The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. Barton of Texas].

DESIGNATION OF THE SPEAKER PRO TEMPORE

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


I hereby designate the Honorable Joe Barton to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

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

As we view our world, O God, we see the ironies of life and the incongruities of our human experience. There is the destruction of the floods and yet there is the beauty of a rainbow; there are the conflicts and the violence of war and the satisfaction of peace; there is the pain of sickness and the enjoyment of health. We pray, merciful God, that whatever our condition and whatever our need, we will know the assurance that Your grace is sufficient for whatever occurs and Your love for us never ends. In Your name, we pray. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. BOSWELL led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain five one-minutes on each side.

OMEGA BOYS CLUB

Mr. ARM YE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. ARM YE. Mr. Speaker, I am honored today to have my friends, the gentleman from California [Ms. Pelosi] and the gentleman from California [Mr. Dellums] join me in presenting the Freedom Works Award to the Omega Boys Club of San Francisco.

I established the Freedom Works Award to celebrate freedom by recognizing individuals and groups who promote personal responsibility instead of a reliance on government.

The Omega Boys Club was founded by Joe Marshall and Jack Jackwa in 1987 with a mission to rescue inner city youth from the influence of gangs, drugs, and violence. Since its founding, the club has taken more than 600 children off gang warfare and drug dealing and has pushed them, tutored them, and even raised enough money to send them, 140 of them, to colleges around the country.

The club has enjoyed these positive results without receiving a single penny of Federal assistance. Instead they have relied on the personal initiative taken by Joe Marshall, Jack Jackwa, Margaret Norris, Coach Wilbur Jiggetts, and other Omega members.

The success of the Omega Boys Club is based on these four principles: Respect comes from within; Change begins with you; Respect comes from within. If we are to be a great country in the future, it will be because of groups like the Omega Boys Club, who have recognized their freedom to dream, and who have voluntarily taken upon themselves the responsibility for making America's best dreams come true.

Ms. PELOSI. Mr. Speaker, will the gentleman yield?

Mr. ARM YE. I yield to the gentleman from California [Ms. Pelosi].

Ms. PELOSI. Mr. Speaker, I want to thank the gentleman from Texas [Mr. ARM YE], the distinguished majority leader, for awarding his Freedom Works Award to the Omega Boys Club of San Francisco. It is a national organization now. As he says, it is about self-initiative, it is about respect for the individual.
DEAN SMITH’S ACHIEVEMENT

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

Mr. PRICE of North Carolina. Mr. Speaker, 877 victories and still counting. Dean Smith, the basketball coach at the University of North Carolina at Chapel Hill, has now claimed the title of the all-time winningest coach in basketball history, with 877 victories. And the winning continues. Division I college basketball has changed a great deal since the early 1960’s, when Dean Smith became head coach at Carolina. Throughout Dean Smith’s still winning, with class and consistency.

It is an amazing feat to coach in 877 games, let alone win that many. Dean Smith has proven that you can be socially conscious, academically serious, you can play by the rules, and still rise to the top. He choose not to bask in the glory of this achievement, but rather, gives full credit to the hard work of others.

Let us all congratulate and honor Dean Smith. His victories on and off the court set an outstanding example for all Americans, and we are as proud as we can be that he hails from the Fourth Congressional District.

THE JUSTICE DEPARTMENT CANNOT POLICE ITSELF

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

Mr. TRAFICANT. Mr. Speaker, the Justice Department cannot police itself. An employer in Chicago, a court ruled that Justice Department personnel gave sex and drugs and alcohol to a number of informants to get them to offer perjured testimony; no criminal charges were filed.

In Waco, 83 Americans were killed, including 20 children; no criminal charges were filed.

The Justice Department says it was simply a mistake.

Mr. Speaker, there is no justice in America. It is time for Congress to pass laws that will provide for independent counsel to investigate wrongdoing at the Justice Department.

ARE WE A CIVILIZED SOCIETY?

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

Mr. BARTLETT of Maryland. Mr. Speaker, prohibiting barbaric partial-birth abortions is a matter of whether we are a civilized society, not whether we are pro-life or pro-choice. It is a sad commentary on the slippery slope of loss of respect for the dignity of human life in our society that in Congress once more have to debate whether it is OK to kill babies this way.

Let us understand exactly what is involved in this procedure. Labor in the mother is induced, the baby is turned and then partially delivered, feet first, with its head kept inside the womb. While still living, 33, 34, or a trocar are inserted in the back of the baby’s head, its brain is then suctioned out and skull collapsed before the baby is removed from the womb.

If Congress were voting about a method of execution, stabbing someone in the back of their head and sucking out their brains, I am sure would not get a single vote in the Congress. If this would be wrong for the most heinous criminals, how can it be right for innocent babies?

TRIBUTE TO MARCIA STEIN

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

Mr. DIXON. Mr. Speaker, this morning I rise to pay tribute to Marcia Stein, who retired from this body on January 20, 1997, after serving 15 years with the Official Reporters of the House. Marcia and her husband are here in the gallery this morning, and I am pleased to have this opportunity to commend her for her outstanding services to this institution.

Marcia joined the staff of the Official Reporters in November 1981. She enjoyed specializing in hearings on national security and intelligence. Some of her career highlights included reporting the Iran-Contra hearings and traveling to Bonn, Germany and other parts of the globe for field hearings.

She has enjoyed observing history in the making and feels privileged to have reported some of the most interesting events taking place in this august body. Those of us who have had the pleasure of working with her also feel privileged to have had the opportunity to work with an individual of such outstanding ability and professionalism.

Thank you, Marcia. I wish you and Bob a long and prosperous retirement.
ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER PRO TEMPORE. The gentleman is requested to delete his reference to individuals in the gallery.

Mr. PAPPAS. Mr. Speaker, Republicans in the House have outlined a 13-point agenda to create a better America. Our agenda reflects a genuine desire to preserve America and to have a Nation that is safe and economically stable, but this whole process starts with protecting the American family.

Part of protecting the family is protecting life. The effort to end partial-birth abortions is crucial because this procedure denies human life and human dignity. But this whole matter of ending partial-birth abortion is not just a Republican versus Democrat or liberal versus conservative issue. Public support to end this barbaric procedure is very wide and very deep. Polls show 84 percent public approval of the ban.

A bipartisan group of Members of Congress have taken the lead on this issue, not because it is popular or politically expedient. We take the lead because it is right to protect life and, in doing that, the future of America.

CALLING FOR A NEW HEAD OF FBI FORENSICS

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

Mr. OBEY. Mr. Speaker, I would like to invite Members of the House to join me in sending a letter to the Director of the FBI asking that he consider appointing our colleague from Indiana [Mr. BURTON], as the new head of the FBI forensics lab. Given the problems the FBI is having, he obviously has the ability to do the job.

He discovered, when nobody else did, that Vince Foster’s body was moved. Second, he obviously has the expertise because he used his backyard to fire a bullet into “a headlike object” to test his forensic theories. And certainly, in light of the revelations in the Washington Post yesterday about conversations with Pakistanis, he certainly can be counted on to run that lab with at least as much evenhandedness as he apparently will run the congressional investigation.

Of course, given his decision to exempt Congress from the review of his committee, he is indeed damned with faint praise.

THE AMERICAN FARMER

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

Mr. CHAMBLISS. Mr. Speaker, today is National Agriculture Day across this country. It is fitting on this 185th birthday of the American farmer, to reflect on what we owe to our farmers.

The American farmer pays our taxes, makes our food, and fiber in the world. Our country’s entire farming community deserves a pat on the back for a job well done. You sit down over supper tonight, take a moment to thank the folks that made it possible, the American farmer. They deserve it.

QUESTIONABLE FUNDRAISING ACTIVITIES

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

Ms. DELAURO. Mr. Speaker, this week’s news report makes it clear why my colleagues on the other side of the aisle have adamantly refused today to allow an investigation into 1996 Republican fundraising activities. As it turns out, the Republican chairman of the committee charged with investigating campaign fundraising improprieties has himself engaged in very, very questionable activities.

The Washington Post editorial said it best: Mr. BURTON should step aside. To have this chairman preside over this investigation would make a mockery of the proceedings.

Let me quote the chairman. Calling the charges distortions and outright lies, he said, I have never tried to put the arm on anybody in my life. But he acknowledged asking Mark Siegel for cash and complaining to Pakistan’s ambassador when he did not deliver. My, my, I think he protests too much on his lack of involvement here.

The chairman should step aside. The Washington Post said it best. To do any less would cast doubt on the integrity of this House and its ability to conduct a fair investigation.

MOTION TO ADJOURN

Mr. OBEY. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore (Mr. BARTON of Texas). The Clerk will report the motion.

Mr. BARTON moves that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion to adjourn offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken, and the Speaker pro tempore announced that the ayes had it.

The votes were taken by electronic device, and there were—yeas 183, nays 221, not voting 28, as follows: [Roll No. 60]
PROCEEDINGS OF THE HOUSE

THURSDAY, MARCH 20, 1997

Mr. Speaker: The gentleman from California [Mr. Barton] designates as Members of the Committee on the Judiciary: and (2) one motion to recommit.

The gentleman from Maryland [Mr. Conyers] designates as Members of the Committee on the Judiciary: and (2) one motion to recommit.

The gentleman from Texas designates as Members of the Committee on the Judiciary: and (2) one motion to recommit.

So the motion to adjourn was re-
Constitutional Record: House H1193

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Congressional Record – House

Fitzsimmons’ estimate, 3,000 to 5,000 partial-birth abortions are performed every year.

To further underscore the lies and deception, Mr. Fitzsimmons said in the Medical News, an American Medical Association publication, that “In the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.” He further went on to state that the abortion rights folks know it, the antiabortion folks know it and so probably does everybody else.

In fact, the truth is the vast majority of cases are performed on healthy mothers with healthy babies. Mr. Fitzsimmons intentionally lied about partial-birth abortions to mislead people because he feared the truth would damage the cause of his allies. While explaining his veto, the President echoed the argument of Mr. Fitzsimmons and his colleagues. H.R. 1122 will allow the President the opportunity to reevaluate the abortion debate and will give information on which to base his decision.

He is not alone. I urge my colleagues who opposed banning partial-birth abortions in the past to reflect on the truth. Fitzsimmons’ information that Mr. Fitzsimmons and the pro-abortion lobby has circulated before making your final decision on this critical issue.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Armey], the distinguished majority leader.

Mr. Armey. I thank the gentle-woman for yielding me this time. Let me also thank the minority side for their patience with this yield.

Mr. Speaker, this rule makes in order 2 hours of debate on a subject that many of us would rather we did not have to debate in this country. This is a subject that is heartbreaking to all of us, irrespective of which side of the debate we find ourselves, it breaks one’s heart to realize the subject under consideration.

We are talking about whether or not this Nation can, through its elected representatives, tolerate or must it ban a particular procedure by which the life of a child is snuffed out. There are going to be heartfelt differences on this issue, make no mistake about it. The President used to bring this rule and bill before the House of Representatives making a mockery of our legislative process. The bill that would be made in order by this rule is not the bill reported by the House Judiciary Committee. It is not the bill that the Rules Committee heard testimony on yesterday.

Last night in an unprecedented move, the majority members of the Committee on the Judiciary discarded legislation that had been approved by the subcommittee and the full Committee on the Judiciary and replaced it with a bill from the last term.

Several improving amendments that had been accepted by the Committee on the Judiciary were tossed away. In an unusual agreement with the Senate, the majority leadership of this body determined that they wanted to send the President a bill identical to the one he vetoed last year. The President has made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office explaining that the procedure we are discussing today was necessary to preserve the mother’s mental, physical, and reproductive ability. The minority of the Committee on Rules had no more input than did the Committee on the Judiciary. We were simply confronted with a fait accompli in the form of the already-vedoed and expired bill from the last term. It is obvious that the Committee on Rules chose to invite another veto rather than meeting the President’s criteria for signing this bill, and that calls into question their sincerity on this entire issue.

One amendment approved by the Committee on the Judiciary that is not in this bill would have prevented a father from having murdered, even abused, the mother of the fetus from suing for damages. I want to make this clear, that anyone who votes for this bill made in order by this rule is voting to allow a wrong to be done. I want to protect from the tragedy that leads to this procedure. Imagine, an abuser, an aban-doner, or rapist can sue his victim who is already damaged.

I urge my colleagues in the strongest possible terms to reject this rule that would permit debate on a bill that is not properly before us. I urge defeat of the previous question.

Ironically, providers can be sued for damages resulting from both psychological and physical injuries, and yet the majority refuses to allow the bill to be amended to provide an exception to protect the woman’s psychological health. In other words, he’s does not matter. The father of this amendment would have enhanced the chances of this bill becoming law.

Another amendment passed by the Committee on the Judiciary but deleted in the new version of the bill passed last night clarified that the life exception in the bill includes situations in which the mother’s life is endangered by the pregnancy itself. There is no protection for her. Regardless of where one stands on the issue of abortion, I believe all of us would agree that these two amendments are necessary.

All Members know that at the end of a congressional term, all bills previously filed have died and certainly a bill that has died a bill from a previous term has not only rendered useless the work of the committee and those interested enough to produce amendments, but has disenfranchised the new members of the Committee on the Judiciary and their constituents who were not members last term. This means that they had no input on the bill whatsoever, they were not privy to any of the discussions on the bill, they never voted for this bill.

I do not believe personally that it is the role of Congress to determine medical procedures. The doctor-patient relationship in this country has been accepted as totally private. My dismay and disbelief at the process in which this bill has been brought to the floor overrides my concern, however, about Congress inserting itself into the most private of decisions because we are saying not only are we competent to make medical judgments but we are saying that the Committee on Rules is the only competent body to make this decision, more competent even than the Committee on the Judiciary, which has jurisdiction over the issues, overlapping the bounds in which we have always operated since the days of Thomas Jefferson.

Does congressional reform mean that from now on there is only going to be a Committee on Rules? Are we going to completely override the product of other committees, taking away the rights and responsibilities that have always been the prerogatives of Members of Congress? Is this the new civility? Does the majority really care about this issue or does their mistaken belief that they will embarrass President Clinton override their judgment?

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H 1300

In this 2 hours of debate, Mr. Speak-er, there are some facts that are going to be put up before us. There are going to be a lot of things we do not want to hear about and do not want to see. There are going to be some arguments we are not going to particularly appreciate. But let us ask this of ourselves: Out of respect for the importance of this issue to both sides and the gravity of the issue and the lives of the people who are affected by it, Act, we are not able to respect the arguments made by one another, can we respect their right to make those arguments? And can we carry on a discourse over this subject that is serious, that is sober and that is thoughtful as this subject demands. That is the plea I would make for our body today.

Ms. SLAUGHTER. Mr. Speaker, I yield myself such time as I may consume. I rise in strong opposition to the rule and the underlying bill, H.R. 1122.

Mr. Speaker, I urge all my colleagues in the strongest possible terms to defeat the previous question on this rule. Yielded last year. The President used to bring this rule and bill before the House of Representatives making a mockery of our legislative process. The bill that would be made in order by this rule is not the bill reported by the House Judiciary Committee. It is not the bill that the Rules Committee heard testimony on yesterday.

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H 1300
Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Speaker, I rise to oppose this rule and to address a concern that is deeply rooted in the conscience of every Member in the House of Representatives and in the hearts of almost every citizen of this great country.

For many, the debate over abortion is a deeply personal and emotional issue. It is one that commands thoughtful and sincere reflection and frankly ought to be protected from politically charged debate. But there is one area where I hope every person of conscience in this body can agree, and that is that we ought to choose legislation available when a woman's life is in danger for any reason and that a very personal decision on that issue should be up to the woman, her doctor, her family and her clergy.

By so dictating how a woman, even when her life is in danger, if her pregnancy goes forward. The changes made in the Committee on Rules last night remove that assurance provided in the Committee on the Judiciary mark. It is perhaps the side tragically will not even allow a discussion where that life protection can be debated, discussed, and perhaps offered as an alternative.

All of us oppose late term abortions. All of us. But many of us believe that an abortion should be allowed if the woman's life is in danger. The Republican bill says a woman must carry her pregnancy to term even if she could die doing so. The Republican bill says a woman cannot choose legislation available when a woman's life is in danger for any reason and that a very personal decision on that issue should be up to the woman, her doctor, her family and her clergy.

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In this spirit in the last Congress I joined with two-thirds of this House, and that was a majority of Republicans and Democrats together, two-thirds of this body, in making a clear and unequivocal statement that this inhuman procedure during a partial-birth abortion should be banned in this country. The U.S. Senate concurred by also voting to ban this same kind of procedure. Nevertheless, when the bill reached the President’s desk, it was vetoed. Although it was only one signature away from being law, that bill was rejected because of the President’s belief that partial-birth abortions occur only rarely and only when necessary to save the life of the mother. That is what he said in his veto message.

However, the Nation now knows that President Clinton’s whole decision was based on erroneous and incorrect information. This information was, in fact, so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, Congress, and even the President into believing this was true; and indeed on February 25, 1997, just past, Ron Fitzsimmons, the executive director of the second largest abortion provider in the country, admitted on Nightline, and go back and get it; we have got the videotapes to show our colleagues—and admitted on Nightline, and later to the New York Times, that he lied through his teeth. That is his statement, not mine, that he said I lied through my teeth.

Mr. Speaker, and my colleagues, partial-birth abortions do in fact happen far more often than acknowledged and on healthy mothers bearing healthy babies. Today Congress is poised at the same moral crossroads where it found itself during the last Congress. While Congress made the right decision last year, the President, standing at those same crossroads, made an immoral decision by vetoing that bill, and in light of these latest revelations of the truth, the importance of the American people, and as Ronald Reagan called it, the most important cause this is, we need to pass this bill again and give it to the President, give him another chance to do the right thing, because the only reason he vetoed it was because of the lies by Ron Fitzsimmons. Now he knows the difference, he has a obligation now to sign this bill, and I would urge everyone to come over here and vote for this rule, vote for the bill, and let us save these decent human beings.

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

Mr. Speaker, I just want to say that on March 7, the President said that he was not persuaded at all by Mr. Fitzsimmons’s bill and had made his decision on other matters.

Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].
Mr. Speaker, what the American people do not know about this bill is this: If we want to save babies, why does this bill just outlaw one abortion procedure? The fact is, this bill still makes it legal to have abortions at the end of the eighth or ninth month of pregnancy. What the American people
do not know that late last night the Committee on Rules refused to even let this House vote on the bipartisan Greenwood-Hoyer bill that would have outlawed all late-term abortion procedures, not just one procedure. I can respect those who supported this bill, Mr. Speaker, but they should be honest. There is no proof that this bill will save even one baby. By outlawing one procedure and allowing others, you are not saving babies, you are risking the health of many women. That is a tragedy.

During the last month the truth regarding abortion has finally come to the surface. The pro-abortion movement has developed a serious credibility problem. Mr. Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, admitted that he misled Congress. The pro-abortion movement lied about partial-birth abortion. The truth is that this barbaric procedure is not a rarity. Doctors are performing thousands of partial-birth abortions each year. The majority of them are being performed as elective procedures, thus on healthy women carrying healthy babies. That is a tragedy.

It is time to put an end to this barbaric procedure. I ask my colleagues to join me in support of H.R. 1122.

Mr. BUNNING. Mr. Speaker, today I rise as a father of 9 and a grandfather of 30, in strong support of the partial-birth procedure and the rule which allows this bill to come to the floor.

Today's debate is different from most abortion debates we see on the floor each year. This debate is not about the viability of the fetus, this debate is not when life begins. This is about the killing of an infant.

The defenders of partial-birth abortion do not even try to deny that we are talking about a viable human being. Instead, the defenders of partial-birth abortion always try to defend it by saying it is only used in cases of protecting the health and future fertility of the woman or the mother. This claim is obviously not true. Former Surgeon General C. Everett Koop, along with doctors from all over this country, have stated that partial-birth abortions are never medically necessary to protect the health or future fertility of the mother.

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Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

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

Mr. BUNNING. Mr. Speaker, I yield 3 minutes and 30 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I am pleased to follow the gentleman from Kentucky. The Hoyer-Greenwood bill would have prevented any abortion, not just by this procedure but by any procedure, I tell the gentleman from Kentucky, on healthy women with healthy babies. This bill that the gentleman is supporting will prevent not one abortion, not one. Why? Because it deals with only one procedure.

There are other procedures, and I presume that the gentleman believes those procedures are equally, in his terms, barbaric. If he does not, I would yield for a question on that issue. But my assumption is he does. So the issue here is whether they are going to allow in order Hoyer-Greenwood.

The Republican Party, when it was in the minority, railed against the Democrats for arbitrarily and arrogantly preventing amendments to reflect different views. They said we wanted to prevent open and fair debate.

Not only did the Committee on Rules last night prevent debate and prevent other amendments, they also prevented even the work of their own committee. They had the temerity to reject out of hand the committee process. This is a tragedy.

The committee process allows this bill to come to the floor.

Today's debate is different from most abortion debates we see on the floor each year. This debate is not about the viability of the fetus, this debate is not when life begins. This is about the killing of an infant.

The defenders of partial-birth abortion do not even try to deny that we are talking about a viable human being. Instead, the defenders of partial-birth abortion always try to defend it by saying it is only used in cases of protecting the health and future fertility of the woman or the mother. This claim is obviously not true. Former Surgeon General C. Everett Koop, along with doctors from all over this country, have stated that partial-birth abortions are never medically necessary to protect the health or future fertility of the mother.

During the last month the truth regarding abortion has finally come to the surface. The pro-abortion movement has developed a serious credibility problem. Mr. Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers, admitted that he misled Congress. The pro-abortion movement lied about partial-birth abortion. The truth is that this barbaric procedure is not a rarity. Doctors are performing thousands of partial-birth abortions each year. The majority of them are being performed as elective procedures, thus on healthy women carrying healthy babies. That is a tragedy.

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Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].

Mr. BUNNING. Mr. Speaker, today I rise as a father of 9 and a grandfather of 30, in strong support of the partial-birth procedure and the rule which allows this bill to come to the floor.

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Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. BUNNING].
But not so narrow, it turned out. Four days later, Hoyer and Republican Rep. James Greenwood of Pennsylvania, ardent abortion rights advocates, introduced the bill the Globe had been talking about. It would allow any abortion "after the fetus has become viable." The doctor on hand would be the one to define viability (the earliest a baby can survive outside). So, the Hoyer-Greenwood bill really permits any abortion any time an abortionist sees fit.

A formal presidential statement will endorse this bill's position. Clinton aides say, if a vote on it is permitted today. On Tuesday, Hoyer asked Rep. Henry Hyde, judiciary Committee chairman, whether the House could vote on his "dead body" Hyde, long a pro-life stalwart, cheerily replied.

Hyde's obstinacy is justified by last year's comments from pro-abortion activist Susan Cohen, referring to a close Senate vote on a health-of-the-mother exception: "We were almost able to kill the bill." Hoyer-Greenwood is intended to be a killer that would mean no bill at all.

Meanwhile, the president persists in fantasies in the face of collapsing myths. Abortion of Ron Fitzsimmons has admitted that he "lied through my teeth" last year when he "spouted the party line" that partial-birth abortions are not routine. As I understand, the procedure is widespread and elective—used in the fifth and sixth months of pregnancy because it is an easier, though more grisly, way to abort the developed fetus.

H1198

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan [Ms. KILPATRICK].

(Ms. KILPATRICK asked and was given permission to revise and extend her remarks.)

Ms. KILPATRICK. Mr. Speaker, I rise to oppose the closed rule that is before us this afternoon, and amazingly because it does not talk about abortion, it does not stop one abortion, but stops a procedure that trained professionals have been trained to make those decisions. It takes that right away from them.

As a new person in Congress and having served 18 years in the Michigan House of Representatives, I am appalled that such a rule would come before this Congress where we would not be allowed to debate the issue, where we would not be allowed to actually set forth our opinions and then come to a final vote.

This proposed rule that is before us this afternoon is not fair, it is not right, and it does not allow those who have been elected by our constituencies across America to represent our views and to speak for them.

I urge my colleagues, vote against this closed proposed rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, 7 days ago this little girl’s mother died of cancer. She had been diagnosed with cancer 5½ months into the pregnancy, but under this rule and under this bill, she could have chosen to have aborted the baby. She could have chosen to take cancer treatments. But this little girl’s mother, Margie J anovich, said no, life is too precious. Life is too important. I am not going to take the life of my unborn child. I am not going to endanger it.

But even under this bill she could have chosen to go the route of an abortion. I think it is wrong, but this bill allows that. This bill is a fair bill. When we are talking about the physical health of the mother, the life of the mother is in danger, this bill allows that.

But little Mary Beth J anovich is 18 months old today. Her mother is in heaven. She made the ultimate sacrifice. She gave her life for her child. Her other eight children besides Mary Beth love her at their mother and respect her mother, and know how much she loves them because she gave her life for little Mary Beth.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentleman from West Virginia [Mr. Wise].

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

Mr. WISE. Mr. Speaker, let me tell the Members what I support. Like most people, I believe that if a mother’s life is in danger or there is a serious health problem for the mother, there should be an exception. That is only common sense.

This Congress today votes on eliminating only a single medical procedure, and it may stop a limited number of late-term abortions, yet I support language that stops all late-term abortions, regardless of medical procedure, unless the mother’s life is in danger or she will suffer serious health consequences.

Abortion is an agonizing decision and an agonizing debate. It requires all views. Yet we are not going to be permitted today to vote and to air these views. We will not be permitted to protect the mother against serious health consequences. I oppose this rule.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, why does the majority not want open debate on this issue, which is literally a matter of life and death? Why have they produced a rule with no amendments and required us to vote on only the most extreme measure, which they know will not become law, because the President has already said he will veto it? Why will they not let us debate this, like we would in all American systems? That is what this country is about.

But they do not want to do that, because this is not about late-term abortion. This is about politics. This is about creating a fait accompli so that we can use in the next election to beat each other up with. That is wrong. What we should be dealing with here is the issue. There are many of us, a vast majority of the House, that agree with what 40 other States, 40 of the 50 States and the District of Columbia do in limiting late-term abortions, except allowing for both the life of the mother and the health of the mother.

We are not the AMA. We are not physicians. We are politicians. We should rely on their expertise. But let us not play politics here. Let us debate the issue. Let us debate it like America debates it, in open and fair debate.

Ms. SLAUGHTER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. Greenwood].

Mr. GREENWOOD. Mr. Speaker, I thank the gentlewoman for yielding time to me.

When I was thinking about running for Congress a few years ago, I came to Washington and I met with the leaders
Congressional Record — House

Mrs. Ros-Lehtinen. Mr. Speaker, I believe that the de-

To put an end to this particularly hor-

Ms. Slaughter. Mr. Speaker, I yield 1½ minutes to the
distinguished gentleman from Wisconsin [Mr. O'Fly].

Mr. Obey. Mr. Speaker, I voted for the ban on partial-birth abortions last
year. I expect to do it again. But I am against this rule because it prevents
time from the word of life, however-
helpless.

As with the case with partial-birth abortion, when the shocking reality of
abortion is made clear and the euphe-

Ms. Slaughter. Mr. Speaker, I yield 1 minute to the
gentlewoman from North Carolina [Mrs. Johnson].

Ms. Johnson. Mr. Speaker, it is one of the
disgusting and stomach-turning things that I have ever heard in my
day yet even saying this, it is
one example of the extreme positions that are taken to de-

Ms. Slaughter. Mr. Speaker, I yield 2
minutes to the gentleman from Florida [Ms. Ros-Lehtinen].

Ms. Ros-Lehtinen. Mr. Speaker, once again this body has been given the
opportunity to draw a line against bar-

All of us understand the mechanics of
this horrendous procedure. Despite the
myths that were promulgated by the
abortion industry, we know that this
procedure is designed to camouflage in-
fanticide as a therapy. We have all
heard how Ron Fitzsimmons of the Na-
tional Coalition of Abortion Providers
confessed to having lied to defend the

The fact that Fitzsimmons was mis-
leading people was already known last
year. In a Wall Street Journal article,
a number of doctors had already re-

They pointed out that the
defenders of this procedure first claimed that the
abortion practice did not exist. Then
they claimed that the child, yes the
child, was already killed by anesthesia.
That also turned out to be false. The
fact is that this horror is real and that
80 percent of the time this brutal pro-
cedure does exist. While the goal of this
legislation is to put an end to this particularly hor-

Bates surrounding this legislation has
served to remind the American people
about the true nature of abortion, that
a child is killed. It is the sacred nature
of each child's life that compels this
legislation. We take this step not only
of each child's life that compels this

This is the kind of amendment I
wanted to propose so we could talk
about the real issues here: the rights of
the mother, the life of the mother, the
health of the mother, not about the
rights of the fetus.

No abortions after viability. That is
what we should be talking about. I
urge opposition to the rule.

Ms. Slaughter. Mr. Speaker, I yield myself the
balance of my time.
Mr. Speaker, if the previous question is defeated, I will offer an amendment making in order the amendments offered by the gentleman from Massachusetts [Mr. FRANK] and the gentleman from New York [Mr. NADLER], which were part of the Committee on the Judiciary, and also make in order the Hoyer-Greenwood substitute. I strongly urge my colleagues to defeat the previous question so that these worthy amendments can be put in order. This vote on whether or not to order the previous question is not merely a procedural vote. It is a vote against the agenda and a vote to allow the opposition on at least for the moment to offer an alternative plan. It is a vote about what the House should be debating.

I urge, again, all my colleagues who are listening to me to understand that we are not following normal House procedure here, that another bill that had been defeated, that will be vetoed, has been brought up in a new term simply as a matter of embarrassment. I know that this is not a matter of embarrassment. I am listening to the debate, that the issue itself on late term abortions has taken second place to the political question, Mr. Speaker, I include for the record the following:

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a resolution reported from the Committee on the Judiciary, and also make in order the amendments of Representative Hoyer, or Rep. NADLER, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "inSec. 1531(c)(1) of H.R. 1122 after "or injury" insert "or to avert serious adverse longterm physical health consequences to the mother." "Notwithstanding any other provision of this rule, it shall be in order to consider an amendment to be offered by Representative Nadler, which shall be debatable for 30 minutes, and shall be considered as read. The text of the amendment is as follows: "in Section 1533(c)(3) of H.R. 1122 at the appropriate place place add the following: "a father cannot obtain relief under this subsection if the father abandoned or the mother."

Unfortunately, Mr. Speaker, U.S. abortion law defines health to include emotional, psychological, familial, and even the mother's age as factors.

Indeed, as even the defenders of this practice must admit, these are often the reasons this brutal procedure is used.

There is a great deal of emotional surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

In addition, as a member of the Judiciary Committee I am disturbed to see the legislative process so manipulated. At the markup of H.R. 929, the predecessor to today's bill, the
Mr. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The previous question is on the resolution. The SPEAKER pro tempore announced that the noes appeared to have it.

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

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair announces that he may reduce to not less than 5 minutes the time within which a vote by electronic device, if ordered, may be taken on agreeing to the resolution.

The vote was taken by electronic device, and there were—aye votes 247, noes 175, not voting 10, as follows:

<table>
<thead>
<tr>
<th>Yeas</th>
<th>Nays</th>
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<td>247</td>
<td>175</td>
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ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CANADY). The Chair notes that there has been a disturbance in the visitor's gallery in contravention of the law and the rules of the House of Representatives. The doormen and the police will remove from the gallery those persons participating in the disturbance.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:


The message also announced that pursuant to Public Law 104-264, the Chair, on behalf of the Democratic leader, appoints the following individuals to the National Civil Aviation Review Commission:

- Linda Barker, of South Dakota;
- William Bacon, of South Dakota.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 100, I call up the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, and ask for its immediate consideration in the House. The Clerk read the title of the bill. The text of H.R. 1122 is as follows:

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 "Partial-Birth Abortion Ban Act of 1997." 

SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL-BIRTH ABORTIONS"

"Sec. 1531. Partial-birth abortions prohibited.

"§ 1531. Partial-birth abortions prohibited."

"(a) Any physical act, including the use of any instrument, drug, or other substance, or the performance of any other act, by a person acting alone or in combination with one or more other persons, that

1. Is a contraceptive method;

2. Intended to cause the death of a fetus; and

3. Intended to be performed after the fetus has survived for a period of time equal to at least 20 weeks from the last known date of conception,

shall be considered a partial-birth abortion.

The preceding provisions 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, that may be a result of a pregnancy or the workstation from a pregnancy, or, if not so resulting, would be a mortal medical emergency for the mother.

(b) Any person who performs a partial-birth abortion shall be subject to the provisions of Sections 1538 and 1539.

(c) Any person who solicits, aids, abets, counsels, or consents to a partial-birth abortion shall be subject to the provisions of Sections 1538 and 1539.

(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

"(2) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the violation of this section; and

(B) statutory damages equal to three times the cost of the partial-birth abortion.

"(d) A woman upon whom a partial-birth abortion is performed may not be prosecuted under this section, for a conspiracy to violate this section, or for an offense under section 2, 3, or 4 of this title based on a violation of this section.

"(f) Any person who engages in a partial-birth abortion procedure, and who has not been convicted of a violation of this section, shall be barred from practicing medicine in the United States.

"(g) Any person who engages in a partial-birth abortion procedure, and who has not been convicted of a violation of this section, shall be barred from practicing medicine in the United States."
which has provoked discussion around the country and last year brought a flood of millions of postcards and calls to Capitol Hill. H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, bans a particular type of abortion procedure known as partial-birth abortion. A partial-birth abortion is any abortion in which a living baby is partially vaginally delivered before the abortionist kills the baby and completes the delivery. An abortionist who violate the ban would be subject to fines or a prison term up to 2 years or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban. The cause of action can be maintained by the father of the child or, if the mother is under 18, the maternal grandparents. Thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery.

Mr. Speaker, the infants subjected to partial-birth abortion are not unborn. Their lives instead are taken away during a breech delivery, a procedure which obstetricians use in some circumstances to bring healthy children into the world, is perverted and made an instrument of death. The physician traditionally then would end this cruel practice and protect both mother and child during the birth process deliberately kills the child in the birth canal.

While every abortion takes a human life, the partial-birth abortion method takes that life during the fifth month of pregnancy or later as the baby emerges from the mother's womb, and this procedure bears an undeniable resemblance to infanticide. H.R. 1122 would end this cruel practice. The dangers of this practice are truly horrible to contemplate. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier. In his testimony before the Constitution Subcommittee on June 15, 1995, Prof. Robert White, director of the Division of Neurosurgery and Brain Research Laboratory at Case Western Reserve University, stated the following quote, "The fetus within this time-frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After specifically analyzing the partial-birth abortion procedure, Dr. White concluded, and I quote again, "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Now, the advocates of abortion have engaged in a determined effort to misrepresent the realities of partial-birth abortion. They have repeatedly misrepresented the facts on this gruesome procedure. Shortly after H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, was introduced in 104th Congress the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood began in 1995 and 1996 to make a variety of false claims about the partial-birth abortion procedure. These misleading statements were made at the 105th Congress that continue to this day. Let me give just two examples.

Opponents of the bill argued, and the media accepted, that anesthesia administered to the mother during a partial-birth abortion kills the infant before the procedure begins and therefore there is no partial delivery of a living fetus. But Dr. Norig Ellison, the President of the American Society of Anesthesiologists, says this claim regarding anesthesia has, quote, "absolutely no basis in scientific fact," close quote.

Dr. David Birnbach, the president of the Society for Obstetric Anesthesia and Perinatology, says it is crazy because anesthesia does not kill an infant if one does not kill the mother.

The American Medical News reported on the controversy in January 1, 1996, article which stated, "Medical experts rushed to correct what they called a badly unfounded, irresponsible, unnecessarily worrying women who need anesthesia. But while some abortion proponents are now qualifying their assertion that anesthesia induces fetal death, they are not backing away from it."

The creation of this anesthesia myth by abortion advocates is particularly unconscionable because it poses a threat to the health of mothers. Dr. Ellison explained that he was deeply concerned that widespread publicity may cause pregnant women to delay necessary and perhaps lifesaving medical procedures totally related to the birthing process due to misinformation regarding the effect of anesthetics on the fetus. He also pointed out that annually more than 50,000 pregnant women receive anesthesia while undergoing necessary, even lifesaving surgical procedures. If the concept that anesthesia could produce neurologic demise of the fetus were not refuted, pregnant women might refuse to undergo necessary procedures.

Clearly, anesthesia administered during a partial-birth abortion neither kills the fetus nor alleviates the child's pain. But despite the widespread circulation and the egregious nature of the falsehood that anesthesia harms unborn children, proabortion organizations which purport to care for women's health have taken no steps to retract their erroneous statements or to inform women that anesthesia administered to a mother does not kill her unborn child.

Abortion advocates have also contended that partial-birth abortion is rare and used only in difficult circumstances. This has been a claim that has been at the center of the debate in opposition to this bill. In fact, the National Abortion Federation, the National Abortion Rights Action League, and Planned Parenthood have falsely claimed from the beginning of the debate over partial-birth abortion that it is a rare procedure performed only in extreme cases involving severely handicapped children, serious threats to the life or the health of the mother or the potential destruction of her future fertility. Once again this claim is contradicted by the evidence.

Dr. Martin Haskins, an Ohio abortionist, told the American Medical News that the vast majority of partial-birth abortions he performs are elective. He stated, quote, "And I'll be quite frank: Most of my abortions are elective. In between that 20-to-24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective," close quote.

