. JERRY LEWIS OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Undersheriff, Ray Dorsey of Redlands, CA. Undersheriff Dorsey will be honored today upon his retirement after almost 29 years of service to the San Bernardino County Sheriff’s Department.

Ray Dorsey was born in Los Angeles, graduated from Redlands High School, and attended San Bernardino Valley College and the University of Redlands. He began his career in July 1967, when he was appointed deputy sheriff and assigned to the Glen Helen Rehabilitation Center. After serving his first patrol assignment at the Yucaipa Station, Ray was promoted to detective, his first of many promotions, and assigned to the specialized detective division in 1971 where his responsibilities included crimes against property and homicide investigations.

With his promotion to sergeant in 1973, Ray returned to the Yucaipa Station and assumed his duties as the second-in-command. His promotion to the rank of lieutenant in 1977 was closely followed by his promotion to captain in 1980, where he was given the responsibility of commanding the Sheriff’s Specialized Detective Division. Three years later, he was promoted to Sheriffs Floyd Tidwell to deputy chief which gave him responsibility over the next 4 years for the FBI and the specialized Investigations Bureaus. In 1987, Ray was promoted to assistant sheriff which gave him oversight of the departmental support operations including corrections, training, records, crime laboratory, and identification. In 1991, Ray was appointed undersheriff and given wide responsibility for the overall operations of the department. He has served in this position under the leadership of both Sheriff Dick Williams and Sheriff Gary Penrod.

Mr. Speaker, I ask that you join me, our colleagues, as well as Ray Dorsey’s family and many friends, in recognizing the selfless achievements of this remarkable man. Ray has given his professional life to the San Bernardino County Sheriff’s Department and has served the citizens of San Bernardino County well for almost 30 years. It is only appropriate that the House recognize Undersheriff Dorsey today as he begins his well deserved retirement.

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

HON. LEE H. HAMILTON OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on March 24, 1996 new Turkish Prime Minister Mesut Yilmaz issued a statement calling for a process of comprehensive negotiations to resolve all bilateral Greek-Turkish problems in the Aegean as a whole.

Mr. Speaker, it is in the national interest of the United States and in the interest of lasting peace and stability in the eastern Mediterranean region that the differences between Greece and Turkey be resolved. We should use bilateral and multilateral means, as well as third-party mediation as necessary. All available opportunities for moving negotiations forward should be explored.

But here is a goal, not just rhetoric or good intentions. We will have to see whether Turkey and Greece are willing to take concrete steps to resolve their longstanding differences in the Aegean.

These two NATO allies need to work with each other, with other NATO allies and, if necessary with other international institutions to resolve their mutual problems. The proposals of Prime Minister Yilmaz hopefully will provide a timely opportunity to help break the current impasse in Greek-Turkish relations.

In order to inform my colleagues on the substance of Prime Minister Yilmaz’ proposals, I am including the text of his statement in the Record. The text follows:

TURKEY PROPOSES COMPREHENSIVE PEACE IN THE AEGEAN

In a statement issued in Ankara today, Prime Minister Mesut Yilmaz called on Greece to enter into negotiations without preconditions with a view to settling all the questions as a basis of respect for international law and agreements establishing the status quo in the Aegean.

The Turkish proposal included talks on the conclusion of a political framework agreement, a swift agreement on a comprehensive set of confidence building measures related to military activities, avoiding unilateral steps and actions that could increase tension and a comprehensive process of peaceful settlement, including third party arbitration.

The statement is as follows:

“During the recent years, there have been important changes in the world political scene, with old enemies increasingly seeking peace with each other. As a matter of fact, five years ago Ataturk and Venizelos were able to settle the Turkish-Greek differences through an epoch-making historical compromise and to usher in an era of long-term friendship and cooperation between the two countries.

“Today, we are going through a tense period in our relations with Greece. The latest crisis has demonstrated the need for the present state of Turkish-Greek relations is fraught with dangers. The fundamental interests of both countries lie in peace and cooperation, not confrontation. We both stand

* This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
to benefit from developing friendly and good-neighborly relations. Turkey and Greece have to overcome the cycle of conflict into which they have been locked. The failure to settle differences through dialogue and mutual consultation may create an environment conducive to the eruption of new crises. This vicious circle must be broken at some point. The leaders of both countries are faced with the responsibility to establish a climate of mutual confidence, to give a new structure to their bilateral relations which would be free of problems, and thus open a new chapter in the Turkish-Greek relations. Turkey is ready and determined to do her utmost in that regard. I believe the leaders also share the necessary political will to live up to this historic responsibility.

"The current problems between the two countries must be taken up with a new and realistic approach. By isolating them from the emotions stemming from history and the chains imposed by short-term temporary considerations, our ultimate goal should be to bring comprehensive and lasting solutions to all the differences and problems between the two sides, especially those related to the Aegean. Separate third settlement of the Aegean issues will only be viable and lasting if it is built on the fundamental rights and legitimate interests of both countries. For that reason, we will discuss each difference on the basis of mutual respect and with a willingness to reach a compromise."

"Turkey is a law-abiding country. In keeping with international law, she has always respected the territorial integrity and the inviolability of borders of all her neighbors, including Greece. In a similar vein, Turkey harbors no intention towards altering the status quo in the Aegean through unilateral steps and to make gains by de facto actions. An essential aspect of Turkey's position on the Aegean questions is respect for the status quo in the Aegean which was established through international agreements. These are the basic principles defining Turkey's approach to both her relations with Greece and the matters related to the Aegean. We have the right to expect Greece to display the same understanding and approach. If Greece also adopts these principles, it will be much easier to reach mutually acceptable solutions than is generally thought. In this spirit, Turkey is now ready to engage in such a process, including the long overdue steps and actions that could increase tension."

"I am proposing to Greece to engage in a comprehensive process of peaceful settlement which will begin from the beginning any method of settlement including third party arbitration. This will make an incomparably important contribution to strengthening of peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and with their own parameters. As our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

"I sincerely hope that Greece will give due consideration to our call for a peaceful settlement based on international law and I believe that the settlement will not exclude from the beginning any method of settlement including third party arbitration. This will make an incomparably important contribution to strengthening of peace and stability in our region. Similarly, bringing a comprehensive solution to the Aegean questions will also contribute to the settlement of other questions in eastern Mediterranean on their own merits and with their own parameters. As our Greek friends frequently say, "actions speak louder than words." I, therefore, propose action, not words.

"I am sure that our two nations living side by side for 100 years of truly superior musical performance, this marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

The members of the Apollo Chorus have proven for more than 100 years what can be accomplished through a strong work ethic, teamwork, and a commitment to excellence.

The chorus has sung the works of history's greatest composers—Bach, Beethoven, Mozart, and others—all around our Great Nation as well as overseas, leaving audiences with its unique, full, and mellowness.

Mr. Speaker, from its birthplace at the home of Col. Charles McC. Reeve on the south shore of Lake Harriet in Minneapolis, the chorus has graced a global stage over the years which has included performances at President Eisenhower's inaugural in 1957, the World's Fair in Brussels in 1958, the memorial atop the sunken Battleship Arizona at the Pearl Harbor commemorative ceremony in 1985 and international festivals from Wales to Nancy, France.

Along its many awards and honors, the Apollo Male Chorus won second place at the renowned Eisteddfod Choral Festival in 1982. But despite the chorus' success in musical competition, the Apollo Club's real focus has been on moving people with their special music, and educating audiences about the choral style they practice so eloquently.

Mr. Speaker, the members of the Apollo Chorus through the years have been true pioneers of choral song. Audiences swing and sing to the Apollo's international collection of rhythms.

In Greek mythology, Apollo stood for clarity, order, and harmony. In a world that too often leaves us stunned because of its chaos and discord, the Apollo Club delivers a much-needed message of peace and togetherness. Today we thank all the club's singers, leaders, officers, and special musical guests for their gift of beautiful music and extraordinary harmony.

Today, we salute the Apollo Club Male Chorus of Minneapolis for a century of wonderful entertainment and we honor this outstanding group for the joy its members have brought to our lives. The people of Minnesota are proud of the Apollo Club Male Chorus, and we wish them many more years of success.

TRIBUTE TO 100TH ANNIVERSARY OF APOLLO CLUB MALE CHORUS OF MINNEAPOLIS, MINNESOTA

HON. JIM RAMSTAD
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. RAMSTAD. Mr. Speaker, I rise today to bring attention to the prestigious history and legacy of excellence for more than a century of the Apollo Club Male Chorus of Minneapolis, MN.

Just last year, the Apollo Club celebrated 100 years of truly superior musical performances. This marvelous chorus of amateur musicians exemplifies the spirit that makes our country great—friends from all walks of life, gathering outside of their daily and professional lives to fashion a powerful bond made possible only by a common, shared goal in which the group takes precedence over the individual.

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Like the 25 other politicians who have been indicted, Mr. Khurana's name appeared in what prosecutors have described as coded entries in diaries listing payoffs of more than $35 million that were seized in 1991 from the New Delhi home of a prominent industrialist, Surendra K. Jain.

Press accounts say Mr. Jain confessed to investigators last week to having been, along with one of his brothers, the principal paymaster in a web of corruption that ensnared dozens of leading politicians and public officials.

In addition to cash bribes, Mr. Jain is said to have told of paying for expensive gifts that included Mercedes-Benz cars, Belgian crystal and foreign trips. Details of many of the payoffs were listed in the diaries, against the initials of the recipients or, in some cases, their telephone numbers.

Mr. Rao seems certain to face heavy criticism in the election campaign for what opponents have described as an attempted cover-up.

Nearly four years passed after the police seized the diaries before the Central Bureau of Investigation, which is under the Prime Minister's direct control, made a sustained attempt to question Mr. Jain and others alleged to have been involved in the payoffs. Even then, the investigative agency delayed any Supreme Court intervention in November and set deadlines.

When the director of the investigation bureau reported to the Supreme Court this week that his agency had no "reasonable basis" for charging anyone, the court ordered the investigators not to close the probe of "any person," no matter how important, until all leads were explored.

A lower court in New Delhi followed up on Friday by ordering the bureau to investigate allegations that Mr. Jain, on Prime Minister Rao's orders, paid out nearly $1 million in 1993 to bribe opposition members of Parliament into switching parties, thus saving the Rao Government from defeat on a non-confidence motion.