Another abortionist, Dr. McMahan of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Constitution Subcommittee a graph which showed that between 26 weeks of gestation half the fetuses that Dr. McMahan 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. McMahan listed nine partial-birth abortions performed because the baby had a cleft lip.

On September 15, 1996, the Sunday Record, a newspaper in Bergen, N.J., reported that in New Jersey alone at least 1,500 partial-birth abortions are performed each year, three times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons. This article refuted the abortion advocates claims that partial-birth abortion was both rare and only performed in extreme medical. The article quotes an abortionist at the New Jersey clinic that annually performs the 1,500 partial-birth abortions as describing their patients who come in during the fifth and sixth months of pregnancy, quote: Most are Medicaid patients, and most are for elective, not medical, reasons. People did not realize or did not care how far along they were, most are teenagers.

The evidence is incontrovertible. Thousands of partial-birth abortions are performed every year on the healthy babies of healthy mothers during the fifth and sixth months of pregnancy. However, abortion advocates have continued to disseminate false information to Congress, the press and the public. As recently as February 25 of this year, the homepage of the National Abortion Federation informed journalists and other Web visitors, quote:

This procedure is used only in about 500 cases per year, generally after 20...
weeks of pregnancy and most often when there is a severe fetal anomaly or maternal health problems detected late in pregnancy, close quote.

The same week the National Abortion Federation Web page misinformed the American public, an Associated Press story reported that an abortion rights advocate admitted that he had lied about partial-birth abortion. Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, said that he intentionally lied throughout his career as a doctor. And I am using his words there. He said he lied through his teeth when he told a "Nightline" camera that partial-birth abortion is rare and performed only in extreme medical circumstances. The New York Times reported that Mr. Fitzsimmons says the procedure is performed far more often than his colleagues have acknowledged and on healthy women bearing healthy fetuses. "The abortion rights folks know," he said. "The Times took some of its information from an American Medical News article in which Mr. Fitzsimmons was interviewed. Fitzsimmons told the American Medical News that proabortion spokespersons should drop their spins and half-truths. He explained that their disinformation has hurt the abortionists he represents and said:

"When you're a doctor who does these abortions and the leaders of your movement appear before Congress and go on network news and say these procedures are done in only the most tragic of circumstances, how do you think it makes you feel? You know they are primarily done on healthy women and healthy fetuses, and it makes you feel like a dirty little abortionist with a dirty little secret," close quote.

Ron Fitzsimmons' admissions make clear that the proabortion lobby has engaged in a concerted and ongoing effort to mislead the American people about partial-birth abortion. They attempted to hide the truth because they know the American people would be outraged by the facts that thousands of partial-birth abortions are performed every year, primarily in the fifth and sixth months of pregnancy, on the healthy mothers of healthy babies.

When President Clinton vetoed H.R. 1345 during the last Congress, he relied on information, or I should say misinformation, about partial-birth abortion. He claimed that, unless partial-birth abortion was performed in some situations, women would be eviscerated or ripped to shreds so they could never have another baby. I suggest that what is eviscerated and ripped to shreds in this debate by the opponents of this bill is the truth.

The claim that the President made has proven to be completely false. When I interviewed in the Times Medical News, former Surgeon General C. Everett Koop said: "In no way can I twist my mind to see that the late-term abortion, as described, the partial birth, and then the destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortions," close quote.

In addition, a group of over 400 obstetricians, gynecologists and maternal fetal specialists have unequivocally stated partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact the opposite is true. The procedure poses a significant and immediate threat to both the pregnant woman's health and her fertility.

Not only are obstetricians, gynecologists and maternal fetal specialists concerned that women may be harmed by partial-birth abortion, but a leading authority on abortion techniques himself has also expressed concern about the safety of the procedure.

Warren Hern, M.D., an abortionist who wrote the most widely used book on abortion procedures, said quote, "I have very serious reservations about this procedure. You can't really defend it. I'm not going to tell somebody else they should not do this procedure, but I'm not going to do it." He continued:

I would dispute any statement that this is the safest procedure to use. It is clear that there is no need for partial-birth abortion. Look at this procedure. Look at it, look at it, look at the reality of partial-birth abortion. Look at what it results in. It cannot be defended. I appeal to my colleagues, put aside the myths, put aside the distortions, put aside all of the misinformation. Look at the facts. Consider the truth. Face up to the reality of partial-birth abortion. Look at this procedure, look at it, look at what it results in. It cannot be defended. "Support the Partial-Birth Abortion Ban Act and bring this brutal practice to an end."

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

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

Mr. Speaker, I say to my colleagues of the 105th Congress, we assemble again to take up an issue that we have dealt with in the previous Congress, that the President has dealt with. In opposing it, the Congress has dealt with the attempt to override by not being able to override, and so we gather today with the same piece of legislation attempting to do the same thing. Why? Just so I can have not withstanding my good friend, the gentleman from Florida [Mr. CANADY], whose desire and commitment to this subject matter has led the Congress into this situation for two Congresses in a row, we are faced with a constitutional problem.

Let us spell it out right at the beginning of this debate, shall we? It is a constitutional problem that will present itself, and it is one that has divided two parts of the Constitution, the 5th amendment and the 14th amendment, in the parts of those amendments that are known as the due process clauses. In the due process clauses, it has been found by the U.S. Supreme Court on more than one occasion that a right of privacy to the woman that has a reproductive choice is grounded in constitutional guarantees.

Now, that is the state of the American public. As we meet here this afternoon in the House of Representatives, unfortunately, I say to the gentleman from Florida [Mr. CANADY], there is only one way we can change that, and that is through a constitutional amendment that would alter the Supreme Court's repeated findings on this subject.

So my colleagues might ask that since we have been through this exercise in the 104th Congress, why do we not just introduce a constitutional amendment? Good question. Why do we not just amend the Constitution if we are trying to stop abortion?
Well, the reason I believe is patently clear. Most Americans and certainly most women and certainly a far majority of the doctors realize that some abortions are necessary, and they also realize that some abortions are not necessary. As a matter of fact, most of the doctors in the States have already outlined the gruesome drawing that was first brought forward by the gentleman from Florida [Mr. CANADY] because that is a late-term abortion, banned by statute in 40 States and the District of Columbia, prohibited entirely. And so we want to talk about not trying to inflame this discussion.

So I say to my colleagues, we are coming back on a constitutionally protected question in which the health and the life of the mother is constitutionally protected. Elementary.

In the Canady proposal before us there is a safeguard of life; there is not a safeguard of health. Why will we not put it there?

Well, ask the gentleman. But because it is not in here, we are not able to move this forward as a constitutional proposition, whether myself or the gentleman from Florida [Mr. CANADY] like it or not. It is unconstitutional. Most legal scholars have said that.

The President has said that. Most of the Congress, in failing to override the veto, have conceded that. So why are we doing it again? Why?

Well, the only way we can get to this problem if we do not want to introduce a constitutional amendment, as we ought to, is to go to ending abortion in this country procedure by procedure, and where else to start but the inaccurately, politically named partial-birth abortion ban. Is there such a term in medical dictionaries? No. Used in medical circles? No. Used in political circles? Yes. Invented for the purpose of this debate? Yes. So here we are again.

The point of constitutional matter is, the health of the mother is what prevents the President from supporting a congressional ban. As long as we leave that out, President Clinton will veto this bill. He has told us that repeatedly, and he is telling us that again today.

I am explaining it again today. I do not care how many Congresses we use, how many times we reintroduce this bill, how many times the House Committee on the Judiciary votes this to the floor, it is unconstitutional. Please understand that.

So we are here confronted with whether the health of the mother should be overridden or whether it should not. Well, we say that unless you put health in, we will have to respectfully oppose this proposition as it was in the other Congress. The President will respectfully veto this proposition as he did in the other Congress.

Today, this Congress and this Nation has the opportunity to take an affirmative stand for the basic value of human life. We might talk for hours about the medical evidence, the detailed studies, and the expert testimony, all of which would tell us that the ban on partial-birth abortions is the right and just thing.

However, we must always keep in mind that the fundamental issue is the life of an unborn child and the value that our Nation places on that life. This is the matter before the Congress, which is why we must make certain to pass the ban. To ban the partial-birth abortion is to say that America will not abandon legal reality and inhumanity that it represents.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT]. Mr. Speaker, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, this is [implied from the Federal court decision in Ohio that the gentleman from Florida [Mr. CANADY] does not like on Roe versus Wade. The contention that H.R. 929 falls outside of the restriction of Roe because the fetus is "almost" born is illusory and illusory. The intact D&E procedure targeted by the bill, and by the way, D&E procedure is the correct term, the D&E procedure targeted by the bill falls within the general understanding of abortion. The definitions used in the bill make the partial-birth abortion in the title of the bill, repeatedly utilize the term "abortion." To attempt to assert that the abortion procedures covered by the bill are somehow exempt from the constitutional protections of Roe is to further dilute our credibility. Indeed any arguments to such effect have already been implicitly rejected by the Federal court in Ohio, which has found unconstitutional a State law ban on intact D&E procedures absent an adequate health exception.

Mr. SCOTT. Could the gentleman indicate what he was reading, Mr. Speaker?

We will get the citation on that for the gentleman.

Mr. Speaker, I cannot support this bill because it is unconstitutional. In a full committee debate on a similar bill, the proponents have acknowledged that it is in fact unconstitutional under the present Supreme Court decisions. Though abortion has always been a controversial issue, the fact is that since 1973, in the Supreme Court Roe versus Wade, abortion has been legal in this country.

It is still the law of the land that a woman's right to an abortion before fetal viability is a fundamental right, but the Government may prohibit postviable abortions absent a substantial threat to the life or health of the mother.

We may agree or disagree on the Supreme Court decision, but that is in fact the law of the land. The Supreme Court has prohibited regulations that place an undue burden on women seeking abortions, and included in this undue burden concept is a prohibition against regulations that jeopardize a woman's health by interfering with the physician's exercise of discretion in determining which abortion method may be used.
Mr. Speaker, this bill will prohibit the use of one procedure that may be the safest for women in certain circumstances. The American College of Obstetricians and Gynecologists, the largest organization of women's doctors, says that this legislation has the potential to prohibit specific medical practices that are critical to the lives and health of American women.

Mr. Speaker, such interference in a physician's exercise of discretion jeopardizes the health of women and is as dangerous as back-alley abortion. Although the health of the mother must remain the primary interest in order to meet constitutional muster, this bill includes no provision which allows an exception from the ban in those cases where other methods pose a serious health risk to the mother.

The Partial-birth Abortion Act will not prevent a single abortion. It simply prevents one procedure that in certain circumstances is the most appropriate procedure available.

Mr. Speaker, many of my colleagues and I are open to working with the majority on language that would have brought this bill within constitutional limits. For example, many of us support a ban, a total prohibition, on all abortions not protected by Roe versus Wade; that is, all abortions not specifically excepted and prohibited from prohibition under Roe versus Wade. This bill only prohibits one procedure, not the decision to undergo an abortion.

Therefore, if this bill passes, some women may be relegated to a more dangerous procedure which may well increase their chances of being killed, maimed, or sterilized, and I hope my colleagues will work to protect the health of the women in America by defeating this bill.

Mr. CONYERS. Mr. Speaker, if the gentleman will continue to yield, I want to point out to the gentleman from Florida [Mr. CANADY] that my referencing the statement that I read was implied from a Federal court decision in Ohio entitled Women's Medical Professional Corporation versus Volnovich.

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation now being considered.

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

There was no objection.

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

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

Mr. ROEMER. Mr. Speaker, this is a very difficult issue. It is difficult for Members of Congress, it is difficult for America, it traumatizes most people to debate this issue. I would hope that we could do it in a civil manner, in an intelligent manner, and in a bipartisan manner. I think we are doing what is right to bring down the number of abortions in this country. I think both sides want to accomplish something. Ms. Pelosi has said it is difficult because many of my colleagues tell me that they are not doctors. Mr. Speaker, we are asked every day in this body to be scientists, to vote on the hydrogen program; to be road experts, and vote for ISTEA programs for construction; and to decide whether to ban an AK-47. Today we must vote on this particular issue. I would hope my colleagues, Democrat and Republican, conservative and liberal, would vote to ban this brutal, gruesome, and inhumane procedure.

When I talk about this procedure, I am not going to describe it. I am not going to describe it. I am going to give hopefully the advice that I have received from the medical community, because I have talked to the medical profession about this.

What have they said? The American Medical Association's Council on Legislation voted unanimously, unani possibly, to prohibit the medi cal procedure. 12 to nothing. They called it basically repulsive. Surgeon General, former Surgeon General C. Everett Koop, very respected by both sides of the aisle, has said, and I quote, in a nation which holds a belief that the late-term abortion as described, you know, partial-birth and then destruction of the unborn child before the head is born, is a medical necessity for the mother.

Finally, OB-GYN's that I have talked to and my staff has talked to with over 40 years of experience have said that there is absolutely no medical need for this gruesome abortion procedure. Mr. Speaker, I would hope that we could come together today and ban this procedure.

Finally, Mr. Speaker, in the February 3, 1997 edition of Time Magazine, "How a Child's Brain Develops," we are finding that the most critical years, based upon cutting edge research, now are 0 to 5 in children's learning abilities. In 5 years we will probably learn that it takes place even earlier, and in this article, it also says that a child's capability of learning a second language could be lost.

As a Democrat that believes in education and will fight for every dollar for preschool programs, that believes in the rights of children, I would hope that we would start by banning this procedure today. I hope that this is difficult because of the decision to undergo an abortion.

Addes, and Maureen Britel, who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes, they had picked out names. They did not decide to abort because of a headache. They did not decide to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body stands in judgment of them? Who would impose himself in the operating room and circumscribe their options? In those tragic cases where family often hear the news that their pregnancies had gone horribly awry, who should decide? When the couple gets the news that their baby's brain is growing outside of its head, that it has no spine, who should decide?

The one thing I know for sure is that this body, this Congress, should not be making that decision. At that terrible, tragic moment the Government has no place. Yet this ban will put Congress directly in the operating room, and impose the Federal Government in the doctor-patient relationship. It will instruct physicians to choose between the health of their patients and imprisonment.

We know that women will continue to seek abortions, even if they are
Mr. Speaker, as a mother of three beautiful grown children, as a recent grandparent who respects life with every ounce of my soul, I urge my colleagues to vote against this ban.

Mr. Speaker, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mr. CANADY of Florida. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Act. America is too good to support infanticide. Babies have to stay protected by our Constitution.

If babies go first, who is next?

Mr. Speaker, I want to take this opportunity to share a memo from a pro-abortion group that I just got, assuming that all women will support this gruesome procedure. They gave us instructions on how to debate the procedure and they said, and I will quote, Do not talk about the fetus. No matter what we call it, this kills an infant. Do not argue about the procedure, the partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Mr. Speaker, I urge my colleagues to see past the smoke screen that has been created by the abortion lobby. Again, America is too good to support infanticide.

In real medical practice, “viability” begins at 23 weeks, when the baby’s lung development is sufficient to allow survival in about one case in four. But late-term abortionists often have their own idiosyncratic notions of when “viability” occurs, which may have no relationship to neonatal medicine or to the babies’ actual survival prospects.

In short, the Hoyer-Greenwood bill does not “restrict” abortions after viability, nor does it “restrict” third-trimester abortions. Indeed, the Hoyer measure would be an “empowerment” of abortionists to perform third-trimester abortions with complete impunity.

Under the Hoyer-Greenwood measure, Congress would confer on the abortionist himself explicit authority to judge, by his own standards and immune from review by any other authority: (1) what “viability” means, and (2) whether an abortion would prevent “serious” mental health “consequences.” Further, Mr. Hoyer’s own interpretation of “mental health” is not limited to women who are, say, severely psychotic. Rather, Mr. Hoyer’s “severely psychotic” or “psychological trauma” covers “psychological trauma.” Legally, the language is all-encompassing.

Moreover, under the Hoyer-Greenwood measure, the abortionist himself decides what “viability” means. It is like Congress passing a bill to “ban” so-called “assault weapons,” with a provision to allow each gundealer to define “assault weapon.” The requirement is that “the regulation does not ‘abolish’ the abortionist; rather, it empowers the abortionist to regulate himself.”

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Thus, under the Hoyer-Greenwood bill, it is impossible for an abortionist to perform an “illegal” third-trimester abortion, because he alone decides what is legal. Such a law would be a mere facade—it would not prevent a single partial-birth abortion, nor would it prevent a single third-trimester abortion.

For further documentation on partial-birth abortions, the Partial-Birth Abortion Ban Act, and the Clinton-Hoyer-Daschle “phony protections,” contact the National Right to Life Committee, 1100 17th St., NW, Suite 410, (202) 626-8200, fax (202) 347-3669, or see the NRLC Homepage at www.nrlc.org.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK] the ranking member of the Committee on the Judiciary.
health is too vague. Health could mean severe mental health problems. We want to rule that out.

But what they do not say is that they do not only want to rule out mental health, which seems to be a valid consideration, they would demand that we avoid long-term physical damage to the mother, then the mother must incur that damage and not only that, we in Congress will decide that the mother must incur that damage.

I think the failure to allow a vote on serious physical health adverse consequence is in the first place deprives them the right to argue about mental health because they will not allow any health requirement.

We are not talking about whether or not you have an abortion at all but about mental health. What they are trying to do is force a vote which would, and let us be very clear, the vote would make it impossible for a doctor to even try to show that it was necessary to use this procedure to avoid serious long-term physical damage.

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

Mr. FRANK of Massachusetts. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, I think the point is there is not ever a case, never a case where this procedure is needed to protect the life of a woman.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman has made his point.

Let me say this, if in fact Members were confident of that, then the amendment would be harmless because this bill does not say, I do not like this bill, but I am dealing with the framework, the bill does not say, if in the opinion of the physician, it says you can have such an exception for life if it is necessary. My amendment tracks that language. My amendment says, the doctor would have to show that it was necessary to prevent long-term physical damage.

The gentleman at the microphone, a doctor, is convinced that never, ever, ever in the whole history of the world would it be physically possible. That is a judgment he is qualified to make. But I do not believe we as a Congress ought to legislate that it is never possible. The fact is that if it is never possible, the exception will not be a very large one because it is not a subjective amendment.

I will go back to what the chairman of the full committee said, as I said, a man of great integrity, he said, if there is a choice between physical damage to the mother and any indication of physical damage, and the life of the fetus, even if we are talking about a fetus with the brain on the outside, as the gentlewoman from New York pointed out, that tragic situation, this would not be allowed.

I want to make it clear, I do not believe you should restrict into physical health in general, but here we have an unusual bill. This bill conceded by its sponsors does not try to stop abortions. It would allow all manner of abortion except this procedure.

Now, your mental health would be relevant, and it still would be as to whether or not you could have an abortion. A severely depressive situation would be a justification for an abortion. But if we are talking only about this procedure versus that procedure, then it seems to me it is relevant to talk only about physical. But again the assertion that it is never, ever going to be physical, and if we do not allow that, doctors who disagree, the doctors do disagree, the question is, Should the Congress adopt the view that it is never valid to try to avoid serious physical health damage to the mother if that means this particular abortion procedure?

That, I wanted to point out, is the amendment that they would not even let us vote on. That is the choice. I think it is unfortunately indicative of some Members who might rather have an issue to take to the country than a piece of legislation.

I believe the adoption of this legislation, of this amendment, even though I might not like it, could lead to a signed bill. The failure even to allow a vote on this insists on defeating it, it seems to me, shows a preference for an issue over a piece of legislation.

I thank my ranking member for yielding me the time.

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

Mr. COBURN. Mr. Speaker, I think it is important, first of all, having delivered greater than 3,100 babies and cared for over 10,000 women in my medical experience, I want to again reemphasize, there is no medical indication ever for this procedure.

To answer the gentleman from Massachusetts' question, why would you, if in fact there is a reason to do this procedure, why would you do it to a live baby? Why would not the doctor kill the baby first, which in fact is what they do.

The very false arguments, false arguments that are forwarded is that the baby, with the encephalocele or the externalized brain, the people that do this procedure actually kill the children first. There is no reason to use that as an argument. That sets up my second point.

This argument is about whether or not we are going to talk about the truth of the procedure. You will not find in any medical textbook, you will never find in any residency program where they teach doctors to care for women's health, you will never find where this procedure is taught or is shown as an indicated procedure. Why not? Very simple reasoning: It is not ever indicated. It is not indicated in the medical literature. It has been abhorred.

There was a statement earlier that said that the ACOG was worried about this because it had the potential of inhibiting. They said, they do not like this procedure either. What they said is the Congress dealing with these issues have the potential of inhibiting care. Potential is very much different than changing or affecting care.

We were told that this was done on a small number of babies and that it was always done or most always done on infants with severe deformities. That was an out and-out lie. I stood on this floor last year and said that was untrue. I will tell Members today, it is untrue. Absolutely, it was a question that this is ever needed to take care of a woman's health.

Second point, it was said that a woman's fertility can only be protected sometimes by using this. That is extreme and a completely different analysis. We are talking about a fetus with the possibility of a potential life. I think that ought to be protected.

I think we have heard arguments on the other side that suggested that this is opposition to abortion. That underlines the point that has been made here. This is not a bill about stopping abortions in any circumstances, mental health, whatever the reason. It is exactly the opposite of the truth. I think that ought to be clear.

I think we have heard arguments on the other side that suggested that this is opposition to abortion. That underlines the point that has been made here. This is not a bill about stopping abortions in any circumstances, mental health, whatever the reason. It is exactly the opposite of the truth. I think that ought to be clear.

I think that is a great distinction with the little difference. I think that it undercuts the arguments they have been making. I think people have been led to believe this was going to prevent late term abortion. We have the acknowledgment that it does not make any such thing and does not even try to.
Second, as to the medical argument, I do not think Congress ought to arbitrate disagreements among doctors. There are doctors who have said they would find this procedure useful in some particular circumstances. For Congress to legislate that it will never be useful physically to use this particular procedure rather than another is, it seems to me, a great overreach.

Again, I want to underline, as the gentleman from Oklahoma made clear, we are not talking about stopping abortions. We are not talking about stopping abortions even late in pregnancy. We are talking about dictating particular procedures to doctors even if they think the physical health of their patient would be better served otherwise.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on each side.

The SPEAKER pro tempore (Mr. MCINNIS). The gentleman from Michigan [Mr. CONYERS] has 34% minutes remaining, and the gentleman from Florida [Mr. CANADY] has 34% minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER], a member of the Committee on the Judiciary.

Mr. BUYER. Mr. Speaker, I rise in support of this measure to ban the partial-birth abortion procedure. The procedure is defined in the bill as the partial delivery of a living fetus which is then suctioned back into the womb to the completion of delivery. This is a particularly appalling procedure in which the difference between complete birth and abortion is a matter of a few inches in the birth canal.

The bill applies only to the procedure in which the living fetus is partially delivered prior to the abortion act being completed. There is the exception in the bill for the instances in which the life of the mother is at risk. It is amazing for me to listen to people here say we are not going to let Congress get involved in this issue. They should stay out of the operating room, when in fact Congress does get involved with prohibiting certain drugs to be used, overnight stays for mastectomy, prohibiting physician-assisted suicide.

We have got mandates. I heard a gentlewoman from New York standing here who is an advocate of the over-night stays on Medicaid births, and I agree with her. But yet she wants the Government to get involved in certain things but not certain things—drawing the line.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, I rise in strong opposition to this bill. Make no mistake about it, this vote with all the emotional rhetoric and the exaggerated testimony is a frontal attack on Roe versus Wade, plain and simple.

The majority leadership wants to do away with Roe, and this bill is the first step. So let us be honest about this. This bill, which the President vetoed last year, will outlaw medical technique which is rarely used but is sometimes required in extreme and tragic cases.

For example, when the life of the mother is in danger or a fetus is so malformed that it has no chance for survival. When a woman is forced to carry a malformed fetus to term, they are in danger of chronic hemorrhaging, permanent infertility or death.

Friends, I have a personal story. My life has been touched by these extreme and tragic cases. In the early 1900's, when my grandmother was in the late stages of her first pregnancy, a terrible complication arose. At a critical moment they knew that my grandmother would die unless a late-term abortion was performed. Because of my grandmother's life and health and because her life and health were saved, my mother was born a few years later. A late-term abortion made my life possible.

Let me read my colleagues a brief list of organizations that oppose this bill: The American College of Obstetricians and Gynecologists, the American Public Health Association, the American Nurses Association, the list goes on. Nurses oppose this bill because they see tragic cases like my grandparents all the time. They know that H.R. 1122 will cost women their lives or reproductive health.

The majority party in this House has proved time and again its resolve to make Roe versus Wade ring hollow for most American women. We cannot let this happen. Protect a woman's right to choose, protect women's lives and women's health, leave medical decisions up to the patient and the physician, not the Congress. Vote "no" on this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee, [Mr. BRYANT] a member of the Committee on the Judiciary.

Mr. BRYANT. Mr. Speaker, I guess we are going to make some choices on this particular procedure. I am fighting for every dollar to certainly take care of those children that have severe disabilities. I am on the Juvenile Task Force trying to protect the children that are alive. If we cannot take care of the children that are chosen to be born in this country, because women do want children, who are we to have the right to make that decision?

Further down the road we will have bills here that we are going to be voting on doctors' choice of saying what is good for a patient that has breast cancer, and yet here we stand making these choices.

No one wants to take a child's life. Nobody. Who are we to make a decision for that woman? We cannot make that decision for the woman. We are not in her shoes.

And as it seems we are going to make those choices, I am not even allowed to vote on the bill that would certainly take away late-term abortions. I am being forced to vote for a bill that I do not want. Those are the choices that I am being given here. I think that is terrible.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, during this debate we have heard a great deal about exceptions, about medical judgment and about statistics, I believe this debate goes much deeper. This debate searches out the soul of our country. It is ultimately a question of how we are willing to define ourselves as a civilization.

We must ask ourselves, are we so self-indulgent in our Nation that all
I agree that individuals should have the right to make decisions that affect their lives. I also strongly believe in the sanctity of life. If 80 percent of abortions in this country are elective, we have to reevaluate the value that our society places on human life.

If this decision is made in the case of rape or of incest, or if the mother's life is not in danger, then this is a selfish decision. At 10 weeks an unborn child's feet are perfectly formed. I asked my colleagues to think of an unborn child alive, whole, and in many cases can survive outside the womb.

A vote for House Resolution 1122 will protect children. A vote against House Resolution 1122 will end thousands of children's lives.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. DELAHUNT], a distinguished member of the Committee on the Judiciary.

Mr. DELAHUNT. Mr. Speaker, this legislation infringes on the constitutional right of a woman to elect a medical procedure which may, in the judgment of her physician, be the best means of preserving her life and her health. When one speaks about procedure, it is about women's lives.

At the Committee on the Judiciary markup I read into the record a portion of the testimony of Maureen Britell, a constituent of mine from Sandwich, MA. She is a woman of remarkable courage who came forward to tell her story because of her concern that the procedure performed on her would be illegal if this bill becomes law. She describes herself as a textbook case of why this legislation is dangerous.

Mrs. Britell discovered in the sixth month of her pregnancy that her unborn daughter had a fatal anomaly in which the fetal brain fails to develop. Her doctors advised her to induce labor immediately for the sake of her health. As a devout Catholic, she was extremely reluctant to do this, but ultimately decided, with the support of her family and her priest, to have the abortion.

During the delivery, the fetus became lodged in the birth canal. The doctors had to cut the umbilical cord, ending the baby's life in order to complete the delivery and avoid serious health consequences to Mrs. Britell.

I am going to vote "no" on this bill. I am going to vote for women, I am going to vote for doctors, and I encourage my colleagues to do the same.

Mr. CANADY of Florida. Mr. Speaker, I yield 3½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my good friend for yielding this time to me.

Mr. Speaker, the leadership of the pro-abortion movement are highly skilled and extraordinarily savvy in masking the violence and cruelty to baby girls and boys killed by abortion and the harmful effects to women. Nobody muddies the water like they do. That leadership has now been exposed once again by one of its own as a fraud.

And to think they almost got away with it again.

Mr. Fitzsimmons, the executive director of the National Coalition of Abortion Providers, has publicly confessed that he, "Lied through his teeth" when he told a TV interviewer, according to the New York Times, that partial-birth abortion was used rarely and only on women whose lives were in danger or whose fetuses were damaged.

It seems I heard a lot of my colleagues say that in the last debate on this matter. According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie and that in the vast majority of cases the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Mr. Fitzsimmons says that the abortion folks knew it, which means the whole pro-abortion gang deliberately tried to deceive us all and the Nation. And they almost got away with it.

Interestingly, he also said the anti-abortion people, the pro-lifers, we knew it as well, and we did, and we said it on the floor. Unfortunately, there were very few who listened when we pointed out these facts.

As a matter of fact, most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National...
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Republican Coalition for Choice. People for the American Way, Population Action International, Zero Population Growth and others who signed letters that went to my office and yours, one of them on October 25, 1995 that said, "This legal procedure is used in rare cases of less than 500 per year, and most often performed in the case of wanted pregnancies gone tragically wrong."

We know that is not true. It is a lie. We know that these groups have lied to us, and it is not the first time, Mr. Speaker, that these groups have lied to us.

Dr. Bernard Nathanson, the former abortionist who did thousands of abortions and one of the founders of NARAL, has said that lying and junk science were and continue to be commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson has said that in the early days they absolutely lied about maternal mortality, they lied about the number of illegal abortions, they lied and said that there is no link between abortion and breast cancer, and there is a link, and they lie about the so-called safety of abortion, and the big lie on partial-birth abortion has been exposed for everybody in this Chamber to see. The procedure is not rare. It is common. It is common, and it is used with devastating consequences on both the mother and on the babies.

Remember last year several of you took to the floor and said that anesthesia caused fetal demise. That falsehood was blown right out of the water as well as another big lie that was used by my friends on the other side of the aisle and on this side of the aisle and spoon fed to you in fact sheets and talking points by the pro-abortion lobby. The president of the American Society of Anesthesiologists, Dr. Norrie Ellison came forward and testified before the Senate Judiciary Committee on November 17, 1995 and said:

I believe this to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps lifesaving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus.

In my medical judgment, it would be necessary to give an anesthetic in the case of a medical emergency which is the case when the fetus is in a partial-birth abortion—to anesthetize the mother to such a degree as to place her own health in serious jeopardy.

I have not spoken with one anesthesiologist who agrees with Dr. McMahon's conclusion, and in my judgment, it is contrary to scientific fact. It simply must not be allowed to stand.

Remember all this when Planned Parenthood, which performs or refers for 230,000 abortions each year, lobbies you and plies you with talking points and fact sheets and only very rarely truth—even their ideological soulmates in the government and media should have serious doubts about these groups' credibility.

These same pro-abortion groups—many of which get huge Federal, State, and local government subsidies—also wrote us that, "lawmakers . . . have no place . . . in the operating room."

But unless you construe an unborn baby to be a dangerous tumor, it is the abortionists who have turned the operating room into an execution chamber.

Like some deranged horror movie doctor who dresses well and looks respectable on the outside, the abortionist in these execution rooms paralyzes a helpless child, only to thrust a pair of scissors into the baby's head so a suction device can vacuum out his or her brains.

This madness. This is inhumane. And lawmakers should not shrink from our moral responsibility to stop it.

Mr. CONYERS. Mr. Speaker, would the gentleman from New Jersey be reminded that we do not call each other liars in the course of the debate?

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado [Ms. DEGETTE] and remind our membership that she is replacing Pat Schroeder, our distinguished ranking member on the Committee on the Judiciary.

Ms. DEGETTE. Mr. Speaker, I rise today to urge my colleagues to vote no on this resolution. There has been a great deal of distortion spread about this so-called partial-birth ban. First of all, this bill does not ban abortions, even post viability. It would still allow post viability abortions.

What it does do is outlaw an ill-defined medical procedure. It stops a procedure which is so vaguely defined that it is not even recognized in medical literature because partial-birth is not a medical term at all.

Tragically, deliberate confusion has driven this debate out of control to a point where rational people are ignoring the facts, their own principles and even their own hearts. We have just heard rhetoric today that the pro-choice community has distorted the facts on this procedure. Quite to the contrary. Neither side has concrete national or State statistics on the number of either D&E procedures that are performed.

Let us focus on what we do know and not on what we do not know. In 1992, the last year for which we have statistics, only .04 percent of all abortions even took place after 26 weeks when this procedure may become necessary. At this stage, every single one of these women were facing threats to their life or health or were carrying a fetus with severe abnormalities.

Mr. Speaker, for us to tell our colleagues to think rationally. To assume that any woman would choose this tragic procedure after carrying a healthy fetus for 8 or 9 months is offensive to the women who are facing this gruesome decision and it is offensive to all women.

I think if my colleagues had had the opportunity to hear Eileen Sullivan testify before the Committee on the Judiciary last week, they would understand how frightened and dangerous the proposed ban is to women.

Eileen is 1 of 11 children in an Irish Catholic family. She faced this tragedy in the eighth month. She stated to the committee: We wept. We discussed it. We thought rationally. We thought about how frightening it is, and in the end she, her husband, and her doctor made this tragic choice.

Eileen Sullivan chose this procedure as a last resort. She and her husband desperately wanted this baby, but the pregnancy had gone awry. To ban this procedure for women like Ms. Sullivan who face no other option will deprive them of their lives or their future ability to have children.

Let me be clear to those who are unsure of the serious ramifications of this bill and the meaning of their vote today. In the 24 years since Roe versus Wade, American women have never been in more danger of losing their right to choose their own health decisions than they are today.

Mr. CONYERS. Mr. Speaker, I urge my colleagues to vote against this bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. CHABOT].

Mr. CHABOT. Mr. Speaker, partial-birth abortions should not be a partisan issue. Democrats and Republicans who share a fundamental belief that life is precious are in agreement: The partial-birth abortion procedure is gruesome, it is hideous, and it is unnecessary. We believe that life should be protected, not cut short by a pair of scissors in the hands of an abortionist.

If there is one good thing that we can do this year, one thing that would save the lives of children who are being bruised and battered, it is the ban that would outlaw this terrible procedure. Members on both sides of the aisle know how atrocious it is, and we have all heard the grisly details, because we know the truth, that thousands of partial-birth abortions are performed each year on healthy mothers with healthy babies. We must act now to ban this terrible procedure.

Mr. Speaker, the choice is simple. We can either turn our backs and allow thousands of babies to be killed at the very moment of birth, or we can vote to preserve life, protect innocent children and ban partial-birth abortions once and for all. I urge passage of this important legislation.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, about 2 weeks ago, my colleagues and I went to Hershey, PA, to learn how we might disagree in a civilized manner, and I think this issue is challenging and testing the commitments we made at
that time to deal and disagree with each other in a way that is respectful and civilized. This is an issue that American people have very strong feelings about, and those strong feelings are shared by Members of this body.

I think the reality that the majority of us share is that there are differences about this in this country screaming.

I do not believe there is a single Member of this body, and I definitely include myself, who believes that abortion ought to be a procedure post viability, and to the extent that any of us have suggested otherwise, we should stop doing that because we do not believe that. That is not where our disagreement is.

There are those of us in this Chamber who believe, and oftentimes it is a matter of religious belief, that abortions should be made illegal in all cases. I am not among those who believe that. But it is a matter of religious principle that many people who do. The disagreement is over who should make the decision to terminate a pregnancy post viability, when a woman’s life is in danger or she is facing a serious health consequence, and then the consequences of that decision. That is who should make the decision in every case.

There has been a lot of discussion about numbers and who said what when. The issue is this, simply this: If there is even a single woman, and I know of one, Vickie Wilson, who needs access to this procedure in order to protect against a very serious health ramifications, then in my judgment she and her family, not the Congress of the United States, ought to make that decision.

That is what this issue is about. We have an alternative that would prohibit abortions post viability on an elective basis, I think we ought to adopt it. We ought to allow the woman and her family to decide when serious health consequences and her life are at risk.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Georgia [Mr. ADERHOLT].

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

Mr. ADERHOLT. Mr. Speaker, I am not here to reiterate what has already been said about the partial-birth abortion procedure. We all know it is a gruesome and horrific way to end a life. We have heard the testimony of Brenda Pratt Shafer, a pro-choice nurse, who wrote that witnessing this procedure was the “most horrible experience of my life,” and Mr. Ron Fitzsimmons admitting that we had been lied to about the frequency of abortions on healthy fetuses. We have been told that probability is used exclusively, in dire circumstances and only to protect the health and life of the mother. But it is just not true.

If we were to begin executing criminals who were still using scissors in the back of their skulls and then sucking out their brains until the body goes limp, we would have every human rights group in this country screaming.

I ask my colleagues to remember that over 400 doctors, including C. Everett Koop, the former Surgeon General, has stated that it is never medically necessary to have a partial-birth abortion. In fact, in many cases the health of the mother is at risk and jeopardized by this procedure.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CAPPS].

Mr. CAPPS. Mr. Speaker, today is the first day of spring, but I believe that we are continuing to be surrounded by darkness. I ask, Mr. Speaker, will the vote we are taking today help us reach what I believe are our two goals, to provide the dignity of a woman’s right to choose and to decrease and diminish the need for abortions? Sadly, this vote will not.

Does the discussion we are having today create more civility in Congress? It creates a Mr. Speaker that I do not know.

Abortion is a terribly tragic consequence, but I will take away the tragedy of abortion by banning it legislatively or by placing extreme restrictions on its availability. In my judgment, exceptions must always be sustained in the event that the life of the mother, the mother, or the future reproductive capacity of the mother, are placed in jeopardy.

I wish to add, Mr. Speaker, that those who are touting this issue as a religious issue, in my humble judgment, create more cautious, Search the New Testament through and through. There are no references to abortion. For that matter examine the teachings of Jesus and see if you can find one, even one comment on abortion and on that matter of choice, it is a matter of life. It is not simply a matter of choice. It is not simply a matter of choice, it is a matter of life. They know it, and American voters know it.


To: Clients and friends.

From: Lake Research.

Subject: Positioning on so-called “partial birth” abortion.

Many of you have asked for research on the best way to frame a vote against legislation to ban the so-called “partial birth” abortion procedure. We have developed the following guidelines from our research. We have done this fall that has touched on the issue. Overall, we believe that our strongest message is that late abortion is a medically necessary procedure to save the life and health of the mother. Do talk about the life and the health of mothers.

Do not argue about how often this procedure is used. Voters believe that even one time is too many.

Do not argue about the procedure. The partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Truer words were never spoken.

There is a very good reason for that. The strategy, including the precise words to use, are well laid out in a memorandum that lays out the blueprint for the pro-abortionist in this argument in order to disguise what is really at stake here. I read from a memo dated September 17, 1996, from Lake Research:

Do not talk about the health and condition of the fetus. Voters believe that this procedure, no matter what we call it, kills an infant.

Truer words were never spoken.

Do not argue about how often this procedure is used. Voters believe that even one time is too many.

Truer words were never spoken.

Do not argue about the procedure. The partial-birth procedure is gruesome. There is no way to make it pleasant to voters or even only distasteful.

Truer words were never spoken.

Yet those on the other side that keep arguing for this horrible, gruesome procedure would have us believe that it is just commonplace, that there is nothing wrong with it, that it is simply a matter of choice. It is not simply a matter of choice, it is a matter of life. They know it, and American voters know it.
start to talk about cases where the fetus is not viable, we risk sliding down a slippery slope that leads voters to conclude that we should risk subjective judgments about which cases are viable. However, being sure to use the language of "severely deformed fetuses" helps counter this, by making clear that the infant would not be viable, and voters are more likely to agree with us when we focus on cases close to being viable.

Do talk about this procedure as medically necessary. This communicates to voters that having this procedure is necessary, but not a decision that is made casually or lightly. On the contrary, these abortions happen only in the most tragic and dire of circumstances, and only when it is medically necessary. This language also implies that a doctor is involved, and voters believe that politicians should stay out of this decision.

Don't argue about how often this procedure is used. The absolute number of times this procedure is used is irrelevant. Voters believe that even one time is too many. What we can say is that we wish this procedure was never necessary, but that when it is necessary to save the life of the mother, it should not be illegal and it should not be something that involves politicians. Instead, it should be a decision made by a woman, her family, her doctor, and her clergy.

Do put a very human face on the issue. The other side would like voters to believe that this procedure is chosen by heartless and irresponsible people who are murdering children because it is more convenient. We know that this is not true. The women who undergo this procedure are often mothers with healthy children. It is something tragic that happens to families, and something they would have done almost anything to avoid.

President Clinton's veto message was effective because he chose to use language that America to the real women who have suffered through this.

Do argue about the procedure. The "partial-birth" procedure is gruesome. There is no way to make it pleasant to voters, or even only distasteful. Absolutely do not try to play poll-outaccuracies in the other side's numbers on you, it doesn't get us nowhere.

Note that the message used by many in the pro-choice community that this legislation is just against Roe versus Wade is a foot-in-the-door strategy towards the ultimate goal of eliminating reproductive rights, works only among pro-choice activists. It is not effective among voters broadly.

In addition, the message used by some that this bill is wrong because it is the first time that a specific medical procedure has been the subject of legislation is also ineffective among voters broadly. Remember that, no matter what we say, we cannot make voters think that late-term abortions are a good thing. The public is not enamored of large-scale legislation that makes it illegal is just the wrong thing to do.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the deputy whip of the majority, the gentleman from Georgia [Mr. Lewis].

Mr. LEWIS of Georgia. Mr. Speaker, this is not a debate that should be occurring in the Congress today. This is not a decision for us, for legislators, for policymakers, for doctors, for nurses, for nurses, or even a single woman of medicine, of science. I am not a doctor; I did not go to medical school. We have no business telling doctors how to practice medicine.

No good policy is an issue the government and policymakers. We are not men and women of medicine, of science. We are not men or women who can or cannot do with her body. Decisions about health, decisions about medicine, decisions about conscience, are not for us to make. These decisions should be left, churches, and synagogues of women facing these hard, wrenching decisions.

This is an issue between a woman and her family, a woman and her doctor, a woman and her conscience, a woman and her state or local, should tell a woman what she can or cannot do with her body. Decisions about health, decisions about medicine, decisions about conscience, are not for us to make. These decisions should be left to God, let's be clear. Let's be clear. The Gentleman from Florida [Mr. Weldon], we let us say no to this ill-conceived bill.

Mr. BARR of Georgia. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. Weldon] for his agreement.

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in strong support of this legislation. I would like to reference my comments to some comments made earlier about not lying or calling each other liars. And there has been a lot of debate today with claims that this procedure is rare and only used in the setting of fetal deformities, and there is an abundant amount of information out there that shows that it is not rare. We have one clinic that is reported doing 1,500 in one clinician, and it has an abundant evidence that in the vast majority of cases there are no fetal deformities. These are done on healthy infants, and the debate is involving are we going to respect the sanctity of the life of the child?

It is not a decision just between a woman and her God. There is a third party involved in this. In many cases it is a fully developed normal child, and to repeat over and over again that it is rare and to repeat over and over again that the children, the babies, have fetal deformities is just wrong.

Mr. CONYERS. Mr. Speaker, I yield myself 1 minute to ask the distinguished doctor and Member of Congress a question. If we add a doctor, the health exception, we would agree with the gentleman, and this bill could possibly become law. Would the gentleman have any objection to that?

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Florida.
Congress has no place in women's decisions and no place in women's tragedies.

Mr. CONYERS. Mr. Speaker, I yield the gentlewoman from New York [Ms. MALONEY] an additional 30 seconds and I ask her to yield to me.

Ms. MALONEY of New York. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. The gentlewoman could not be more correct. The Republican version of fact is that the constitutional protection of women's right to choose should be revoked by constitutional amendment. Here are bills that are pending in the Committee on the Judiciary for doing it, at least the legitimately correct way, through a constitutional amendment. But here they are coming through the back door again with CANADY's partial-birth abortion bill.

The SPEAKER pro tempore. The Chair advises that the gentleman from Michigan [Mr. CANADY] has 12 minutes remaining and the gentleman from Florida [Mr. CANADY] has 23 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 1/2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, my colleagues know that I do not support the Republican agenda on abortion or constitutional amendments to preclude it. I have fought for a woman's right to choose. But this is an extremist amendment. This is an extremist procedure, and it is not about a woman's right to choose; it is about a baby's right to life.

That is what this is about. We have protected a woman's right to choose. That is why more than 99 percent of all the abortions performed in this country are performed before the third trimester. But if we asked the doctors who performed this procedure, they will tell us it is not a vast majority that these procedures are performed on young, healthy women with healthy fetuses, and it is wrong.

I spoke to a group of junior high students this morning. They asked me about this issue. I told them my position. They disagreed, and one of the women, young girls; these were 13- and 14-year-old girls; she said "But if a girl has a baby and then she decides when that baby is almost due to be delivered that she has a lot of other things in her life and the baby is going to get in her way?" Hard to understand, but hard to sanction, hard to support. The fact is that we discredit the credibility of the pro-choice movement, the right of a woman to control her life when we support this kind of extremist position.

I support this bill. The Democratic Party and the pro-choice movement ought to support it.

Mr. Speaker, I have been committed throughout my career to making reproductive choice a right for women as proscribed by the Supreme Court of the United States. I have fought to uphold the principle that no government should tell women that such an important decision is not her own.

And this is what the Supreme Court has said repeatedly. They said in Roe versus Wade that the Government has no right to force a woman to have an abortion in the first trimester of pregnancy. In the second trimester they said that the Government may make some restrictions and in the third they may restrict it entirely except to save her life or health.

With advances in medical technology the Supreme Court updated this decision. In 1992 they reformed the trimester framework in deciding Casey versus Planned Parenthood and said that States may make restrictions only after fetal viability. Recent studies suggest that this occurs around the 24th week of gestation. The procedure in this bill defined as partial-birth abortion is not a procedure protected by the Supreme Court. It occurs after fetal viability, and despite the lack of recorded information as to its prevalence, recent revelations of several members of the pro-choice community led us to think it occurs on normal fetuses and healthy mothers.

According to the Center for Disease Control, only 1.5 percent of all abortions performed in the United States are performed after 21 weeks gestation. This argument over the number of times these procedures is irrelevant. This procedure should not be performed on healthy viable fetuses and healthy mothers. Even if it is only once a year, but certainly not 5,000 times a year.

Let me address briefly the controversy surrounding Ron Fitzsimmons, the executive director of the National Coalition of Abortion Providers.

Mr. Fitzsimmons is a constituent of mine, and I have been acquainted with him for many years.

Mr. Fitzsimmons has been the object of criticism from many within the pro-choice community because he made the decision to confirm what had already been reported in the Washington Post and other publications. This was that late term abortions were being performed more and more and that they were being performed on normal fetuses. He also confirmed that these facts were plainly inconsistent with previous statements he made.

But this episode is not about Ron Fitzsimmons. It is about the obligation of the pro-choice movement to be candid and forthcoming to members of the public, the President, and Members of this House. I hope that the pro-choice community will learn from this episode and use it as an occasion to re-channel its efforts toward a reaffirmation of the truth in public discourse and a reasonable sense of balance between the freedom to choose and taking responsibility for our actions.

Mr. CONYERS. Mr. Speaker, I reserve the balance of our time. We have a lot less time than the gentleman from Florida [Mr. CANADY].

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

Mr. POSHARD. Mr. Speaker, those of us who are pro-life are concerned about the health of the mother, and I believe those in this body who are pro-choice are concerned about the life of the child. We cannot reduce this debate to simple accusations which demagog rather than try to embrace the whole of our separate concerns, whichever side of this debate on which we fall. The dividing line here is the exception of health of the mother, which some members want to incorporate into the bill. No one argues about the need to save the life of the mother.

I have listened to statements by the AMA and Dr. Koop, and I would like to offer a statement by Dr. Bernard Nathanson who has dedicated his part of his professional life dealing with these issues. Dr. Nathanson, when he made this statement, was a visiting scholar at the Center for Clinical and Research Ethics at Vanderbilt University. He says and I quote:

With respect to late-term abortions for women who suffer serious health consequences as a result of the pregnancy, let me assure you that this operation, partial-birth abortion, is so fraught with significant surgical hazards and complications that it is more likely to tip the health scales and kill the pregnant woman than it is to save her life. As the hazards and complications of the procedure, I have yet to see in the conventional peer review medical literature a well-controlled, thoroughly documented study of the procedure in question.

But given my own extensive experience with abortion, I would venture with reasonable certainty that the short- and long-term consequences of this procedure are, to be charitable, formidable.

Mr. Speaker, I support this bill and I feel it offers the protection necessary for vulnerable children who have no voice in this matter.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. INGLIS], a member of the Committee on the Judiciary.

Mr. INGLIS of South Carolina. Mr. Speaker, I thank the gentleman for yielding to me.

I am particularly happy to follow the two colleagues that have just spoken, because I think that it shows that this truly is an issue on which Republicans and Democrats can agree, and particularly it shows that even people like the gentleman from Virginia [Mr. MORAN], who is a pro-choice Member, see this procedure as on the other side of the acceptable line. I think it is very nice to follow both of my colleagues.

Mr. Speaker, I insert in the Record an article from the Sunday Record that talks about some of the facts of this procedure and some of the implications of it. I think it is very important that we speak the truth here and that we get to the bottom of this.

Basically, what we are talking about is a procedure that I believe, and I hope most of our colleagues believe, should not be countenanced in a civilized society. It is something really that we cannot countenance in a civilized society, and therefore something that I hope we can all vote, Republicans and Democrats and yes, even some pro-choice Members, can vote to ban today.

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March 20, 1997
H1214
March 20, 1997

The article referred to is as follows:

[From the Inglis, SC, Sunday Record, Sept. 15, 1996]

Review and Outlook: The Facts on Partial-Birth Abortion

(By Ruth Padawer)

Even by the highly emotional standards of the antiabortion rhetoric on what partial-birth abortions have become is about 500 nationwide. The number of intact cases in the second and third trimesters is about 500 nationwide. The National Abortion and Reproductive Rights Action League says “450 to 600” are done annually.

But those estimates are belied by reports from abortion professionals who use the method. Doctors at Metropolitan Medical in Englewood estimate that their clinic alone performs 3,000 abortions a year on fetuses between 16 and 24 weeks. The earliest point at which this method can be used, according to estimates by the Alan Guttmacher Institute of New York City, is between 20 and 24 weeks, of which at least half are by intact dilation and evacuation. They are the only physicians in the state authorized to perform abortions that late, according to the Center for Disease Control, which governs physicians’ practice.

The physicians’ estimates jibe with state figures from the federal Centers for Disease Control, where data on the number of abortions performed varies.

“I always try an intact D&E first,” said a Metropolitan Medical gynecologist, who, like every other provider interviewed for this article, spoke on condition of anonymity for fear of retribution. If the fetus isn’t breech, or if the cervix isn’t dilated enough, providers switch to traditional, or “classic,” D&E—in utero dismemberment.

Another metropolitan area doctor who works outside New Jersey said he does about 20 third-trimester abortions a year of which half are intact D&E. The doctor, who is also a professor at two prestigious teaching hospitals, compared teaching intact D&E since 1981, and he said he knows of two former students on Long Island and two in New York City who use the procedure. “I do an intact D&E whenever I can, because it’s less traumatic to the baby, that would be defensible because 30-week fetuses have been aborted frequently by this method,” said the doctor, whose name was not identified, even by an expansive definition.

WHY IT’S DONE

Abortion rights advocates have consistently argued that intact D&Es are used under only the most compelling circumstances. In 1996, the Planned Parenthood Federation of America issued a press release asserting that the procedure “is extremely rare and done only in cases when the woman’s life is in danger due to extreme fetal abnormality.”

In February, the National Abortion Federation issued a release saying, “This procedure is most often performed on fetuses who are carriers of genetic or metabolic disorders.”

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The bishops’ spokeswoman condemned the procedure, which women have had less-than-compelling reasons for. “We have an occasional occasional abortion, it’s a minuscule amount,” said one of the doctors at Metropolitan Medical, an assessment confirmed by another doctor there. “Most are Medicaid patients, black and white, and most are for elective, not medical, reasons: people who didn’t realize, one way or another, how far along they were. Most are teenagers.”

The physician who teaches said: “In my private practice, 90 to 95 percent are medical, but that is not just an obstetrician, mostly for teenagers.”

The third trimester of pregnancy, at which abortions are performed, is about 26 weeks, according to the latest figures from Guttmacher. Physicians who use the procedure say the vast majority are done in the second trimester, prior to fetal viability, generally thought to be 24 weeks. Full term is 40 weeks.

Right to Life legislative director Douglas Johnson denied that his group had focused on third-trimester abortions, adding, “Even if there were physicians who did it, our opponents would insist that they were not doing it, even by an expansive definition.”

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cancer and needs chemo. But in the population I see at the teaching hospitals, which is mostly a clinic population, many, many fewer are medically indicated.

Even the Abortion Federation's two prominent providers of intact D&E have shown documents that publicly contradict the federation's claims.

In a presentation at an Abortion Federation seminar, Haskell described intact D&E in detail and said he routinely used it on patients 20 to 24 weeks pregnant. Haskell went on to tell the American Medical News, the official paper of the American Medical Association, that 80 percent of those abortions were "purely elective." The federation's other leading provider, Dr. McMahon, released a chart to the House Judiciary Committee listing "depression" as the most common maternal reason for his late-term debate. The other leading provider, the father of the "elective" claim, said that doctors would return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack is, that now abortion foes have America's attention.

Congress is expected to call for the override vote this week, once again turning up the heat on Clinton, barely seven weeks from the election. Legislation from both camps predict that the vote in the House will be close. If the override succeeds—a two-thirds majority is required—the measure will be sent to the Senate, where an override is less likely, given that the initial bill passed by 54 to 44, well short of the 67 votes needed.

WHERE LOBBYING HAS LEFT US

Dr. McMahon, released a chart to the House of Representatives showing that 80 percent of those abortions were for severe medical reasons. Even using Saporta's figures, simple math shows 56 of McMahon's abortions and 100 of Haskell's each year were not associated with medical indications. The reasons were only to doctors performing the procedure, more than 30 percent of their cases were not associated with health concerns.

Ask that question, Saporta said the pro-choice movement focused on the compelling cases because those were the majority of McMahon's practice, which was mostly medical abortions. No abortions, Saporta said, "When the Catholic bishops and Right to Life debate us on TV and radio, they say a woman at 40 weeks can walk in and give birth if she and the baby are healthy." Saporta said that claim is not true. "That has been their focus, and we've been playing defense ever since."

Doctor who only on the procedure say the way the debate has been framed obscures what they believe is the real issue. Banning the partial-birth method will not reduce the number of abortions performed. Instead, it will remove one of the safest options for mid-pregnancy termination.

"Look, abortion is abortion. Does it really matter if a fetus lives inside the womb or in a petri dish?" said one of the five doctors who regularly uses the method at Metropolitan Medical in Englewood. "What matters is the woman and the procedure. He said, is safest for abortion patients 20 weeks pregnant or more. There is less risk of uterine perforation from sharp broken bone and other destructive instruments, one reason the American College of Obstetricians and Gynecologists has opposed the ban.

Pro-choice activists have emphasized that nine of 10 abortions in the United States occur in the first trimester, and that these have nothing to do with the procedure abortion foetus have drawn so much attention to. That's true, physicians say, but it dunks the broader issue.

By highlighting the tragic Coreen Costello, they say, pro-choice forces have obscured the fact that criminalizing intact D&E would jettison the safest abortion not only for women like Costello, but for the far more common patient: a woman 45 to 5 months' pregnant, with a fetal complication reason—but still a legal right—to abort.

That strategy is no surprise, given Americans' queasiness about later-term abortions. Why two prominent late-term doctors favor a second-trimester abortion when anguishing examples like Costello's can more compellingly make the case for intact D&E?

Two prominent providers say they could inject poison into the amniotic fluid or fetal heart to induce death in utero, but that adds another level of complication and risk to the pregnant woman. Or they could use induction—poisoning the fetus and then "delivering" it dead after 20 weeks. That method is clearly more dangerous, and if it doesn't work the patient must have a Caesarean section, major surgery with far more risks.

From some, the response is that doctors will return to classic D&Es, arguably a far more gruesome method than the one currently under fire. And, pro-choice advocates now wonder how safe from attack is, that now abortion foes have America's attention.

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[FROM THE MANAGEMENT OF METROPOLITAN MEDICAL ASSOCIATES, ENGLEWOOD, SEPT. 23]

ABORTION NUMBERS QUESTIONED

We, the physicians and administration of Metropolitan Medical Associates, are deeply concerned about the inaccuracies in the article printed on Sept. 15, titled, "The facts on partial-birth abortions."

The article incorrectly asserts that MMA "performs 3,000 abortions a year on fetuses between 20 and 24 weeks, of which at least half are by intact dilation and evacuation."

This claim is false, as is shown in reports to the New Jersey Department of Health and documents submitted semiannually to the state Board of Medical Examiners. These statistics show that the total annual number of abortions for the years 1992 and 1993, which are about 4,000, with the majority of these procedures being between 12 and 16 weeks.

The intact D&E procedure (erroneously labeled by abortion opponents as "partial-birth abortion") is only used in a small percentage of cases between 20 and 24 weeks. The procedure is safer for the woman, and this is a misrepresentation of the information provided to the reporter. Consistent with Roe vs. Wade and state law, we do not record a specific reason for having an abortion. However, all procedures for our Medicaid patients are certified as medically necessary, as required by the New Jersey Department of Human Services.

Because of the sensitive and controversial nature of the abortion issue, we feel that it is critically important to set the record straight.

[From the Inglis, SC, Record, Oct. 2, 1996]

LETTERS TO THE EDITOR

The Record's response:

The editorial, abortion providers say they could inject poison into the amniotic fluid or fetal heart to induce death...
Mr. SALMON. Mr. Speaker, I am not going to stand up here and rant and rave or accuse the other side of being evil-minded, because frankly, I think there are a lot of people over there that strongly believe in their position, but I believe they are really misguided. I think that the majority of the people over there cannot stand up for the most innocent of life. We have detailed how gruesome and how disgusting this procedure is. Many would stand up when we talk about China, when a baby girl has her back snapped when she is born because the people want a baby boy instead of a baby girl and they have a one-child policy. We say that is disgusting. We say that is infanticide. If this is not infanticide, then what is it? I was simply to say that our God goes to the outer edges of our universe and weeps bitterly that a people could do this to the most innocent in a society. Let us stand up for all life, be it the life of the mother or the life of the baby. Let us stand up for all life, be it the life of the mother or the life of the baby. Let us stand up for all life, be it the life of the mother or the life of the baby.

We have asked our colleagues on the other side of the aisle to stand up for the most innocent of life. Ms. JACKSON-LEE of Texas, a distinguished member of the Committee on the Judiciary, asked us to stand up for all life. (Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very important that we take this solemn occasion in the manner that it should be taken, and that is that we are discussing life and death and we are discussing the opportunity for the future life and the fertility of a woman.

I think that this discussion also suggests very clearly that there is much disagreement with how we preserve the life and health of the mother that then preserves the life and health of the child.

Doctors disagree, and therefore, it is important to note that we here on this floor should not take it upon ourselves to interfere with a very important, delicate and personal decision. The American College of Gynecologists and Obstetricians says that the best and the most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, can only be decided by the doctor, in consultation with the patient, based upon the woman’s particular circumstance.

Why are the Republicans trying to first put upon the floor of the House this bill, and then replacing it with last term’s bill, and refuse to allow any consideration of real legislation that would preserve the health of the mother in a case of partial birth abortion? In that decision every woman should have the choice to determine their fate. In her wisdom, Solomon knew that the women should be placed in charge of their own lives. Mr. BYRD, and others in Congress should accept the Greenwood-Hoyer compromise amendment that would protect the health and life of the mother. I intend to vote for that legislation today. With such an exception this legislation would have been made law last year and many of these procedures could have been averted. I believe Republicans do not want bipartisan legislation to save lives.

I believe that anti-abortion activists are truly committed to preserving the sanctity of life. However, those Members in their wisdom, should accept the Greenwood-Hoyer compromise amendment that would protect the health and life of the mother. I intend to vote for that legislation today. With such an exception this legislation would have been made law last year and many of these procedures could have been averted. I believe Republicans do not want bipartisan legislation to save lives.

In addition, we cannot ignore the fact that H.R. 1122 is unconstitutional. We in Congress should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade. In Roe the Supreme Court held that women had a privacy interest in deciding to have an abortion. This right is qualified, however, and so most be balanced against the State’s interest in protecting prenatal life. The Roe Court determined that post-viability the State has a compelling interest in protecting prenatal life. This is therefore inconsistent with the principles outlined in Roe and Casey, which has been reaffirmed by every subsequent Supreme Court decision on this issue, and so is unconstitutional.

I ask my colleagues to vote against H.R. 1122 and in so doing signal their commitment to preserving the health and future fertility of American women and to upholding the U.S. Constitution.

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

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

Mrs. CUBIN. Mr. Speaker, I thank the gentleman from Florida [Mr. CANADY] for his hard work and diligence on this issue.

I am proud to say that I am an original cosponsor of the ban on partial-
birth abortions. This bill, which is identical to last year's legislation, prohibits medical doctors who perform abortions from utilizing partial-birth abortion procedures.

Mr. Speaker, I am married to a physician, and we have a lot of conversation throughout our married life and just through our intimate lives. Taking a life, a viable life, at any stage is not acceptable. One time my son said to me, "Mom, you know, I do not believe there is such a thing as an unwanted child, but that is such a thing as unwanted pregnancies, but not an unwanted child, and especially when that life could be viable outside the womb and when the life could go on.

Mr. Speaker, H.R. 929 imposes fines or potential imprisonment of up to 2 years for abortionists who perform partial-birth abortion, and it allows the father or maternal grandparents to file a civil lawsuit against the doctor for monetary damages. The bill, however, does include an exception to save the life of the mother.

Since the beginning of the debate over this legislation, it has become evident that there is still a great deal of misinformation about how often this procedure is actually utilized. In the last few weeks, much has been made of the abortion rights lobbyist, Ron Fitzsimmons, who admitted, and I quote, "lying through his teeth" when he said the procedure was rare and invoked almost exclusively to protect the mother's health. He was lying through his teeth when he said that.

A national organization of over 400 physicians who specialize in obstetrics, gynecology, fetal medicine, and pediatrics recently stated that, "Never is the partial-birth procedure medically indicated. Rather, such infants are regularly and safely delivered alive with no threat to the mother's health or fertility.

Mr. Speaker, I ask my colleagues to support this bill.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, we hear a lot about the life of the mother, but that is in this bill, right here. It says, "it is necessary to save the life of a mother whose life is endangered by a physical disorder, illness or injury." Mr. Speaker, in the name of compassion, in the name of mercy, what about the choice of the unborn child? Hear her scream, hear his scream. How can we continue to defend something as gruesome as this? Have mercy on this body.

Ms. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding time to me. Mr. Speaker, the results of this debate are a foregone conclusion, yet this matter is too serious to have been treated as a sideshow, as a setup. There was a better way.

We have questions that need answering: Why a bill that is unconstitutional on its face in defiance of Roe versus Wade? Why a bill that was never considered in committee? Why a bill that trades off mother for fetus? Why a bill that is sure to be vetoed? Why a bill that makes a tragic necessity for a late-term abortion even more tragic? This is a procedure that is always to be treated seriously. It deserved the bipartisan solution that was indeed available. We have compounded the tragedy of late-term abortions here today.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. MICA].

Mr. MICA. Mr. Speaker, for many of us as Christians we begin to celebrate Easter this week. Easter, for our faith, represents the triumph of life over death. This legislation today could represent the triumph of life over death for thousands of the unborn.

How ironic it is for our President to surround himself with children and many photo opportunities, and submit legislation to Congress to provide our future; dreams which all shattered when a baby girl. She turned 2 years old last month which in some situations is the least horrific normalities. She is 2 weeks that followed were among the longest of my life. At one point I awoke from a nightmare sobbing. Ten days later, my husband came home early from work. He sat down on our bed and told me that our doctor had called him and the news was not good. He burst into tears. We met with our Rabbi and a genetics counselor from the hospital. Our baby had a very rare chromosomal abnormality, so rare it did not have a name. The genetic counselor came to our home with all the case studies she could find relating to this disorder, fewer than ten. Perhaps there were so few because most died young or died in utero.

On December 7, 1992, I chose to end this much-desired and sought-after pregnancy. More than 4 years later I still mourn the loss of this child, a little girl. I know that our decision was the right one for all concerned and I am thankful that we have the right to make choices. I feel certain it was a decision that no woman wants to make, but one which in some situations is the least horrific of truly horrendous alternatives.

After more struggles with infertility, we were finally blessed with a wonderful, happy baby girl. She turned 2 years old last month and has been an endless source of joy and comfort to us... that attenuating circumstances that require truly horrible measures to be taken. Thank you. I will continue in your efforts to keep abortion legal, even late in pregnancy.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. RYUN].

Mr. RYUN. Mr. Speaker, the Lord has blessed us with 4 members of our pre-school children. When they were babies I held them, I fed them, I took care of them, and I even helped change their diapers. I knew then that if anyone would really try and hurt them, that I would do whatever I could to defend them. These members would come here with their children.

This is the time to stand up and to defend the innocent, the children of our
country. We in this Chamber have been elected to defend the truths of our country, one of which is we believe in the rights of the individual, the pursuit of life and liberty, and the pursuit of happiness. 

Have we as citizens allowed our minds and hearts to be seared in such a way that the crushing of the skull that was described earlier and the sucking out of the brains of a head that is still in the mother’s womb is really be considered a defensible act? This is a gruesome act, and if Members wish when they talk about that, then they should. How can we allow this to continue? We must stop this. A Nation cannot long endure which condones participation in such brutality and uncivilized acts.

Mr. Speaker, I challenge my colleagues that are here today and will vote later that we end this uncivilized and brutal act of partial-birth abortions.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from New York, JERRY NADLER, the ranking member of our subcommittee.

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

Mr. NADLER. Mr. Speaker, this bill says very clearly that a fetus is more important than the physical health of the mother. But this bill is not about abortion. We all have different views. Some people view abortion as murder. Some have even suggested that a woman who has had a fight with her boyfriend might be a late-term abortion. That is a vile slander against every woman in America today. In fact, women who choose to have abortions do not do so lightly. Some Members of Congress may not see women as rational and moral individuals, but the Constitution still recognizes their moral and individual autonomy. That is why it prohibits governmental intrusions like this bill.

But this is not about abortion. It is about electoral politics. How dare a bunch of Washington politicians presume to dictate to American women faced with a difficult situation—in many cases, with a fetus that will not be able to survive and grow—children without brains, or with brains growing on the outside of their heads—women who are faced with the prospect of death or sterility from a ruptured uterus if they don’t have this procedure. These are wrenching, life-altering moments. These women have in many instances named their babies, furnished nurseries, notified grandparents, and then, in an instant, their dreams are wiped out by tragedy.

Do we really want to make this situation the subject of a criminal prosecution or a law suit? Do we really want to see doctors in handcuffs? Do we really want to put doctors behind bars for doing what they believe is in the best interest of their patients? Do we really want to make women and their medical providers go to court to prove in lengthy litigation that death was the only alternative? Could this happen in any event? Can this always be proved, and if so, how certain do we have to be? Is a 50 percent chance of death tolerable under this law? Twenty-five percent? And a threat to a woman’s health or to her ability to try to have more children doesn’t even rate consideration in this bill.

By refusing to add an exception in order to stop late-term abortions.

Will it have exceptions? Yes, it will. I think the overwhelming majority of Americans support exceptions. In fact, the gentleman from Illinois [Mr. HYDE] supports exceptions, rape and incest. As I have pointed out to the Committee.

Mr. Speaker, I have not listened to all of the debate, but I know the substance of I think all the debate. There has been some discussion about dishonesty, misrepresentation that existed on the pro-choice side, and I suggest to Members that exists on the pro-life side of this issue.

Mr. Speaker, I will oppose this bill, and will offer at the appropriate time legislation which will in fact speak to stopping late-term abortions.

Mr. CANADY of Florida. Mr. Speaker, I reserve the balance of my time for the purpose of closing.
The gentleman's time has expired. The gentleman from Michigan [Mr. Conyers] has 1 minute remaining.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas, Mr. Edwards.

The SPEAKER pro tempore. The gentleman from Texas [Mr. Edwards] is recognized for 1 minute.

Mr. EDWARDS. Mr. Speaker, when I first voted on this bill in November of 1995, I agonized about it, because my wife was pregnant, 8 months pregnant, with our first child, a child that I had prayed and hoped for.

Fortunately, that baby was born and is today the joy of our life. But I voted against this bill at that time because I felt no one, no one in this House had the right to tell my wife or me what we should do if her health or her fertility had been at risk.

Today I am voting against this bill with another person in mind, the child by the name of Nicholas Stella, born 1 week before our blessed first child came into this world. Had this bill been law 3 years ago, Nicholas Stella would not be alive today. What right does any Member of this House to tell Vicky Stella that she should have been denied the joy of having her son, just as we have had the joy, so many of us, of having children ourselves?

I am voting pro-life. I am voting for the lives of Nicholas Stella and all the other children who would not be alive today had this bill been the law of the land.

Mr. CANADY of Florida. Mr. Speaker, I am pleased to yield the balance of my time to the gentleman from Illinois [Mr. Hyde], chairman of the Committee on the Judiciary.

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

Mr. HYDE. Mr. Speaker, I beg of my colleagues the courtesy of not asking me to yield. I do not intend to yield. I have much to say and little time to say it in.

Mr. Speaker, when you have a theme as large and as profound as ours is today, you need the help of great literature to describe the magnitude of the horror of partial-birth abortion. I suppose Edgar Allen Poe could describe it, but it is startling how the words of the ghost of Hamlet's father seem to anticipate our debate today.

I could a tale unfold, whose lightest word would harrow up thy soul, freeze thy young blood; make thy two eyes, like stars, start from their spheres; thy knotted and compressed locks to part; and each particular hair to stand on end, like quills upon the fretful porcupine.

There is no Member of this House who does not know in excruciating detail what is done to a human being in a partial-birth abortion. A living human creature is brought to the threshold of birth. She is four-fifths born, her tiny arms and legs squirming and struggling to live. Her skull is punctured. The wound is deliberately widened. Her brains are sucked out. The remains of the deceased are extracted. In the words of the abortion lobby, the baby undergoes demise.

What a creative addition to the lexicon of dehumanization if calling an infant a fetus helps you, if calling this obscene act intact dilation and evacuation assuages your conscience, by all means do so. Anything is better than a troubling conscience. The purpose of this procedure is the baby, before, of course, the abortionist plunges his scissors, his assault weapon, into her tiny neck. Then she is not very intact.

Something was rotten in the state of Denmark in Shakespeare's great drama. Something is rotten in the United States when this barbarity is not only legally sanctioned but declared a fundamental constitutional right.

While we are on Hamlet, who can forget the most famous question in all literature: "To be or not to be?" Every abortion asks that question, but forbids an answer from the tiny defenseless victim we are struggling to live.

When this issue was debated in the last Congress, the President and the defenders of partial-birth abortion claimed that the procedure was, in the President's now familiar euphemism, rare, and that it was used only in times of grave medical necessity. All of us know now, as many of us knew then, that those claims were lies. They were lies. The executive director of the National Coalition of Abortion Providers admitted on national television that he and others in the pro-abortion camp simply flatly lied about the incidence of partial-birth abortion.

It is not the case that these abortions are rare. It is not the case that this procedure is used only reluctantly and in extremis. It is not the case that this procedure is used only in instances of medical emergency. Partial-birth abortion, infanticide in plain English, is business as usual in the abortion industry. That is what the executive director of the National Coalition of Abortion Providers told us.

Is this House prepared to defend the proposition that infanticide is a fundamental constitutional right? Partial-birth abortion is not about saving life. Partial-birth abortion is about killing. Killing is an old story in the human drama, fratricide scarred the first human family, according to Genesis, but the moral prohibition on killing is as old as the temptation to kill. Most of the familiar translations of the Bible render the commandment, Thou shalt not kill. A more accurate translation of the Hebrew text would read, Thou shalt not do murder. That is to say, Thou shalt not take a life without grave and imminent danger, without convenience or problem solving or economic benefit, nor trade a human life for any lesser value.

The commandment in the Decalogue against doing murder is not sectarian dogma. Its parallel is found in every moral code in human history. Why? Because it has been understood for millennia that the prohibition against wanton killing is the foundation of civilization.

There can be no civilized life in a society that sanctions wanton killing. There can be no civil society when the law makes the weak, the defenseless and the innocent vulnerable. There can be no real democracy if the law denies the sanctity of every human life. The founders of our Republic knew this. That is why they pledged their lives, their fortunes, their sacred honor to preserve a proposition that a human being has an inalienable right to life.

Our Constitution promises equal protection under the law. Our daily pledge is for liberty and justice for all. Where is the justice in partial-birth infanticide?

Over more than two centuries of our national history, we Americans have been a people who struggled to widen the circle of those for whom we acknowledge a community of interest. Slaves were freed, women were even franchised, civil rights and voting rights acts were passed. Our public spaces made accessible to the handicapped, Social Security mandated for the elderly, all in the name of widening the circle of inclusion and protection.

This great trajectory in our national experience, that of inclusion, has been shattered by Roe versus Wade and its progeny. By denying an entire class of human beings the protection of the laws, we have betrayed the best in our tradition. We have also put at risk every life which someone, some day, somehow might find inconvenient. "No man is an island," preached the Dean of St. Paul's in Elizabethan times. He also said, "Every man's death diminishes me, for I am involved in mankind."

We cannot today repair all the damage done to the fabric of our culture by Roe versus Wade. We cannot undo the injustice that has been done to 35 million tiny members of the human family who have been summarily killed since the Supreme Court, strip-mining the Constitution, discovered therein a fundamental right to abortion. But we can stop the barbarity of partial-birth abortion. We can stop it. We must stop it, and we diminish our own humanity if we fail.

Historians tell us we live in the bloodiest century in human history. Lenin, Stalin, Hitler, Mao, Pol Pot, the mountain of corpses reaches to the heavens, and hundreds of millions of innocents cry out for justice.

We cannot undo the horrors inflicted on the human spirit. We cannot repair the wounds already sustained by civilization. We can only say, never again.