There has been widespread debate over whether Mr. Rao kept the lid on the scandal until shortly before the election so as to be able to use the indictments against opponents - and allies whose loyalty he doubted - or whether prejudice from the Supreme Court forced his hand.

In any case, many Indians say the scandal has reached proportions that will lead to a far-reaching political shake-up.

Previous scandals have subsided without a major shake-up in the political establishment. But this time, many commentators predict, the involvement of the Supreme Court will make it hard to contain the fallout.

"It will not fizzle out," said Rajinder Puri in The Times of India. "The process of destablizing a rotten, corrupt, repressive and anti-people system will continue until reform and a new system takes its place."

DETERIORATION OF HUMAN RIGHTS IN CAMBODIA

SPEECH OF HON. STEPHEN HORN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 26, 1996

Mr. HORN. Mr. Speaker, the recent appalling murder of Haing S. Ngoc has focused the world's attention on the horrors suffered by the Cambodian people at the hands of the Khmer Rouge. Mr. Ngoc worked tirelessly to remind us that human rights tragedies were still occurring in his native country. We must continue his work.

I strongly support House Resolution 345 expressing concern about the deterioration of human rights in Cambodia. Our Government must support efforts to bring to justice the free society there - and rally other nations to join us. Anything less would dishonor Mr. Ngoc and the 1 million Cambodians who have died at the hands of tyranny over the last two decades.

ANSWERING AMERICA'S CALL

HON. PAT ROBERTS
OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 27, 1996

Mr. ROBERTS. Mr. Speaker, I submit the following script written by Mr. Bradley Areheart, State winner of the Veterans of Foreign Wars of the United States and its Ladies Auxiliary Voice of Democracy broadcast scriptwriting contest.

Mr. Areheart is a junior at Emporia High School in Emporia, KS and plans a career in medicine or politics. He was sponsored by the VFW Post 180 in Emporia.

The contest theme this year was "Answering America's Call." Bradley has done a wonderful job of crafting words to tell us that each of us has toward our fellow Americans and toward our future generations. I encourage each one of my colleagues to read Bradley's message and take his suggestions to heart.

ANSWERING AMERICA'S CALL

It's 2:00 in the morning and a lady clutches her heart as if struck! A heart attack! She staggers to the phone and frantically dials the numbers 9-1-1. The police dispatcher's voice comes across clearly but in a lethargic sounding tone. The lady, gasping, screams, "Get someone out here! Get someone out here! I've had a heart attack!" "I'm going to put you on hold," is the dispatcher's reply as she picks up another line.

A frantic call, put on hold by an apathetic operator. Important? Yes, and that call is not unlike the call being made today. A call of far greater importance to everyone in the United States. That call is America's plea for the future; we have several options as we hear that call. We can answer immediately, ignore it, or just like the apathetic operator, put it on hold. However, in my mind, we have only one clear option. If we are to be responsible, caring citizens, we must answer America's call.

Former Secretary of State Cordell Hull said, "I am certain that however great the hardships and the trials which loom ahead, our America will endure and the cause of human freedom will triumph." How truly this reflects the time since the foundation of our nation. In the 1700's America sounded a call to responsible, caring citizens, we must answer America's call.

Mr. Horn. Mr. Speaker, the recent appalling murder of Haing S. Ngoc has focused the world's attention on the horrors suffered by the Cambodian people at the hands of the Khmer Rouge. Mr. Ngoc worked tirelessly to remind us that human rights tragedies were still occurring in his native country. We must continue his work.

I strongly support House Resolution 345 expressing concern about the deterioration of human rights in Cambodia. Our Government must support efforts to bring to justice the free society there — and rally other nations to join us. Anything less would dishonor Mr. Ngoc and the 1 million Cambodians who have died at the hands of tyranny over the last two decades.
met their country's call. But what if these calls had been left unanswered or put on hold? What would become of them? And more importantly, what would become of our country? Our half-hearted and we haven't been. We confront situations like a raging bull who has his eyes fixed only on the matador. And that's how things get done--America answers all because of patriotic citizens and leaders who see a light at the end of the tunnel. America will continue to answer the call because of compassion, pride, and love of country.

I am a youth of today, but a leader of tomorrow. I face certain responsibilities: the responsibility of speaking up for what's right, the truth, and a willingness to fight for my country.

But currently, America's call is for the future. A call that is widespread and impossible to ignore. It's a call to return to basic values and truths that have always made America so great. The call is for safer streets, moral integrity, and family values. Former President Dwight Eisenhower said that "the problems of America are the family problems multiplied a million fold." And isn't that evident in today's society? As tomorrow's generation must answer the call to become responsible, moral, intelligent, and patriotic citizens. The ideals of life, liberty, and the pursuit of happiness are not just empty words and must be stressed for all citizens. We cannot accept the attitude "It doesn't matter how I act; I'm just one person." Instead, we must share the feelings of so many Americans who say "I love my country; I sincerely care about the feelings of so many Americans who say "I love my country; I sincerely care about "I love my country; I sincerely care about its future." That attitude must now direct all of us. There's an African proverb that says "it takes an entire village to raise a child." The time has come for all of us in the village to accept responsibilities. You see, we can meet the needs and become catalysts for change. America's future demands the commitment of everyone to not only hear, but also answer America's call. Whether it be a call to arms or a call to peace.

Today's call is not an emergency 911 situation because America maintains her great strength and potential. But if we choose to ignore the problem, it will continue to grow. We cannot ignore the problems of America, we must face them and find solutions. We must act now to ensure a better tomorrow for our children and grandchildren.

Answering America's Call

Hon. Robert E. Wise, Jr.

In the House of Representatives

Wednesday, March 27, 1996

Mr. WISE. Mr. Speaker, I would like to introduce a dramatic radio script written by Shirley, a constituent from Berkeley Springs, WV. This script was West Virginia's winning entry into the Veterans of Foreign Wars—Voice of Democracy broadcast scriptwriting contest.

John's script stresses the importance of both cooperating and making unselfish, individual contributions in determining how well the ideals that make America work for all of us. I encourage my colleagues to keep America's spirit alive.

John's script in mind as we work to find effective solutions to the problems that currently face our Nation.

Answering America's Call

Lost in the maddening crowd of passersby, I walked along the city streets. Above the automobile honking and stereo music, I heard a woman's sobs. I made my way through the wall of pedestrians and found her crying as she sat alone on a broken park bench. I sat down beside her and asked her what was wrong.

She gently took my hand and spoke. "Nobody cares about me anymore." I asked her what she meant.

She wiped her tears and struggled to speak again, "There is so much. I see hungry, homeless children shivering on the street. Drug deals take place when and where they often get sucked in. I hear screams at night; men and women beat each other and their children. Gang wars take place on the streets, killing kids and innocent bystanders.

Students drop out of school and depend upon welfare to survive. They never strive to be their best; they settle for second or third place and I have to do the same. Everyday I wear the same white blouse and the same black skirt. It takes two races with no connection, no relation and no understanding—just like me. And worst of all, nobody cares about any of this. They won't use their rights. They don't speak out; they refuse to write it down; they refuse to force the politicians that fight over our country to stand up and fight for our nation. America's future demands that we become responsible citizens, we will be ignored. When my generation answers the call, it will be America's turn to become responsible citizens. I want to make sure that America will not sit crying alone on a broken park bench. Instead, she will continue to hold and protect us and will forever remain in the greatest nation on earth.

A Tribute to Assistant Sheriff Jim Bradford

Hon. Jerry Lewis
Of California

In the House of Representatives

Wednesday, March 27, 1996

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of San Bernardino County Sheriff's Deputy Jim Bradford. Jim will be honored today upon his retirement after nearly 27 years of service to the San Bernardino County Sheriff's Department.

Jim grew up in California, graduated from Colton High School, and obtained an associate degree in administration from San Bernardino Valley College and a bachelor of science degree in public management from Pepperdine University.

Jim began his career with the San Bernardino County Sheriff's Department as a line reserve deputy sheriff at the Yucaipa station in 1967. After serving as a volunteer for 2 years, Jim sold his business and became a full-time deputy sheriff in 1969 and was assigned to the Glen Helen Rehabilitation Center. He remained there until 1971 when he was reassigned to the Sheriff's main office, where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Jim was promoted to sergeant in 1975 and returned to the Glen Helen Rehabilitation Center until his reassignment in 1977 as detective sergeant to the central detective division. Three years later, he was promoted to lieutenant where he served as unit commander in the crimes against property and homicide details. He was later promoted to chief of detectives, where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Jim was promoted to sergeant in 1975 and returned to the Glen Helen Rehabilitation Center until his reassignment in 1977 as detective sergeant to the central detective division. Three years later, he was promoted to lieutenant in 1979 and was assigned to the San Bernardino County Sheriff's Department. Jim was later promoted to chief of detectives, where he served as a patrol deputy and a reserve deputy coordinator. In 1973, he was promoted to detective and was assigned to the central detective division in San Bernardino.

Mr. Speaker, I ask that you join me, our colleagues, as well as Jim Bradford's family and many friends, in recognizing his many outstanding achievements. Jim has devoted his professional life to the San Bernardino County Sheriff's Department and has served the citizens of San Bernardino County well for nearly
PENSIONS
HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996
Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 27, 1996 into the CONGRESSIONAL RECORD.

PENSION PLANS: SAVING FOR A SECURE RETIREMENT

I am impressed by how many constituents stress the importance of working toward a good pension and a comfortable retirement. They put in many long hours to pay the bills and put their kids through school. They emphasize the value of hard work and saving, and believe that a life of hard work should be rewarded with a secure retirement.

Many, however, are increasingly concerned about the outlook for their retirements. They find themselves working harder, often at more than one job, but can't seem to find the money to put away for retirement. In the past, Americans relied on their employer to guarantee a pension, but the trend in recent years has been toward employers providing pension benefits, which benefits at all, reflecting in part the shift from manufacturing to service-oriented businesses.

The average American will live about 18 years in retirement, much longer than ever before. Workers will need on average 70% of their pre-retirement earnings to maintain their standard of living. Today, half of all full-time workers have no private pension coverage. Most Americans rely on a combination of Social Security, individual savings, and pension plans for retirement, but traditional pension benefits represent a shrinking portion of retirement income. Since few pension plans are inflation-indexed, the benefits retirees ultimately receive can only go so far. Increasingly, employees, rather than employers, are responsible for their pension savings and investment.

PENSION PLANS

There are two basic types of private pension plans. The more traditional pension plan—a defined benefit plan—guarantees its workers a set monthly pension benefit based on earnings and years of service. A defined contribution plan, in contrast, involves an interest-bearing account that employers contribute to. A defined contribution plan can do much to offer American workers some security in their retirement.

First, Congress should block efforts to let employers withdraw money from currently underfunded pension plans. Current law allows companies to use assets from underfunded plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

Second, Congress should consider ways to ease the regulatory burden on pension plans to encourage more companies, particularly small businesses, to offer plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

Third, we should look for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry benefits and contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, many workers will have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay with them. When employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

Fourth, we must look at ways to further protect the assets which workers invest in 401(k)’s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions, requiring a 90-day period, and encouraging employers to offer workers general investment information so that employees can better monitor their own plans.

Congress can take steps to protect pension plans.

Congress should block efforts to let employers withdraw money from currently underfunded pension plans. Congress can take steps to protect pension plans by making the following reforms:

POSSIBLE REFORMS

Congress can take steps to protect pension plans by:

1. Blocking efforts to let employers withdraw money from currently underfunded pension plans. Current law allows companies to use assets from underfunded plans only for retiree health benefits. Speaker Gingrich favors a change in the law to permit companies to raid surplus pension assets for other business purposes. I strongly oppose this proposal.

2. Considering ways to ease the regulatory burden on pension plans to encourage more companies, particularly small businesses, to offer plans for their employees. Tax incentives and simplified, uniform regulations for employers who offer plans can do much to offer American workers some security in their retirement.

3. Looking for ways to make pension plans more portable. As workers move from job to job, it is important that they be able to carry benefits and contributions with them. Defined contribution plans offer workers this option, and because of the growth in such plans over the last 10 years, many workers will have become more portable. Defined benefit plans are less portable than contribution plans because employers want to encourage their employees to stay with them. When employees do leave, they should be encouraged to roll over their contributions into an IRA rather than cash out their contributions.

4. Taking steps to further protect the assets which workers invest in 401(k)’s and other contribution plans, particularly given their recent enormous growth. The Labor Department has proposed several reforms, such as shortening the time an employer has to deposit employee contributions, requiring a 90-day period, and encouraging employers to offer workers general investment information so that employees can better monitor their own plans.

CONCLUSION

Americans understand that planning for the future is crucial, and the sooner they start to save the better. It has become increasingly difficult, however, for workers to set aside a portion of shrinking salaries for retirement.

Congress should consider measures to protect the integrity of the private pension system, to ensure that people can retire when they wish, and encourage businesses to expand coverage to those without a pension plan. I have co-sponsored a bill that would create a federal commission to study the pension issue and develop proposals to increase participation in pension plans and provide more protection for pension assets.

JOB CORPS IMPROVEMENT ACT OF 1996

HON. BOB FRANKS
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996
Mr. FRANKS of New Jersey. Mr. Speaker, today I am introducing legislation to make the Job Corps safer for program participants and more cost-effective for taxpayers.

I support the Job Corps and its important mission. But for too long, Congress has tolerated too much waste, fraud, and inefficiency in this program. The American taxpayer wants more accountability, and the young people that the Job Corps serves need to better prepare themselves for an increasingly competitive marketplace. My legislation targets these two goals.

Job Corps was created more than three decades ago as part of President Lyndon Johnson's war on poverty. Presently, it is funded at over $1 billion a year, and it is the largest job training program for disadvantaged youth between the ages of 16 and 24.

In 1994, a survey of Job Corps students showed that 68 percent of enrollees had two or more barriers to employment, including not having a high school diploma, lacking basic work skills, and having limited English proficiency. The program currently serves over 60,000 young adults in 46 States.

The original idea behind Job Corps was to give disadvantaged youths a hand up in order to avoid a lifetime of hand-outs. But as times have changed, so have the problems facing Job Corps students.

And in too many instances the Federal Government has been too slow in adopting policies to adjust to changing times. Today many Job Corps students come from one parent homes, in communities ravaged by crime, drugs, and violence—problems whose proportions could scarcely be imagined a generation ago.

In order to maintain an environment within which young people can learn, the centerpiece of my bill institutes a zero tolerance policy for drugs, alcohol abuse, and violence in the Job Corps. I know the Job Corps bureaucracy has recently made strides in combating these scourges. But because violence, alcohol abuse and drugs are anathema to a productive and limited English proficiency, Job Corps students deserve a guarantee in law that these centers can be a sanctuary where students can live and learn without fear. My bill ensures that those who enter the Job Corps in order to learn can do so, and those who enter the program without that commitment will be weeded out, disrupting those who are intent to learn new job skills.

My bill also contains a provision requiring the Department of Labor to undertake an in-depth, comprehensive review of the entire Job Corps program. The purpose of this review would be to ascertain what the Job Corps does well and where further improvement is needed. Such a review has not taken place since 1982, and hard data on how well the
Job Corps is fulfilling its mission is largely unknown. For example, the Department of Labor estimates that the overall job placement rate for Job Corps graduates is 70 percent, but some centers have rates as low as 20 percent for 5 consecutive years. Furthermore, a recent General Accounting Office study found that fully 15 percent of Job Corps’ job placement verification procedures were invalid. That means that some Job Corps centers were reporting that their graduates were finding jobs, when in fact they were not.

Refurbishment is needed to ensure that Job Corps enrollees obtain work upon graduation, and are not merely shuffled through the program. Considering that the average Job Corps student costs taxpayers $24,000 to train, it is no longer acceptable to assess the performance of this program by collecting anecdotal evidence. The comprehensive Job Corps review called for under my legislation is closely modeled after a proposal offered by Senator Arlen Specter of Pennsylvania that passed the Senate last October. It will give Congress and the Department of Labor credible statistics that will enable informed judgments on how best to improve and strengthen this important job training program.

My bill also limits the spending on the Job Corps bureaucracy to 13 percent. Currently 18 percent, or over $180 million is spent on administration. That figure is too high, and indicates that efficiencies can be made within the bureaucracy to reduce costs. I want more money spent on students, not on bureaucrats. My bill would force the Department of Labor to examine Job Corps’ overhead and reduce waste and eliminate it.

Today, there are 109 Job Corps centers throughout the country. In an effort to upgrade the performance of each of them, my bill would eliminate the 10 worst Job Corps centers in the Nation by the end of the century. At some Job Corps centers, the buildings and living quarters are in disrepair, the management is inept, the training that students receive is ineffective, and worst of all, violence and drugs are prevalent. Those centers need to be cleaned up or closed down, so the funds saved can be used more effectively. The money can be funneled to productive, well-run centers.

Job Corps is the most expensive Federal youth employment and training program. Despite the fact that Congress is consolidating nearly 100 education and training programs into State block grants, funds for Job Corps are actually slated to increase. The reason Congress has retained this program is because it has demonstrated some meaningful success. Many people are unaware that Job Corps students who do complete their training are five times more likely to get a training-related job and pay 25 percent higher wages. Moreover, employers who hire Job Corps graduates are generally satisfied with their Job Corps hires.

My bill preserves what is right about Job Corps, and strengthens it for the future. It makes budget cuts to this program, with the promise of additional reforms when the comprehensive performance review it calls for becomes available. The Federal Government’s investment in this program is too great not to demand improvements, and the at-risk youths this program serves need what this program offers more than ever.

Mr. Speaker, without the Job Corps, many of today’s disadvantaged youth would be unskilled, unemployable, and without hope. When it is successful, the Job Corps breaks the cycle of despair and turns unfocused youths into productive citizens. I support an effective Job Corps, and I will continue to fight to improve this important program.

THE 35TH ANNIVERSARY OF THE PEACE CORPS

SPEECH OF
HON. JACK QUINN
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Tuesday, March 26, 1996

Mr. QUINN. Mr. Speaker, 35 years ago President John F. Kennedy had a dream. He wanted to share America’s idealism and know how with other nations, not just through impersonal aid aid or loans or grants, but more importantly through direct people-to-people contact. He wanted American citizens to work directly in foreign nations, helping those in need to learn how to develop the basic skills necessary to promote their own well-being and are needed for advancement. As a result of the dream turned into reality, whole societies have gained insight and experience, improved their lives, from learning how to drill wells and improve their agricultural output to developing the social, educational, and medical skills necessary for their well-being.

This program, established through the Peace Corps Act of 1961, now provides programs in over 90 different countries. Its purpose, to promote world peace and friendship, has helped other countries in meeting their goals for trained men and to promote understanding between the American people and other peoples served by the Corps has had an unprecedented record of success.

Volunteers from throughout the Nation, including many of my own northwestern New York, have selflessly given of themselves through 2-year commitments in foreign countries where they lived and worked as integral parts of the communities in which they served. Peace Corps volunteers today work in six basic program areas: agriculture, health, small business development, urban development, and the environment. Community-level projects are designed to incorporate the skills of volunteers with the resources of host country agencies and other international assistance organizations to help solve specific development problems, often in conjunction with private volunteer organizations.

In the United States, the Peace Corps also serves an important purpose in promoting a better understanding of the people and cultures of the countries served. Peace Corps World Wide Schools Program, volunteers are matched with elementary and junior high schools throughout our Nation to encourage an exchange of letters, pictures, music, and artifacts. Participating students increase their knowledge of geography, languages, and different cultures, as well as learning the value of volunteering, whether in their own communities or in faraway nations.

The Peace Corps is a dream that fortunately became a reality. It is a program for which every American can be proud, both for what it has accomplished and what it is doing. To the Peace Corps and its thousands of volunteers, I offer a sincere congratulations and thank you on this, its 35th anniversary.

CONGRATULATIONS REPUBLIC OF CHINA

HON. DAN BURTON
OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. BURTON of Indiana. Mr. Speaker, on March 23, 1996, the people of the Republic of China on Taiwan overwhelmingly elected Lee Teng Hui as their first directly elected President. Mr. Lee’s landslide victory was a clear indication of the voters’ confidence in President Lee’s ability to handle the challenges that lie ahead for his country. The voters’ enthusiasm for this election also proves that democracy is not a system of government unimportant to Asians. The Republic of China on Taiwan should be commended for taking this final step in its transition to a fully-fledged democracy, and in my opinion, President Lee is the perfect man to lead Taiwan to even greater achievements in the future. I congratulate the people of the Republic of China on Taiwan on their presidential election.