But in saying never again, we commit ourselves to defend the sanctity of life. In saying no to the horrors of 20th century slaughter, we solemnly pledge...
not to do murder, because the honoring of that pledge is all that stands between us and the moral jungle.

Mr. Speaker, we have had enough of the killing. The constitutional fabric has been shredded by an unenumerated abortion license which, sad to say, includes the vicious cruelty of partial-birth abortion. The moral culture of our country is eroding when we tolerate a cruelty so great that its proponents do not even wish us to learn the truth about this procedure.

This Congress has been blatantly, willfully, maliciously lied to by proponents of the abortion license. Enough. Enough of the lies, enough of the cruelty, enough of the distortion of the Constitution. There is no constitutional right to commit this barbarity. That is what we are being asked to affirm.

In the name of humanity, let us do so, and in the words of St. Paul, “Now is the acceptable time.”

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCINNIS). The Chair would remind visitors in the gallery that they are not allowed to express approval or disapproval. The Chair asks that they respect that.

Mr. PICKERING. Mr. Speaker, several weeks ago, a national journalist asked, “What kind of nation are we that would allow a procedure known as the partial birth abortion?”

I am proud to be one of the original cosponsors of H.R. 929, the Partial-Birth Abortions Ban Act of 1997. Currently, thousands of these types of abortions are performed annually from the fifth and sixth months of pregnancy through the full term on healthy mothers carrying healthy babies—babies that have reached the point of viability.

The partial birth abortion is so gruesome, even some supporters of abortion are opposed to it. Senator DANIEL PATRICK MOYNIHAN refers to this heinous procedure as infanticide. In 1995, the American Medical Association’s Legislative Council—a panel consisting of 12 doctors—unanimously voted to recommend banning partial birth abortions. One of these doctors described the procedure as “basically repulsive.” More than 300 physicians and medical specialists joined former U.S. Surgeon General C. Everett Koop last year in saying that this procedure is never medically necessary to protect a mother’s life or her future fertility.

Mr. Speaker, it is unfortunate and disturbing that President Clinton, even when presented with overwhelming evidence, refuses to support a ban on partial birth abortions. Opponents of the ban on this type of abortion characterized the procedure, in previous congressional debates, as a rare technique seldom used for anything but protection of the life of the mother or in cases of extreme fetal abnormality. But then, Mr. Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, a pro-abortion group, admitted that he “lied through his teeth” last year when he said that this procedure is rare and only performed about 500 times a year under extreme circumstances. Mr. Fitzsimmons now says that thousands upon thousands of these procedures are performed every year, on primarily healthy women with healthy babies.

Mr. Speaker, I have four young children. During each of my wife’s pregnancies, modern technology allowed me to hear our babies’ heartbeats. Sonograms allowed me to see inside the womb as my children kicked and moved. I watched their heartbeats and counted the fingers and toes. In later stages, I touched and felt their feet inside my mother. These experiences presented clear and unmistakable evidence that there is life before birth.

Through recent technological advances, we now know many things about child development and birth. Sonograms and other technologies make it possible for all parents to hear, see, and touch our children before actual delivery. With this new knowledge, we cannot turn our backs on our responsibility to protect the lives of innocent children.

We must ask ourselves the same question as the journalist, “What kind of nation are we that would allow partial birth abortions?” An early observer of America, Alexis de Tocqueville, said “America is great because America is good.” If this is to continue to be true, we must not allow this nasty procedure that opponents and supporters of abortive alike refer to as infanticide.

Mr. Speaker, it’s time to call on our Nation’s conscience and the “better angels of our nature.” It’s time to stop partial birth abortions and pass this bill for our children. We are a better Nation than one that allows such practices to exist. We can start here to renew and reaffirm that we hold certain truths as self-evident—that life and liberty are inseparable and both should be held as sacred.

Ms. McCARTHY of Missouri. Mr. Speaker, when Congress considers issues as critical as those debated today involving the life and health of American women, public policy considerations should take precedence over partisan politics. I am disappointed that we were unable to engage in such a discussion on this difficult issue.

The procedural maneuvers of the majority party removed all hope of having meaningful consideration of the late term abortion issue. The original language proposed in H.R. 929 was dropped by the Rules Committee last night and the consideration of the bipartisan Hoyer-Greenwood measure prohibited. The Frank motion would have allowed the House to reflect further on language which would provide necessary safeguards for women who might have no other option but to use this procedure.

I firmly support the current law of the land regarding a woman’s right to privacy. I believe that viable pregnancies dictate more protection and that adopting the Frank language is a reasonable solution. Unfortunately, political gamesmanship by the Rules Committee last night is not what thoughtful policymakers who want to meaningfully address this issue.

I have wrestled with this difficult vote in terms of balancing my concern associated with this specific procedure and the need to observe the Roe decision which reflects the mainstream in Congress and in America. I will continue to work for a more thoughtful deliberation by the House of Representatives on this divisive issue.

Mr. Speaker, thank you for the opportunity to discuss this important subject.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel they should only be allowed when necessary to preserve the life of or prevent serious health consequences to the mother. The bill we are considering today, like the similar bill I opposed last year, does not protect a woman from serious threats to her health—from serious threats to her future ability to have children.

Unfortunately, the leadership did not allow us to consider an alternative today that does provide an exception to preserve the life of the mother or to prevent serious health consequences to the mother. I support the Greenwood-Hoyer legislation that would ban all late-term abortions—not just those considered “partial-birth” abortions in H.R. 1122—except in cases when necessary to preserve the life of the baby or to prevent serious health consequences to the mother, as required by the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I rise in earnest support of the Partial-Birth Abortion Ban Act. I thank the chair of the Constitution Subcommittee, Mr. CANDY, for yielding and for his dedication to this cause. It is regrettable the President vetoed this bill, but thankfully, Mr. CANDY, along with Chairman HYDE, have continued the fight and today we again have the opportunity to present our case to the American people and to appeal directly to the President to reconsider his misguided position.

The President’s veto of the Partial-Birth Abortion Ban Act is indefensible and his reason for vetoing the bill does not hold up under scrutiny. The President claims this abortion procedures is the “only way” for women with certain prenatal complications to avoid serious physical damage, including the ability to bear further children. If this is accurate, then why is a partial-birth abortion not taught in a single medical residency program anywhere in the United States? Why has no peer-reviewed medical research ever endorsed it?

The fact is a partial-birth abortion is never necessary to preserve the health or future fertility of the mother. However, you do not have to take my word for it. Former Surgeon General C. Everett Koop last year in saying that the President was “mislead by his medical advisors on what is fact and what is fiction in reference to late-term abortions.” Dr. Koop concluded that there was no way he could twist his mind to see that a partial-birth abortion is a partial-birth abortion not taught in a single medical residency program anywhere.

Unfortunately, the leadership did not allow us to consider an alternative today that does provide an exception to preserve the life of the mother or to prevent serious health consequences to the mother when she and her doctor believe that her health is in jeopardy.

This procedure should only be used in cases where there is a serious risk to a woman’s life or health, and I believe that H.R. 929
could have been drafted to allow a limited exception for those cases in which it is truly necessary.

Currently the 40 States—including Pennsylvania—that prohibit postviability abortions must provide exceptions for the life and health of the mother. Surely the supporters of H.R. 929 could have written exceptions that would prohibit the procedure in most cases but that would allow women and their physicians, in the most limited and serious of cases, access to a procedure that will preserve both the life and health of the woman involved.

I believe that H.R. 929 is inconsistent with Supreme Court precedent set forth in Roe versus Wade and upheld in Planned Parenthood versus Casey. Even those Justices who dissented in Roe asserted that life and health exceptions in abortion laws could not constitutionally be forbidden. Further, the Supreme Court has consistently held—in both Roe and Casey—that States cannot prohibit abortions before fetal viability. Because H.R. 929 does not provide an exception for threats to the mother's health, and because it prohibits abortions, I believe that the legislation is unconstitutional and would be declared so by the current Supreme Court.

I believe that H.R. 929 is a tragedy. It is a tragedy not only because of the terrible consequences it will have for women facing desperate circumstances, but also because of the manner in which the bill has been moved through the legislative process. The legislation's proponents fully realize the constitutional infirmities of H.R. 929 and they fully realize the likelihood that the Supreme Court will declare the legislation unconstitutional. Yet they have nevertheless persisted in refusing to incorporate changes in the legislation that would allow it to become law and thereby consistent with Supreme Court decisions. Because of the bill's supporters' insincerity, the good that could come from limiting the number of late-term abortions—with the appropriate constitutional protections—may never be realized. I can only conclude that this legislation is being exploited for political gain. That is a tragedy. For these reasons, I cannot support H.R. 929.

Mr. PORTMAN. Mr. Speaker, as an original cosponsor of the Partial-Birth Abortion Ban Act, I wish to express my support for outlawing the troublesome practice of partial-birth abortions. I cosponsored and supported this legislation during the last session of Congress and voted to override the President's unfortunate veto of the bill.

As my distinguished colleague from Illinois, Mr. HYNIR, so eloquently pointed out earlier, partial-birth abortion is, in many respects, a polite term for infanticide. Indeed, Mr. Speaker, I ask you: What will future generations think of a society that allows this practice? For the moral health of our country, and for future generations, we should take action today to ban partial birth abortions.

Opponents of the ban suggest that partial-birth abortions are needed to protect mothers with pregnancy-related complications, but this argument simply does not hold up to the scrutiny of abortion providers and medical experts. Indeed, the executive director of the National Coalition of Abortion Providers has admitted: 'In our 25 years of existence, the partial-birth abortion procedure is performed on a healthy mother with a healthy fetus more than 20 weeks old. Former Surgeon General of the United States C. Everett Koop has said that there is "no way" he can see a medical necessity for this barbaric procedure. The American Medical Association's legislative council has unanimously supported the partial-birth abortion ban.

The Congress has the opportunity today to do the right thing by banning partial-birth abortions. We have a duty to protect the unborn from this horrific procedure. I hope my colleagues will listen to their consciences and vote to make partial-birth abortions illegal once and for all.

Ms. HARMAN. Mr. Speaker, I rise today in strong opposition to H.R. 1122, the late-term abortion ban, which represents a direct challenge to Roe versus Wade and a woman's right to choose. I cannot support legislation that either limits the choices medical experts must make in the care of their patients and which I believe that the legislation is unconstitutional and would be declared so by the current Supreme Court.

Since the initial introduction of this bill, I have met with a number of women who had the procedure this bill attempts to ban, and in each case the same thing happened. These women were wanted children but, to each woman's horror, it was learned at 30 weeks or more of pregnancy that the baby had such severe deformities—no internal organs, a brain outside the head, no brain—as to prevent its survival outside the womb. As Coreen Costello told me:

In my 30th week of my third pregnancy, I had a procedure that would have been banned by [H.R. 1122]. Our daughter, Katherine Grace, was diagnosed with a lethal neurological disorder that left her unable to move any part of her tiny body for almost two months. Her muscles had stopped growing and her vital organs were failing. Her head was swollen with fluid, her little body was stiff and rigid and excess fluid was puddling in my uterus. Our doctors—some of the most medical experts in the world—told us there was no hope for our daughter. Because of our strong pro-life views, we rejected having an abortion. But when it became apparent that this disorder was affecting my health and might ruin my fertility, we knew we had to act and an intact D&E was the best option for my circumstances.

For women like Coreen Costello, the ability to bear children in the future will be jeopardized if they do not have the medical option that H.R. 1122 bans. This is a tremendously difficult, painful, and above all personal choice, and legislators should not force their will on medical professionals in this situation.

Mr. Speaker, there is simply no reason not to include an exemption in this bill for a woman's health. The fact that there is no such exemption in the bill's language points to the political nature of this legislation. I urge my colleagues to consider the importance of protecting women, and to vote against this bill.

Mr. WELDON of Pennsylvania. Mr. Speaker, once again we are on the floor of the House to discuss the partial birth abortion. Because of the political debate surrounding this important issue, we have been able to take a truly horrific procedure and whittle it down to a 5-second soundbite, a paragraph in type, and a few diagrams and charts; none of which can truly capture this gruesome operation. Grueness as it is, however, the debate should not be about the operation itself, but rather its victims.

We are often quick to forget in this age of convenience, that as a result of each one of these procedures, a beautiful, special, unique human life is lost. Each life that has been stolen along with all of its potential and promise and we will never know how many future astronauts, fathers, teachers, counselors have been lost in the mechanical movement of these melzeinbaum scissors.

In recent information presented, most of the lives snuffed out are those of healthy, viable children whose only crime is temporary inconvenience. Each one is a hope, a future, and a promise that is lost and can never be recovered.

Mr. Speaker, today we have the opportunity to make a difference, to protect the lives and futures of these victims. For their future, I urge my colleagues to vote for this bill and I will look forward to the Senate and President joining us in an important.Personally, by Charles Krauthammer, which destroys many of the myths surrounding this issue.

[Saving the Mother? Nonsense (By Charles Krauthammer)]

Even by Washington standards, the debate on partial-birth abortion has been remarkably dishonest. First there were the phony facts spun by opponents of the ban on partial-birth abortion. For months, they had been claiming that this grotesque procedure occurs (1) very rarely, perhaps only 500 times a year in the United States, (2) only in cases of severe fetal abnormality, and (3) to save the life or the health of the mother.

These claims are false. The deception received enormous attention when Ron Fitz-simmons, an abortion-rights advocate admitted that he had "lied through his teeth" in making up facts about the number of and rationale for partial-birth abortions.

The number of cases is many times higher—more than 10,000 a year. And the majority of cases involved the mothers aborting perfectly healthy babies. As a doctor at a New Jersey clinic that performs (by its own doctors' estimate) at least 1,500 partial-birth abortions a year told the Bergen Record: "Most are for elective, not medical, reasons: people who didn't realize, or didn't care, how far along they were."

Yet when confronted with these falsehoods, pro-abortion advocates are aggressively unapologetic. Numbers are a "tactic to disguise the truth," charges Vicki Saporta, executive director of the National Abortion Federation. "The numbers don't matter." Well, sure, now that hers have been exposed as false and the new ones are inconvenient to admit. But as Charles Krauthammer, which destroys many of the myths surrounding this issue.
In fact, Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, said he would rather not spend his political capital defending the procedure at all. The majority supported it, he says, and a federal ban would have almost no real-world impact on the physicians who perform late-term abortions or patients who seek them.

"The pro-choice movement has lost a lot of credibility during this debate, not just with the general public, but with our pro-choice friends," said leaders in the movement. "Even the White House is now questioning the accuracy of some of the information given to it on this issue."

He cited pro-abortion rights supporters such as the Washington Post's Richard Cohen, who took the movement to task for providing inaccurate information on the procedure. Those pressing to ban the method call it "partial birth" abortion, while those who perform it refer to it as "intact" dilation and extraction (D&X) or dilation and evacuation (D&E).

What abortion rights supporters failed to acknowledge, Fitzsimmons said, is that the vast majority of these abortions are performed in the 20- to 24-week range on healthy fetuses and healthy mothers. "The abortion rights folks know it, the anti-abortion folks know it; everyone else," he said.

He knows it, he says, because when the bill to ban it came down the pike, he called a number of physicians who did them... "I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances," he said.

The National Abortion Federation's Vicki Saporta acknowledged that "the numbers are greater than we initially estimated." For the record, she said, "Women have abortions pre-viability for reasons that are appropriate and Congress should not be determining what are appropriate reasons in that period of time. Those decisions can only be made by women in consultation with their doctors."

**BILL'S REINTRODUCTION EXPECTED**

Rep. Charles Canady (R, Fla.) is expected to reintroduce the legislation this month to ban the procedure.

Those supporting the bill, which was also introduced in the Senate, inevitably evoke images of grisly human sacrifice in the procedure, which usually involves the extraction of an intact fetus, feet first, through the birth canal, with all but the head delivered. The other alternative is Caesarean section. "We're in a culture where two of the most frightening things for Americans are sexuality and death. And here's abortion. It combines the two," said Sen. Law. She agrees with Fitzsimmons that a debate on the issue should be straightforward. "I think the question should be asked: When is it OK to end these lives? When is it not? Who's in charge? How do we do it? These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago.

Fitzsimmons thinks his colleagues in the movement shouldn't have taken on the fight in the first place. A better bet, he said, would have been "to roll over and play dead, the way the right-to-life people and the incest. Federal legislation barring Medicaid abortion funding makes exceptions to save the life of the mother and in those two cases. "We're fighting a bill that has the support of, what, 70% of the public? That tells me that we think we should put it on the table and say, 'OK, this is what we're talking about: When is it OK to end these lives? When is it not? Who's in charge? How do we do it?' These are hard questions, and yet if we don't face them in that kind of a responsible way, then we're still having the same conversations we were having 20 years ago.

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Washington—Ranking breaks with his colleagues in the abortion rights movement, the leader of one prominent abortion provider group called on Friday for an immediate ban on the controversial late-term abortion procedure.

Dr. Clinton is presumably talking about hydrocephalus, a condition in which an excess of fluid on the baby's brain creates an enlarged skull that presumably would damage the mother's cervix and birth canal if delivered intact.

Clinton seems to think that unless you pull the baby out feet first leaving in just the head, every decision is made to deliver a baby whose skull to crack it open, such out the brains, collapse the skull and deliver what is left—this is partial birth abortion—you cannot preserve the life of the mother and preserve the health of the women—flatly contradicting Clinton.

Moreover, not only is the partial birth procedure not the only option, it may be a riskier option than conventional methods of delivery.

It is not hard to understand that inserting a sharp scissors to penetrate the baby's brain and collapse her skull risks tearing the mother's uterus or cervix with the instrument or bone fragments from the skull.

Few laymen, however, are aware that partial birth abortion is preceded by two days of inserting up to 26 dilators at one time into the mother's cervix to stretch it open. That in itself could very much compromise the cervix, leaving it permanently incompetent, unable to retain a baby in future pregnancies even if the five providers at that Clinton's veto ceremony had five miscarriages after her partial birth abortion.

Why do any partial birth abortions, then? "The only possible advantage of partial birth abortion is that it guarantees a live birth instead," Clinton said.

"I learned right away that this was being done for the most part in cases that did not involve those extreme circumstances," he said.

The American Society of Anesthesiologists recently published an article from the American Medical News (Mar. 3, 1997) that physicians at one facility perform an estimated 3,000 abortions a year on fetuses between 20 and 24 weeks of age. Most are Medicaid patients... and most are for elective, not medical reasons: people who didn't realize, or didn't care, how failing to act might save the baby.

Ronald Brownstein, a managing editor at the Washington Post and The Record, a Bergen County, N.J., newspaper, doctors who use the technique acknowledged doing thousands of such procedures a year. They also said they have done about 5,000 intact D&Es, about 1,000 during the past
two years. He induces fetal death by inject-
ing digoxin or lidocaine into the fetal sac 72
hours before the fetus is extracted.

**DAMAGE CONTROL**

Fitzsimmons also questions whether a ban on an abortive procedure would sur-
vice a constitutional challenge. In any event, he con-
cludes that the way the debate was fought by his
side “did serious harm” to the image of abortion
providers.

“When you’re a doctor who does these
abortions and the leaders of your movement
appear before Congress and go on network
news saying these procedures are done in
only the most tragic of circumstances, how
do you think it makes you feel? You know
they’re primarily done on healthy women
and healthy fetuses, and it makes you feel
like a dirty little abortionist with a dirty
little secret.”

Saporta says her groups never intended to
say those abortions are completely legal
abortions done in the 20- to 24-week range,
done for reasons of fetal anomaly.

“But critics counter that Daschle’s proposed
ban—with its “health” exception—would stop
any, if any, abortions.”

“The Clinton-Daschle proposal is con-
structed to protect pro-choice politicians,
not to save any babies,” said Douglas J. John-
son, legislative director of the National
Right to Life Committee.

Given the broad, bipartisan congressional
support for the bill to ban “partial birth”
abortions last year, it’s unlikely Daschle’s
version would find much opposition for the
same reason in this session—particularly when
Republicans control both houses and therefore, the
agenda.

And given the public reaction to the “par-
tial birth” procedure—polls indicate a large
majority want to ban it—some questions occur:
Is the public reaction really to the
procedure, or to late-term abortions in gen-
eral? And does the public really make a distinc-
tion between late second- and third-tri-
imester abortions?

Ethicists George Annas, a health law pro-
fessor at Boston University, and Carol A.
Tauer, PhD, a philosophy professor at the
College of St. Paul, Minn., say they think the public’s intense reaction to the “partial birth” issue is prob-
dly due more to the public’s discomfort
at the then-recent revelation of whether they
occur in the second or third trimesters, rather
than to just discomfort with a particular
procedure.

For Congress to decide to pass a bill bann-
ing dismemberment or saline abortions, the pub-
lic would probably react the same way. Dr.
Tauer said: “The idea of a second-trimester
fetus being dismembered in the womb sounds
just as bad as it is.”

Abortions don’t have to occur in the third
term. It makes people uncomfortable,” Annas
said. In fact, he said, most Americans
see “a distinction between first-trimester and second-trimester abortions. The law
doesn’t but people do. And rightfully so.”

After 20 weeks or so, he added, the Amer-
ican public sees a baby.

“The American public’s vision of this may be
much clearer than [that of] the physicians
involved,” Annas said.

Mr. CUNNINGHAM. Mr. Speaker, I rise
today in support of H.R. 1122, the Partial
Birth Abortion Ban Act and the original cospon-
sor of similar legislation, H.R. 929.

This important legislation will bring to an
end the common practice of a most mean
and extreme procedure. As we know, Congress
adopted the Partial Birth Abortion Ban Act in
1995-96, only to see President Clinton veto the
measure. The House overrode the Presi-
dent’s veto, but it was sustained in the Sen-
ate. Thus, this grotesque procedure remains
in place today.

Partial-birth abortion is obviously strongly
opposed by Americans who are pro-life. But it is
so outrageous and so extreme that a re-
spected Member of the other body—a mem-
ber of the President’s political party—said that
partial-birth abortion is just too close to infan-
ticide. Thus, many Americans who are pro-
choice are opposed to this procedure. I ex-
pect that many pro-choice Representatives
will vote to ban partial birth abortion today.

Unfortunately, supporters of this procedure
have gone to every length to continue to pro-
tect partial birth abortion for every purpose.

The President justified his veto based on facts
which have since been debunked.

The Washington Post editorialized in a
piece titled “Lies and Late-Term Abortions,”
on March 4, 1997, that “Ron Fitzsimmons, ex-
ecutive director of the National Coalition of
Abortion Providers, has admitted . . . that he,
and by implication other pro-choice groups,
lied about the real reasons women seek this
particular kind [partial-birth] of abortion . . .

Mr. Clinton then had us justify a
decision on the basis of the misinformation
on which he rested his case last time.” Mr. Fitz-
simmons said he “lied through his teeth”
about the nature and frequency of partial birth
abortion in the United States. Furthermore, ac-

cording to Dr. Pamela Tauer, PhD, Director of
Medical Education in the Department of Ob-
stetrics and Gynecology at Mt. Sinai Hospital
in Chicago, “there are absolutely no obstetri-
cal situations encountered in this country
which require a partially-delivered human fetus
to be destroyed to preserve the health of the
mother.”

I believe all sides of this issue should base
their case on the truth. And the truth is that
partial birth abortion is barbaric. This measure
represents simple mainstream common sense.

I urge support of the bill.

Mr. WATTS of Oklahoma. Mr. Speaker, I
thank Mr. CANADY of Florida and I congre-
gratulate him on his leadership on this critical
issue. Let us not fool ourselves about what we are
voting for today. This partial birth abortion
procedure inflicts a terrible violence on the
body of a helpless child. This is not a point
of debate—everyone acknowledges the medical
details of what the abortionist does during a
partial-birth abortion. It is a violent and horrific
procedure.

And let us be clear. A partial-birth abortion
is never medically necessary to protect a
mother’s health or her future fertility. In fact,
the procedure can significantly threaten a
mother’s health or ability to carry future chil-
dren to term.

So how can we—the citizens of a sup-
possed civilized society—how can we say that
abortion is a procedure that will be unre-
strained and unrestricted—that there will be
absolutely no limits and no parameters placed
on this procedure that does such terrible vio-
ence to its victim.

Who will speak for the victim—the unborn
child, or in this case the partially-born child—
who has no voice—unless we are their voice,
unless we speak for them?

My colleagues, I urge you to speak for
these voiceless victims today by voting to ban
this brutal abortion procedure.

Mr. STOKES. Mr. Speaker, I rise in opposi-
tion to H.R. 1122, the Partial-Birth Abortion
Ban Act. This legislation constitutes an un-
precedented intrusion by Congress into medi-
cal decisionmaking, and poses a significant
risk to women’s health. In addition, this legisla-
tion fails to meet clearly established constitu-
tional standards. H.R. 1122, introduced by Congress-
man SOLOMON, is identical to the partial-birth
abortion ban legislation vetoed by President Clin-
ton during the 104th Congress. I voted against
this measure during the last Congress, and will
again oppose it today. Partial-birth abortion
procedures that does not provide an ex-
ception to protect a woman’s life or health.

Moreover, since partial-birth abortion is not
a medically recognized term, H.R. 1122 uses
extremely vague and nonmedical terminology
to describe a procedure that is not standard in
medical practice. As a re-

result, the measure could be interpreted to pro-
hibit a wide range of medical procedures. Fur-
thermore, there are no accepted medical or
During the debate over partial-birth abortions in the 104th Congress, the pro-abortion camp asserted that this procedure is rarely performed. Those of us who supported a ban on partial-birth abortions took serious exception to this allegation, arguing that they are performed with alarming frequency. In vetoing the Partial-Birth Abortion Ban Act last year, President Clinton obviously bought into the arguments of the pro-abortion lobby.

In the last few weeks, Ron Fitzsimmons—the executive director of the National Coalition of Abortion Providers—has admitted that he “lied through his teeth” about the nature and number of partial-birth abortions. As we argued last year, Mr. Fitzsimmons is now admitting that thousands of partial-birth abortions are performed every year. In the fifth and sixth months of pregnancy or later, on healthy babies with healthy mothers. Clearly, the pro-abortion lobby engaged in a pattern of deception regarding this issue—only time will tell whether President Clinton was an ignorant victim or a knowing perpetrator of this terrible cover-up.

With the Partial-Birth Abortion Ban Act of 1997, Congress is giving President Clinton an opportunity to atone for last year’s sinful veto. The President still has time to do the right thing. I hope he will. I was asked recently why, since we failed in our attempt to ban this procedure last year and Bill Clinton is still the President, the 105th Congress believes it will succeed where the 104th Congress failed. Leaving the recently-exposed lies of the abortion industry aside for a moment, the answer is that regardless of the odds, we have a duty to end injustice where we find it, and a solemn responsibility to protect those who cannot protect themselves.

At a recent subcommittee hearing, representatives from the pro-abortion lobby repeated time and again that Congress should not involve itself with this issue. However, the pro-abortion lobby needs to remember that Congress consists of the people’s representatives. What these people are really saying, therefore, is that the American people should not be allowed to debate this issue through their duly elected representatives. I strongly disagree—a civilized society cannot afford to abandon its standards of morality.

Mr. Speaker, I continue the fight to protect and preserve innocent children. I urge all of my colleagues, whatever their position on abortion, to vote “yes” on H.R. 929. I yield back the balance of my time.

Mr. BLUMENThal. Mr. Speaker, I rise today in opposition to H.R. 1122. This deeply personal and private decision is between a woman, her family, her physician and her beliefs, not the Federal Government. Without providing protection for the health and life of another human being, legislation that prevents doctors from providing patients with the most appropriate medical care is unacceptable. My position on this most sensitive of personal decisions is very simple. When the life or health of a woman is at stake, the Federal Government should not tell her or her doctor what to do. Regrettably, the alternate bill introduced by Representatives GREENWOOD and HOYER that provided an exception for severe health consequences will not be considered today. Instead, with this legislation, Congress is once again promoting an indifference to the health and lives of women instead of rendering a serious policy determination on a matter of grave consequence.

Mr. RILEY. Mr. Speaker, I rise today in support of the Partial-Birth Abortion Ban Act of 1997 which would put an end to the barbaric procedure known as the partial-birth abortion. Mr. Speaker, it is now a matter of public record that this type of abortion is performed at least several thousand times a year, usually in the fifth or sixth month of pregnancy.

I want to be clear on one point. We have heard time and again from the other side that we must protect the life of the mother. Hundreds of medical doctors including former Surgeon General C. Everett Koop have come forward and stated without reservation that the “partial birth abortion is never medically necessary to protect a mothers health or her future fertility.” Let me repeat that, “partial birth abortion is never medically necessary.”

So let’s stop playing politics and using fear and scare tactics. Let’s honestly debate the issue at hand.

Partial birth abortion is a horrifying procedure that must be ended. We have a moral obligation to stand up for the equality of life.

I urge my colleagues to join in this bi-partisan effort to protect those who cannot protect themselves.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 929, the Partial-Birth Abortion Ban Act.

Last year—apologists for this abominable practice raised a fog of mendacity during our deliberations. Today that fog has been pierced.

Whatever everyone can clearly see today, Mr. Speaker, is that partial-birth abortion is a practice that exposes abortion for what it truly is—the killing of an infant.

This debate is not about when life begins—for the infants targeted by this procedure are most certainly alive. This debate is over a matter of inches.

And Mr. Speaker—I submit that the constitutional right to life has jurisdiction over those inches.

Ms. KILPATRICK. Mr. Speaker, my colleagues, I rise in opposition to the final passage of this legislation in this form. As a life-long pro-choice elected official, I would normally reject this legislation as a matter of principle. However, my opposition to this legislation is also based on several specific reasons that, if implemented by this legislation, would have a chilling effect upon the lives and safety of women and for the respect of predecessors established by the Supreme Court.

This legislation is constitutionally unsound. This legislation directly opposes the precedents established in the Supreme Court under Roe versus Wade. In that it bans a particular procedure during the pre-viability stage of pregnancy.

This legislation handcuffs health care options for physicians. While I am not a medical doctor, a lot of the procedures that doctors perform—gynecological examinations, emergency tracheotomies, setting broken bones—are not pretty and can seem downright gruesome. However, sometimes, procedures that are needed to absolutely, positively save someone’s life is necessary. For example, I am sure that many of us recall the person who was impaled while trapped in the rubble of the Oklahoma City bomb blast. This operation was the only way that this person’s life would have been spared. If we ban...
this procedure, what will be next? Congress has no business telling a well-trained and intelligent physician what is or is not acceptable medical procedures.

This legislation does not allow an exception for the utilization of this procedure to spare the life of a mother whose life is in danger. Physicians often have to make life or death decisions. While it is my hope that this procedure is performed during those infinitesimal instances in which it is absolutely necessary, we should not eliminate the possibility that it might be needed to save the life or preserve the health of the mother. Like you, we have all heard the different statistics on how often this procedure is used. But statistics do not mean a thing if that is your mother, your wife, your sister, or your daughter on the gurney and the choice is this procedure or the death of your loved one.

The decision to have or not have a child is a very difficult one. This is a decision that should remain among a woman, a man, and a doctor—not the Federal Government. It is my hope and desire that as individuals of the family of humanity, we will do all that we can to provide the best education and support to our Nation’s women so that abortion is a choice that fewer and fewer women have to make.

The doctors of our Nation deserve to be able to fully implement their Hippocratic oath—“I will help the sick according to my ability and judgment”—without governmental intervention. I urge my colleagues to support our Nation’s doctors, the lives and health of women, and the Supreme Court, and ask for a “nay” vote on final passage of this legislation.

Mr. PACKARD. Mr. Speaker, today I rise to discuss a procedure that I find—and an overwhelming number of Americans find—absolutely abhorrent, partial birth abortion. It is brutal and inhumane. It is not necessary and should not be permitted.

Last year, when we brought a bill to the floor to ban the practice, abortion advocates falsely claimed the procedure was both rare and a necessary late term procedure. The President vetoed our bill based on this misrepresentation. Finally, the media got wind of the lie.

Ron Fitzsimmons, leader of the National Coalition of Abortion Providers, in a March 3, 1997, interview with the American Medical News, said that he “lied through [his] teeth” when he said the procedure was rarely used. He now admits that pro-life groups are accurate in saying that the procedure is more common.

To add insult to injury, Mr. Fitzsimmons also admitted that, in the vast majority of cases, the partial birth procedure is performed on a healthy mother with a healthy fetus that is 20 or more weeks along. Americans overwhelmingly oppose this form of elective infanticide. It has no place in our society. This practice is indefensible, and I challenge my colleagues to give the President another chance to ban the procedure. The President can no longer hide behind pro-abortion falsehoods. He should admit he was wrong and show the moral courage Americans expect from their President.

Mr. ABERCROMBIE. Mr. Speaker, today I rise to discuss the Partial-Birth Abortion Ban, H.R. 1122 that was introduced yesterday and which we are voting on today. This measure is supposed to be a new improved version of Representative CANADY’s bill, H.R. 929. However, it is more draconian, offensive and degrading to women. This newly introduced bill, like the one we were supposed to debate, still tears apart the principle that women have reproductive rights which was set in Roe versus Wade.

In addition, proponents still do not understand that a late term abortion is medically necessary to preserve the life of the woman or to avert serious adverse health consequences to the woman.” But, as my colleagues well know, we can not even debate that bill today under this closed rule. This bill takes away a woman’s right to choose. H.R. 1122 says to American women: Your health and fertility are not an issue. It demotes women to second class citizenry.

I strongly urge my colleagues to re-read the testimony given last year by women like Coreen Costello and Mary-Dorothy Line. These women wanted their babies. However, once they realized that their babies could not survive outside of the womb, they had to make a soul searching decision. That was a very difficult decision made by the women and their husbands, but because they chose to have an intact dilation and evacuation they saved their babies and preserved their ability to have more children.

In addition, proponents still do not understand that no matter what has been said about the number of abortions performed using the intact dilation and evacuation procedure before and after viability, the law of the land already grants individual States the right to ban abortion after fetal viability except when necessary to preserve a woman’s life or health. Forty States and the District of Columbia, ban post-viability abortions. The U.S. Supreme Court has not strayed from a woman’s right to choose and the protection of potential life. I fully support a woman’s right to choose as upheld by the U.S. Supreme Court.

I strongly urge my colleagues to vote against H.R. 1122.

Mr. POMEROY. Mr. Speaker, I rise in support of H.R. 1122, a bill to ban the late-term abortion practice known as partial birth abortion.

While I will vote in favor of this legislation, as I did last year, I regret that the bill is being considered under a closed rule that will not allow the House to debate and vote on amendments proposed by my colleagues on both sides of the aisle. That is why I voted against the rule, and why I will vote in favor of motions that provide Members the opportunity to offer amendments to this legislation. In my view, the House ought to uphold a standard of democratic and open debate that allows alternative proposals to receive a fair hearing.

Second, as my colleagues know, the legislation before us is identical to the bill that was passed last year and vetoed by the President. In the interests of enacting legislation that will bring an end to this abhorrent procedure, I believe it advisable to support amendments that address the concerns expressed by the President. Therefore, if the motion to recommit H.R. 1122 contains instructions to include an exception where the physical health of the mother is severely at risk, I will support the motion.

Mr. Speaker, in the final analysis, it is my position that the partial birth abortion is an inhumane and unnecessary procedure that should be outlawed. I believe that Congress ought to pass legislation that will gain the President’s signature and achieve that end.

Mr. SKAGGS. Mr. Speaker, I wish we were debating the best way to reduce the number of late term abortions. That is a goal we all share.

Instead, under the terms of debate imposed on this bill, we are able to consider only a text drafted to make a political statement and keep an issue alive rather than address the problem.

The question, that the advocates of this bill haven’t, and can’t answer, is this: Why should the Congress prohibit the partial birth abortion procedure after viability? What is the evidence that the partial birth abortion procedure is medically necessary to preserve the mother’s life or health? Nor may the Congress.

The bill would substitute the political judgment of the Congress for the medical judgment of a woman’s physician. The bill provides no exception for medical circumstances involving grave physical risks to the health of the mother, no matter what the circumstances or how tragic the circumstance may be.

As we debate this issue, we need to remember how the Supreme Court has interpreted the Constitution. In Roe versus Wade the Court stated: “For the stage subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the health of the mother.”

That decision is the law of the land. Its language is clear and unambiguous. States may not proscribe late term abortions that are medically necessary to preserve a mother’s life or health.

What Roe versus Wade does permit, however, is the Government’s restriction on or prohibition of late term abortions that are not necessary to protect the mother’s life or health. Unfortunately, this bill would do nothing to reduce the number of such late term abortions. The bill would instead further erode the rights of women.

In considering this bill, the Congress is attempting to set itself up as a national board of medical examiners. The country and professional medical practice won’t be well-served if we become the arbiter of which medical judgments should be respected and which medical procedures should be performed.

If there is a medical need for an abortion to protect a woman’s health and if this particular
procedure is determined by a woman's physi-
cian to be medically warranted under the cir-
cumstances, then the Congress should re-
spect that judgment not criminalize it. We
should not substitute our political judgment
for professional medical judgment grounded
in the particular circumstances of real cases.
This bill should be defeated.
The SPEAKER pro tempore. All time
for debate has expired.