TRIBUTE TO THE LATE POLICE COLONEL BENJAMIN FRANKLIN AGUON LEON GUERRERO

HON. ROBERT A. UNDERWOOD
OF GUAM

IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. UNDERWOOD. Mr. Speaker, the island of Guam lost one of its proudest public servants last Friday night March 22, Guam Police Col. Benjamin Franklin Aguon Leon Guerrero, a man who dedicated half his life to service to the people of Guam through the police department, was stricken by a heart attack which caused his untimely death. He was only 44 years of age.

Col. Leon Guerrero, a close personal friend, worked through the ranks at the Guam Police Department starting out as a patrol officer. Prior to joining the police force, I vividly remember him as a schoolwide working under my supervision at George Washington High School in Mangilao. Since then, I eagerly watched his rise in the ranks while taking upon various tasks for the department of public safety, the department of corrections, and the Guam Police Department. He went on to become the most senior ranking classified officer in the Guam police force. He was later appointed to be the deputy chief of the Guam Police Department.

I must also make special mention that he was a published poet and a graduate of the 156th session of the Federal Bureau of Investigation [FBI] National Academy. In fact, it wasn’t too long ago that I submitted a statement in the CONGRESSIONAL RECORD commending him for having been the first president of the FBI National Academy Hawaii Chapter to hail from outside the State’s confines.

His more than 20 years of public service yielded him a collection of awards and decorations. They include the J. Edgar Hoover Medal for Distinguished Public Service, the Guam Police Promotion Service Award, the Guam Police Distinguished Service Medal, the Commanding Officer’s Citation, and the Exception Performance Award. He is also listed

The late Col. Leon Guerrero left a legacy of service and devotion to the island of Guam, to its people and to the United States as a whole. He is remembered my many as a mentor, an adviser, and a great man sensitive to the needs of the police department, but the whole island of Guam.

His passing is a great loss and his presence will surely be missed. On behalf of the people of Guam, I offer my condolences and join his widow, Julie, and their children: Benjamin Franklin, Peter John, Ray, Sheena Marie, and Lolana Evette, in mourning the loss of a husband, a father, a very dear friend, and fellow servant to the people of Guam.

TRIBUTE TO G.W. CARVER MIDDLE SCHOOL

HON. CARRIE P. MEEK
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mrs. MEEK of Florida. Mr. Speaker, it is my great pleasure to pay tribute to the staff and students at George Washington Carver Middle School upon their recent award as a Blue Ribbon School of Excellence.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

G.W. Carver Middle School Center for International Studies is the only public middle school to be recognized and accredited by the Governments of France, Spain and Germany. Some of Carver’s teachers and textbooks have been provided through the Governments of France and Spain.

Carver Middle School is a magnet school for international studies whose curriculum models the European system of studies, and students’ tests scores are among the highest in all standardized tests. It has the highest attendance among Dade County schools, and exemplifies how school violence can virtually be eliminated.

Before 1970, Carver was the pride of the Coconut Grove black community, however, by 1986 plans were being considered to close the school because of dwindling enrollment. Now, 10 years later, it is a source of pride for the community and an example for all of us to follow.

For your superlative educational efforts, I salute you.

UNITED STATES-ORIGIN MILITARY EQUIPMENT IN TURKEY

HON. LEE H. HAMILTON
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 27, 1996

Mr. HAMILTON. Mr. Speaker, on September 8, 1995, I wrote to Secretary of State Christopher, asking several questions about the use and possible misuse of United States-origin military equipment by Turkey. This letter was a follow-up to an exchange of letters on the same issue earlier in the year, which I inserted in the RECORD at that time.

I have now received a response from the State Department for September 29, which sets out the administration’s position on the human rights situation in Turkey and its relationship to the issue of U.S.-supplied military equipment in the country.

Since I believe that other Members will find the administration’s views informative and useful in their own approach to this important issue, I would like to insert both my letter and the administration’s response in the RECORD.

DEPARTMENT OF STATE,
Washington, February 29, 1996
HON. LEE HAMILTON,
U.S. House of Representatives.

DEAR MR. HAMILTON: This is a follow-up reply to your letter of September 8, 1995, to Secretary Christopher about human rights in Turkey. As stated in our November 1, 1995 interim response, you raised a number of serious questions in your letter. Thank you for your understanding in allowing us time to prepare this reply.

In your letter, you state that human rights abuses in Turkey are a matter of real concern to you. We appreciate your interest and that of your colleagues in these issues. Congressional hearings, reports, and statements are a valuable way for the U.S. government to indicate concern about human rights in Turkey.

As we consider how best to pursue our objectives in Turkey, it is important to understand and just what Turkey is up against. The Kurdish Workers’ Party (PKK) has stated that its primary goal is to create a separate Kurdish state in the part of what is now Turkey. In the course of its operations, the PKK has frequently targeted Turkish civilians. It has not hesitated to attack Western—including American—interests.

The Turkish government has the right to defend itself militarily from this terrorist threat. The Turkish military has said it seeks to distinguish PKK members and ordinary Kurdish citizens in its operations. We remain concerned, nevertheless, about the manner in which some operations have been conducted. As we have documented in our annual human rights reports and in the special report we submitted to Congress last June on the situation in the southeast, these operations have resulted in civilian deaths, village evacuations and burnings.

You ask what the U.S. is doing about information that appears in war reports that weapons such as the TOW have been used by Turkey’s military against civilians during the course of operations against the PKK. We discussed those issues at length in our testimony before the Special Committee on Aliens, Refugees and International Organizations in Congress.

These reports trouble us deeply. We have frequently cautioned the Turkish government to exercise care that its legitimate military operations avoid targeting civilians and non-combatants. We have made it clear that, in accordance with both the Foreign Assistance and Arms Export Control Acts, human rights considerations will continue to be very carefully weighed in considering whether or not to approve transfers and sales of military equipment.

With regard to death squad activities in the southeast, as we stated in our report last June, we have found reports of government involvement in these incidents to be credible. Others have also been involved. In this regard, a number of Turkish “Hizbullah” terrorists are now on trial for alleged involvement in “mystery killings.” According to Turkey’s prestigious Human Rights Foundation, these sorts of killings were down sharply in 1995. We must tell the Turks repeatedly that we do not believe a solely military solution will end the problems in the southeast. We urge them to explore political and social solutions which are more likely to succeed over time. These should include fully equal rights—among them cultural and linguistic rights—for all of Turkey’s citizens including the Kurds.

Through strong support from the school district and the regional office, through progressive leadership, committed teachers and counselors, with a clear mission, dedicated students and very involved parents, George Washington Carver has become the only middle school in Dade County to receive the Blue Ribbon of Excellence Award from the U.S. Department of Education.

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CONGRESSIONAL RECORD — Extensions of Remarks  March 27, 1996

.rights are the result of a constant, energetic effort by our Embassy and others in our government to stay informed. Our officials meet regularly with elected officials in the Turkish Administration and Parliament. We also speak frequently with critics of the government—including Turkish and international NGOs, bar and medical associations, lawyers, and other human rights activists. U.S. officials travel to the Southeast periodically where they see government officials and the affected parties.

We will also continue to encourage change by supporting those who are committed to human rights and democratic reforms, including Turkish NGOs. This is a long-term effort that will require continued engagement. The important point to keep in the forefront is that the real impetus behind democratic change in Turkey must come from Turkish citizens themselves. Our objective must be to give them all the constructive help we can.

I hope this information is useful. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

WENDY R. SHERMAN, 
Assistant Secretary, 
Legislative Affairs.

What precisely are you doing about these reports?
Is it the U.S. policy, for example, to tell the Turks when we see reports of the destruction of villages or the killing of civilians, that we do not like it and cannot tolerate such abuses in the use of U.S.-supplied equipment?

What is the U.S. strategy to insure that such practices end?

Second, I have further questions regarding a related aspect of U.S. policy toward Turkey—resolution of the Kurdish issue in southeast Turkey.

There is considerable sympathy in Congress for the plight of the Kurdish population in Turkey, although none for terrorist acts by the Kurdish Worker's Party (PKK). I do not know of any Member support for Kurdish separatism or the break up of Turkey, but there is strong support for full equality of rights, including cultural and linguistic rights, for all Turkish citizens, including the Kurds. Members are troubled by the Turkish government's dominant reliance on force to put down the insurrection in the southeast, and would like to see the United States take a more active role in promoting negotiations among a broad base of Turkish citizens to end the violence.
SENATE COMMITTEE MEETINGS
Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 28, 1996, may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED
MARCH 29
9:30 a.m.
Armed Services
Airland Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for military construction programs.
SD-116

11:00 a.m.
Armed Services
Strategic Forces Subcommittee
To resume hearings on proposed legislation authorizing funds for military construction programs.
SR-222

1:30 p.m.
Indian Affairs
To hold hearings on proposed legislation authorizing funds for fiscal year 1997 for Indian programs.
SR-253

APRIL 15
10:00 a.m.
Judiciary
Constitution, Federalism, and Property Rights Subcommittee
To hold hearings on S.J. Res. 40, proposed constitutional amendment to require a two-thirds vote on tax increases.
SD-226

APRIL 16
9:30 a.m.
Appropriations
Military Construction Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for Air Force and defense agencies’ military construction programs.

APRIL 17
9:30 a.m.
Rules and Administration
To resume hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns.
SR-301

1:00 p.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Army modernization programs.
SD-192

APRIL 23
9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on proposed legislation authorizing funds for the National Transportation Safety Board.
SR-253

CANCELLATIONS
MARCH 28
10:30 a.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
S-146, Capitol

2:00 p.m.
Appropriations
Commerce, Justice, State, and the Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1997 for the Department of Commerce.
S-146, Capitol

SEPTEMBER 17
9:30 a.m.
Veterans’ Affairs
To hold joint hearings with the House Committee on Veterans’ Affairs to review the legislative recommendations of the American Legion.
335 Cannon Building
HIGHLIGHTS

Senate agreed to Line-Item Veto Conference Report.

Senate

Chamber Action

Routine Proceedings, pages S2907-S3036

Measures Introduced: Two bills and four resolutions were introduced, as follows: S. 1646-1647, S. Res. 233-235, and S. Con. Res. 49. Pages S3018-19

Measures Reported: Reports were made as follows:

S. 699, to amend the Ethics in Government Act of 1978, to extend the authorization of appropriations for the Office of Government Ethics for seven years, with an amendment. (S. Rept. No. 104-244)

S. 1224, to amend subchapter IV of chapter 5 of title 5, United States Code, relating to alternative means of dispute resolution in the administrative process, with an amendment in the nature of a substitute. (S. Rept. No. 104-245)

Special Report entitled “Capability of the United States to Monitor Compliance with the Start II Treaty”. (S. Rept. No. 104-246)

S. Con. Res. 42, concerning the emancipation of the Iranian Baha'i community. Page S3017

Measures Passed:

Enrollment Correction: Senate agreed to S. Con. Res. 49, providing for certain corrections to be made in the enrollment of the bill (H.R. 2854) to modify the operation of certain agricultural programs. Page S2995

Honoring Former Senator Muskie: Senate agreed to S. Res. 234, relative to the death of Edmund S. Muskie. Pages S2996-97

Special Olympics Torch Relay: Senate agreed to H. Con. Res. 146, authorizing the 1996 Special Olympics Torch Relay to be run through the Capitol Grounds. Page S3033

National Peace Officers' Memorial Service: Senate agreed to H. Con. Res. 147, authorizing the use of the Capitol Grounds for the fifteenth annual National Peace Officers' Memorial Service. Page S3033

National Roller Coaster Week: Senate agreed to S. Res. 235, proclaiming the week of June 16-22, 1996, as “National Roller Coaster Week”. Page S3033

Administration of Presidio Properties: Senate continued consideration of H.R. 1296, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer, agreeing to the committee amendment in the nature of a substitute, and taking action on the following amendments thereto:

Pending:

Murkowski Modified Amendment No. 3564, in the nature of a substitute. Page S2907

Dole Amendment No. 3571 (to Amendment No. 3564), to provide for the exchange of certain land and interests in land located in the Lost Creek area and other areas of the Deerlodge National Forest, Montana. Page S2907

Dole Amendment No. 3572 (to Amendment No. 3571), in the nature of a substitute. Page S2907

Kennedy Amendment No. 3573, to provide for an increase in the minimum wage rate. Page S2907

Kerry Amendment No. 3574 (to Amendment No. 3573), in the nature of a substitute. (By a unanimous vote of 97 nays (Vote No. 52), Senate failed to table the amendment.) Page S2907

Dole motion to commit the bill to the Committee on Finance with instructions. Page S2907

Dole Amendment No. 3653 (to the instructions of the motion to commit), to strike the instructions and insert in lieu thereof “to report back by April 21, 1996 amendments to reform welfare and Medicaid effective one day after the effective date of the bill.” Page S2907

Dole Amendment No. 3654 (to Amendment No. 3653), in the nature of a substitute. Page S2907

Also, during consideration of this measure today, the Senate took the following action:

By 51 yeas to 49 nays (Vote No. 54) three-fifths of those Senators duly chosen and sworn not having
voted in the affirmative, Senate failed to agree to close further debate on Murkowski Modified Amendment No. 3564, listed above.

Senate will continue consideration of the bill on Thursday, March 28, 1996, with a vote on a motion to close further debate on Kennedy Amendment No. 3573, listed above, to occur thereon.

**Line-Item Veto Conference Report:** By 69 yeas to 31 nays (Vote No. 56), Senate agreed to the conference report on S. 4, to give the President line-item veto authority with respect to appropriations, new direct spending, and limited tax benefits, after taking the following actions:

- Byrd motion to recommit the conference report to the committee of conference with instructions. (By 58 yeas to 42 nays (Vote No. 55), Senate tabled the motion to recommit the conference report.)
- Subsequently, the following amendments fell when the motion to recommit was tabled:
  - Byrd Amendment No. 3665 (to instructions in motion to recommit), in the nature of a substitute.
  - Byrd Amendment No. 3666 (to Amendment No. 3665), in the nature of a substitute.

**Farm Bill Conference Report:** Senate began consideration of the conference report on H.R. 2854, to modify the operation of certain agricultural programs.

- Senate will continue consideration of the conference report on Thursday, March 28, 1996, with a vote to occur thereon.

**Foreign Relations Authorizations Conference Report—Agreement:** A unanimous-consent time-agreement was reached providing for the consideration of the conference report on H.R. 1561, to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal year 1996 and 1997; and to responsibly reduce the authorizations of appropriations for United States foreign assistance programs for fiscal years 1996 and 1997.

**Messages From the President:** Senate received the following messages from the President of the United States:

- Transmitting the report of the administration of the Radiation Control for Health and Safety Act for calendar year 1994; referred to the Committee on Labor and Human Resources. (PM - 135).
- Transmitting the report on the Trade Agreements Program for calendar year 1995 and the Trade Policy Agenda for calendar year 1996; referred to the Committee on Finance. (PM - 136).

**Adjournment:** Senate convened at 10 a.m., and as a further mark of respect to the memory of the late former Senator Muskie, in accordance with S. Res. 234, adjourned at 9:11 p.m., until 9 a.m., on Thursday, March 28, 1996. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S3033.)

**Committee Meetings**

(Committees not listed did not meet)

**APPROPRIATIONS—DEFENSE**

Committee on Appropriations: Subcommittee on Defense held hearings on proposed budget estimates for fiscal year 1997 for the Department of Defense, focusing on Navy and Marine Corps programs, receiving testimony from John H. Dalton, Secretary of the Navy; Adm. Jeremy M. Boorda, USN, Chief of Naval Operations; and Gen. Charles C. Krulak, USMC, Commandant of the Marine Corps.

Subcommittee will meet again on Wednesday, April 17.

**NOMINATIONS**

Committee on Armed Services: Committee ordered favorably reported the nominations of Kenneth H. Bacon, of the District of Columbia, to be an Assistant Secretary of Defense, Joseph J. DiNunno, of Maryland, to be a Member of the Defense Nuclear Facilities Safety Board, Franklin D. Kramer, of the District of Columbia, to be an Assistant Secretary of Defense, and 2,700 military nominations in the Army, Navy, and Air Force.
CONGRESSIONAL RECORD — DAILY DIGEST

March 27, 1996

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Acquisition and Technology resumed hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on proliferation of weapons of mass destruction and the impact of export controls on national security, receiving testimony from Mitchell B. Wallerstein, Deputy Assistant Secretary (Counter Proliferation Policy), and Theodore Provic, Deputy Assistant to the Assistant to the Secretary of Defense (Atomic Energy), both of the Department of Defense; Gordon Oehler, Director, Non-Proliferation Center, Central Intelligence Agency; Rear Adm. Scott A. Fry, Deputy Director, Strategy Policy, J-5, Joint Staff; Col. Ellen Pawlakowski, Deputy for Counter-proliferation, Office of the Assistant to the Secretary for Atomic Energy; and Stephen B. Bryen, Delta Tech, Inc., and Henry D. Sokolski, Non-Proliferation Policy Education Center, both of Washington, D.C.

Subcommittee recessed subject to call.

AUTHORIZATION—DEFENSE

Committee on Armed Services: Subcommittee on Seapower continued hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the Department of the Navy’s Submarine Development and Procurement programs, receiving testimony from John W. Douglass, Assistant Secretary of the Navy for Research, Development and Acquisition; Vice Adm. Thomas J. Lopez, USN, Deputy Chief of Naval Operations; Vice Adm. Albert J. Baciocco, Jr., USN (Ret.), Submarine Technology Assessment Panel, Department of the Navy; Norman Polmar, Technics, Inc., Arlington, Virginia; Lowell Wood, Stanford University, Stanford, California; and Tony Battista, Fredericksburg, Virginia.

Subcommittee will meet again tomorrow.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the nominations of Alan Greenspan, of New York, to be Chairman, and Alice M. Rivlin, of Pennsylvania, and Lawrence H. Meyer, of Missouri, both to be Members, all of the Board of Governors of the Federal Reserve System, Stuart E. Eizenstat, of Maryland, to be Under Secretary of Commerce for International Trade, and Gaston L. Gianni, Jr., of Virginia, to be Inspector General, Federal Deposit Insurance Corporation.

SPECTRUM USE AND MANAGEMENT

Committee on Commerce, Science, and Transportation: Committee held hearings to examine Federal policies with regard to the use and management of the electromagnetic radio frequency spectrum, receiving testimony from Thomas E. Wheeler, Cellular Telecommunications Industry Association, Leonard S. Kolsky, Motorola, and James Gattuso, Citizens for a Sound Economy, all of Washington, D.C.; Ronald T. LeMay, Sprint Spectrum, Kansas City, Missouri; Thomas W. Hazlett, University of California, Davis, on behalf of the American Enterprise Institute; Larsh M. Johnson, CelNet Data Systems, San Carlos, California; Mark E. Crosby, Industrial Telecommunications Association, Arlington, Virginia; and Mitchel S. Rouse, Taxi Systems, Gardena, California, on behalf of the International Taxicab and Livery Association.

Hearings continue on Thursday, April 18.

STRATEGIC PETROLEUM RESERVE

Committee on Energy and Natural Resources: Committee concluded hearings on S. 1605, to amend and extend to September 30, 2001 certain authorities of the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve, and S. 186, to amend the Energy Policy and Conservation Act to guarantee Hawaii access to the strategic petroleum reserve during an oil supply disruption, after receiving testimony from C. Kyle Simpson, Associate Deputy Secretary of Energy for Energy Programs.