Pursuant to House Resolution 100,
the bill is considered as having been
read a third time and the previous
question is ordered.
The question is on engrossment and
third reading of the bill.
The bill was ordered to be engrossed
and read a third time, and was read the
third time.

MOTION TO RECOMMIT OFFERED BY MR. HOYER.

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

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HOYER. Yes, Mr. Speaker, I am.

The SPEAKER pro tempore. The Clerk will report the motion to recom-
mit.

Mr. HOYER moves to recommit the bill H.R. 1122 to the Committee on the
Judiciary with instructions to report the same back to the House forthwith with the following
amendments:

Strike all after the enacting clause and in-
sert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Late Term Abortion Restriction Act.

SEC. 2. PROHIBITION ON CERTAIN ABORTIONS.

(a) IN GENERAL.—It shall be unlawful, in or
affecting interstate or foreign commerce,
knowingly to perform an abortion after the
fetus has become viable.

(b) EXCEPTION.—This section does not pro-
hibit any abortion if, in the medical judg-
ment of the attending physician, the abor-
tion is necessary to preserve the life of the
mother, as is consistent with
life of the mother, as is consistent with
the circumstances.

(c) CIVIL PENALTY.—A physician who viol-
ates this section shall be subject to a civil
penalty not to exceed $10,000. The civil pen-
alty provided by this subsection is the exclu-
sive remedy for a violation of this section.

POINT OF ORDER

Mr. CANADY of Florida. Mr. Speak-
er, I rise to a point of order that the
motion to recommit is not germane to the
bill.

The SPEAKER pro tempore. The gen-
tleman will state his point of order.

Mr. CANADY of Florida. Mr. Speak-
er, the purpose of the un-
derlying bill, H.R. 1122, deals with a
very limited class of abortions, specifically
partial-birth abortions. This is one
specific type of procedure as de-
finied in the bill.

The fundamental purpose of the motion
to recommit amendment deals with any abortion procedure done post-
viability. It purports to cover a much
broader class of procedures than the one
procedure specifically prohibited in this
bill amendment.

Therefore, since the fundamental
purpose of the motion to recommit
purports to deal with a class of proce-
dures that is broader than the one pro-
cedure in the underlying bill, a propos-
ition on a subject different from that
under consideration, it is not germane
to the bill and I insist on the point of
order.

The SPEAKER pro tempore. Does the
gentleman from Maryland [Mr. Ho-yer]
wish to be heard on the point of order?

Mr. HOYER. I do, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from
Maryland [Mr. Ho-yer].

Mr. HOYER. Mr. Speaker, I thank the Chair for recognizing me on the
point of order.

Mr. Speaker, this amendment is of-
fered for the purpose, as it says, of lim-
iting all late-term abortions, of prohib-
iting all late-term abortions, including
abortions to which the gentleman
spoke. We believe it does in fact expand
up on but is inclusive of the procedures
to which the gentleman's bill speaks.
We believe it is an effort and an oppor-
tunity for Members to say that not
not only the late-term partial birth to
which the bill speaks but that all pro-
cedures to effect late-term abortions
ought to be prohibited. They ought to
be prohibited as the policy of the United
States of America.

It does provide, as does the underly-
ing bill, with certain exceptions: The
life of the mother, as is consistent with
the bill on the floor. It also expands upon
against the policy of the United States
that serious adverse health conse-
quences would flow.

We believe that initial judgment was in fact correct. We believed this
gives an opportunity for Members not
only to speak to the instant issue
in the particular 1122 bill, but also importantly gives to Members the
opportunity to express their view that
all late-term abortions, not just one
procedure, but that procedure and all
procedures to effect post-viability
be outlawed, be illegal, be against the policy of the United States
America, except in very limited cir-
cumstances.

Because of that, Mr. Speaker, Mem-
ers will have the opportunity to ex-
press themselves as being against late-
term abortions, which is the context, I
suggest to the Speaker, in which this
debate has proceeded.

Because of that, this gives Members
the opportunity to participate but
more broadly, as Mr. Can-a-zy did in
fact correctly observe, express them-
selves on limiting all procedures for
late-term abortions.

For that reason, we think it expands
upon, he is correct, expands upon and
makes more broad the prohibition on
late-term abortions. It is for that rea-
son that we think it critically impor-
tant that the Chair rule that this is in
fact in order so that Members can ap-
propriate—because we believe it to be in order—express themselves in op-
position to late-term abortions.

The SPEAKER pro tempore. The
Chair hopes to clarify this point in the
Chair's ruling. The Chair is now pre-
pared to rule.
The gentleman from Florida makes a point of order that the amendment proposed in the instructions with the motion to recommit offered by the gentleman from Maryland is not germane. The pending bill prohibits a certain class of abortion procedures. The amendment proposed in the motion to recommit prohibits any and all abortion procedures in certain stages of pregnancy. It differentiates between the stages of pregnancy on the basis of fetal viability. In so doing, the amendment arguably addresses a subset of the categories of pregnancies addressed by the bill. Still, by addressing any or all abortion procedures, the prohibition in the amendment exceeds the scope of the prohibition in the bill.

The bill confines its sweep to a single, defined class of abortion procedures. Thus, even though the amendment differentiates between pregnancies on narrower bases than does the bill, the amendment also, by addressing any or all abortion procedures, broadens the prohibition in the bill.

One of the basic lines of precedent under clause 7 of rule 16, the germaneness rule, holds that amendments addressing a specific subject may not be amended by a proposition more general in nature. As noted in section 798f of the House Rules and Manual, this principle applies even when both propositions address a common topic.

Thus, on March 23, 1960, the Chair held that an amendment to criminalize the obstruction of any court order was not germane to a bill to criminalize only the obstruction of court orders relating to the desegregation of public schools.

On the reasoning reflected in this line of precedent, the Chair holds that the amendment proposed in the motion to recommit is not germane to the bill. Accordingly, the point of order is sustained, and the motion to recommit is not in order.

Mr. HOYER. Mr. Speaker, it is with great reluctance, because I believe very strongly that the Chair’s rulings ought to be upheld, but in this instance, Mr. Speaker, I am compelled, because of the importance of the issue and the closed rule that prevented any amendments, and because I believe, Mr. Speaker, in your ruling you correctly indicated that the Hoyer and Greenwood bill broadens the scope of this bill and broadens the application to procedures beyond what the bill refers to, and for that reason held it not to be germane, I am compelled to appeal the ruling of the Chair.

Mr. CANADY of Florida. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. First of all, the question is, Shall the decision of the Chair stand as the judgment of the House?

Now, the Chair will recognize the gentleman from Florida [Mr. CANADY].
The SPEAKER pro tempore (Mr. MCINNIS). Is the gentleman opposed to the bill?

Mr. FRANK of Massachusetts. I am in its form, Mr. Speaker.

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

The Clerk read as follows:

Mr. FRANK of Massachusetts moves to recommit the bill H. R. 1122 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

- Page 2, line 10, insert after the words “or injury” the following: “, including a life endangering physical condition caused by or arising from the pregnancy itself, or to avert serious adverse long-term physical health consequences to the mother.”

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes in support of his motion to recommit.

Mr. FRANK of Massachusetts. Mr. Speaker, after the Committee on Rules tried to keep this from being heard, I appreciate your help making sure that it is.

This is an amendment that would in its most important form add one more exception. Remember we had the bill that does not prevent the abortions, as the gentleman from Florida acknowledged, but bans a particular procedure.

Mr. Speaker, the bill bans a specific procedure. The sponsor said in opposition to the amendment that the bill that I just voted on that was ruled nongermane when it came up before, well, we do not like health as an exception. I do. I wanted health as an exception. That was voted down, and I regret it. But now I am offering a narrower one that meets some of the arguments we heard.

Health broadly defined by the Supreme Court when there is no other reference, and it is just health when there is no modifier, the Supreme Court has said that includes mental health, et cetera, as I think it should. But in this case where we are talking about one procedure where we have already voted down health, I have a further amendment. This says, “You can have an exception if it is necessary to avert serious adverse long-term physical health consequences.” This, Mr. Speaker, is what the House is about to vote on.

I ask my colleagues, “Are you prepared to say to a doctor if you believe in your deepest medical judgment it is necessary to avert serious physical long-term adverse health consequences, and the only way to avert them is to use this procedure, this amendment says to a doctor, because it follows the language of the bill, if it is necessary, not if it’s in your subjective opinion, and if it’s necessary, and you can show in a judicial proceeding that it was necessary to avert serious long-term adverse physical health consequences, you can perform the procedure.” And a majority is going to say no apparently.

Well, some say it is never possible. If my colleagues really believe that, then the amendment would do no harm. But is the House ready to tell every doctor in America that never under any circumstances can he or she use a medical judgment to say this procedure be cause again we are not talking about whether there is an abortion. There can be an abortion. It may be on mental health grounds, it may be on physical health grounds. Then the question is what is the procedure. And we are asking for a vote that says if it is necessary so that a woman does not lose health because she is not at permanent damage to her organs, if she is not in horrible pain for a prolonged period.

Is that not likely to happen? I do not know; along with almost everybody in the House, I do not know. And therefore I am not prepared to legislate it. I am prepared to say that the physicians can decide that.

How much time do I have remaining, Mr. Speaker?

The SPEAKER pro tempore. The SPEAKER pro tempore. The gentleman from Massachusetts has 2 minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Speaker, in all my years in the House I have never been more disturbed by a vote, but yet what happened in the Committee on Rules last night and on the floor here today, my concerns have not been allayed. Mr. Speaker, let me talk about those concerns.

I do not think the State should interject itself before viability and that women should have the right to protect their life and their health as under Roe versus Wade. I am concerned about viability of pregnancies, and I know health has been broadly interpreted, but under Frank it will be interpreted as the serious, serious physical health of the mother.

I am not saying about this, and it is before us, this method. It is brutal, it is inhuman, and it should never be used. However, may I say that is not my decision. Under Roe versus Wade the law of the land aids the decision of the mother and the doctor.

Mr. Speaker, I am so concerned about this body today. We have let political considerations and efforts do away with Roe versus Wade take over this and not let us resolve this situation.

Forty States, Mr. Speaker, have resolved this situation. We can resolve it by putting the serious health of the mother into this mix.

Mr. Speaker, we can do better.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me anticipate. Members on the other side have said, “Well, when you say health, the Supreme Court reads a broader version.” Yes, I have that position so that. When it is health, the Supreme Court interpreted a statute referring to health more broadly. The Supreme Court has never said that health always—that physical health does not just mean physical health. There is no argument for that, and the Supreme Court has never interpreted a statute on physical health. That is the key issue here.

I add a language point that others have brought up making it clear that, if life is endangered by a condition arising from the pregnancy itself, that is also an exception. And that is not in the bill explicitly, and it ought to be, but this key point is before us now. And you believe as the chairman of the committee said, and the chairman of the committee in his intellectual integrity said if the choice is serious long-term physical health damage to the mother or the life of the fetus, apparently even a severely damaged fetus that could not live long, the woman’s health must suffer.”

I hope the House will not vote that way.

The SPEAKER pro tempore. Is the gentleman from Florida opposed to the motion to recommit?

Mr. CANADY of Florida. I am, Mr. Speaker.

The SPEAKER pro tempore. The SPEAKER pro tempore. The gentleman recognizes the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker?

The SPEAKER pro tempore (Mr. MCINNIS). Is the gentleman opposed to the motion to recommit?

Mr. CANADY of Florida. Mr. Speaker, regarding the life exception language contained in the gentleman’s proposal, it is already covered in H.R. 1122. The language in the amendment simply restates what is obvious in the language in the bill. The life exception in H.R. 1122 states, and I will read it; it is on page 2 beginning on line 7:

“This paragraph shall not apply to a partial-birth abortion that is necessary to save the life of a mother whose life is endangered by physical disorder, illness, or injury.”

That very statement is made on the floor today that this bill does not provide for the exception of the life of the mother. It is clearly right here in the bill. I have asked the Members to read it, look at it with their own eyes.

Regarding the health exception, partial-birth abortion is never necessary for a mother’s health or future fertility. Hundreds of obstetricians, gynecologists, and maternal fetal specialists, along with former Surgeon General C. Everett Koop, have come forward to unequivocally state that, quote, “Partial-birth abortion is never medically necessary to protect the mother’s health or her future fertility. On the contrary, this procedure can pose a significant threat to both,” close quote.

Furthermore, in an American Medical News article Dr. Warren Hern, a late-term abortionist, disputed the safety of the partial-birth abortion procedure. I want to quote directly from this article. Now, this is Dr. Hern, the late-term abortionist, leading experts on abortion procedures in this country. This is what he said:

“I have very serious reservations about this procedure, said Dr. Hern, the
author of Abortion Practice, the Nation's most widely used textbook on abortion standards and procedures. He specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the question on his part, he says: "You really can't defend it. I'm not going to tell someone else that they should not do this procedure, but I'm not going to do it."

Now, Dr. Hern's concern centers around claims that the procedure in late-term pregnancy can be safest for the pregnant woman and that without this procedure women would have died, and this is what Dr. Hern says: "I would dispute any statement that this is the safest procedure to use." Close quote. "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."

Paradis Smith, M.D., director of medical education in the department of obstetrics and gynecology at Mt. Sinai Hospital of Chicago added two more concerns. Cervical incompetence and subsequent pregnancy caused by 3 days of forcible dilation of the cervix and uterine rupture caused by rotating the fetus within the womb. Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of the mother's head to preserve the mother's health. I just consider what is involved in this procedure.

I would ask my colleagues to consider what is involved in this procedure. A living human child is partially delivered. With the child three-fourths out of the mother, with only the head remaining in the mother, the child is stabbed in the back of the head. I urge my colleagues who are serious about addressing this procedure to oppose this motion to recommit and support the bill.

Mr. Speaker, I yield the balance of my time to the gentleman from Oklahoma, Mr. COBURN.

Mr. COBURN. Mr. Speaker, we once again deal with deception. There is no serious adverse long-term physical health consequence to the mother that can be least treated by this procedure. It does not exist, it has never existed, it will never exist. It is a falsehood, it is an untruth. Partial-birth abortion, D&E on the live baby is done for the convenience of an abortionist. It is never done for any other reason. It is done for the convenience of an abortionist. This is a deceptive way to confuse the issue. There is no truth that this allowance needs to be there, because it never exists. It is a falsehood. It is something that was set up so that we can create a false climate. I will repeat. It never happens. It never is indicated.

\[1545\]

**THE SPEAKER pro tempore (Mr. McNINCH).** Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

**THE SPEAKER pro tempore (Mr. McNINCH).** The motion to recommit was reconsidered without a previous question.

Mr. FRANK of Massachusetts. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 149, noes 282, not voting 2.

**RECORDED VOTE**

**Mr. FOGLIETTA changed his vote from "aye" to "no."**
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The result of the vote was announced as above recorded.

The SPEAKER pro tempore [Mr. McNINIS]. The question is on the passage of the bill.

The question was taken.

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 295, noes 136, not voting 2, as follows:

[Roll No. 65]

AYES—295


NOES—136


The Clerk read the resolution, as follows:

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order in the House the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress. The resolution shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on House Oversight not being in the resolution shall be considered as adopted. The previous question shall be considered as ordered on the resolution, as amended, to final adoption without intervention of motion for demand of division of the question except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight; (2) the further amendment specified in the report of the Committee on Rules accompanying this resolution, if offered by a Member designated in the report, which shall be considered as read, shall be in order without intervention of any point of order, and shall be disposed of as provided in the rule; (3) a motion to reconsider the House Oversight amendment in the nature of a substitute now printed in the resolution shall be considered as adopted.

The rule further provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

It provides that the Committee on House Oversight amend the rule in the nature of a substitute in the resolution shall be considered as adopted.

The rule further provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on House Oversight.

The rule provides the further amendment specified in the report of the Committee on Rules, if offered by a Member designated in the report, shall be in order without intervention of any point of order and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. Finally the rule provides one motion to recommit.

Mr. DREIER. Mr. Speaker, the process established by this rule for the consideration of House Resolution 91 is no different from the process established by the previous committee funding resolutions. Under clause 4(a) of rule XI, committee funding resolutions are privileged
on the House floor and unamendable. A rule is unnecessary to bring up the resolution unless there is a need to waive points of order that could legitimately be sustained against the resolution. Such a waiver is needed to address what otherwise would be a technical violation of House rules.

Specifically, clause 2d(2) of rule X requires committees to vote to approve their oversight plans for submission to the Committee on Government Reform and Oversight and the Committee on House Oversight by February 15 of the first session of each Congress. The rule further prohibits consideration of a committee funding resolution if any committee has not submitted plans by February 15 or if the plans were not adopted in an open session with a quorum present. As I know, certain committees were not able to organize before February 15 because the committee assignment process was not complete by that date. Therefore, these certain committees were unable to meet and vote to approve their oversight plans on time. However, I am pleased to report that every committee has submitted an approved oversight plan to both the Committee on House Oversight and the Committee on Government Reform and Oversight.

Mr. Speaker, House Resolution 91 is a responsible funding measure. I would like to commend the gentleman from California [Mr. Thomas] and our colleagues on his committees for producing a balanced plan under what are obviously challenging circumstances. It is clear that the current level of resources available to House committees is insufficient to meet their oversight responsibilities.

H. Res. 91 addresses the needs of committees while maintaining the bipartisan commitment made by the House at the beginning of the 104th Congress to reduce permanent committee staffs by a third, to provide more resources to the minority party. To ensure that these new resources do not on their own result in increased spending on the operations of Congress, the rule makes in order an amendment by Mr. Thomas that requires any net increase in spending to be offset by reductions in expenditures for other legislative branch activities.

In addition, to ensure that any additional staffing resources that the committees may need during the course of the 105th Congress do not become permanent staff, House Resolution 91 provides $7.9 million for a reserve fund to cover the cost of any unanticipated needs.

This fund is in compliance with clause 5(a) of rule XI which authorizes the Committee on House Oversight to include with its primary expense resolution an omnibus committee expense fund for unanticipated committee expenses. The actual allocation of any money from the fund is subject to approval by that committee.

Contrary to charges that have been made, and I suspect will be made by the minority, this is not a slush fund to be spent by the Committee on House Oversight as it sees fit. As explained in the section-by-section analysis of the resolution adopting House rules for the 105th Congress, this fund will only be used in, and I quote, extraordinary emergency or high priority circumstances. That is what the House rules actually say. And, quote, any proposals for its allocation will be carefully scrutinized and coordinated at the highest levels prior to a vote by the Committee on House Oversight. Other committee requests beyond their initial biennial budget authorization will still require a supplemental expense resolution to be approved by the House. That is what the House rules state.

Mr. Speaker, House Resolution 91 is a fiscally responsible committee funding resolution. It maintains the commitment of this Congress to lead by example when it comes to Federal Government. It also maintains the commitment of the Republican majority to provide more committee resources to the minority than were provided to the minority when Republicans held that status in the House. Therefore, I urge adoption of this very fair and balanced rule and this balanced approach to committee funding.

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

Mr. MOAKLEY. Mr. Speaker, I yield to the gentleman from New York [JERRY SOLÓN], my colleague and very good friend, for yielding me the customary half hour.

Mr. MOAKLEY. Mr. Speaker, as the ranking member on the House Committee on Rules, I have it pretty good. My good friend from New York, JERRY SOLÓN, treats the minority as fairly as he can. He gives us one-third of the committee's salary, and he is just as fair to us as we were to him, and we really appreciate it.

The gentleman from California [Mr. TRENT], chairman of the Committee on House Oversight, has always been gracious to us and has seen to it that the Rules minority is treated fairly and also for that, Mr. Speaker, we are very grateful.

Unfortunately, Mr. Speaker, other committees are not quite as fair as the Committee on Rules. Given the American people's obvious dislike of partisan squabbling, given the promises of the collegiality retreat at Hershey, PA, I would expect some of my Republican colleagues would see the wisdom of bipartisanship. But, Mr. Speaker, the Republican members of the Committee on Government Reform and Oversight, in a lack of consideration for the needs and I quote, rights of the Members of the minority party, are not giving Democrats anywhere near their share of the salary money.

Mr. Speaker, my colleagues on the Republican side are operating with the slimmest majority in history. Republicans outnumber Democrats 227 to 205. Mr. Speaker, that hardly justifies a 7 to 1 ratio of salary money on the Committee on Government Reform and Oversight, whose chairman is the gentleman from Indiana, [Mr. BURTON].

To make matters worse, to make sure that the American people completely lose their faith in the idea of cooperation in their Federal Government, the Republican majority is going to be spending $25 million investigating the Democratic Party and the Democratic White House.

Now, this is not to say that I think it is impossible that there have been occasions in which Democrats have engaged in questionable campaign fundraising. I think it is entirely possible that there have. But it is absolutely preposterous to suggest that there has not been one single such time on the Republican side, particularly given the recent stories about lobbyists in the news and the suspicious use of congressional buildings for Republican fundraising activities.

Even my Republican colleagues on the Senate side admitted that they did not hold some sort of monopoly on perfect campaigning. They agreed that to be fair they had better investigate everybody; that is, if the U.S. Government is really going into the investigation business. Because, if not, Mr. Speaker, if my Republican colleagues spend those millions of taxpayer dollars trying to dig up dirt on Democrats, I doubt many people will be able to take it without a very large grain of salt. About the size of a pillar.

Frankly, I do not think we should spend much money or time investigating anyone. I think if we are here, the reason the American people voted to send us to Washington is to make their lives better, and I cannot think of a single person who will benefit from more mud-slinging here in Washington.

Rather than sifting through people's garbage, we should be passing campaign finance reform to clarify and also to strengthen the rules. We should be expanding Head Start to more needy children. We should be looking into ways to strengthen our Medicare and our Social Security programs. We should be helping our police officers make America's streets as safe as they possibly can be. We should be working as hard as we possibly can to make a college education a reality for every single American student. We should not be wasting our time on these overpriced repetitive investigations.

Mr. Speaker, at the rate we are going, every committee in the Congress is going to be issuing subpoenas. And if Republicans issue subpoenas and try to see that the committee of the Committee on Government Reform and Oversight has issued over 30 subpoenas without his committee's approval.
Mr. Speaker, it does not take this former chairman of the House Committee on Rules to recognize these subpoenas are completely against the spirit of House rules. The subpoena power of Congress is a very sacred right given to us by the Constitution and under no circumstance should it be abused in such a partisan or a capricious way.

To make matters worse, in the beginning of this Congress my Republican colleagues changed the House rules and they created a committee slush fund. This committee slush fund, this $7.9 million, which is a Republican fund, is financed by American tax dollars and can be dished out by any committee with a complaint. All they need to do is get approval from the Committee on House Oversight.

For the first time, the House never gets a chance to vote on the additional committee funding, and the American people's money will be squandered on yet another witch hunt.

Mr. Speaker, it is a shame that the Congress has come to this. Furthermore, Mr. Speaker, Members who vote for this rule should not be fooled into thinking that the amendment to pay for the bill with promises of spending cuts and dividends any other way. A vote for this $22 million spending increase will leave Members completely exposed, and rightly so, to accusations of voting to waste exorbitant amounts of taxpayer money.

Mr. Speaker, make no mistake about it, a vote for this rule and a vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly $22 million. Let me repeat that, Mr. Speaker. A vote for this bill is a vote to increase the amount of money Congress spends on itself by nearly $22 million.

Mr. Speaker, I get a lot of letters and I get a lot of calls in my office from people asking the Congress to consider funding this slush fund. I am voting against that. They ask for all kinds of things, from saving Medicare to money for Irish orphans. But I can tell you, Mr. Speaker, that of all of my letters and e-mails that come into my office every day, not one single one of them has asked me to help vote for the $22 million fund. Not one single constituent has asked me for this funding increase, and it is an irresponsible waste of taxpayers' money.

Mr. Speaker, I urge my colleagues to oppose this rule and vote against this. If we are going to go into the business of investigations, if we are going to assume the mantle of the FEC or the Justice Department, we need to put on the same blindfolds that we are going to assume the mantle of the Federal Government if Members want to do that. That is their privilege. They would not have that privilege if it were brought here under a normal privileged resolution straight to the floor.

Mr. Speaker, the Committee on House Oversight has produced what I would consider, and I give the gentleman from California, Bill Thomas, wherever he is here, great credit. This resolution is reasonable and it deserves the support of this Congress. It keeps our commitment to maintaining, and this is what some of the new Members should listen to because they were not here 2 years ago, this resolution keeps our commitment to maintaining a reduction in staff levels by one-third from the 103rd Congress.

That is right. We cut one-third of every single staff in this body, and we reduced the spending by one-third of every committee in this body.

The total authorization in this resolution is also 20 percent below the levels in the 103rd Congress, the last Congress controlled by the other party, which was the last Congress. It means that, Mr. Speaker, we finally closed up shop and went home. They deserve that COLA. They deserve that.
Mr. Speaker, the other increases contained in the resolution, which are absolutely necessary, are guaranteed offsets. Again I will say to the Members back in their offices, these are guaranteed offsets through an amendment that is offered today by that gentleman, the chairman of the Committee on House Oversight, Bill Thomas, sitting over here, or his designee. That amendment requires an offset, by reduction in expenses of other legislative branch activities, for expenses of committees in the 105th Congress that exceed the amount appropriated for the committees in the 104th Congress. That means there can be no increase in spending.

This amendment reflects the fiscally responsible policy of House Republicans, and that is that authorization or appropriation increases should be paid for, and we do that in this authorization bill.

Mr. Speaker, I could go on, but I simply want to urge every Member to come over here. I want them to vote for this eminently fair rule, and I want them to vote for this resolution. We need to get it done.

Additionally, House Resolution 91 provides funds for the campaign finance investigation already underway in the Government Reform and Oversight Committee.

Mr. Speaker, the revelations of wrongdoing among administration officials and campaign staff, appearing on an almost daily basis, are among the most serious I have seen in my time in public life.

The allegations involving economic espionage and national security breaches are even more serious than mere campaign finance law violations which are, themselves, serious enough to warrant criminal indictments. And the suggestion that American foreign policy may have been directed by the flow of laundered money is absolutely appalling.

Mr. Speaker, this committee funding resolution provides the necessary resources to investigate the burgeoning campaign finance scandal and administration.

The amendment that will be offered later today also ensures that any committee expenses increased beyond the authorization in the last Congress will be paid for. The rule allows the House to vote on these important items today.

I urge strong support for the rule and the committee funding resolution.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey, [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise in opposition to this rule.

The Republican majority running this House likes to portray itself as the party of fiscal conservatism. However, I would like to know how they can justify the expenditure of up to $32 million of the taxpayers' money for a fundraising investigation of the White House.

The other body has already budgeted itself less money than this House, and has piled all expenditure of up to $32 million of the taxpayers' money for a fundraising investigation of the White House.

I do not think the blatant partisanship of the Republican leadership has been lost on anyone here. They are not looking for fairness, nor are they looking to have a balanced investigation into campaign wrongdoing. They are trying to have a shower of the taxpayers' money and wasting it on a political witch hunt.

If anybody is wondering why the House Republican leadership has decided not to broaden the scope of the committee’s investigation into improper acts by congressional campaigns, one only needs to look at the top.

Indeed, if the scope of the committee was broadened to consider congressional campaigns, I suppose the first witness to be called would have to be the Republican committee chairman. Only yesterday, I was pleased to hear the gentleman from Indiana will be tainted. The Republican leadership of this House will better serve the integrity of this institution if they remove the gentleman from Indiana from the chair and broaden the scope of the investigation.

Without these actions, the country will rightly consider this investigation an example, as Joel Klein put it, of a joke. I would point out, as others have already, that already in the Washington Post today it was suggested, rightly I think, that the chairman should step down from the investigation, and in the New York Times it was very emphatically pointed out that the scope of the investigation should be broadened to include congressional campaigns, both Democrat and Republican. I think that the public is crying out to act in that regard, and that is why we should vote down this rule and we should vote against the resolution.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Albuquerque, NM [Mr. SCHIFF].

Mr. SCHIFF. I thank the gentleman for yielding me this time.

Mr. Speaker, we have heard a great deal from our colleagues on the other side of the aisle about fiscal responsibility, and they suggest that the money they are asking for an investigation is not fiscally appropriate. I respectfully suggest first that they never said that when they appropriated funds for investigations conducted on whatever subject while they were the majority.

Second, and I think more important, even if there were no setoff to the spending proposed here and, as Chairman Solomon said, there will be an investigation, that $223 million they have setoffs, even if there were no setoffs, the total funding for committees proposed in this bill is $178.3 million for the 105th Congress. The total appropriation for the 103rd Congress, two Congresses ago, under our Democratic colleagues’ majority was $137 million.

So that is getting close to a $50 million difference between what the majority spent in the 103rd Congress and what the majority proposes to spend in the 105th Congress for the purpose of committees.

It will be interesting for our Democratic colleagues to explain what they were doing with all of the money that they spent in the 103rd Congress that came to $223 million. How are we able to do so much on $178.3 million in the same amount of time? Curious.

Second, the average appropriation for the Democratic minority staff is 29 percent in our bill. In previous Congresses, the average appropriation for Democratic minorities was 21 percent. So we are giving the Democrats a larger percentage of the budget for committees than we gave when we were in the minority. If one looks at all these figures, I submit that everyone should support the rule and support the bill.

Mr. MOAKLEY. Mr. Speaker, before I yield, I would like to just correct a statement of the gentleman from New Mexico [Mr. SCHIFF]. There are no specific offsets in this bill. It is just general language.

Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. WAXMAN].

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

Mr. WAXMAN. Mr. Speaker, I rise in strong opposition to this rule. In walking over here to speak on this matter, I wondered what the gentleman from Georgia [Mr. GINGRICH] would have said when he was in the minority if a Democratic majority brought a committee funding bill to the floor under a closed rule, meaning no amendments allowed, a bill that provided a record funding level of $223 million for investigation, and created a mysterious $8 million reserve fund that was controlled by the majority; a bill that provides this funding, even though the money will be used exclusively to investigate the minority and the chairman will unilaterally issue subpoenas and release documents, even confidential information, as he sees fit. And that bill provided at most 25 percent of the committee’s resources to the minority?

Mr. Speaker, Newt Gingrich would have said that it was an arrogant abuse of power, that debate was quashed, that the funding was an outrageous waste of money, taxpayers’ dollars, he would...
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have said it was an act of war against the minority, and he would have been right.

No matter what other wrongs we may have done when we were in the majority, we never went this far. Today, the Republican Party is not acting in good faith. They are trying to jam a funding bill through without any opportunity for an amendment, and they are authorizing an investigation that is limited to Democrats, limited to the White House, and not limited to this House with reference to the growing problem of members of any Federal position having to chase money for the increasing cost of campaigns.

There is no doubt that this is an outrageous travesty. Has this House been exempt from complaints about the distribution of tobacco money right here on the floor of the House, from complaints about the "farsighted" use of tax-exempt money to fund campaign efforts, from one complaint after another? Why is it that we are doing only to the White House and not to this House with reference to the growing problem of members of any Federal position having to chase money for the increasing cost of campaigns?

And so it is. I do not say it is all a Republican problem or all a Democratic problem, but that it is time to look not just at the White House but at this House, and if you vote for this resolution, what you are doing is voting to exempt this House from any investigation concerning financial improprieties in the course of campaigns. Why not look at the whole problem, not just to point fingers but to find solutions? That is what this matter should be about.

There is an easy and obvious solution. Fund all the other committees except the Committee on Government Reform and Oversight. We have not even begun to cross a line of our committee to decide the rules under which this investigation will be conducted. We do not even know the scope yet except what the chairman would have us believe is the scope that he would want for this investigation. Fund the other committees, and allow us to not have a disruption of them, and then leave the investigation by the Committee on Government Reform and Oversight to be debated later. Defeat this rule.

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Winter Park, FL [Mr. MICA].

Mr. MICA. Mr. Speaker, I was elected to this body in 1992, and I have been waiting for this day. You cannot imagine in your wildest imagination, Mr. Speaker, the way our side was treated by the former predecessor of this committee, the Government Operations Committee. We now have the Government Reform and Oversight Committee. We now have the Government Reform and Oversight Committee.

I pulled these charts out of the attic, but look at these charts. You want to talk about fairness? In the 103rd Congress, this is the investigative staff that they gave the minority. This chart was presented on this floor, and I came to this well and railed against what was done to us. How dare they say, "We are fair," when we were mistreating them when we offered such an incredible increase in percentage. In fact, we are running Government Operations, we are running the Postal and Civil Service Committee, the D.C. Committee, all combined, for about half of what we are funding.

What this is about, is fairness and equity. We gave them in our proposal 25 percent. It is higher than anything they ever gave us. So I have been waiting for this day. I do not have enough time to go into all the grisly details, Mr. Speaker, but I will present every one of them when I get full time when this rule is completed.

So do not come here and say this is unfair. In the 103rd Congress, $25 million at the distribution service and Post Office. What we are doing now, the 104th Congress, we spent $13.5 million for the same task. This request if for $20 million. It is still almost $5 million less than what they expended.

Again, it was a question of what they did to us, and that is when they controlled the House, the Senate and the White House. There was no oversight. We see the results of it. The results of it is the scandal, the unprecedented scandal. I chair the House Subcommittee on Civil Service. I have 7 staffers that replaced 54 Civil Service staffers, 7 staffers. I have in my possession right now 1,000 documents, almost 10,000 pages, almost as much as we had in the Filegate matter.

Mr. Speaker, this is about a scandal that is unprecedented in the history of this Congress, and they are trying to blur the focus, they are trying to make it look like a partisan attack, they are trying to attack our chairman, they are trying to attack our Members and they are trying to say, most unfairly, that we are being unfair. Mr. Speaker, there could not be anything further from the truth.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. Doggett].

Mr. DOGGETT. I thank the gentleman for yielding me this time.

Mr. Speaker, there has been so much talk about the scandal. I chair the House Oversight and Government Reform Committee. I do not look at the whole problem, not just the White House but at this House, and if you vote for this resolution, what you are doing is voting to exempt this House from any investigation concerning financial improprieties in the course of campaigns. Why not look at the whole problem, not just to point fingers but to find solutions? That is what this matter should be about.

I think this should be adequately funded and adequately staffed. But why just the White House and not this House? Are there shakedowns happening? Absolutely. Every minute of every day with very rare exceptions on both sides of the aisle, on both sides of the Capitol dome. It is a disgusting, despicable scene.

And so it is. I do not say it is all a Republican problem or all a Democratic problem, but that it is time to look not just at the White House but at this House, and if you vote for this resolution, what you are doing is voting to exempt this House from any investigation concerning financial improprieties in the course of campaigns. Why not look at the whole problem, not just to point fingers but to find solutions? That is what this matter should be about.

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those rules provide very clear jurisdiction for the Committee on Government Reform and Oversight, and it happens to be the executive branch of Government.

Despite the fact that we may wish on the other side that these rules said otherwise, despite the fact that Members on the other side who are so partisan they do not even understand what the rules are, may want the rules to say otherwise, they do not now.

We have to abide by the rules, and the resolution before this body at this time does indeed reflect the rules of this House and it reflects the proper jurisdiction of each and every one of the committees, including the Committee on Government Reform and Oversight for which funds are proposed through this resolution.

Now we heard a little bit ago that, I believe it was the gentleman from New Jersey, that seemed to feel rather in scope of the investigation proposed to be conducted by the House Committee on Government Reform and Oversight was inconsequential. Well, it may be to the people of his State but it is not to the people of the United States of America. They are deeply disturbed by the mounting evidence of very, very serious possible violations of law ethics and wasting government conducted by this administration and by agencies of the U.S. Government executive branch, and it does indeed fall within the jurisdiction of the Committee on Government Reform and Oversight to conduct an investigation of those for the American people.

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

The statement of the gentleman is factually incorrect when it comes to the duties of the House Oversight jurisdiction, that seemed to feel rather reform rather. The argument is factually incorrect. The House gives House Oversight legislative jurisdiction over all Federal elections, both congressional and Presidential, Government Reform and Oversight to investigate responsibilities that are extraordinarily broad, so broad in fact that under House rules, Government Reform and Oversight may conduct investigations on any matter with regard to any committee's jurisdiction.

So what we have here is a situation where the Republicans on the Committee on Government Reform and Oversight are selectively investigating some of the matters that fall under the legislative jurisdiction of the House Oversight, but not others; the gentleman from Indiana [Mr. BURTON] saying, "Well I think we should go and take a look at the Presidential election, or the impeachment, or the jurisdiction of the House Oversight Committee, and I can do that under the rules of the House."

But when pressed to look at congressional elections, Chairman BURTON says, "Oh, no, I can't do that. That is within the jurisdiction of the House Oversight Committee."

Mr. Speaker, that is not right, that is not fair, and I can only conclude that this investigation is being conducted in a very partisan way.

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

Mr. MOAKLEY. I yield to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I checked with the House Parliamentarian on this very issue, and he assured me that our committee does have jurisdiction, Government Reform and Oversight. It does have the investigative oversight. It does have the investigative oversight over all committees.

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

Mr. DREIER. Mr. Speaker, I yield 2 minutes to the gentleman from Long Beach, California [Mr. HORN], my very good friend.

Mr. HORN. Mr. Speaker, this is a very difficult situation. What we have, and it is the press that has done most of the work, the media, to this point, we have major national scandals, clear violations of the law, and the emphasis, it would seem to me, would be to deal with those.