OIL SPILL PREVENTION

Committee on Environment and Public Works: Committee held hearings on proposals to improve the prevention of, and response to, oil spills in light of the recent North Cape spill off the coast of Rhode Island, receiving testimony from Rear Adm. James C. Card, Chief, Office of Marine Safety, Security, and Environmental Protection, United States Coast Guard, Department of Transportation; Douglas K. Hall, Assistant Secretary of Commerce for Oceans and Atmosphere/National Oceanic and Atmospheric Administration; Daniel Sheehan, National Pollution Funds Center, and Thomas A. Allegretti, American Waterways Operators, both of Arlington, Virginia; Timothy R.E. Keeney, Rhode Island Department of Environmental Management, Providence; George C. Blake, Maritime Overseas Corporation, and Richard H. Hobie III, on behalf of the Water Quality Insurance Syndicate and the American Institute of Marine Underwriters, both of New York, New York; Sally Ann Lentz, Ocean Advocates, Columbia, Maryland; Barry Hartman, Kirkpatrick & Lockhart, Washington, D.C., on behalf of the Rhode Island
Lobstermen's Association, Inc.; Mark Miller, National Response Corporation, Calverton, New York; and William R. Gordon, Jr., University of Rhode Island, Kingston.

Hearings were recessed subject to call.

BUSINESS MEETING
Committee on Foreign Relations: Committee ordered favorably reported the following business items:

S. Con. Res. 42, concerning the emancipation of the Iranian Baha'i community;

The nominations of Alfred C. DeCotiis, of New Jersey, to be a Representative of the United States of America to the Fiftieth Session of the General Assembly of the United Nations, J. Stapleton Roy, of Pennsylvania, for personal rank of Career Ambassador in recognition of especially distinguished service over a sustained period, Lottie Lee Shackelford, of Arkansas, to be a Member of the Board of Directors of the Overseas Private Investment Corporation, Henry McKoy, of North Carolina, and Ernest G. Green, of the District of Columbia, each to be a Member of the Board of Directors of the African Development Foundation, Lawrence Neal Benedict, of California, to be Ambassador to the Republic of Cape Verde, Harold Walter Geisel, of Illinois, to be Ambassador to the Republic of Mauritius and to serve concurrently and without additional compensation as Ambassador to the Federal and Islamic Republic of The Comoros, Aubrey Hooks, of Virginia, to be Ambassador to the Republic of the Congo, Robert Krueger, of Texas, to be Ambassador to the Republic of Botswana, and David H. Shinn, of Washington, to be Ambassador to Ethiopia, and two Foreign Service Officer Promotion lists;


The Treaty Between the Government of the United States of America and the Government of the Republic of Estonia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, done at Washington on April 19, 1994 (Treaty Doc. 103-38);

The Treaty Between the Government of the United States of America and the Government of the Republic of Georgia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex, signed at Washington on March 7, 1994 (Treaty Doc. 104-13);

The Treaty Between the United States of America and Jamaica Concerning the Reciprocal Encouragement and Protection of Investment, with Annex and Protocol, signed at Washington on February 4, 1994 (Treaty Doc. 103-35);

The Treaty Between the Government of the United States of America and the Government of the Republic of Latvia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on January 13, 1995 (Treaty Doc. 104-12);

The Treaty Between the United States of America and Mongolia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on October 6, 1994 (Treaty Doc. 104-10);

The Treaty Between the United States of America and the Government of the Republic of Trinidad and Tobago Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on September 26, 1994 (Treaty Doc. 104-14); and


WEAPONS PROLIFERATION
Committee on Governmental Affairs: Permanent Subcommittee on Investigations resumed hearings to examine the status of United States efforts to improve nuclear material control in the Newly Independent States, receiving testimony from John F. Sopko, Deputy Chief Counsel to the Minority, and Alan Edelman, Counsel to the Minority, both of the Permanent Subcommittee on Investigations; G. Clay Hollister, Deputy Associate Director, Response and Recovery Directorate, Federal Emergency Management Agency; Robert M. Blitzer, Chief, Domestic Nuclear Material Control, Office of International Security, Department of Energy; and Assistant Secretary for International Security, Federal Bureau of Investigation; Victor H. Reis, Assistant Secretary of Energy for Defense Programs; Allen Holmes, Assistant Secretary for Operations and Low-Intensity Conflict; Morris D. Busby, former Counter Terrorism Coordinator for the United States Government; former U.S. Ambassador to Colombia; Duane C. Sewell, former Assistant Secretary of Energy; Billy Richardson, former Deputy Assistant to the Secretary of Defense; P. Lamont Ewell, Oakland, California, on behalf of
the International Association of Fire Chiefs; and Gary Marrs, Oklahoma City Fire Department, Oklahoma City, Oklahoma.

Hearings were recessed subject to call.

NOMINATIONS
Committee on the Judiciary: Committee concluded hearings on the nominations of Eric L. Clay, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Charles N. Clevert, Jr., to be United States District Judge for the Eastern District of Wisconsin, Nanette K. Laughrey, to be United States District Judge for the Eastern and Western Districts of Missouri, Donald W. Molloy, to be United States District Judge for the District of Montana, and Susan Oki Mollway, to be United States District Judge for the District of Hawaii, after the nominees testified and answered questions in their own behalf. Mr. Clay was introduced by Senators Abraham and Levin, Mr. Clevert was introduced by Senators Kohl and Feingold, Ms. Laughrey was introduced by Senators Bond and Ashcroft, Mr. Molloy was introduced by Senator Baucus and Representative McCarthy, and Ms. Mollway was introduced by Senators Inouye and Akaka.

FDA REFORM
Committee on Labor and Human Resources: Committee began markup of S. 1477, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices and biological products, but did not complete action thereon, and recessed subject to call.

CAMPAIGN FINANCE REFORM
Committee on Rules and Administration: Committee resumed hearings on proposals to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and to reform the financing of Federal elections and Senate campaigns, including related measures S. 46, S. 1219, and S. 1389, receiving testimony from Jeffrey Zelkowitz, Attorney, United States Postal Service; Richard A. Barton, Direct Marketing Association, and Thomas E. Mann, Brookings Institution, both of Washington, D.C.; and Michael J. Malbin, State University of New York, Albany.

Hearings continue on Wednesday, April 17.

BOSNIA/ROLE OF UNITED STATES INTELLIGENCE
Select Committee on Intelligence: Committee held hearings on intelligence related issues with regard to Bosnia, receiving testimony from Lt. Gen. Patrick Hughes, USA, Director, Defense Intelligence Agency, Department of Defense.

Also, committee met in closed session to receive a briefing on intelligence matters from officials of the intelligence community.

Committee will meet again tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 14 public bills, H.R. 3166–3179; and 2 resolutions, H. Con. Res. 155–156 were introduced.

Pages H2949–50

Reports Filed: Reports were filed as follows:

H. Res. 392, providing for the consideration of H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, and to simplify the administration of health insurance (H. Rept. 104–501);

H. Res. 393, waiving all points of order against the conference report to accompany H.R. 2854, to modify the operation of certain agricultural programs (H. Rept. 104–502); and
H. Res. 394, waiving points of order against the conference report on H.R. 956, to establish legal standards and procedures for product liability litigation (H. Rept. 104-503).

Speaker Pro Tempore: Read a letter from the Speaker wherein he designates Representative Vucanovich to act as Speaker pro tempore for today.

United States-Canada Interparliamentary Group: Read a letter from Representative Manzullo wherein he resigns as leader of the House delegation to the United States-Canada Interparliamentary Group.

Subsequently, the Chair announced the Speaker's appointment of Representative Houghton to the United States-Canada Interparliamentary Group.


Recess: House recessed at 4:41 p.m. and reconvened at 5 p.m.

Partial Abortion Ban Act: By a yea-and-nay vote of 286 yeas to 129 nays, with 1 voting “present”, Roll No. 94, the House agreed to the Canady motion to concur in the Senate amendments to H.R. 1833, to amend title 18, United States Code, to ban partial birth abortions—clearing the measure for the President.

H. Res. 389, the rule which provided for the motion to concur in the Senate amendments to the bill, was agreed to earlier by a yea-and-nay vote of 269 yeas to 148 nays, Roll No. 93.

Suspensions: House voted to suspend the rules and pass the following measures:

The Committee on Agriculture Subcommittee on Resource Conservation, Research, and Forestry held a hearing to review the goals and priority setting mechanisms of federally supported agricultural research, education, and extension. Testimony was heard from Karl Stauber, Under Secretary, Research, Education and Economics, USDA; and public witnesses.

The Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies held a hearing on Natural Resources and Environment and on Farm and Foreign Agricultural Service. Testimony was heard from the following officials of the USDA: James Lyons, Under Secretary, Natural Resources and Environment; Paul W. Johnson, Chief, Natural Resources Conservation Service; Eugene Moos, Under Secretary, Farm and Foreign Agricultural Programs; Grant B. Buntrock, Administrator, Farm Service Agency; August Schumacher, Jr., Administrator, Foreign Agricultural Service; and Christopher E. Goldthwait, General Sales Manager.

The Committee on Appropriations: Subcommittee on Commerce, Justice, State, and Judiciary held a hearing on
Testimony was heard from Janet Reno, Attorney General.

**ENERGY AND WATER DEVELOPMENT APPROPRIATIONS**

Committee on Appropriations: Subcommittee on Energy and Water Development held a hearing on the Secretary of the Interior, the Commissioner of Reclamation, and on the Federal Energy Regulatory Commission. Testimony was heard from the following officials of the Department of the Interior: Bruce Babbitt, Secretary; and Eluid Martinez, Commissioner of Reclamation; the following officials of the NRC: Shirley Ann Jackson, Chairman, Kenneth Rogers and Greta J. Dicus, all Commissioners; and Elizabeth Moler, Chairman, Federal Energy Regulatory Commission, Department of Energy.

**FOREIGN OPERATIONS APPROPRIATIONS**

Committee on Appropriations: Subcommittee on Foreign Operations, Export Financing and Related Programs held a hearing on Secretary of State. Testimony was heard from Warren M. Christopher, Secretary of State.

**NATIONAL SECURITY APPROPRIATIONS**

Committee on Appropriations: Subcommittee on National Security held a hearing on fiscal year 1997 Air Force Posture and on Air Force Acquisition Programs. Testimony was heard from the following officials of the Department of the Air Force: Sheila E. Widnall, Secretary; Gen. Ronald R. Fogleman, USAF, Chief of Staff; Arthur L. Money, Assistant Secretary, Acquisition; Lt. Gen. George K. Mueller, USAF, Principal Deputy, Assistant Secretary, Acquisition; and Brig. Gen. Dennis G. Haines, USAF, Director, Supply, Office of the Deputy Chief of Staff, Logistics.