Now I am fascinated by my friends on the other side of the aisle. They are right, I think, on the jurisdictional point. You can have an investigation, and investigate, anywhere an authorization committee can go. The question is what comes first?

What comes first is what bothered this Nation for the last 6 months because these were slowly, slowly unfolding during the election period, but mostly since the general election, and it seems to me we ought to concentrate our resources at this time on solving that problem. And I will tell my friend from California that as one that takes no PAC money, I would love nothing better than to be involved in an investigation of the fund-raising on both sides of the aisle. I do not think the gentleman wants that to happen, but I would be glad to get into that.

Mr. WAXMAN. Will the gentleman yield?

Mr. HORN. I yield to the gentleman for a question, but I have got a few other things I want to cover. A 30-second question.

Mr. WAXMAN. The Senate voted unanimously to investigate the Congress and the White House. I think we ought to do the same. There ought to be Democrats and Republicans. If we are only going to investigate the White House, it seems to me that the opens this up to the fact that we are covering up what goes on in the Congress.

Mr. HORN. Mr. Speaker, I would say to my colleagues that if the Senate is going to do that, that is their prerogative, and I know it is and that was my second point, why are we spending resources to be diverted into the area?

I hear a lot from liberals and a lot from conservatives about, “Gee, we have to save money on committee.” Now frankly they are dead wrong on both sides because what we need to do is make sure that the prerogatives of the Congress of the United States can function in a way that can be carried on with that budget is just dead wrong. Frankly, it means some people do not want the investigation to be carried out. We should want it to be completed.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Speaker, you know one of the problems we have here, there are a number of issues before us. First of all, if we fail to pass this resolution, it does not stop the legislative process. Frankly, when we came here in January we operated without a funding resolution. The Congress then organized and we are able to continue.

If we do not pass this rule today, we can come back here on the 8th or the 9th of April and pass a funding resolution that pays for the people that they have done, and there is no crisis in government if we do not pass this rule today.

One of the major issues as a Member of Congress, and we do not do this for Federal agencies as a general rule, is we do not create slush funds.

Now as my colleague knows, it seems the answer around here is, “If you put gates at the end of almost any term it becomes somehow criminalized.” So I guess we have to call this Slushgate. We are bringing up here an amount of money that no Member of Congress in his right mind would vote for investigations—the October Surprise spent under $2 million; I think a million four. We are taking the committee of the gentleman from Indiana [Mr. BURTON], and we are moving it from about $8 to around $3. I think that then we have got Slushgate. Then we got another 78 or $9 million sitting there in a little pot that no Member of Congress on this floor is going to have a chance to vote on on the floor. They are going to do it back in the committee where there are no lights.

So we are taking almost $8 million more, and again the focus is very narrow, but we are taking the committee that last year did three political investigations, and I know the country is beat for beat. What happened in the travel office and all the other things that we spend tens of millions of dollars investigating, but we are going to spend another 12 to $20 million now.

What is the goal of our oversight? The goal of our oversight ought to be campaign reform. That is not the goal here. The goal here is to spend as much money as you can with as little opportunity for any real debate and looking at all the information.

We need to regain the confidence of the American people. We are not going to do that going after the White House...
or Congress. If my colleagues want to rebuild the confidence in the American people, we have to pass campaign finance reform, and we have to bring a budget here for the Congress that does not have an $8 million slush fund. We want to spend the funds as they are needed. Our colleagues have not got guts enough to come here and ask for 20 million bucks from the committee of the gentleman from Indiana [Mr. Barton] so they are going to come here and say, "We’re going 6 to 6½, we’re going 12, and then we got $8 million over here."

They got a slush fund on the floor of this House. It is no way to run this Congress. We ought to vote to rule this rule down, we ought to come back here after the recess and try to pass a budget that will really address the issues we have to take care of as a Congress.

PARLIAMENTARY INQUIRY

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

The Speaker pro tempore (Mr. LaTourette). The gentleman will state his parliamentary inquiry.

Mr. DREIER. Mr. Speaker, I would simply like to inquire of the Chair what the ground rules are on personal references to Members of the House.

The SPEAKER pro tempore. Members should avoid personalities, derogatory personal references, to other Members of the House.

Mr. DREIER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana [Mr. Burton], the very distinguished chairman and, I believe, unfairly maligned chairman of the Committee on Government Reform and Oversight.

Mr. BURTON of Indiana. Mr. Speaker. I speak.

As my colleagues know, the founder of our party, Abraham Lincoln, said one time, I hope I am quoting him correctly; he said, "If I do the wrong thing, I will paint my pants red; if I do the right thing, history will prove I did the right thing.""

Mr. Speaker, I hope that is what happens with my committee and my conducting of my committees' activities over the next few months.

I have been accused of some things that I think unfairly, but I expect that to happen because when we start investigating the executive branch of government, it involves the President, we got to expect that they are going to be firing back, and I fully anticipated that. I did not think it would happen this soon, but nevertheless I expected it.

But let me just say to my colleagues, I still commit to my Democratic friends that we are going to try to run this committee in as fair and as bipartisan a way as possible.

I told the gentleman from California [Mr. TJ Lowden] there are difficulties as they arise when we had meetings that we would give him notice before we sent out correspondence, he would have 24 hours notice before we sent out subpoena, we would not release documents without his approval or give him 24 hours notice unless it was an emergency and we had to do it, and so far we have released no documents.

Today many people are talking about us releasing documents. We have released no documents. The White House has been doing that, and if Members do not believe me, ask the media. We are keeping our word, and our scope, the scope of our investigation, I want it to be relatively narrow so we can get this thing done in a quick and a short period of time.

I want to investigate alleged illegal activities in the executive branch, illegal activities.Were we selling influence overseas for campaign contributions? This is something that is very important to the American people. Was our national security jeopardized because we were selling our national security for contributions? Were we selling business opportunities for campaign contributions that might hurt the economy of the United States? These are things that we need to look into that are alleged illegal activities.

Now I did not say that we would not look into the illegal activities of Congressmen or Senators, or the DNC, the RNC, or the DCCC or NRCC. What did say was, if we found illegal activities or what appeared to be illegal, we would turn them over to the committee of jurisdiction in the Congress.

The Committee on Standards of Official Conduct investigates Congressmen. We knew that when Speaker Gingrich and Speaker Wright were investigated; that is where we went when there was an alleged ethical or illegal violation. That is what I intend to do; not sweep it under the rug if it is a Republican, but turn it over to the Committee on Standards of Official Conduct with the information we have.

The House administration or the Committee on Oversight, if we find something going wrong with the RNC, or the DNC, we will give that illegal information, or that information looks like it is illegal, to that committee for proper work.

Let me just wrap up because we are running out of time. I want to pledge to Members that this will be a fair investigation. I will be as fair to the minority as I am the majority. But I want to tell my colleagues this:

As long as I have two legs, I am going to do my dead level best to get to the bottom of these scandals; make no mistake about it.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. Tierney].

Mr. TIERNEY. Mr. Speaker, I thank my colleague from Massachusetts for yielding me this time.

As a member of the Committee on Government Reform and Oversight, let me say that I think that all of the Members of that committee would wish that it were true that we had some indication that things were going to be done fairly and justly on that committee. I am here to tell you as a member that we have no indication that that is so.

It is very unique that we should have had a meeting called for last week to discuss these very issues about process, to discuss the very issues about funding, to discuss whether or not we would be investigating all of the irregularities in the campaign finance reform, only to have that meeting postponed so that this issue could be brought to the floor and rushed through without any debate and without dealing with these matters fairly.

The American public demands to know what went wrong with campaign financing at all levels, not just at the White House if anything went wrong there, but in Congress if something went wrong there and in the Senate if something went wrong there.

There is no clamoring, no clamoring at all that I know of in the public for us to duplicate the expenditure of funds on this investigation. Nobody that I know of out there, let us spend $6 million in the Senate and another $6 million in the House, and yes, please, if you can, put an $8 million slush fund together so they can hold that in reserve. There is none of that out there in the public.

I think we should all take cognizance of the fact that we should have one thorough, complete, nonpartisan and fair investigation, get it done, have it done by a joint committee or by the Senate, because at least the Senate indicates that it wants to do it right. If we insist on having the Committee on Government Reform and Oversight of the House want to be partisan and want the appearance of being unfair and partisan, then we ought to back off, we ought to let the Senate do it and we ought to get on with the people's business. There are many things we could be doing in Congress; providing a slush fund is not one of them.

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

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York [Mrs. Maloney].

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

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

I would like to join my colleagues and add my voice as a member of the Committee on Government Reform and Oversight, speaking out against the $7.9 million slush fund that did not go to the House floor. It is really wrong. I also oppose the $12 million that they are asking for for clearly a partisan investigation against the White House and the Democratic party.

The committee has not yet agreed to reveal any information or any details about how they intend to spend this slush fund or any of this money.
H1238

CONGRESSIONAL RECORD — HOUSE

I would like to quote, please, Becky
Cain, president of the League of
Women Voters. She said about this,
‘‘The House investigation into campaign fundraising should include a
thorough examination of both parties’
Presidential and congressional practices, both improper and illegal. A limited scope will turn the investigation
into a partisan charade.’’
Today’s Washington Post editorial
goes even further. It warns that this investigation runs the risk of becoming,
and I quote, ‘‘its own cartoon, a joke
and a deserved embarrassment.’’
The New York Times editorial recommended today that the House should
follow the Watergate precedent and let
the Senate conduct a single investigation.
I would like to submit into the
RECORD the editorials in both the
Washington Times and in the Washington Post against this investigation,
and also the Roll Call editorial.
Instead of using this money for the
slush fund for a partisan investigation
of the House, we should be increasing
funding for the bipartisan agency that
is charged with regulating campaigns:
The Federal Election Commission. The
FEC has requested an increase of $8.2
billion for fiscal year 1998 to deal with
its increasing caseload. In the last 3
years the FEC’s caseload has increased.
I am opposed to the slush fund. We
should be funding the FEC instead.
Mr. DREIER. Mr. Speaker, I reserve
the balance of my time.
Mr. MOAKLEY. Mr. Speaker, I yield
such time as he may consume to the
gentleman from Connecticut [Mr.
GEJDENSON].
Mr. GEJDENSON. Mr. Speaker, we
have a job here and the job is to make
a decision as to what the proper method to proceed is.
Now, we are going to go back and see
our constituents over this next recess.
The question as constituents meet us
on the street, whether we are on this
side of the aisle or the other, is can we
explain to them an $8 million slush
fund. That is the real question here.
Are we going to vote for a process, adding all of the other issues about fairness, about how the investigation
ought to proceed? Should we not really
be looking at campaign finance reform
and not just more partisan battles?
Putting all of that aside, the question is, do we want to walk down the
streets of our hometown and have them
ask, should Congress have a slush fund?
We do not do that for other agencies. If
we think this investigation warrants $8
million more, then put it in the committee of the gentleman from Indiana
[Mr. BURTON]. My colleagues on the
other side do not have guts enough to
do that. Frankly, I do not think we
should support that kind of process.
Let us vote this rule down, because
we were not given any opportunities to
amend it; let us vote the rule down, let
us continue the regular order. We can
either have an extension tonight by
unanimous consent, our side is ready

to do that, or we can stay here tomorrow and do it.
A lot of Members have plans. I think
we can come back here on April 8 or 9
and deal with this properly. I do not
think the American people want us to
have an $8 million slush fund in the
budget. When we take a look at how we
operate here and how we ought to operate here, we have never before put
slush funds in. We have always come
back to the Congress. We come back to
the Congress, we say there is a need,
we have a debate on the floor of the
House, and when we complete that debate, we make a decision.
Not this time. This time we double
the funding of the committee of the
gentleman from Indiana [Mr. BURTON];
we come here, and on top of that doubling of funding we have the slush fund
in the budget. Vote down this slush
fund. Let us come back here and have
campaign finance reform. Let us come
back here, examine the way we work,
not with a political motive, but a motive on how to rebuild confidence of the
American people in our system.
We have to have real reform that
limits spending, that limits the large
amounts of money. That is what we
have to do. But we are not going to
achieve that in this game. This is a political game. I say to my colleagues,
you are going to embarrass yourselves
in this process.
Let us join together and vote this
resolution down. Let us come back
with a fair resolution, without a slush
fund, with a proper activity legislatively that will give us the basis for
coming together and passing campaign
finance reform. That is what we ought
to be doing. Join with us together,
Democrats and Republicans, in rejecting this proposal which has a slush
fund in it, and come back here with a
bill that will make us proud to be
Members of Congress.
Mr. MOAKLEY. Mr. Speaker, I yield
back the balance of my time.

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CALL OF THE HOUSE
Mr. DREIER. Mr. Speaker, I move a
call of the House.
A call of the House was ordered.
The call was taken by electronic device, and the following Members responded to their names:
[Roll No. 66]
ANSWERED ‘‘PRESENT’’—421
Abercrombie
Ackerman
Aderholt
Allen
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman

Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher

Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson

Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)

March 20, 1997
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDade
McDermott
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre

McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
MillenderMcDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schiff
Schumer
Scott
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman


Mr. CONDIT. Mr. Speaker, I stand today opposed to the rule. Let me say that all of us in this body today are working frantically to try to do what we can to balance the budget of this country. Both my Republican colleagues and my Democratic colleagues are working very hard to do that. Yet today we stand here considering expending $15 million to do an investigation in the Committee on Government Reform and Oversight, $15 million, when we are trying very hard to balance the budget of this country. This is confusing to the American people. We are spending $15 million, or requesting $15 million, when in the Senate they are spending only $4 million. They are spending $4 million to do a bigger and broader, more encompassing investigation than what we are considering here in the House. That does not make sense to the American people.

I came here in 1989. I do not think there has been 30 days since I have been here that we have not been investigating someone or something. I will tell my colleagues, going back to the American people are getting tired of that.

I think that we ought to have full disclosure. We ought to have investigations, but it makes no sense when the Senate or the other body has an investigation, calls in witnesses, and then 2 weeks later we are doing the very same thing over here. That is a show. That is a show, and we are doing it here to the tune of twice, three times as much money as the Senate is spending.

What we need to do is to change the process. We need to quit this. If we are going to have investigations, and we should, from time to time, we ought to clean the process up. We ought not to duplicate what the other body does. We ought not to spend money that we do not have to spend.

This is about the process. This is about doing what is right and what is fair. We did not even have a committee hearing about this issue. We did not discuss it. It is not right. We can do better than that. That is not the way to do the House's business. We, at a minimum, should have discussed this in a committee hearing.

I want to tell my colleagues that out of the $15 million we have $8 million in a fund that we do not even know what is done with it. What are the American people going to say about that, when we are talking about reducing the costs of Medicare and Medicaid? This is wrong. This is not right and we ought to reject this rule today.

I say to my colleagues, if we want to do what we said we were going to do a couple of weeks ago, we ought to start today. We ought to start today by rejecting this.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume to inform my colleagues that on July 16th of 1787 we established the Constitution, a bicameral legislature.

Someone who understands that is the very distinguished chairman of the Committee on House Oversight, my friend from Bakersfield, California [Mr. THOMAS].

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

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

Mr. THOMAS. Mr. Speaker, I have to admit I am genuinely confused. It is indeed a rare occasion when I come to the floor and I find out that not only is my friend from Massachusetts saying good things about me in terms of the way I run a committee and the way we spend funds, but then he reeks the minority views from a friend from Connecticut, signed by all the members of the committee, about how fair I am and the fact that the distribution of the funds was reasonable. And my colleagues really ought to read it, it is almost embarrassing how flattering they are about the way I run the committee, and then they immediately turn around and talk about this slush fund and they are worried about the slush fund and what is going to happen with it.

I am the same person who is chairperson of the committee who is going to control the reserve fund. The reserve fund is just exactly that, a reserve fund, so I know how to use these funds. I know what a slush fund is. In the 103d Congress they had $223 million to slush around. And what my colleagues need to know is that out of that $223 million, more than half was spent outside public scrutiny. More than $112 million was spent in the shadows, in closed door rooms.

What we did in the 104th Congress was put it all together, let sunshine in, and what you see is what you get. What we are asking for this Congress is $45 million less than they spent.

Now, how about a slush fund for $45 million. Where was it? Soaked away in the committees. I just do not understand it, but we cannot have it both ways.

My friend from California, Mr. WAXMAN, he does understand it, his concern is that we said the funds are controlled by the majority. That is true, majority rules. That is called democracy.

He also said when we are in the majority we never went this far. That is a quote, and he is right. He is right. They never did go that far. He said, "We only have 25 percent of the resources." My friends, the 103d Congress, the minority, us at the time, had 34 percent of the resources in the Committee on Commerce. We had 15 percent of the resources in the Committee on House Oversight. We had 11 percent of the resources in the Committee on the Judiciary.

I tell my friend from California, he is right, they never went as far as we have.

My friend from Texas, Mr. DOGGETT, says we should not just point fingers, we ought to offer solutions. And then what he says is he wants more money to the Committee on Government Reform and Oversight for the gentleman from California, Mr. WAXMAN, because Mr. WAXMAN has a letter from the Par- liamentarian that says all they can do is investigate.

What is investigating? It is exposing. They cannot offer solutions. They cannot have it both ways. The committee that has the jurisdiction to pass the laws is the Committee on House Oversight. We have what we believe is appropriate. We will do the job.

Then I listened to a number of my friends in terms of how much money we are spending. My good friend from California, Mr. CONGRESSIONAL RECORD — HOUSE
we have audits with a whole lot less money.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in opposition to the rule on House Resolution 91. In allocating a tremendous amount of money for an investigation of alleged fundraising abuses whose scope was restricted to the administration and the DNC. House Resolution 91 is overly partisan and inequitable. It is amazing to me then, that the only amendment allowed under the rule, is the Thomas amendment. The rule allows the Thomas amendment to deny the amendments which would have ensured that the investigation into alleged fundraising abuses, are conducted in as fair and non-partisan manner as possible. These amendments would have moved House Resolution 91 closer to the broader, more bipartisan Senate bill. Now this rule allows the spending of up to $15 million wasteful dollars on a witch hunt.

The Thomas amendment is meaningless. Its purpose is to house the Government Reform and Oversight Committee. I am concerned about the very large funding increase provided by House Resolution 91, a cover. In so doing, it will facilitate passage of House Resolution 91. What proponents of the Thomas amendment would have us believe, however, is the fact that this amendment is utterly unenforceable. It is simply a promise, a nonbinding promise. We have far more important actions that can be taken. This Congress can pass real campaign finance reform. I am for that but not a misguided attempt at partisan politics at its worst.

I urge my colleagues to oppose the rule, to oppose House Resolution 91, and to oppose the Thomas amendment. And real debate on campaign finance reform lets Republicans and Democrats work to clean our own houses without the enormous expenditure for the Republican House Oversight Committee to play politics.

Mr. LANTOS. Mr. Speaker, a few years ago, as the chairman of the Subcommittee on Employment, Education, and the Service Branch of the Armed Forces, I conducted earlier, our actions were totally bipartisan. Subpoenas were issued on the basis of the previous question on the resolution.

The question was taken; and the yeas and nays were ordered.

The vote was taken by electronic de- Banking and Urban Development during the Reagan administration. That investigation was taken seriously because it was bipartisan, that investigation had conduct, and involved the holding of some 30 public hearings.

That investigation was carried out with the regular subcommittee staff, which was augmented for a portion of that time by two investigators from the General Accounting Office. I received no additional funding for my investigation. We conducted a serious and thorough investigation with no allocation of additional funds.

Today, we are considering a Committee Funding Resolution that will provide some $12 to $15 million for the investigation Chairman BURTON proposes to conduct in the Government Reform and Oversight Committee. This resolution includes a slush fund of an additional $900 million for the same investigation. The Government reform investigation is being allocated two to three times the amount which the Senate committee under Senator THOMPSON has received. Not only is Chairman BURTON’s investigation duplicating only a portion of that same Senate investigation, he is doing so at three times the cost.

Mr. Speaker, the committee funding resolution is a serious waste of taxpayer dollars. Many of my colleagues on the other side of the aisle have given us lengthy speeches about the necessity to reduce government waste and reduce the deficit. Here we have an opportunity to avoid waste, duplication, and encourage efficiency—but my colleagues on the other side of the aisle are simply voting to spend taxpayer moneys wastefully and unnecessarily.

The second concern that I would like to raise in connection with this legislation, Mr. Speaker, is the partisan nature of the Government Reform and Oversight Committee investigation that is being endorsed by supporting the committee funding resolution.

Mr. Speaker, an investigation that is bipartisan has credibility with the American people. An investigation that is partisan will be dismissed—as it should be—by the American people.

Again referring to the HUD investigation that I conducted earlier, our actions were totally bipartisan. Subpoenas were issued on the basis of the previous question. The vote was taken; and the yeas and nays were ordered. The question was taken; and the yeas and nays were ordered.

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This resolution today provides excessive funding for an investigation that is partisan and wasteful and outrageous. Mr. Speaker, a vote for this resolution will come back to haunt those of my colleagues who mistakenly vote for it.

Mr. DREIER. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

Mr. Speaker, on that demand the yeas and nays were ordered.

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CONGRESSIONAL RECORD — HOUSE

March 20, 1997

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE RESOLUTION 91, RESOLUTION PROVIDING AMOUNTS FOR THE EXPENSES OF CERTAIN COMMITTEES OF THE HOUSE OF REPRESENTATIVES IN THE 105TH CONGRESS.

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105-41) on the resolution (H. Res. 105) providing for consideration of the resolution (H. Res. 91) providing for amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS

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

Mr. GINGRICH 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 Utah [Mr. CANNON] is recognized for 5 minutes.

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

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(Two following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Ms. WATERS, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HANSEN, for 5 minutes, today.

Mr. WAMP, for 5 minutes, today.

Mr. SMITH of Michigan, for 5 minutes, today.

Mr. GINGRICH, for 5 minutes, today.

Mr. CANNON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Two following Members (at the request of Mr. DREIER) to revise and extend their remarks and include extraneous material:)

Ms. STARK.

Mr. EDWARDS.

Ms. NORTON.

Ms. FURSE.

Mr. ALLEN.

Mr. BLAGOJEVICH.

Mr. MCNULTY.

Mr. FRANK of Massachusetts.

Mr. TORRES.

Ms. KAPTUR.

Ms. HARMAN.

Mr. ACKERMAN.

Mr. KLECKA.

Mr. BLUMENAUER.

Mr. BORSKI.

Ms. MALONEY of New York.

Mr. FALEOMAVAEGA.

Mr. MENENDEZ.

Mr. LANTOS.

Mr. CLEMENT.

Mr. BARCIA.

Mr. MORAN of Virginia.

Mrs. MEK of Florida.

Ms. MCCARTHY of Missouri.
S. 410. An act to extend the effective date of the Investment Advisers Supervision Coordination Act.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn. The motion was agreed to; accordingly (at 11 o'clock and 49 minutes p.m.), the House adjourned until tomorrow, Friday, March 21, 1997, at 10 a.m.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1996 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85-804:


Hon. Newt Gingrich, Speaker of the House of Representatives, Washington, DC.

Dear Mr. Speaker: In compliance with Section 4(a) of Public Law 85-804, enclosed is the calendar year 1996 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 45 contractual actions were approved and that three were disapproved. Those approved include actions for which the Government's liability is contingent and cannot be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Ballistic Missile Defense Organization, National Imagery and Mapping Agency, and the Defense Special Weapons Agency reported no actions, while the Departments of the Army, Navy, and Air Force, the Defense Logistics Agency, and the Defense Information Systems Agency provided data regarding actions that were either approved or denied.

Sincerely, D.O. COOKE, Director.

Enclosure: As stated.

DEPARTMENT OF DEFENSE

EXTRAORDINARY CONTRACTUAL ACTIONS TO FACILITATE THE NATIONAL DEFENSE (Public Law 85-804) Calendar Year 1996

FOREWORD

On October 7, 1992, the Deputy Secretary of Defense (DepSecDef) determined that the national defense will be facilitated by the elimination of the requirement in existing Department of Defense (DoD) contracts for the reporting and recoupment of nonrecurring costs in connection with the sales of military equipment. In accordance with that decision and pursuant to the authority of Public Law 85-804, the DepSecDef directed that DoD contracts herefore entered into be amended or modified to remove these requirements with respect to sales on or after October 7, 1992, except as expressly required by statute.

In accordance with the DepSecDef's decision, on October 9, 1992, the Under Secretary of Defense for Acquisition and Technology directed the Assistant Secretaries of the Army, Navy, and Air Force, and the Directors of the Defense Agencies, to modify or amend contracts that contain a clause that requires the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, through the addition of the following clause:

The requirement of a clause in this contract for the contractor to report and pay a nonrecurring cost recoupment charge in connection with a sale of defense articles or technology is deleted with respect to sales or binding agreements to sell that are executed on or after October 7, 1992, except for those sales for which an Act of Congress (see section 23(e) of the Arms Export Control Act) requires the recoupment of nonrecurring costs.

This report reflects no costs with respect to the reporting or recoupment of nonrecurring costs in connection with sales of defense articles or technology, as none have been identified for calendar year 1996.

EXTRAORDINARY CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE—JANUARY-DECEMBER 1996

Summary Report of Contractual Actions Taken Pursuant to Public Law 85-804 to Facilitate the National Defense—January-December 1996

Section A—Department of Defense Summary

<table>
<thead>
<tr>
<th>Department and type of action</th>
<th>Actions approved</th>
<th>Actions denied</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
<td>Amount requested</td>
</tr>
<tr>
<td>1. Department of Defense, total</td>
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<td>37,149,785.00</td>
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<tr>
<td>a. Amendments without consideration</td>
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<td>37,149,785.00</td>
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<tr>
<td>b. Formalization of informal commitment</td>
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<tr>
<td>c. Contingent liabilities</td>
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<td>2. Army, total</td>
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<tr>
<td>a. Amendments without consideration</td>
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<tr>
<td>3. Navy, total</td>
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<td>Contingent liabilities</td>
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<td>4. Air Force, total</td>
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<td>5. Defense Logistics Agency, total</td>
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<tr>
<td>Contingent liabilities</td>
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<tr>
<td>6. Ballistic Missile Defense Organization, total</td>
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</tr>
<tr>
<td>7. Defense Information Systems Agency, total</td>
<td>0</td>
<td>0.00</td>
</tr>
</tbody>
</table>
By the mid-1980s, both NMI and the Army had become concerned about the need to clean up the holding basin to meet tightening federal and Massachusetts environmental standards. The Army paid for complete radiological assessments produced under its ongoing contracts during the 1980s and into the 1990s, but NMI and the Army could not agree on how the cleanup of old waste produced under completed contracts should be handled because most of these contracts were already closed out. By 1993, only one contract under which waste in the basin had been produced remained open. However, the work under that cost-type contract, DAAK-10-BL-C-0323, had produced only about 2.7% of all holding basin deposits. Consequently, because most of the waste in the basin was not produced under that single open contract, the cost of cleaning up the entire basin could be allocated to contract DAAK-10-BL-C-0323.

During the early 1990s, the uncertain liability that the holding basin represented to NMI became a point of contention between NMI and the Nuclear Regulatory Commission (NRC). The NRC licenses NMI to handle the low-level radioactive materials used in NMI’s industrial operations at its Concord site. One of the prerequisites for the issuance or renewal of an NRC license is the furnishing of financial assurances that the licensee will be able to bear the decontamination and decommissioning costs associated with eventual closure of its facilities. Specifically, 10 C.F.R. § 40.36 (2006) requires a licensee to submit a decommissioning funding plan, together with a cost estimate for the decommissioning effort and a description of the method the licensee will use to ensure that funds are available in an amount equal to that estimated cost.

Additionally, an NRC licensee must provide the required financial assurances through a means acceptable to the NRC, such as through prepayment, a surety, insurance, or a combination thereof, that the funds are available to meet the NRC’s financial assurance requirement on July 16, 1996. The NRC denied NMI’s request, and did not provide the financial assurances mandated by 10 C.F.R. § 40.36, not later than September 16, 1996. After that date, NMI faced the potential shutdown of its Concord facility.

Application for relief

NMI initially submitted its request for relief on September 22, 1995, and later certified its request on March 15, 1996. NMI requested $4,549,785 to pay the costs of removing low-level radioactive wastes from its holding basin and of restoring the site. NMI also requested the Army to furnish government-provided transportation and disposal of the waste. This is estimated to cost $2.1 million, for an estimated total cost to the Army of $6.65 million. NMI based its request on NMI’s essentiality to the national defense.
as a producer of DU products and beryllium-aluminum castings; and, the interest of fairness because NMI did not include disposal costs for the waste in the holding basin in its Co- ntract with the ACAB for defense purposes which benefited the Army through lower prices.

In conjunction with reviewing NMI's application for extraordinary relief, Picatinny asked the Defense Contract Audit Agency (DCAA) to audit NMI's Public Law 85-804 request. Among its other findings, DCAA concluded that the military significance of an extraordinary relief would result in a high probability of NMI's financial insolvency. Based on this conclusion and the recommendation of the Comanche, both Picatinny and AMC recommended that the ACAB grant NMI the requested relief.

Discussion

NMI requested Public Law 85-804 relief under the provisions of FAR 50.302-1, "Admissions Without Consideration." Paragraph (a) provides that: "When an actual or threatened loss under a defense contract, however caused, will impair the productive ability of a contractor whose continued performance on any defense contract or whose continued operation as a source of critical supplies, was vitally important to the national defense, the contract may be amended without consideration, but only to the extent necessary to avoid such impairment to the contractor's productive ability." The circumstances of NMI's request for relief did not meet precisely the situation contemplated in the provision at FAR 50.302-1(a), because NMI was not asking for relief based on an actual or threatened loss under a particular defense contract. Instead, NMI faced significant financial liability related to its research, development, and production efforts under many different defense contracts, nearly all of which were completed and closed out. Although the rights and obligations of the parties under those contracts no longer existed (except under a single contract relevant to only a small portion of the deposits in the holding basin), and NMI was not at risk of a loss under a single contract as described in FAR 50.302-1(a), NMI Nevertheless faced significant financial liability that impaired its ability to perform future defense contracts. It is the future viability of an essential defense contractor that FAR 50.302-1(a) seeks to protect, not merely the present threat. Thus, an essential contractor under a single contract.

The description in FAR 50.302-1(a) of when relief to a contractor deemed essential to the national defense may be granted is a federalism-driven mechanism. The examples are not intended to exclude other cases in which the approving authority determines that the circumstances warrant action.

Thus, the fact that NMI's holding basin liability did not represent a possible loss under an existing contract did not preclude

the ACAB from granting relief to preserve NMI's continued viability as an essential Army contractor. After reviewing the facts and circumstances surrounding NMI's request for extraordinary relief, the Board was satisfied that NMI was a contractor essential to the national defense whose financial viability is critically important to the Army in facing its future missions. POM Comanche unequivocally stated that NMI's Beralcast products are vitally important to the Army's future programs, and POM Comanche adequately described the significant and adverse cost and schedule consequences that the program would suffer if NMI were no longer available as a supplier. With no other material or supplier reasonably available to the Army to substitute for NMI's Beralcast in its Combat Systems application, clearly NMI is a contractor essential to the Army in performing its national defense missions. Upon review in accordance with 50.302-1(a), because NMI was not asking for relief based on an actual or threatened loss under a particular defense contract. Instead, NMI faced significant financial liability related to its research, development, and production efforts under many different defense contracts, nearly all of which were completed and closed out. Although the rights and obligations of the parties under those contracts no longer existed (except under a single contract relevant to only a small portion of the deposits in the holding basin), and NMI was not at risk of a loss under a single contract as described in FAR 50.302-1(a), NMI Nevertheless faced significant financial liability that impaired its ability to perform future defense contracts. It is the future viability of an essential defense contractor that FAR 50.302-1(a) seeks to protect, not merely the present threat. Thus, an essential contractor under a single contract.

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The Board was also satisfied that granting the relief sought in NMI's Public Law 85-804 request was essential to preserving NMI as a viable defense contractor. As a small business, it had borne significant losses in each of the last three years. NMI lacked the financial capability to undertake the cleanup of its holding basin while still meeting its existing obligations.

Without the relief requested, a chain of events may have been initiated that likely would have resulted in a loss or suspension of NMI's NRC license, loss of its lines of credit from its lenders, and, ultimately, insolvency and/or bankruptcy for the company. Because DCAA concluded in its audit report that NMI had failed to request for relief that would result in a high probability that NMI would become insolvent, there by threatened its ability to perform future defense contracts, the Board concluded that granting relief up to the amount NMI requested was appropriate under the circumstances of this application.

NMI also requested extraordinary contractual relief in the interest of fairness, based on its course of dealings with the Army over many years. NMI contended that the prices it charged the Army from 1958 to 1985 did not reflect the full cost of NMI's performance, because basis cleanup costs were not included in those prices. NMI's basis cleanup costs could properly have been billed against Army contracts during this period. Consequently, the Board determined that NMI was a contractor essential to the national defense within the intent of FAR 50.302-1. This relief was subject to the following conditions:

- NMI also claimed in its application for extraordinary relief that the provision of other products also makes it essential to the national defense. These products include tank armor, tank penetrators, and Beralcast™ Patriot missile components. The ACAB did not reach the question of whether NMI's production of these other items is vitally important to the national defense in its production of these other items because NMI's status as an essential supplier to POM Comanche remains unchanged. POM Comanche will, accordingly, now pay for the basin cleanup. NMI did not explain, however, how the Army induced NMI not to include basin cleanup costs in its prices. Instead, the Army actually encouraged NMI to begin cleaning up the basin and to charge cleanup costs as overhead against ongoing work. NMI also contended that various contract clauses had committed the Army to pay cleanup costs. Further, NMI's representatives had expressed some degree of responsibility for basin cleanup costs in the past. The Board was not convinced, however, that any contract ever obligated the Army to pay more than the allocable share of site cleanup costs under any particular contract, and the Board could not reconcile NMI's agreement to close out past contracts with its current assertion that the Army retained cleanup responsibility for work done under those contracts. Nevertheless, given the Board's determination that a contractor essential to the national defense, the Board did not need to resolve whether NMI was also entitled to relief in the interest of fairness. The Board considered this issue most for its disposition of NMI's application for extraordinary relief.

The Board was cognizant during its consideration of NMI's application for relief under Public Law 85-804 that NMI faced a September 16, 1996, deadline with the NRC for the submission of a satisfactory financial assurance. But for this reason, the Board determined that NMI faced with the NRC, in addition to NMI's weakened financial condition after three consecutive years of losses, the Board has been influenced by the magnitude of the environmental problems at NMI's site through more traditional mechanisms. For instance, NMI could have billed cleanup costs to overbudget or general and administrative accounts, or pursued contract or environmental litigation to definitively resolve the relative legal responsibilities of the parties under the terms of contracts and applicable environmental laws. However, the Board found that these means of resolving the current dilemma were inadequate to ensure that NMI would continue to be an essential supplier of essential defense products. Therefore, it was appropriate for the Board to act on NMI's request without the delay associated with the normal pursuit of traditional relief mechanisms.

Decision

By unanimous decision of the Board, an amendment without consideration was authorized under FAR 50.302-1. The Board concluded that NMI's continued performance under its existing defense contracts, and NMI's continued availability as a source of critical supplies, was vitally important to the national defense. NMI's request for extraordinary relief was subject to the following conditions:

- NMI was authorized and directed to enter into negotiations for a supplemental agreement with NMI, under an appropriate existing contract, agreeing that the Army would pay an amount not to exceed $4,549,785, on a fixed-price, no-profit basis, for NMI to clean up the holding basin at its Concord facility. This amount was subject to reduction if, after negotiations addressing, in addition to the matters below, the questioned costs identified in DCAA's audit report and other relevant pricing issues. Picatinny may only conclude this agreement after proper funding is obtained in accordance with paragraph b. below. In performing this effort, if NMI's costs for cleaning up the holding basin exceed the negotiated price of this supplemental agreement, NMI will treat the excess costs in accordance with paragraph d. below.

**FOOTNOTES:**

13 The Board's ability to grant relief is limited by FAR 50.302(b)(2), which states that no Public Law 85-804 relief is available "[u]nless other legal authority within the agency concerned is deemed to be lacking or inadequate."
b. The funds committed to support this supplemental agreement will be appropriate defense ammunition funds. No funds will be obligated under this supplemental agreement to the extent they are identified and certified as available. Picatinny will coordinate with higher headquarters to identify appropriate funds for this effort as expeditiously as possible.

c. The supplemental agreement also would obligate the Army to provide transportation and disposal of the waste, and to the extent necessary, to remove from NMI’s holding basin. The volume of waste that the Army was obligated to remove will be identified in the supplemental agreement, and the Army will have no further removal or disposal obligation after this volume is removed. Picatinny will coordinate with the Radiactive Waste Disposal Office at Rock Island to obtain the support needed to meet this commitment. Certified funds of the same type identified in paragraph b. above also would support this transportation and disposal effort.

d. As a condition of this supplemental agreement, NMI agreed to complete necessary environmental assessments at its site within a one-year period, and to proceed with the site remediation plan approved by the NRC (or other governmental entity performing the NRC’s current oversight role) to the contract terms or baseline to be designated in the supplemental agreement.

(1) Cleanup of areas not supporting current production at NMI’s Concord site, in addition to the spin-off work addressed in paragraphs a., b., and c. above, and pursuant to the plan identified above, will proceed at a reasonable pace to ensure compliance with applicable environmental standards. These additional site assessment, planning, and cleanup costs will be billed by NMI against appropriate overhead and general and administrative expenses, and not against the contract line item(s) established by this supplemental agreement for holding basin cleanup. Excess holding basin cleanup costs, if any, which exceed the amount negotiated pursuant to paragraph a. above, also will be charged in a manner consistent with the costs discussed in this paragraph against appropriate NMI overhead and general and administrative cost pools.

(2) In addition, normal waste processing and cleanup efforts associated with future work at NMI’s Concord site to be performed under current and future contracts will be billed to the extent those costs are not affected by this supplemental agreement.

(3) NMI will provide for the long-term decontamination and decommissioning of facilities and equipment supporting current production in accordance with 10 C.F.R. § 40.36.

e. As a further condition of this supplemental agreement, NMI will execute a release in conjunction with this supplemental agreement holding the Army harmless from any contract or environmental claims related to existing contamination and waste at NMI’s Concord site. This release will exonerate the Army’s responsibility for eventual decontamination and disposal of government-furnished equipment that NMI maintains under its custody and control. Picatinny is representing to the Army that this agreement reflects the Army’s responsibility for eventual decontamination and disposal of government-furnished equipment that NMI maintains under its custody and control. Picatinny and NMI are jointly and severally responsible for the costs in accordance with paragraph d.(2) above.

In addition to ensuring that the above condition will be met, Picatinny will authorize and incorporate into the implementing supplemental agreement with NMI such additional terms and conditions as Picatinny believed were reasonably necessary to protect the Army’s interests.

This action authorized by this decision will facilitate the Army’s efforts to comply with the intent of Public Law 85-804.

Contractor: Uniroyal Chemical Company, Inc.

Type of action: Amendment Without Consideration

Actual or estimated potential cost: $25,360,000

Nature of service and activity: U.S. Army Armament, Munitions & Chemical Command

Description of product or service: Post-retirement benefits (PRBs) earned by Uniroyal employees who performed work at the Government-owned contractor-operated (GOCO) Joliet Army Ammunition Plant and other munitions and chemical facilities and equipment supporting current and future operations.

Background: Uniroyal Chemical Company, Inc., sought an adjustment to its Contract No. DAAA09-93-D-1003 to provide funding for post-retirement benefits (PRBs) earned by Uniroyal employees who performed work at the GOCO Joliet Army Ammunition Plant and other munitions and chemical facilities and equipment supporting current and future operations. These benefits were, and continue to be, required to be funded, and for decades were fully funded and, because PRBs were handled on a Pay-As-You-Go (PAYG) basis, the Army would provide funding to reimburse all accumulated pension and PRB costs attributable to its JAAF service in the event the contract were to terminate. The Plan Manager reported that Government personnel who monitored the contract had concurred with his understanding that this requirement was not in the pay-as-you-go clause (Section A-2(3)) which provided that obligations and liabilities not finalized under earlier contracts would be treated as if incurred under the successor contract. For Government cost accounting purposes, Uniroyal treated its PRB obligations (that is, the PAYG expenditures) as insurance expenses under Cost Accounting Standard (CAS) 416 rather than as a pension expenditure under CAS 412. There was no evidence that this accounting treatment of PRBs was not consistent with the treatment as a pension expense under CAS 412. The Defense Contract Audit Agency (DCAA) subsequently expressed the opinion that the Government’s liability for those costs had terminated when the contract was terminated. The Army agreed to hold the funding of the Newport retirees’ PRB costs in abeyance. Uniroyal filed a certified claim for the Newport PRBs, and the contracting officer officially (after the current contract had been executed in 1992) settled that claim.

March 20, 1997
for approximately $5.7 million, evidently without the concurrence of DCAA.

Accounting for PRBs on a PAGY basis continued to be the industry norm through the late 1980s and early 1990s and caused accountants increasing concern that companies’ burgeoning PRB commitments to their employees were not being reflected in their financial statements. In response to those concerns, in late 1990 the Financial Accounting Standards Board (a private, self-governing organization whose rules generally accepted accounting principles followed by businesses to account for revenues, expenses, assets, and liabilities) promulgated Financial Accounting Standard No. 106. FAS 106 effectively required businesses to start accounting for PRBs by accrual—during years that an employee renders the necessary service—of the expected costs of providing those benefits to the employee and the employee’s covered dependents.

Transitioning from a voluntary method of accounting for PRBs to an accrual method precluded businesses from avoiding the problem of how to account for the potentially enormous sums needed to cover the expected PRB costs for current employees and retirees that had not been recognized and funded over previous years under the PAGY system. In February 1991, the contracting officer empha-
sized that Uniroyal’s proposed change in accounting practices would be deemed such a voluntary change, and in July 1991, the Gover-
ment declined to enter into an agreement with Uniroyal to provide for accrual of PRB costs. After issuance of FAR 31.205-6(o), however, the Army and Uniroyal agreed that Uniroyal would begin accounting for PRBs on an accrual basis and would fund PRB costs attributable to both past and ongoing service at JAAP consistent with that FAR provision. In accordance with the cost principles of FAR 31.205-6(o), Uniroyal’s accounting practice (which was not al-
tered by its accounting practices prescribed in FAS 106, the pri-
mary purpose of the new FAR cost principle was to mandate that businesses actually fund the PRB obligations which they would now be accruing on their books before they could bill the Government for those costs under cost reimbursement contracts. Due, however, to the Defense Department’s concern over the potentially enormous fiscal impact for cost reimbursement contracts of “immediate recognition” of the PRB “transition obligation,” FAR 31.205-6(o) was amended in promulgation in paragraph 112 of FAS 106, to cover the allowability of PRBs.

Issued to deal with the change in accounting practices prescribed in FAS 106, the primary purpose of the new FAR cost principle was to mandate that businesses actually fund the PRB obligations which they would now be accruing on their books before they could bill the Government for those costs under cost reimbursement contracts. Due, however, to the Defense Department’s concern over the potentially enormous fiscal impact for cost reimbursement contracts of “immediate recognition” of the PRB “transition obligation,” FAR 31.205-6(o) was amended in promulgation in the summer of 1991 to provide that allowable PRB costs assigned to any contractor fiscal year for this transition obligation were limited to the amount derived from the “delayed recognition” methodology prescribed in paragraph 112 of FAS 106. On its face, the Government’s position was that the cost of providing PRB benefits was deemed essential to the national defense, the contractor services were deemed such, and the Government’s action did not make it liable under the contract terms and the law applicable to the contract.

As a result of this reimbursement contract, FAR clause 52.216-7 provided that the contractor’s entitlement to reimbursement was limited to those costs determined to be allowable in accordance with the cost principles of FAR Subpart 31.2 in effect on the date of the contract. The above discussed FAR provision 31.205-6(o), limiting the allowability of PRB transition obligation costs to the fiscal year to the portion allocable to that year, using the delayed recognition methodology described in paragraphs 112 and 113 of FAS 106, was in effect when the current contract was executed. This provision did not provide for any alternate method of calculating allowable costs, such as allowing as an allowable cost the amortization of this obligation to one accounting period upon termination of a contract or upon a contractor’s total cessation of operations.

Analysis

Public Law 85-804 authorizes the amendment or modification of federal contracts without regard to the rules of law governing the administration of such contracts when such action would facilitate the national defense. The amendment or modification of contracts when such action would facilitate the national defense is limited so as not to be different from the intent (norm) of treating PRB costs as insurance costs under Cost

18That controversy was resolved by this Board’s decision of May 8, 1991, ACAB No. 1238, granting ex-
ception to the needs of the Government.

19In response to the Army’s decision of May 8, 1991, ACAB No. 1238, granting ex-
ception to the needs of the Government.

20That controversy was resolved by this Board’s decision of May 8, 1991, ACAB No. 1238, granting ex-
ception to the needs of the Government.

21That controversy was resolved by this Board’s decision of May 8, 1991, ACAB No. 1238, granting ex-
ception to the needs of the Government.
Although the contracting officers, over the course of Uniroyal's service at JAAP, had approved Uniroyal's pension and retirement plans in accordance with the provisions now found in FAR, specifically 31.205-60, the clause provided that the contractor would be reimbursed for those costs only if such reimbursement would not impair a productive ability essential to the national defense. Additionally, clause H-24.1 of the contract provided that reimbursement to Uniroyal for fringe benefits, for disbursements it might be required to make during or after the contract term, and for other expenses, was subject to compliance with the cost principles set forth in the contract and, in sum, the Board was of the opinion that Uniroyal had no contractual right to the sum which forms the basis for this claim and that consideration of this claim under Public Law 85-804 was therefore appropriate.

Turning to the equities, the Board was satisfied that adequate grounds for relief under Public Law 85-804 had been established. The Board did not find that Uniroyal had demonstrated that denial of relief would impair a productive ability essential to the national defense. Nor had it been demonstrated that Uniroyal's operating the JAAP for the Army, and the PRB obligations incurred in the performance of the JAAP operation, operation were at peak employment levels that it warned Uniroyal that its PAYG methodology might result in unrecoverable costs to the Government. Consequently, Uniroyal evidently received such assurances from Government officials responsible for administering the contract and, consequently, it JAAP work without seeking modification of its accounting practices. The "carry-over" provisions in the contracts (currently section A-2(3)) reinforced the impression that the Government would reimburse Uniroyal for all incurred, accrued, or contingent liabilities. The Army's agreement to cover Uniroyal's PRB obligations for its Newport Army Ammunition Plant retirees under the JAAP contract further reinforced Uniroyal's view that the Pay-As-You-Go method would not be taken to assure that its retirees' PRBs would be reimbursed by the Government. If there remained another similar Army obligation to cover PRB obligations that could now be applied, perhaps no extraordinary relief would be necessary. However, that was not the case, and considerations of fundamental fairness, ensuring that a defense contractor whose work was vital to the national defense receives adequate compensation for that work, made it in the interest of national security to grant the relief under the authority of Public Law 85-804.

Neither the issuance of FAS 106, changing the accounting practices related to PRBs, nor the issuance of FAR 31.205-60, precluding Government contractors from obtaining immediate recognition and reimbursement for the large obligation resulting from transition to an accrual basis for accounting for PRBs, was anticipated by either of the parties to the JAAP operation when Uniroyal began performance and during most of the ensuing years when the bulk of the liability was being incurred. It was not until the late 1980s that the possibility of such changes became clear. Where such changes in acceptable practices and governing regulations occurred, AMCOM, in executing the 1992 MOA with Uniroyal, expressed the view that it would support Uniroyal's equitable claim to recover for such costs in the event that operations terminated before full accrual could occur. That Command (now Industrial Operations Command) had in fact supported Uniroyal's claim, which bolstered the Board's conclusion that relief was warranted under the circumstances of this case.

In reaching the conclusion that relief was warranted, the Board was cognizant of the possibility that Uniroyal might not be obligated to provide for payments attributable to past PAYG costs to its JAAP retirees, although Uniroyal had provided an opinion of counsel that it would be so obligated. Counsel represented to the Board that before this decision was to be deposited into a trust fund (or escrow account) established for the sole purpose of providing PRBs for the covered retirees. The funds deposited therein may be used for costs associated with administering Uniroyal's PRB program. Although the Government had already established to provide for payments of accrued PRB liabilities since the issuance of the 1992 MOA with the Government, the sum negotiated pursuant to this decision was to be deposited into a trust fund (or escrow account) established for the sole purpose of providing PRBs for the covered retirees. The funds deposited therein are not to be used for providing PRBs or the cost of providing PRBs that result from the termination of the JAAP operation or otherwise. The contracting officer may specify such other terms as deemed appropriate regarding investment and management of the fund to ensure that the retirees' interests as well as those of the Government are adequately protected, including affirmation of the Government's interest in any investment income.

To ensure that the retirement account and records of all transactions conducted in the administration of the Government. The Government was given a reversionary interest in any investment income remaining in the account upon completion of payment of the last beneficiary of

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20When, in 1990, perhaps seeing the writing on the wall as to the impending FAS 106 change in acceptable accounting practices regarding PRBs, Uniroyal sought assurance from Government officials responsible for administering the contract and, consequently, for JAAP work without seeking modification of its accounting practices to an accrual basis, the Government led Uniroyal to believe that such voluntary change in the general accounting practices related to Uniroyal's JAAP operations would be made to preserve FRM liabilities since the issuance of FAS 106. However, the Army's agreement to cover Uniroyal's PRB obligations for its Newport Army Ammunition Plant retirees under the JAAP contract further reinforced Uniroyal's view that the Pay-As-You-Go method would not be taken as a reason to deny relief. The Board was of the opinion that Uniroyal had no contractual right to the sum which forms the basis for this claim and that consideration of this claim under Public Law 85-804 was therefore appropriate.

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Accounting Standard 416, rather than as pension costs which are covered under CAS 412 and 413, includes an adjustment allowing allocation of the unavoidable costs of the contract upon termination as would be the case under CAS 432.
the trust or upon termination of the trust for any reason. The aforementioned surplus in Uniroyal’s pension fund was to be contributed to this PRB trust. The Government will have no liability for any shortfall under this account. Uniroyal will release the Government from liability for any and all claims arising from or related to the PRB liability for which established.

This award of relief was expressly conditioned on the availability of funds, either from the corporation which remained available to fund this contract adjustment, (b) other currently available Defense ammunition funds, (c) if necessary, approval by the Congress (or the Appropriating committees) of a reprogramming or transfer request to make available the necessary funds out of other existing appropriations, or (d) if necessary, supplemental appropriations. The Contracting Officer was directed to act expeditiously to negotiate the contract modification necessary to implement this decision and, with the assistance of higher headquarters, to secure adequate appropriated funds to cover the relief authorized herein.

Conclusion

Subject to the above conditions, the Board has found that it was in the interest of national defense to award to Uniroyal a sum not to exceed $32.6 million to reimburse Uniroyal for the provision of retirement benefits to the more than 800 affected retirees who worked in the Army’s critical munitions production mission at Joliet Any Munition Plant over the decades since World War II. Such relief was consistent with the expectations of all the parties that Uniroyal would be fully compensated for the costs of the negotiations and the labor that it entered into with the Army to perform the work at J AAP on a cost reimbursement basis.

If the ultimate negotiated amount of the proposed contract modification implementing this decision exceeds $25 million, the modification cannot be executed by the parties until the Senate Committee on Armed Services and the House Committee on National Security and the Senate and House Appropriations Committees are notified of the proposed obligation and 60 days of continuous session of Congress have passed after transmittal of such notification.

Contracting Officer: Precision Machining, Inc.
Type of action: Amendment Without Consideration.
Actual or estimated potential cost: $9,392,870.
Service and activity: Department of the Army, Aviation and Troop Command.
Description of product or service: Ribbon Bridges.
in the contract for the JACADS facility was authorized, provided the clause defines the unusually hazardous risks and includes the limitations on coverage precisely as described in the paragraph.

The contractual document executed pursuant to this authorization shall comply with the requirements of FAR Subparts 52.4 and 28.3 as implemented by the Department of Defense and the Department of the Army.

Definition of unusually hazardous risks

The risks of:

1. sudden or slow release of, and exposure to, lethal chemical agents during the disposal of stockpiles of chemical munitions, mines, and other forms of weapons-related containerization and during facility decommissioning and demilitarization.
2. explosion, detonation, or combustion of explosives, propellants, or incendiary materials during the course of disposal of stockpiles of chemical munitions, mines, or other forms of weapons-related containerization;
3. contamination present at or released from the installation prior to the contractor's construction or operation of the chemical demilitarization facility CDF, whether known or unknown by the Government or contractor;
4. contamination resulting from the activities of third parties when the contractor has no control over such activities or parties;
5. contamination resulting from the placement of components and materials from decommissioning and placement of wastes and residues from demilitarization, destruction, or closure in accordance with the contract and all applicable laws and regulations.

Provided that the indemnification clause shall, in some cases, require the contractor to bear the risk of liability.

Provided that the liability to the Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured were generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractors

Raytheon Engineers & Constructors, Inc. ............................................. 1
Westinghouse Electric Corporation ........................................... 1

Total DEPARTMENT OF THE NAVY ........................................... 2

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the Contractor's insurance program were included in these contracts. The potential cost of the liabilities could not be estimated since the liability to the Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured were generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Total contractors ................................................................. 38
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DEPARTMENT OF THE AIR FORCE

Contractor: Various
Type of action: Indemnification

Actual or estimated potential costs: The amount the contractors will be indemnified by the Government cannot be predicted, but could entail millions of dollars.

Service and activity: Civil Reserve Air Fleet (CRAF).

Reference: Definitions of unusually hazardous risks applicable to CRAF.

Note: The same contract number may appear for more than one company because in some cases the services were under a joint venture arrangement.

The specific risks to be indemnified are identified in the applicable definitions. No contractor officer had determined that the contractor is complying with government safety requirements. Required by the Government.

Under authority of Public Law 85-804, the request was approved on October 2, 1996, to indemnify the 31 contractors listed above and to identify the air carriers providing airlift services for CRAF missions. Approval was also granted to contracting officers to indemnify subcontractors that request indemnification, with respect to those risks as defined. Indemnification under this authorization shall be affected by including the clause in FAR 52.250-1, entitled "Indemnification Under Public Law 85-804 (April 1984)," in the contracts for these services. This change has an impact upon the air carriers complying with all applicable government safety requirements and programs. Moreover, HQ AMC has specific procedures for determining that the contractor is complying with government safety requirements. Therefore, the contractor officer had determined that the contractor maintains liability insurance in amounts considered to be prudent in the ordinary course of business within the industry. Specifically, each contractor certified that its coverage satisfied the minimum level of liability insurance required by the Government. Finally, all contractors were required to obtain war and aviation insurance available under 49 U.S.C. Chapter 443 for hull and liability war risk. Additional contractors and subcontractors that conduct or support the conduct of CRAF missions may be indemnified only if they request indemnification, accept the same definition of unusually hazardous risks as identified, and meet the same safety and insurance requirements as the 31 contractors who sought indemnification in this action.
maintaining insurance coverage as detailed above. The HQ AMC Commander will inform the Secretary of the Air Force immediately upon each implementation of the indemnification obligation.

Definition of unusually hazardous risks applicable to CRAF FY 1996 annual airlift contracts:

1. Definitions:
   a. "Civil Reserve Air Fleet (CRAF) Mission" means the provision of airlift services under this contract (1) ordered pursuant to authority available because of the activation of CRAF, or (2) ordered pursuant to Air Mobility Command, Air Reserve Command, or, if such risks are not covered by insurance contracts, not covered by insurance, because such insurance has been canceled, discontinued, or has been determined by the government to be prohibitively costly. The government’s liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance.

2. For the purpose of the contract clause entitled “Indemnification Under Public Law 85-804 (APR 1984),” it is agreed that all war risks under the clause for airline services for a CRAF mission, in accordance with the contract, are unusually hazardous risks, and shall be indemnified to the extent that such insurance is not covered by insurance procured under Chapter 443 of Title 49, United States Code, as amended or other insurance, because such insurance has been canceled, discontinued, or has been determined by the government to be prohibitively costly. The government’s liability to indemnify the contractor shall not exceed that amount for which the contractor commercially insures under its established policies of insurance.

3. Indemnification is provided for personal injury and death claims resulting from the transportation of military evacuation patients, whether or not the claim is related to war risk.

4. Indemnification of risks involving the operation of aircraft, as discussed above, is limited to claims arising out of events, acts, or omissions involving the operation of an aircraft for airlift services for a CRAF mission, from the time that aircraft is withdrawn from the contractor’s regular operations (commercial, DoD, or other activity unrelated to airlift services for a CRAF mission), until it is returned for regular operations. Indemnification is extended to other contractor personnel or property utilized or services rendered in support of CRAF missions. Losses arising out of events, acts, or omissions occurring during the time the first prepositioning of personnel, supplies, and equipment to support the first aircraft of the contractor used for airlift services for a CRAF mission is commenced, until the timely removal of such personnel, supplies, and equipment from the last such aircraft is returned for regular operations.

5. Indemnification is contingent upon the contractor providing or obtaining, not later than the coverage effective date of premium insurance under Chapter 443 of Title 49, United States Code, as amended, and normal commercial insurance, as required in subparagraph (1) above, from an insurance company or other competent authority. Indemnification for losses covered by a contractor self-insurance program shall only be on such terms as incorporated in this contract, by the contracting officer in advance of such a loss.

Contingent Liabilities

Provisions to indemnify contractors against liability for claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor’s insurance programs were included; the potential cost of the liabilities cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

Contractor: 1

Civil Reserve Air Fleet (CRAF) FY 1997 Annual Airlift Contracts: 1

Total: 1

One additional indemnification was approved; however, the Air Force has deemed it to be “classified,” not subject to this report’s purview.

DEFENSE LOGISTICS AGENCY

Contractor: Roche Products Limited.

Type of Action: Contingent Liability.

Actual or estimated potential cost: Estimatable or potential cost cannot be determined at this time.

Service and activity: Defense Personnel Support Center, Defense Logistics Agency

Description of product or claims for: Pyridostigmine Bromide Tablets (PBT)

Background: Roche Products Limited submitted a claim to the Department of Defense, and a cause of action entitled “Indemnification Under Public Law 85-804,” FAR 52.250-1, be included in Contract SP00029-95-D-0005.

On September 13, 1995, the Defense Personnel Support Center (DPS C), a field activity of the Defense Logistics Agency (DLA), awarded a multiple-award indefinite quantity contract SP00029-95-D-0005 to Roche for Pyridostigmine Bromide Tablets, 30mg (PBT), NSN 6505-01-178-7903. PBT is used as a prophylactic agent to enhance the effectiveness of post-exposure antidote therapy. Under the terms of the contract, delivery was contingent upon approval of indemnification.

Statement of facts

This indemnification action would facilitate the national defense since the availability of PBT was critical to the protection and welfare of military personnel in combat situations where the threat of nerve agents existed. In addition, Roche is the sole manufacturer of this item. Defense.gov does not manufacture nerve agent antidotes for the Department of Defense. Due to allegations that PBT played a role during Gulf War veterans’ illnesses, Roche refused to indemnify PBT without an indemnification provision.

Acquisition of the PBT involves an unusually hazardous risk that could impose liability for losses as a result of this contract. Therefore, the contractor sought indemnification reasonably available. Since allegations have been made that PBT, or PBT in combination with other agents, e.g., insecticides, could cause or induce Gulf War veterans’ illnesses, Roche, as manufacturer, was threatened by unknown liability for which insurance coverage was not available. It was not possible to determine the actual or estimated cost to the Government as a result of the use of an indemnification clause because the liability of the Government, if any, would depend upon the occurrence of an incident described in the indemnification clause.

The contracting officer believed the approval of the Indemnification Request would best serve the national interest. Accordingly, it was agreed that the following would be incorporated in the contract, if indemnification was approved. "The Contractor requests inclusion of indemnification clause FAR 52.250-1 in Contract SP00029-95-D-0005 for the supply of pyridostigmine bromide as a 30 milligram dose ("the Product"). Indemnification was requested because the Contractor identified an unusually hazardous risk associated with the supply and use of the Product. Specifically, there is an unusually hazardous risk since the Contractor is acting purely as a contract manufacturer and has no knowledge of the safety or effectiveness of the Product in any other context. It was determined that authorization of indemnification was necessary to hold liable, for the injuries or death, thus exposing the contractor to unlimited liability. In addition, there have been allegations that pyridostigmine, bromide is associated or in combination with other agents, in a possible causative factor in Gulf War veterans’ illnesses. The Contractor regards any risk (known or unknown, and arising anywhere in the world) associated with the procurement, use or distribution of the Product as unusually hazardous. In light of these facts, the parties have agreed to the following definition of the risk: (1) Claims as to lack of efficacy of the Product; and (2) Claims to adverse short-term or long-term reactions as a result of human use of the Product, alone or in combination with other agents, including, but not limited to, temporary or permanent disability, birth defects, or death.”

Decision

It was determined that authorization of the inclusion of the FAR Indemnification Clause FAR 52.250-1 in Contract SP00029-95-D-0005 with Roche Products Limited will facilitate the national defense. Pursuant to the authority vested in the Under Secretary of Defense for Acquisition and Sustainment and the Secretary of Defense in Public Law 85-804 and Executive Order 10709, the inclusion of clause 52.250-1 in the instant
contract for the risks identified above was authorized.

Contingent Liabilities

Provisions to indemnify Contractor against liabilities due to claims which may result from any loss of property resulting from the supply and use of pyridostigmine bromide, or other risks, as defined, not covered by the Contractor's insurance program were not included; the potential cost of this liability cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

Contractor: Total Procurement Services, Inc.

Type of action: Formalization of Informal Commitment

Actual or estimated potential cost: $10,000.

Decision

DISA did not agree that the Government was at fault in the problems TPS experienced which led to the noncompliance issues. As TPS was aware, the Government conducted an extensive Independent Validation and Verification (IV&V) review on the Ogden NEP operations in relation to TPS. The Government took great pains and incurred great expense to ensure that this IV&V of the Ogden NEP was conducted independently and with no bias toward the Ogden operation or against TPS.

This review, conducted by expert personnel not associated with the Ogden NEP, concluded that NEP processing and communications were not responsible for frequent data errors; the potential cost of this liability cannot be estimated since the liability to the United States Government, if any, would depend upon the occurrence of an incident as described in the indemnification clause.

Executive Communications, Etc.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table as follows:

2394. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184±0031a, FRL±5702±5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2395. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184±0031a, FRL±5702±5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2396. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184±0031a, FRL±5702±5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2397. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, San Diego County Air Pollution Control District [CA 184±0031a, FRL±5702±5] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.
22-1-7103A: F R L-5709-6 received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2364. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings; Adjuvants, Production Aids, and Sanitizers [Docket No. 96F-0052] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2374. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0034] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2384. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0053] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2394. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0052] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2404. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0053] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2414. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0038] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2424. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0038] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2434. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0034] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2444. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0038] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

2454. A letter from the Director, Regula-
ations Policy Management Staff, Office of
Policy, Food and Drug Administration, trans-
mitt ing the Administration’s final rule—
Indirect Food Additives: Adhesives and Com-
ponents of Coatings [Docket No. 96F-0034] received March 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.
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2451. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Revision of Class E Airspace, Gallup, NM (Federal Aviation Administration) [Airspace Docket No. 96±ASW±20] received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2452. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Alliance, NE (Federal Aviation Administration) [Airspace Docket No. 97±ACE±4] (RIN: 2120±AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2453. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Amendment to Class E Airspace; Sidney, NE (Federal Aviation Administration) [Docket No. 96±ACE±22] (RIN: 2120±AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2454. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Editorial and Other Changes (Federal Aviation Administration) [Docket No. 28860; Amendment No. 187±108±15, 109±3, 129±26, and 191±4] (RIN: 2120±AG26) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2455. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Editorial and Other Changes (Federal Aviation Administration) [Docket No. 27965; Amdt. Nos. 107±10, 135±66] (RIN: 2120±AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2456. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Change in Using Uncontrolled Area R±2513, Hunter-Liggett, CA (Federal Aviation Administration) [Airspace Docket No. 97±AWP±1] (RIN: 2120±AA66) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2457. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Sensitive Security Information (Federal Aviation Administration) [Docket No. 28154; Adm. Nos. 21±74, 25±90, 91±253, 119±3, 121±62, 125±28, 139±9] (RIN: 2120±AG26) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2458. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies (Federal Aviation Administration) [Airspace Docket No. 96±ACE±7] (RIN: 2120±AF49) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2459. A letter from the General Counsel, Department of Transportation, transmitting the Department's final rule—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace and for Aeronautical Studies (Federal Aviation Administration) [Amendment 7577] (RIN: 2120±AG7) received March 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

2460. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Guidelines for Implementing the Hardship Grants Program for Rural Communities Section 102(d) of the Clean Water Act. Pursuant to Public Law 102±281, Section 429(b) (106 Stat. 145); jointly, to the Committees on Banking and Financial Services and Science.

2461. A letter from the Chair, Christopher Columbus Fellowship Foundation, transmitting annual report of the Christopher Columbus Fellowship Foundation for fiscal year 1996; pursuant to Public Law 102±281, Section 429(b) (106 Stat. 145); jointly, to the Committees on Banking and Financial Services and Science.

2462. A letter from the Architect of the Capitol, transmitting a letter indicating that an energy efficient lighting retrofit program has been developed and a contract awarded to ERI Services of Pittsburgh, PA, to implement the retrofitting of existing fluorescent fixtures with energy efficient lamps and ballasts; jointly, to the Committees on Commerce and Transportation and Infrastructure. March 20, 1997.

2463. A letter from the Secretary of Commerce, transmitting the Department's report regarding bluefin tuna for 1995±96, pursuant to 16 U.S.C. 971; jointly, to the Committees on International Relations and Resources.

2464. A letter from the Administrator, Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committees on National Security, Government Reform and Oversight, and the Judiciary.


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 for reference to the proper calendar, as follows:

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 111. A bill to authorize the Secretary of Agriculture to convey a parcel of land to the University of California, to the Dos Palos Ag Boosters for use as a farm school (Rept. 105±34). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 394. A bill to provide for the reversionary interest held by the United States in certain property located in the County of Isoso, MI (Rept. 105±35). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 785. A bill to designate the J. Phil Campbell, Senior Natural Resource Conservation Center (Rept. 105±36). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Oregon: Committee on Agriculture. H.R. 400. A bill to amend title 35, United States Code, with respect to patents, and for other purposes; with an amendment (Rept. 105±38). Referred to the Committee of the Whole House on the State of the Union.

Mr. COBLE: Committee on the Judiciary. H.R. 400. A bill to amend title 35, United States Code, with respect to patents, and for other purposes; with an amendment (Rept. 105±39). Referred to the Committee of the Whole House on the State of the Union.

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 240. A bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; with an amendment (Rept. 105±40 Pt. 1). Ordered to be printed.

Mr. DREIER: Committee on Rules. House Resolution 105. Resolution providing for consideration of the resolution (H. Res. 91) providing amounts for the expenses of certain committees of the House of Representatives in the 106th Congress (Rept. 105±41). 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. 240. Referall to the Committees on House Oversight, the Judiciary, and Transportation and Infrastructure extended for a period ending not later than April 4, 1997.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

Mr. THUNE: H.R. 1137. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to permit the movement in interstate commerce of meat and poultry products that satisfy State inspection requirements that are at least equal to Federal inspection standards; to the Committee on Agriculture.

Mr. HUNTER (for himself, Mr. CUNNINGHAM, Mr. BARTLETT of Maryland, Mr. BONO, and Mr. SMITH): H.R. 1138. A bill to prohibit the conveyance, directly or indirectly, of property at Naval Station, Long Beach, CA, to a commercial shipping company owned or controlled by a foreign country; to the Committee on National Security.

Mr. TAUZIN: H.R. 1139. A bill to amend the National Voter Registration Act of 1993 to require individuals applying to register to vote in elections for Federal office to produce actual identification in order to vote in an election for Federal office; to the Committee on House Oversight.

Mr. GEPHARDT (for himself, Ms. PELOSI, Mr. BONIOR, Mr. SOLOMON, Mr. MILLER of California, Mr. SMITH of New Jersey, Ms. KAPTUR, Mr. LEVIN, Mr. OBER, Mr. GEJDENSON, Mr. CARDIN, Mr. EVANS, Mr. ROHRABACHER, Mr. NORTON, Mr. DEFazio, Mr. WOLF, Mr. BORSKI, Mr. BROWN of Ohio, Mr. HUNTER, Mr. GUTIERREZ, Mr. LANTOS, Mr. STEARNS, Mr. FRANK of Massachusetts, Mr. SANFORD, Mr. PAYNE, Mrs. MEEK of Florida, Mr. TORRES, Mr. LIPINSKI, Mr. STARK,
addition to the Committee on Rules, for a
and to provide for the withdrawal of the
sional approval before the United States sup-
H.R. 1140. A bill to amend the Internal Re-
ving and Financial Services.
H.R. 1141. A bill to amend title 10, United
es, and for other purposes; to the Commit-
to the Committee on the Judiciary.
H.R. 1142. A bill to amend the Employee Retire-
fee, Mr. NORTON, and Mr. VENTO: By Mr.
H.R. 1143. A bill to provide for the withdrawal of
H.R. 1144. A bill to amend the Privacy Act of
H.R. 1145. A bill to amend the Foreign Aid Re-
H.R. 1146. A bill to amend the Privacy Act of
H.R. 1147. A bill to amend the Privacy Act of
H.R. 1148. A bill to amend the Privacy Act of
H.R. 1149. A bill to amend the Internal Re-
H.R. 1151. A bill to amend the Federal
inance Code of 1986 to increase the deduction
H.R. 1152. A bill to amend the Revise Or-
H.R. 1153. A bill to amend the Internal Re-
H.R. 1154. A bill to provide for administra-
H.R. 1155. A bill to exempt certain mainte-
H.R. 1156. A bill to amend the Occupational
H.R. 1157. A bill to amend the Comprehen-
H.R. 1158. A bill to amend the Comprehensive
H.R. 1159. A bill to amend the Public
H.R. 1160. A bill to promote accountability and
H.R. 1161. A bill to mandate the display of the
H.R. 1162. A bill to amend the Occupational
H.R. 1163. A bill to amend the Occupational
MRS. THURMAN, MR. WATTS OF Okla-
ys, MR. SCARBOROUGH, MR. TIERNEY, MR.
and to provide for the withdrawal of the
H.R. 1140. A bill to require prior congress-
ments applicable to real estate investment
H.R. 1141. A bill to amend title 10, United
States Code, to require the use of child safety
s, and for other purposes; to the Commit-
H.R. 1142. A bill to amend the Employee Retire-
H.R. 1143. A bill to provide for the withdrawal of
H.R. 1144. A bill to amend the Privacy Act of
H.R. 1145. A bill to amend the Privacy Act of
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H.R. 1160. A bill to promote accountability and
H.R. 1161. A bill to mandate the display of the
H.R. 1162. A bill to amend the Occupational
H.R. 1163. A bill to amend the Occupational

used to control environmental pollution and for soil and water conservation expenditures; to the Committee on Ways and Means.

By Mr. HINCHey (for himself, Mr. A. DELAHUNT, Mr. DELUMM, Mr. EVANS, Mr. HOLDEN, Mr. MASCARA, Mr. OLVER, Mr. RIVERS, and Mr. THOMPSON): H.R. 1130. To require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice, and ensure that employees of Medicare providers who report concerns about the safety and quality of services provided by Medicare providers or who otherwise report violations of Federal or State law by those providers, and to require review of the impact on public health and safety of proposed mergers and acquisitions of Medicare providers; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOYER (for himself, Mrs. MORELLA, Mr. BOEHLErt, Mr. FILNER, Mr. WYNN, Mr. FAZIO of California, Mr. HUNTER, Mr. LANTOS, Mr. LEACH, Mr. M. N. ACKERMAN, Mr. M. SHABAZZ, Mr. M. SNOWBARGER, Mr. MCINTOSH, Mr. KLEczKA; Mr. D. WINTER, Mr. M. DUNCAN, Mr. FOLEY, and Mr. KLEczKA): H.R. 1173. A bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions, to the Committee on Education and the Workforce.

By Mr. KOLBE (for himself, Mr. N. NEAL of Massachusetts, Mr. MILKUL, Mr. SNOWBARGER, Mr. MCINTOSH, Mr. KLEczKA, and Mr. ROYALS): H.R. 1174. A bill to provide for the mining and circulation of $1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. LEWIS of California (for himself, Mr. FAZIO of California, Mr. BOWEN, and Mr. ROYALS-ALLARD): H.R. 1175. A bill to authorize the granting of money to control methamphetamine; to the Committee on the Judiciary.

By Mr. MINGE (for himself, Mr. PETERSON of Minnesota, and Mr. GUTKNECHT): H.R. 1185. A bill to ensure that land enrolled in the land conservation program of the State of Minnesota known as Reinvest in Minnesota remains eligible for enrollment in the conservation reserve program; to the Committee on Agriculture.
H.R. 1188. A bill to amend the Federal Water Pollution Control Act to eliminate certain discharge of chlorine compounds into the navigable waters, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. NADLER (for himself, Mr. BERMAN, Mr. WAXMAN, Ms. NORTON, Mr. SANDERS, Mr. DELLLIS, Mr. HINCHEN, Mr. REILLY, and Mr. WATERSTON) of Connecticut, 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. NADLER (for himself, Mr. BERMAN, Mr. WAXMAN, Ms. NORTON, Mr. SANDERS, Mr. DELLLIS, Mr. HINCHEN, Mr. REILLY, and Mr. WATERSTON) of Connecticut, 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. DEFAZIO of Pennsylvania, Mr. MILLER, Mr. BEREUTER, Mr. DEFAZIO, Mr. HILLIARD, Mr. KIND of Wisconsin, Mrs. JOWHIN of Connecticut, Mr. MINGE, Mr. POMEROY, Mr. MORAN of Kansas, Mr. STEHNL, Mr. PETTIGREW of Pennsylvania, Mr. BURKLEY of Maryland, Mr. BOSCH, Mr. CLYBURN, Mr. COSTELLO, Mr. CRAP, Mr. GANSKE, Mr. HILL, Mr. LATHAM, Mr. LEACH, Mr. OBERSTAR, Mr. RAUSCHER, Mr. PETRI, Mr. THORENBERRY, Mr. WALSH, Mr. WATTS of Oklahoma, and Mr. PETERSON of Minnesota):

H.R. 1188. A bill to amend the Social Security Act and the Public Health Service Act with respect to the health of residents of rural areas, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBEY:

H.R. 1190. A bill to require the Secretary of Agriculture to consider the feasibility of basing the basic formula price for milk under Federal marketing orders on the costs of production for dairy farmers and the benefits to farmers and consumers of such a pricing approach; to the Committee on Agriculture.