**TRANSPORTATION APPROPRIATIONS**

Committee on Appropriations: Subcommittee on Transportation held a hearing on Federal Transit Administration and on the Washington Metropolitan Transit Authority. Testimony was heard from Gordon J. Linton, Administrator, Federal Transit Administration, Department of Transportation; and Bob Polk, Acting General Manager, Washington Metropolitan Transit Authority.

**TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS**

Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government held a hearing on White House Operations and on U.S. Postal Service. Testimony was heard from Frank Rudder, Director, Office of Administration, Executive Office of the President; and Marvin Runyon, Postmaster General, U.S. Postal Service.

**VETERANS’ AFFAIRS, HUD, AND INDEPENDENT AGENCIES APPROPRIATIONS**

Committee on Appropriations: Subcommittee on VA, HUD and Independent Agencies held a hearing on Department of Housing and Urban Development. Testimony was heard from Representatives Lazio and Brownback; the following officials of the Department of Housing and Urban Development: Henry G. Cisneros, Secretary; and Susan Gaffney, Inspector General; and Judy England-Joseph, Director, Housing and Community Development Issues, GAO.

**RECENT DEVELOPMENTS IN ELECTRONIC BENEFITS TRANSFER**

Committee on Banking and Financial Services: Held a hearing on Issues Related to Recent Developments in Electronic Benefits Transfer. Testimony was heard from Russell D. Morris, Commissioner, Financial Management Services, Department of the Treasury; Edward DeSeve, Comptroller, OMB; and public witnesses.

**PROSPECTS FOR ECONOMIC GROWTH**

Committee on the Budget: Held a hearing on Prospects for Economic Growth. Testimony was heard from Alan Greenspan, Chairman, Board of Governors, Federal Reserve System.

**DEPARTMENT OF ENERGY: FURLoughs AND FINANCIAL MANAGEMENT**

Committee on Commerce: Subcommittee on Oversight and Investigations held a hearing on the Department of Energy: Furloughs and Financial Management. Testimony was heard from the following officials of the Department of Energy: L. Dow Davis, Litigation Attorney, and Deborah J. Bullock, both with the Office of the General Counsel; Anne Troy, Attorney; and Joseph F. Vivona, Chief Financial Officer; and public witnesses.

**FCC REFORM**

Committee on Commerce: Subcommittee on Telecommunications and Finance held a hearing on FCC Reform. Testimony was heard from the following officials of the FCC: Reed E. Hundt, Chairman; James Quello, Susan Ness, Andrew C. Barrett, and Rachelle B. Chong, all Commissioners.

Hearings continue tomorrow.

**FEDERAL BUDGET PROCESS REFORM**

Committee on Government Reform and Oversight: Subcommittee on Government Management, Information, and Technology held a hearing on Federal
Budget Process Reform. Testimony was heard from Representatives Barton of Texas, Cox of California, Smith of Michigan, Crapo, Stenholm, Thornton, Castle, Royce, and Smith of Texas; and public witnesses.

**DEFENSE AUTHORIZATION**

Committee on National Security: Continued hearings on the fiscal year 1997 national defense authorization, with emphasis on the Department of Defense Joint Requirements Oversight Council. Testimony was heard from the following officials of the Joint Requirements Oversight Council, Department of Defense: Gen. Joseph W. Ralston, USAF, Vice Chairman, Joint Chiefs of Staff; Gen Ronald H. Griffith, USA, Vice Chief of Staff, Army; Adm. Jay J. Johnson, USN, Vice Chief of Naval Operations; Gen. Thomas S. Moorman, Jr., USAF, Vice Chief of Staff, Air Force; and Gen. Richard D. Hearney, USMC, Assistant Commandant, Marine Corps.

Hearings continue tomorrow.

**DEFENSE AUTHORIZATION**


**OVERSIGHT—FISCAL YEAR 1997 BUDGET REQUESTS**

Committee on Resources: Subcommittee on Fisheries, Wildlife and Oceans held an oversight hearing on fiscal year 1997 budget requests from Fish and Wildlife Service, National Marine Fisheries Service, and NOAA and on the following bills: H.R. 2909, Silvio O. Conte National Fish and Wildlife Refuge Eminent Domain Prevention Act, and H.R. 2982, Carbon Hill National Fish Hatchery Conveyance Act. Testimony was heard from Representatives Bevill and Bass; Robert Streeter, Assistant Director, Refuges and Wildlife, U.S. Fish and Wildlife Service, Department of the Interior; the following officials of the Department of Commerce: D. James Baker, Under Secretary, Oceans and Atmosphere; and Diana Josephson, Deputy Under Secretary, Oceans and Atmosphere, NOAA; Robert W. Correll, Assistant Director, Geosciences, NSF; and public witnesses.

**HEALTH COVERAGE AVAILABILITY AND AFFORDABILITY ACT; ERISA TARGETED HEALTH INSURANCE REFORM ACT**

Committee on Rules: The Committee granted, by a voice vote, a modified closed rule on H.R. 3103, to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote access to long-term care services and coverage, and to simplify the administration of health insurance. The rule provides that the amendment in the nature of a substitute consisting of the text of H.R. 3160, modified by the amendment specified in part 1 of the report of the Committee on Rules, will be considered as adopted. The rule waives all points of order against the bill, as amended and against its consideration (except those arising under section 425(a) of the Congressional Budget Act of 1974, relating to unfunded mandates). The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage, without intervening motion except as specified. The rule provides for two hours of debate with 45 minutes equally divided between the chairman and ranking minority member of the Committee on Ways and Means, 45 minutes equally divided between the chairman and ranking minority member of the Committee on Commerce, and 30 minutes equally divided between the chairman and ranking minority member of the Committee on Economic and Educational Opportunities. The rule provides for one amendment in the nature of a substitute to be offered by the Minority Leader or his designee, specified in part 2 of the report of the Committee on Rules, which shall be in order without the intervention of any point of order (except those arising under section 425(a) of the Congressional Budget Act of 1974) or a demand for a division of the question, and shall be debatable for one hour to be equally divided between the proponent and an opponent. The rule provides for one motion to recommit, which may include instructions only if offered by the Minority Leader or his designee. The rule provides that the yeas and nays are ordered on final passage and that the provisions of clause 5(c) of Rule XXI (requiring three-fifths vote on any amendment or measure containing a Federal income tax rate increase)
shall not apply to the votes on the bill, amendments thereto or conference reports thereon. Testimony was heard from Chairmen Archer, Bliley and Goodling; Representatives Hastert, Johnson of Connecticut, Roukema, Gunderson, Fawell, Shays, Schiff, Gutknecht, Bunn of Oregon, Roberts, Gibbons, Dingell, Cardin, Richardson, Pallone, Furse, Eshoo, Peterson of Florida, Pomroy, and Poshard.

CONTRACT WITH AMERICA ADVANCEMENT ACT

Committee on Rules: The Committee granted, by a voice vote, a closed rule on H.R. 3136, to provide for enactment of the Senior Citizens' Right to Work Act of 1996, the Line-Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; as modified by the amendment designated in the report of the Committee on Rules on the resolution. The rule waives all points of order against consideration of the bill except section 425(a) of the Budget Act (unfunded mandate point of order). The rule orders the previous question to final passage without intervening motion except: (1) one hour of debate equally divided between the chairman and ranking minority member of the Committee on Ways and Means; (2) one amendment to be offered by Rep. Archer or his designee, debatable for 10 minutes; and (3) one motion to recommit which, if containing instructions may only be offered by the Minority Leader or his designee. Finally, the rule provides that if the Clerk has, before March 30, 1996, received a message from the Senate that the Senate has adopted the conference report on S. 4, the Line-Item Veto Act, then the Clerk shall delete title II (the Line-Item Veto Act) from the engrossment of the bill (unless amended), and the House shall be considered to have adopted the conference report. Testimony was heard from Chairmen Archer, Hyde, Meyers of Kansas, and Clinger; and Representatives Smith of Michigan, Blute, Quinn, Orton, and DeLauro.

CONFERENCE REPORT—FEDERAL AGRICULTURAL IMPROVEMENT AND REFORM ACT

Committee on Rules: The Committee granted, by a voice vote, a rule waiving all points of order against the conference report to accompany H.R. 2854, Federal Agricultural Improvement and Reform Act of 1996, and against its consideration. The rule further provides that S. Con. Res. 49 is agreed to.

CONFERENCE REPORT—PRODUCT LIABILITY REFORM

Committee on Rules: The Committee granted, by a voice vote, a rule waiving all points of order against the conference report to accompany H.R. 956, Product Liability Reform, and against its consideration.

PAPERWORK ELIMINATION ACT

Committee on Small Business: Subcommittee on Government Programs held a hearing on H.R. 2715, Paperwork Elimination Act of 1995. Testimony was heard from Sally Katzen, Administrator, Office of Information and Regulatory Affairs, OMB; the following officials of the SBA: Jere Glover, Chief Counsel, Office of advocacy; and Monika Harrison, Associate Administrator, Office of Business Initiatives; and public witnesses.

COMMITTEE BUSINESS

Committee on Standards of Official Conduct: Met in executive session to consider pending business.

UNITED STATES AVIATION RELATIONSHIP WITH THE U.K. AND JAPAN

Committee on Transportation and Infrastructure Subcommittee on Aviation held a hearing on Problems in the United States Aviation Relationship with the United Kingdom and Japan. Testimony was heard from Public witnesses.

Hearings continue April 24.

NATIONAL TRANSPORTATION SAFETY BOARD

Committee on Transportation and Infrastructure Subcommittee on Aviation approved for full Committee action H.R. 3159, National Transportation Safety Board Amendments of 1996.

RAIL SAFETY OVERSIGHT

Committee on Transportation and Infrastructure Subcommittee on Railroads and the Subcommittee on Technology of the Committee on Science held a joint hearing on Rail Safety Oversight: High Technology Train Control Devices. Testimony was heard from Jolene Molitoris, Administrator, Federal Railroad Administration, Department of Transportation; James Arena, Director, Office of Surface Transportation Safety, National Transportation Safety Board; Dennis Sullivan, CEO, National Rail Passenger Corporation (AMTRAK); and public witnesses.

REPLACING THE FEDERAL INCOME TAX

Committee on Ways and Means: Continued hearings on Replacing the Federal Income Tax. Testimony was heard from Representatives Armey, Gephardt, Schaefer, Tauzin, and Chrysler, and public witnesses.

ANALYSIS/EXPLOITATION

Permanent Select Committee on Intelligence: Met in executive session to hold a hearing on Analysis/Exploitation. Testimony was heard from departmental witnesses.
Joint Meetings

VETERANS PROGRAMS

Joint Hearing: Senate Committee on Veterans’ Affairs concluded joint hearings with the House Committee on Veterans’ Affairs on the legislative recommendations of certain veterans’ organizations, after receiving testimony from James L. Brazee, Jr., Vietnam Veterans of America, Lawrence S. Moses, America Ex-Prisoners of War, and Carroll M. Fyffe, Military Order of the Purple Heart, all of Washington, D.C.; and Kenneth E. Wolford, AMVETS, Lanham, Maryland.

CONTINUING APPROPRIATIONS

Conferees continued to resolve the differences between the Senate and House-passed versions of H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, but did not complete action thereon, and will meet again tomorrow.

AUTHORIZATION—RYAN WHITE CARE ACT

Conferees met to resolve the differences between the Senate- and House-passed versions of S. 641, authorizing funds for programs of the Ryan White CARE Act of 1990, but did not complete action thereon, and recessed subject to call.

COMPREHENSIVE TERRORISM PREVENTION ACT

Conferees met to resolve the differences between the Senate- and House-passed versions of S. 735, to prevent and punish acts of terrorism, but did not complete action thereon, and recessed subject to call.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST p. D263)

H.R. 2036, to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility. Signed March 26, 1996. (P.L. 104-119)

COMMITTEE MEETINGS FOR THURSDAY, MARCH 28, 1996

Senate

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, and Related Agencies, to hold hearings on proposed budget estimates for fiscal year 1997 for the Food Safety and Inspection Service and the Marketing and Regulatory Programs of the Department of Agriculture, 10 a.m., SD-138.

Committee on Armed Services, to resume hearings on proposed legislation authorizing funds for fiscal year 1997 for the Department of Defense and the future years defense program, focusing on the military strategies and operational requirements of the unified commands, 11 a.m., SR-222.

Subcommittee on Seapower, to hold hearings on the multiyear procurement proposal for the C-17 strategic airlifter, 2:30 p.m., SR-222.

Committee on Banking, Housing, and Urban Affairs, to hold hearings on S. 1547, to limit the provision of assistance to the Government of Mexico using the exchange stabilization fund established pursuant to section 5302 of title 31, United States Code, 10 a.m., SD-538.

Committee on Commerce, Science, and Transportation, business meeting, to consider pending calendar business, 9:30 a.m., SH-216.

Committee on Environment and Public Works, business meeting, to consider pending calendar business, 9:15 a.m., SD-406.

Committee on Foreign Relations, to resume hearings on the Convention on Chemical Weapons (Treaty Doc. 103-21), 10 a.m., SD-419.

Subcommittee on African Affairs, to hold hearings to examine the role of radio in Africa, 2 p.m., SD-419.

Committee on the Judiciary, to resume markup of proposed legislation relating to legal immigration (incorporating provisions of S. 1394), 11 a.m., SD-106.

Committee on Indian Affairs, to hold oversight hearings on the recent settlement and accommodation agreements concerning the Navajo and Hopi land dispute, 9 a.m., SR-485.

Select Committee on Intelligence, closed briefing on intelligence matters, 2 p.m., SH-219.

Special Committee on Aging, to hold hearings to examine adverse drug reactions in the elderly, 9:30 a.m., SD-562.

NOTICE

For a Listing of Senate Committee Meetings Scheduled Ahead, see page E467 in today’s Record.

House

Committee on Appropriations, Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies, on Departmental Administration/Office of Chief Financial Officer, 10 a.m., and on Rural Economic and Community Development, 1 p.m., 2362A Rayburn.

Subcommittee on Commerce, Justice, State, and Judiciary, on the Supreme Court, 2 p.m., H-309 Capitol.

Subcommittee on Energy and Water Development, on Appalachian Regional Commission, 10 a.m., on TVA, 11 a.m., and, executive, on Naval Reactors, 1 p.m., and, executive, on Department of Energy Atomic Energy Defense Activities, 2 p.m., 2362B Rayburn.
Subcommittee on Foreign Operations, Export Financing and Related Programs of the Bank, Overseas Private Investment Corporation, and the Trade and Development Agency, 10 a.m., H-144 Rayburn.

Subcommittee on Military Construction, on Budget Overview, 9:30 a.m., B-300 Rayburn.

Subcommittee on National Security, on fiscal year 1997 Army Posture, 10 a.m., 2212 Rayburn, and on Army Acquisition Programs, 1:30 p.m., H-140 Capitol.

Subcommittee on Treasury, Postal Service, and General Government, on Council of Economic Advisors, 10 a.m., B-307 Rayburn, and on Overall Treasury Operations, 2 p.m., H-144 Capitol.

Subcommittee on VA, HUD and Independent Agencies, on Department of Veterans' Affairs, 9 a.m., 2360 Rayburn.


Committee on the Budget, hearing on the Implications of Taking the Transportation Trust Funds Off-Budget, 11 a.m., 210 Cannon.

Committee on Commerce, Subcommittee on Energy and Power, oversight hearing on Technological, Environmental, and Financial Issues Raised by Increasingly Competitive Electricity Markets, 11 a.m., 2322 Rayburn.

Subcommittee on Telecommunications and Finance, to continue hearings on FCC Reform, 11 a.m., 2123 Rayburn.

Committee on Economic and Educational Opportunities, Subcommittee on Early Childhood, Youth and Families, hearing on reviewing the Juvenile Justice and Delinquency Prevention Act, 11 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, Subcommittee on District of Columbia, to continue hearings on implementation of Public Law 104-8, District of Columbia Financial Responsibility and Management Assistance Act of 1995, 12 p.m., 311 Cannon.

Subcommittee on Human Resources and Intergovernmental Relations, to continue hearings on the Status of Efforts to Identify Persian Gulf War Syndrome, Part 11, 10 a.m., 2247 Rayburn.

Committee on International Relations, hearing on Developments in Iraq, 11 a.m., 2172 Rayburn.

Committee on the Judiciary, Subcommittee on Commercial and Administrative Law, hearing on H.R. 1802, Reorganization of the Federal Administrative Judiciary Act, 9:30 a.m., 2141 Rayburn.

Committee on National Security, to continue hearings on the fiscal year 1997 national defense authorization, 9:30 a.m., and 2 p.m., 2118 Rayburn.

Committee on Resources, to markup the following measures: H.R. 3034, to amend the Indian Self-Determination and Education Assistance Act to extend for two months the authority for promulgating regulations under the Act; H.R. 2107, Visitor Services Improvement and Outdoor Legacy Act of 1995; H.R. 1975, Federal Oil and Gas Royalty Simplification and Fairness Act of 1995; H.J. Res. 70, authorizing the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia or its environs; H.R. 1129, to amend the National Trains Systems Act to designate the route from Selma to Montgomery as a National Historic Trail; H.R. 1772, to authorize the Secretary of the Interior to acquire certain interests in the Waihee Marsh for inclusion in the Oahu National Wildlife Refuge Complex; H.R. 1836, to authorize the Secretary of the Interior to acquire property in the town of East Hampton, Suffolk County, New York, for inclusion in the Amagansett National Wildlife Refuge; H.R. 2660, to increase the amount authorized to be appropriated to the Department of the Interior for the Tensas River National Wildlife Refuge; and H.R. 2679, to revise the boundary of the North Platte National Wildlife Refuge, 11 a.m., 1324 Longworth.

Committee on Science, Subcommittee on Space and Aeronautics, hearing on NASA Posture, 1 p.m., 2318 Rayburn.


Committee on Standards of Official Conduct, executive, to consider pending business, 3 p.m., HT-2M Capitol.

Committee on Transportation and Infrastructure, Subcommittee on Public Buildings and Economic Development, to consider the following: pending prospectuses; H. Con. Res. 150, authorizing the use of the Capitol Grounds for an event sponsored by the Speciality Equipment Market Association; H. Con. Res. 153, authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; H.R. 3134, to designate the United States Courthouse under construction at 1030 Southwest 3d Avenue, Portland, OR, as the “Mark O. Hatfield United States Courthouse;” and H.R. 3029, to designate the United States courthouse in Washington, District of Columbia, as the “E. Barrett Prettyman United States Courthouse,” 8:30 a.m., 2253 Rayburn.

Subcommittee on Surface Transportation, hearing on the Importance of Transportation Infrastructure Investments to the Nation’s Future, 11:30 a.m., 2167 Rayburn.

Subcommittee on Water Resources and Environment and the Subcommittee on Coast Guard and Maritime Transportation, joint hearing on H.R. 2940, Deepwater Port Modernization Act, 3 p.m., 2167 Rayburn.

Committee on Ways and Means, Subcommittee on Oversight, hearing on IRS Budget for Fiscal Year 1997 and the 1996 Tax Return Filing Season, 10 a.m., 1100 Longworth.

Subcommittee on Trade, hearing on United States-Japan Trade Relations, 2:30 p.m., B-318 Rayburn.

Joint Meetings

Conferees, on H.R. 3019, making appropriations for fiscal year 1996 to make a further downpayment toward a balanced budget, 10:30 a.m., S-5, Capitol.
Next Meeting of the SENATE
9 a.m., Thursday, March 28

Senate Chamber

Program for Thursday: Senate will continue consideration of the conference report on H.R. 2854, Farm Bill, with a vote to occur thereon, following which Senate will resume consideration of H.R. 1296, relating to the administration of certain Presidio properties, with a vote on a motion to close further debate on Murkowski Modified Amendment No. 3564, in the nature of a substitute, to occur thereon.

Senate may also consider the conference report on H.R. 1561, Foreign Relations Authorizations Act, and conference report on H.R. 3019, Omnibus Appropriations.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Thursday, March 28

House Chamber

Program for Thursday: Consideration of H.R. 3136, Contract With America Advancement Act (closed rule, 1 hour of general debate);

Consideration of H.R. 3103, Health Coverage Availability and Affordability Act (modified closed rule, 2 hours of general debate); and

Consideration of the conference report on H.R. 2854, Federal Agricultural Improvement and Reform (rule waiving points of order).

Extensions of Remarks, as inserted in this issue

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