By Mr. OWENS:

H.R. 1191. A bill to provide patients with information and rights to promote better health care; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAXON:

H.R. 1192. A bill to amend the Social Security Act to authorize Federal grants to public and nonprofit organizations to carry out an educational and demonstration projects under title IV or XI of the Social Security Act in a timely manner; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROYCE:

H.R. 1193. A bill to amend the Internal Revenue Code of 1986 to allow indexing of capital assets for purposes of determining gain or loss and to allow an exclusion of gain from the sale of a principal residence; to the Committee on Ways and Means.

By Mr. DAN SCHAEFER of Colorado:

H.R. 1194. A bill to amend the Federal Water Pollution Control Act relating to Federal facilities pollution control; to the Committee on Transportation and Infrastructure.

By Mr. DAN SCHAEFER of Colorado:

H.R. 1195. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to enable full Federal compliance with that act; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself, Mr. McINNIS, and Ms. DEGETTE):

H.R. 1196. A bill to allow the Colorado Wilderness Act of 1993 to extend the interim protection of the Spanish Peaks planning area in the San Isabel National Forest, CO; to the Committee on Resources.

By Mr. SMITH of Oregon:

H.R. 1197. A bill to amend title 35, United States Code, to provide patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes; to the Committee on the Judiciary.

H.R. 1198. A bill to direct the Secretary of the Interior to convey certain land to the city of Grants Pass, OR; to the Committee on Resources.

By Mr. SOUDER:

H.R. 1199. A bill to protect residents and localities from irresponsibly sited hazardous waste facilities; to the Committee on Commerce.

By Mr. MCDERMOTT (for himself, Mr. CONYERS, Ms. CHRISTIAN-GREEN, Mr. DELAHUNT, Mr. FATTAH, Mr. FRANK of Massachusetts, Mr. GONZALES, Mr. HINCHY, Ms. JACKSON-LEE, Mr. LEWIS of Georgia, Mr. MARTINEZ, Mr. NADLER, Mr. OLVER, Mr. PAYNE, Ms. PELOSI, Mr. RUSH, Mr. SCOTT, Mr. SANDERS, Mr. SERRANO, Mr. TOWNS, Mr. WATTS of Oklahoma, Mr. WAXMAN, Ms. WOOLSEY, and Mr. YATES):

H.R. 1200. A bill to provide for health care for every American and to control the cost of health care and enhance the health care system; to the Committee on Commerce, and in addition to the Committees on Ways and Means, Government Reform and Oversight, and National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 1201. A bill to amend title XVIII of the Social Security Act to establish a medication evaluation and dispensing system for Medicare beneficiaries, to improve the quality of pharmaceutical services received by our Nation's elderly and disabled, and to reduce instances of adverse reactions to prescription drugs experienced by Medicare beneficiaries; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BROWN of California (for himself, Mr. SHAYS, Mr. GEJDENSON, Mr. MACHIELSEN, Mr. WYNNE, Ms. WOOLSEY, Mr. FARR of California, Mr. BORSKI, Mr. ABERCROMBIE, Mr. MORAN of Virginia, Mr. BERNAN, Mr. STAHL of California, Mr. LEACH, Mrs. MORELLA, Mr. LANTOS, Mr. MILLER of California, Mr. DEFAZIO, Mr. RIVERS, Mr. CLAY, Ms. PELOSI, Mr. MARKEY, Mr. MEEHAN, Mr. FOGLIETTA, Mr. CONYERS, Mr. PORTER, Ms. NORTON, Mr. NEAL of Massachusetts, Mr. KLINE, Mrs. KENNELLY of Connecticut, Mr. SKAGGS, Mr. CASTLE, Ms. KAPTUR, Mr. DAVIS of Illinois, Ms. LOFGREN, and Mr. RANGEL):

H.R. 1202. A bill to amend title 18, United States Code, to prohibit interstate-conduct related to exotic animals; to the Committee on the Judiciary.

By Mr. STUMP:

H.R. 1203. A bill to amend the Elementary and Secondary Education Act of 1965 to ensure that funds provided under such act are not used to promote the teaching or use of regional or group dialects; to the Committee on Education and the Workforce.

By Mr. THOMAS (for himself, Mr. ENGLIS of Pennsylvania, Mr. STARK, and Mr. WICKER):

H.R. 1204. A bill to amend the Internal Revenue Code of 1986 to provide that the sale of a life estate or a remainder interest in a principal residence qualifies for the one-time exclusion of gain on certain sales of principal residence; to the Committee on Ways and Means.

By Mr. WATKINS (for himself and Mr. CRANE):

H.R. 1205. A bill to amend the Internal Revenue Code of 1986 to provide from publicly traded partnerships as qualifying income of regulated investment companies; to the Committee on Ways and Means.

By Mr. VISCOLOSKY:

H.R. 1206. A bill to require the Administrator of the Environmental Protection Agency to establish a program under which States may be certified to carry out voluntary environmental cleanup programs for low and medium priority sites to protect human health and the environment and promote economic development; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WATKINS:

H.R. 1207. A bill to amend the Internal Revenue Code of 1986 to provide a 50-percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital asset transactions for capital gains purposes; to the Committee on Ways and Means.

H.R. 1208. A bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers; to the Committee on Ways and Means.

By Mr. WAXMAN (for himself, Mr. GEPHAARD, and Mr. MILLER of California):

H.R. 1209. A bill to provide for the defense of the environment, and for other purposes; to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. PACKARD, and Mr. DELAHY):

H.R. 1210. A bill to provide an equitable funding stream for strengthening the passenger rail service network of Amtrak through the timely closure and realignment of routes with low economic performance; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Rules, 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. FILNER (for himself, Mr. BECERRA, Mr. TORRES, Mr. MARTINEZ, Mr. PETERSON of Pennsylvania, Mr. BEAVER, Mrs. ROYBAL-ALLARD, Mr. MCDONALD, Mrs. BEPTON, Mr. TIGGES, Mr. FROST, Mr. DELAHUNT, Ms. SHOOF, Ms. MEEK of Florida, Mr. STARK, Mr. BROWN of Connecticut, Mr. KINELLY of Connecticut, Mr. KIND of Wisconsin, Mr. CLAY, Ms. NORTON, Mr. McDERMOTT, Ms. LOFgren, Ms. SANCHEZ, Mr. BROWN of Maryland, Mr. BERMAN, Mr. ACKERMAN, Mr. NADLER, Mr. YATES, Mr. OLIVER, Mr. MARKY, Ms. JACKSON-LEE, Mr. GONZALEZ, Ms. KILPATRICK, Mr. DFEZAFI, Mr. RUSH, Mr. EVANS, Ms. DELAUR, Mr. LEWIS of Georgia, Mr. ANDREWS, Mr. DAVIS of Illinois, Mr. CLAY, Mr. CLYBURN, Mr. LEVIN, Ms. CHRISTIAN-GREEN, and Mrs. CLAYTON):  
H. Res. 65. Joint resolution to commemorate the birthday of Cesar E. Chavez; to the Committee on Government Reform and Oversight.

By Mrs. MALONEY of New York (for herself, Mrs. MORELLA, Mr. SHAWS, Mr. FRANK of Massachusetts, Mrs. JONES of Missouri, Mrs. LUCAS of Kansas, Mr. FILNER, Mr. FROST, Mr. DELAHUNT, Ms. ESHOO, Ms. MEEK of Florida, Mr. STARK, Mr. BROWN of Connecticut, Mr. KINELLY of Connecticut, Mr. KIND of Wisconsin, Mr. CLAY, Ms. NORTON, Mr. McDERMOTT, Ms. LOFgren, Ms. SANCHEZ, Mr. BROWN of Maryland, Mr. BERMAN, Mr. ACKERMAN, Mr. NADLER, Mr. YATES, Mr. OLIVER, Mr. MARKY, Ms. JACKSON-LEE, Mr. GONZALEZ, Ms. KILPATRICK, Mr. DFEZAFI, Mr. RUSH, Mr. EVANS, Ms. DELAUR, Mr. LEWIS of Georgia, Mr. ANDREWS, Mr. DAVIS of Illinois, Mr. CLAY, Mr. CLYBURN, Mr. LEVIN, Ms. CHRISTIAN-GREEN, and Mrs. CLAYTON):  
H. Res. 66. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. WICKER (for himself, Mr. NORTWOOD, Mr. HALL of Texas, Mr. HEFLEY, Mr. CANNON, Mr. BONILLA, Mr. HARSHBARGER, Mr. COMBEST, Mr. CHAMBERS, Mr. HAYWORTH, Mr. EVERTT, Mr. SESSIONS, Mr. COLLINS, Mr. BACHUS, Mrs. MYRICK, Mr. BURR of North Carolina, Mr. BALLenger, Mr. MCINTOSH, Mr. PICKERING, Mr. DICKERY, Mr. GOODLING, Mr. STUMP, Mr.ADERHOLT, Mr. SUNUNU, Mr. POMBO, Mr. HERGER, Mr. ISTOOK, Mr. COBLE, Mr. JONES, and Mr. LIVINSTON):  
H. Res. 67. Joint resolution disapproving the rule of the Occupational Safety and Health Administration relating to occupational exposure to methylene chloride; to the Committee on Education and the Workforce.

By Mr. BONILLA (for himself, Mr. CHAVEZ, Mr. SKEEN, Mr. BALDACCI, and Mr. REYES):  
H. Con. Res. 51. Concurrent resolution expressing the sense of the Congress that there should be parity among the countries that are parties to the North American Free Trade Agreement (NAFTA) with respect to the personal allowance for duty-free merchandise purchased abroad by returning residents; to the Committee on Ways and Means.

By Mr. QUINN (for himself, Mr. LEE of Georgia, Mr. TIGGES, Mr. HALL, Mr. LUCAS of Oklahoma, Mr. FLAKE, Mr. LIPINSKI, Mr. KLINK, Mr. DOYLE, Mr. KLECCZA, Ms. DANNEN, Mr. VENTO, and Mr. KUCHIBHATIA):  
H. Con. Res. 52. Concurrent resolution urging that the railroad industry, including rail labor, management and retiree organizations, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum pension for widows whose annuities are converted from a spouse to a widow or widower annuity; to the Committee on Transportation and Infrastructure.

By Mr. SOLOMON:  
H. Con. Res. 53. Concurrent resolution encouraging and expediting the integration of Romania and the other countries of the North Atlantic Treaty Organization (NATO); to the Committee on International Relations.

By Mr. THOMAS:  
H. Res. 102. Resolution providing amounts for the fiscal year 1998 for the Committee on Appropriations; to the Committee on Appropriations.

By Mr. BINGHAM:  
H. Res. 103. Resolution expressing the sense of the House of Representatives that the United States should maintain at least 100,000 personnel in the Asia and Pacific region until such time as there is a peaceful and permanent resolution to the major security and political conflicts in the region; to the Committee on International Relations.

By Mr. ENGEL (for himself and Mr. SPEICE):  
H. Res. 104. Resolution concerning the crises in Albania; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XXIII, private bills and resolutions were introduced and severally referred as follows:  
By Mr. VENTO:  
H.R. 1343. A bill for the relief of Mary M. Metz; to the Committee on the Judiciary.

By Mr. MCCOLLUM:  
H.R. 1211. A bill for the relief of Mary M. Metz; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXIII, sponsors were added to public bills and resolutions as follows:  
H.R. 4: Mr. FARR of California, Mr. MANZULLO, Mr. BILBAY, Ms. SANCHEZ, Mr. MCNULTY, Mr. SISIEZ, Mr. BOUCHER, Ms. KILPATRICK, Mr. DFEZAFI, Mr. RUSH, Mr. EVANS, Ms. DELAUR, Mr. LEWIS of Georgia, Mr. ANDREWS, Mr. DAVIS of Illinois, Mr. CLAY, Mr. CLYBURN, Mr. LEVIN, Ms. CHRISTIAN-GREEN, and Mrs. CLAYTON.

H.R. 12: Mr. LAVELLE; to the Committee on the Judiciary.
The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be led by Commissioner Robert A. Watson, of the Salvation Army.

P R A Y E R

The guest Chaplain, Commissioner Robert A. Watson, the Salvation Army, Alexandria, VA, offered the following prayer:

Sovereign Lord, we thank You for this day, the day You have made. We will be glad and rejoice in it. We acknowledge You as omnipotent, omniscient, and omnipresent God, the Creator, Preserver, and Governor of all things, and the only proper object of religious worship. How privileged we are, Father, to live in America. We thank You for those of earlier generations who sacrificed so much, making possible the freedoms we enjoy. Help us not to take for granted the benefits of our society, and to happily share our blessings with those around us. We thank You for the gifts of experience, intellect, and talent with which the Members of this legislative body are endowed. As they deal with the complex issues which are so important to the people of our Nation, please grant them wisdom, compassion, sound judgment, and the satisfaction of having served well. And now, as we enjoy again the beauty of a Washington springtime, help us to allow each sign of new life to remind us that You are the giver and sustainer of life, and to use Your gift wisely and well. In Your majestic name we pray. Amen.


The PRESIDENT pro tempore. The able acting majority leader is recognized.

S C H E D U L E

Ms. COLLINS. Mr. President, on behalf of the majority leader, I announce that it is hoped that the Senate will shortly enter into a consent agreement, which would allow for consideration of the resolution relating to the decertification of Mexico. If that agreement is reached, the Senate would be expected to begin consideration of the resolution this morning, possibly as early as 10 o'clock. Rollcall votes are expected on the Mexico resolution, and all Members will be notified as to when those votes can be anticipated once we reach this agreement. It is also possible that the Senate will begin consideration of the nuclear waste legislation prior to the Easter adjournment. And, again, all Senators will be notified accordingly. I thank my colleagues for their attention.

(Mr. HAGEL assumed the chair.)

Ms. COLLINS. Mr. President, I yield myself the time allotted to the majority leader under the standing order.

The PRESIDING OFFICER. The Senator from Maine is recognized.

(The remarks of Ms. Collins pertaining to the introduction of S. 482 are located in today's Record under "Statements on Introduced Bills and Joint Resolutions.""

Ms. COLLINS. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Thank you very much, Mr. President.


Mr. GRAMS. Mr. President, in November 1994, the American voters sent a clear message to Washington that resulted in a watershed election and the first Republican Congress in 40 years. That message was to enact a taxpayers' agenda of balancing the budget, limiting the size and scope of Government, and returning tax dollars and power to the taxpayers.

Two years ago today, the House of Representatives was marking day 76 of its unprecedented 100-day effort to carry out the taxpayers' agenda reflected in the Contract With America. They kept their promise to the American people by bringing all 10 provisions of the contract up for a vote and passing almost all of them.

In 1996, despite an unprecedented assault by the media, hostile special interest groups, and the big tax and spenders in Washington, the Republican majorities in Congress were preserved, indeed, even increased here in the Senate. The voters once again sent the message that they wanted the taxpayers' agenda enacted, but they wanted Congress and the President to come together in completing the work started in the 104th Congress.

Yet somehow this message has been misinterpreted by a number of my Republican colleagues, who seem to have come away from the 1996 elections with the mistaken notion that the effort to pass the taxpayers' agenda should be stalled or delayed. What concerns me most is that some of the loudest calls for retreating from that agenda are coming from within our own party leadership. This is not the same Republican majority that arrived in Washington in January 1995, ready to create fundamental change in a government that had enslaved so many working families for so many years. It is like the ancient Vikings who sometimes burned their boats after arriving in a new land. We stepped onto the shore...
and claimed there was no turning back to the era of big Government and higher taxes. We were determined that Washington would never be the same once we passed the taxpayers’ agenda into law.

Today, it appears some of my colleagues are wishing they had their boats back.

Mr. President, I have tremendous respect and admiration for my friend and colleague from Georgia, the Speaker of the House. As a freshman Member of the House in the 103d Congress, I worked with Newt Gingrich, Tim Hutchinson, and others in making the $500-per-child tax credit the centerpiece of the Republican budget alternative in 1994. I was honored that Mr. Gingrich included our tax cut in the Contract With America, creating a platform on which I ran and won election to the Senate.

That said, you can imagine how disappointed, and even a little saddened, I was to read the words in three newspapers this week, when he was quoted as endorsing the suggestion that plans for a major tax cut be temporarily shelved.

With all due respect to the Speaker, such a retreat would be a horrible mistake.

Mr. President, it was 2 years ago this week that the Speaker wrote a commentary for the Wall Street Journal he titled “The Contract’s Crown Jewel.” The crown jewel in this case was our package of tax cuts around which our balanced budget legislation was crafted, and the Speaker was its most vocal supporter.

“The bill proposes fundamental change in the relationship between the American government and the American citizenry,” wrote the Speaker, “and is the plainest assertion we have yet made of the key principle underlying the Contract With America.”

“The tax cuts are the way we want to say, “the bill says this: ‘The American government’s money does not belong to the American government. That money belongs to Americans, and it’s time to give Americans some of their own money back.”’

Mr. President, I realize those words were written before the Government shutdowns, before the thrashing the Republicans took in the press, before the special interests waged a guerrilla war of lies and distortions against us. Even so, those words were true in March 1995 and are no less true in March 1997. The only thing that has changed during these past 2 years is that courage has been supplanted by timidity and lions have turned into lambs.

It was disheartening to read in the Washington Times on Tuesday that popular radio host Michael Reagan, son of the former President, was denouncing his ties to the Republican Party. The Times quoted him as saying:

“The Republican Party has forgotten grassroots America. They are not talking to grassroots America, not paying attention to grassroots America. Until the Republican Party remembers it won the election and acts like a winner and not a loser, I find myself as an independent.”

I wonder how many other Americans are feeling exactly the same way?

The Washington Post this week carried the comments of a senior Republican aide in the House who suggested we were, quote, “just drifting” on budget and tax issues because many Republican leaders were unwilling to “stick their necks out.” Well, that is how it feels here some days. Imagine how it must feel to the millions of American taxpayers who are outside the insulation of the Washington Beltway.

Two years ago, we promised them tax relief. Congress delivered, but our hard work fell victim to a Presidential veto. So the American people were denied the tax relief that we promised in 1995—enacted and passed in our legislation; vetoed by the President. They were again denied tax relief in 1996. And now, the leaders of our party—our majority party, the party of the taxpayers, of families, the working class—are suggesting that the American people will not get tax cuts this year either.

And I say to them, you ought to be ashamed.

Believe it or not, Mr. President, when I am back home in Minnesota, people do not stop me on the street to tell me I should be vying for a job as a lobbyist. They are sick and tired of paying for the high-priced lobbyists, who go off to Washington, who lobby us on a moment’s notice for their kids to fly out to Washington to lobby Congress for a major tax cut.

More importantly, it will deprive us of the American government. That money belongs to Americans, and it’s time to give Americans some of their own money back.

When Minnesota Gov. Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation. That Governor put Minnesota back on a budget surplus on a budget surplus.

We should make a good-faith effort to work with the President, present him with our plan to balance the budget and cut taxes this year, and if he cannot accept it, let the voters decide who is right and who is wrong. Bipartisan action should not translate into inaction, and trying to cooperate should not involve being cowed.

If Congress and the President find the courage to move forward, the rewards can be immense. Let me tell you what has happened in my home State of Minnesota:

When Minnesota Gov. Arne Carlson was elected to office in 1990, he inherited a deficit greater than $1.8 billion and a government that was spending 15 percent faster than the rate of inflation. That Governor put Minnesota back on a budget surplus. Thanks to that dedication, focus on a budget surplus, not a deficit, and our taxpayers finally have something to smile about on the State level in Minnesota.

It is an example of what can be achieved when leaders make a promise and stick to it, even when it is not the politically easy thing to do.

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job to ensure it is one step forward, not backward.

In less than a month, Tax Day will arrive, and in preparation, the American taxpayers will once again gather around their kitchen tables to take stock of their finances. One can almost hear the collective groan. Unfortunately, it is too late for Congress to make any changes to lighten the tax load this year. It is not too late to enact the tax relief that will fundamentally transform the next.

Mr. President, I did not want to come to the floor today to draw a line in the sand— at least not at this time. I must admit that I will be hard pressed to support any budget, any budget, that does not call for significant tax relief for the working families of Minnesota and each of the other 50 States. If we, as the majority, cannot deliver on this one, fundamental promise we made to the voters, we will have abandoned the taxpayers. And in doing so, we, the Republican majority and this Congress as a whole, will have raised significant questions about our desire, and ability, to lead this Nation. It will be hard for us or this generation to explain to our children and to our grandchildren how we failed them with a future as bright as the future that our parents and 200 years of generations left to us.

Thank you, Mr. President. I yield the floor.

Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded. The PRESIDING OFFICER. Without objection, it is so ordered.

MEXICO CERTIFICATION ISSUE

Mr. LOTT. Mr. President, I have a series of unanimous consent requests that may be necessary unless we get some agreement very quickly now from the minority leader.

I just came from a committee hearing, where I just finished testifying so I could come to the floor at 10:30 and call up the agreement entered into last night after monumental efforts by Senators on both sides of the aisle, working with the administration, with regard to the Mexico certification issue regarding drugs and how the drug war is being fought with the United States Government being involved in, and, of course, with the Mexican Government being involved, but in ways that are very troublesome.

I had hoped we could get started at 10:30, get a time agreement that was reasonable, maybe 4 hours equally divided, so we could have a full discussion about what is happening—almost regard to the enforcement efforts and dealing with drugs coming from Mexico into the United States, so we could talk about the President's difficult decision to go forward with certification, but also to make sure that the American people understand that the Congress is not satisfied with the status quo. More must be done.

We have a right—in fact, we have an obligation, with regard to Government's efforts in fighting the drug war and dealing with the flood of drugs that are killing America's children. They are flooding into this country from Mexico. We have a right to expect official involvement, to some extent, to extradite into this country. Some of them have, some of them have not. We have a right to expect that our law enforcement people dealing with the drug bars, the drug lords, are able to defend themselves. We have a right to expect some thresholds to be met with regard to what Mexico must do and, frankly, what we must do in our Government.

This is a very important issue, one that we cannot leave today or tomorrow without taking action on. I want to say how much I appreciate the great effort by the Senators here on the floor now—Senator Hutchison from Texas, Senator Coverdell from Georgia, Senator Feinstein from California, and other Senators that have worked to do the responsible thing. I want to point out that these Senators, along with others, for a total of 40, wrote a letter to the President of the United States saying, "Mr. President, don't certify Mexico as doing what, in fact, is doing, what we described in this big battle that we are engaged in." The President did that.

Now, the House took an action that will allow them to put down some markers and, after 90 days, look and see if progress is being made and then, perhaps, act further. I believe that is the gist of their action. That resolution is pending here at the desk.

But, again, in a full, good-faith effort, the Senators have worked with the administration that included a whole variety of people. I was stunned by all the people that got involved. The Secretary of State was involved; the head of our drug effort, General McCaffrey; the head of the NSC, Sandy Berger; the Secretary of Treasury was there. It was a long list of people, and a lot of work was done. I think these Senators here gave a great deal. They wanted to say that these are some things that must be done and be certified by the President, if they are, we should have the right to have another vote on whether or not there should be decertification with waivers, or certification, or whatever. They agreed to not insist on that. But what they did do was reach an agreement that requires a report from the President, by September 1, on what is being done by our Government and by Mexico to do a better job.

Now, I finally decided last night that the administration really didn't want any action by the Senate. They want us to just leave and not do anything. We can't do that. The Senate should take action on something this important. So we will act on this. We will vote. We will do it today, or we will do it tonight or tomorrow; it's OK with me. We are going to vote on this issue before we leave here.

There is a process where the Democratic leader cannot stop that—it is a required resolution of the Senate. It has to have 20 votes to stop it. They can stop it and then vote on another one. But it is a resolution of the Senate. Now, the administration really didn't want any action by the Senate. They want us to just leave and not do anything. We can't do that. They want the United States to combat illegal narcotics trafficking. It makes clear the Senate view that Mexico has not done enough—and they have not. We have seen that many times. We have seen it with the devastating story recently about the top drug enforcer in Mexico who, as a matter of fact, had to be removed from office because he was, in fact, being involved in what he is supposed to be trying to control. I base on that that the facts as I can possibly put it. I fear there are going to be more devastating reports like that.

The revision allowing for涝, as I indicated, was dropped last night after direct involvement by the Secretary of State, head of the NSC, as well as Senators here, and Senator McCain was involved in that. But it makes clear that the administration and the Government of Mexico should provide real demonstrable progress by September. If they don't, under this procedure, we would not have another vote, but we can have more votes. There will be authorization bills, and there will be appropriations bills, and Justice, Commerce bill. If we don't get a response or action here, the Senate has a powerful weapon called the power of the purse. We can withhold funds. We can make our views known.

Based on that, I think that we can act in other ways with other vehicles, I thought this was a good agreement. I thought that the Senators here on the floor bent over backward to reach an agreement. Now, we have got this picture of the Secretary of State who is now in Helsinki, and the head of the NSC, now in Helsinki, both directly involved, saying, yes, we can go with this. General McCaffrey, head of the drug administration, who was there and said, yes, we can go with this. Democrat and Republican Senators said yes. The majority leader says this is not perfect, but this is a responsible thing to do. And then what happens? Then we have a Democratic Caucus this morning. They may and do that because they can't dictate the schedule on another issue, because they can't make the majority leader give them a date certain on another unrelated issue. They want the United States Senate not to act on the drug problem in Mexico.

Now, my friends, this is a big-time loser for those that are objecting to this procedure. It cannot stand. We have to find a way to move this forward.

So all these administration officials are for it, Senate Republicans and
Democrats are for it, and now they are saying, "If you don't give us a guaran-
tee on another issue, that we will do it
by a date certain, we are not going to
let you bring this up." Look, I know we
like to play games just before we get to
game. This is not the way to do seri-
sious business, but, as you well know,
with partisanship here. We are not
dealing with some traditional author-
ization. We are dealing with drugs.
How can we not express ourselves on
this? We must, and we will.
I asked for unanimous con-
sent, when the minority leader arrives,
to bring up Calendar No. 29, House
Joint Resolution 58, regarding the cer-
tification of the President with respect
to Mexico, that there be 4 hours total
for debate on that resolution, to be
equally divided in the usual form, and
that one amendment—and only one
amendment—be in order to be offered
by Senators Coverdell, Feinsteins,
Hutchison, and others.
I would ask whether amendments
or motions be in order, and following the conclusion or yielding back of the
time, the Senate proceed to a vote.
We can take it up, and we can have a
calm, cool, nonpartisan debate on a
very serious issue.
I have here the resolution that was
the subject of the negotiations and the
one that was agreed to last night at
about 7:30 or 8 o'clock. I was around
and I was one of those meetings. This
was interesting, I thought, because I
actually have the copy here, or a copy
of what was agreed to. See these. Those
are circled paragraphs the administra-
tion had problems with, and the com-
promise language that was worked out.
I don't like this compromise. But it
was a responsible thing to do.
The same thing on the next page. The work
was so intense and so committed right
up to the last minute. Here is a para-
graph. It circles this, and it is out.
I ask for the record, I hope that Senators on both sides of the aisle
will agree to that. If that effort fails—and I am going to make this request not
later than 11 o'clock—I hope to hear
from the minority leader quickly
so we can get started.
If I don't get that consent, then I am going to ask unanimous consent
that the Foreign Relations Committee be
discharged from further consideration of Senate Joint Resolution 21 regarding the
decertification—this is the decertification process, not certification; this
is decertification—with additional waiver language, that the Senate pro-
cceed to its immediate consideration, and that there be a limited period of
time—presumably maybe 4 hours—for
debate. After that, of course, we go to a vote.
If that is objected to, then I am going to go to the privileged resolution,
which is not amendable, provides for 10
hours of debate, and I do not want to do this. It provides for 10 hours
of debate in the law. This is a privi-
egleged resolution that sets out very
tightly how we would vote on this priv-
ileged resolution issue. This is dan-
gerous. It is not good for the admin-
istration. I don't think it is good for the
country because the vote that is taken
would be on decertifying Mexico as
being seriously involved in this drug-
fighting effort with us. It would show
if we are going to have games played here on other unre-
lated issues, it puts me under extraor-
dinary pressure.
I have indicated that I do not want to vote for decertification.
Also, even if it does not pass, what if the vote is 60 to 40? What does it say
about the administration's effort? What does it say about the President's
effort? What does it say to Mexico that
40 United States Senators voted to de-
certify Mexico? Then that would have
go—unless the Senate just accepts that—conference. And then here is
what will be pending in conference: de-
certification, or 90 days of delay and a
vote. Neither one of those should look
too tempting to those that want to do
the right thing.
So I do not want to go on at length.
I want us to get started. We need to get
started. But I hope we can get an agree-
ment to move forward on the agree-
ment that was entered into last
night. It is the right thing to do. It is
the right thing for the Senate. It is the
right thing for the administration.
And, on a close call, I guess it is the
right thing in our efforts to control
drugs seriously, but I do not think it
is the right thing in our efforts to control
drugs.
Mr. President, I am in good spir-
its today. I understand we have to do
this positioning around here. I under-
stand you have to try to drag the ma-
jority leader into doing something he
might not want to do, or cannot do.
But I think this is the wrong place and
the wrong time to be playing this
game.
Mr. President, I yield the floor.
Several Senators addressed the
Chair.
THE PRESIDING OFFICER. The Sen-
ator from Arizona.
Mr. McCaIN. Mr. President, I want
to, first of all, thank the distinguished
majority leader because last night he
played a very key role in assisting us
in making what I thought was an ex-
tremely difficult agreement.
I also want to thank the Democrat
leader, Senator Daschle, who also was
in agreement that he would move for-
ward on this issue of Mexico.
But, Mr. President, I am in good spir-
its today. I understand we have to do
decertification, or 90 days of delay and a
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tremely difficult agreement.
to happen. But, in fact, if the Senator from Arizona is correct—what all of us worked so hard to put together was a positive, productive statement that we could work from to make progress in the war on drugs between our countries. I don’t think it is true, then, that we are all going to be forced to make the worst of all votes because we just can’t get our bill on the floor for debate.

Is that correct?

Mr. D’AMATO. That is correct.

I appreciate the efforts of the Senator from Texas. All of us understand the importance of the war on drugs. Those of us from border States perhaps—I emphasize perhaps—appreciate it a little bit more because of the direct involvement that we have.

I am not going to speak on this again in the Chamber and take time. I think we are going to work this out. We have to. I want to especially express my appreciation to the Senator from California, who, from Texas, with whom I have worked, the Senator from Georgia, Mr. COVERDELL, and the Senator from Connecticut, Mr. DODD, Senator KERRY of Massachusetts, and others, and members of the administration who sat down with us and negotiated, I think, an important and positive agreement and a way around this issue.

Mr. President, I appreciate the courtesy of the Senator from California, and I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I really want to comment on the situation we are in. I believe the people of this Nation sent us to the Senate to work across the aisle, to work in a bipartisan way and particularly on issues of major concern. Whether Mexico is certified or not is an issue of major concern. Concerning the Mexico to Florida, Mexico to Texas; it is to America; it is to the cities of America; it is to every Representative in the House and to every Member of this body as well.

I wish to pay tribute to the senior Senator from Georgia, with whom I have worked, with the junior Senator from Texas, with whom I have worked, Senator KERRY of Massachusetts, to the administration team, and to many others. I believe we have demonstrated we can, in fact, work across party lines.

We have developed a resolution which I think is a major achievement; it is law—it is not a sense-of-the-Senate resolution; it is a law—in which we state our concerns; we make findings; we ask the administration to move forward; we ask the President to move forward in his trips to Mexico and other Latin American nations to work in a multi-lateral way to bring back a new agreement—although that 10 years is true. I would like to see progress; and we ask the administration to report to this Congress on September 1 on the progress made.

We did not start here. Senator D’AMATO and I began this a year ago. Not many people listened. We said we do not really believe that Mexico has fulfilled the test of a friend and neighbor and an ally who has been fully cooperating; we have to be certified. At that point he and I put forward certain tests that we felt had to be met prior to certification.

A year went by, and we saw very little progress, if any. And then the President, in his trip to Mexico, certainly certified Mexico. In his mind, he had many good reasons to do so. It was a decision that was spiritedly debated within the White House. It was debated within the Department of State. And that was the ultimate decision of the President.

There were those of us in this body, myself included, who had a profound difference of opinion with this decision. We thought that the Colombian model was the appropriate model and that Mexico should be decertified but with a national interest waiver. We have to move with Colombia 2 years ago because we felt certification was not the appropriate vehicle. But it is the vehicle that we have, and therefore Mexico should be treated in the same way Colombia was. If the findings were as we believed them to be.

We have had meeting after meeting after meeting. The senior Senator from Georgia and I find ourselves in real agreement. The Senator from Texas and the two of us have worked together. Democrats came in; Republicans came in; the administration came in; and we forged an agreement which I believe, based on a conversation at least on my side with the Democratic leader of the House of Representatives last night, can be acceptable to the House and can be a clear statement which gives the President certain—not directives—but I think clear certain requests from this body to follow up on Colombia which is upcoming and from which I believe our Nation, our big cities, our streets can derive significant benefit.

I am profoundly disappointed to find ourselves in this situation and really urge colleagues on my side who are rightly concerned with the Chemical Weapons Convention treaty, rightly concerned, to please let this resolution go, let us have the debate, because absent that debate and given no opportunity in law to express ourselves, you can’t leave us with no choice but to move for the decertification because that is the only direct resolution that can come to the floor on an expedited procedure, as the majority leader has just said.

I cannot tell you how strongly I feel about the cooperation I and others have had from the Republican side of the aisle. I have had an opportunity to work very closely with the senior Senator from Georgia, with his excellent staff, certainly with the assistant staff, with Senators from Texas, Senators McCAIN, KERRY, DODD, DOMENICI, all of whom came at a very critical time last night into these discussions and played a very helpful role. The administration has agreed in the areas of consensus. I think some things they did not want to be forced to put forward in law they have agreed to. We have agreed to take something that the administration did not want to have the House still pass an expedited procedure giving the opportunity to comment again in law on progress made between March 1 and September 1. We removed that. We have consensus. The administration has said the President would sign this; we have the House; and we have a strong policy document with which to move forward.

It would just be tragic if we fragment, if we have to use the only thing we have, which is a decertification, a straight and outright decertification, as the means to express ourselves. So I am very hopeful we would have an opportunity today, now, to bring this resolution to the floor. If we cannot achieve unanimous consent, as the majority leader has just said, I do not see how we are to move with Colombia. If the Senate comes in, let us have the debate, because absence of that debate and given no opportunity in law to express ourselves, you cannot leave us with no choice but to move for the decertification resolution, and once that debate begins it would take an unanimous consent to stop it, and unanimous consent to bring this resolution up during that 30-hour period, which I believe is really fraught with great difficulties.

Once again, I cannot tell you how many hours the Senator from Georgia, the Senator from Texas, I and a number of others have been involved in this effort. We have consulted the Democratic leader as we moved along. I believe he is pleased with this outcome.

So I plead with colleagues on my side not to hold this resolution hostage to an agreement on the Chemical Weapons Convention. It is too important. Please, do not do it.

I thank the Chair.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER (Ms. SNOWE). The Chair recognizes the distinguished minority leader.

Mr. DASCHLE. Madam President, let me begin by associating myself with the remarks of the distinguished Senator from California. She speaks for many on our side as well, who want very much to bring this issue to closure today. It is because of her efforts and the efforts, as she has indicated, of the Senator from Texas and the Senator from Georgia and others involved dedicated an extraordinary amount of time in the last couple of weeks to working with the administration and others to bring us to a point where, on one of the most contentious issues we have had to confront in this Congress, we have actually come to a point where Republicans and Democrats can reach agreement. That does not happen very often in this Congress, and especially in this session of this Congress so far. I hope we can all actually seize this opportunity, it presents and come to an agreement on procedure and allow this resolution to be taken up and voted upon sometime by early afternoon.
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I did not hear a lot of what the majority leader has indicated is his position with regard to the chemical weapons treaty. He knows of the great concern on our side of the aisle about achieving a process that will allow us to consider and vote on that treaty prior to the 19th of April so that, by the 29th of April, that treaty can be ratified and that we can be full-fledged members of the Chemical Weapons Convention. It is not as if we have made a last-minute push, from April 7 to April 19, we will have lost the opportunity, that 125 other countries have already taken, that we have sought for decades to have an international agreement on chemical weapons. Our failure to become part of the convention will put us in the company of Iraq, Iran, Libya, and countries that in every way, shape, and form and by any definition are rogue states today. Do we want to be in that company if we do nothing?

I would think there would be an unequivocal, unanimous verdict that, no, we do not want to be in the company of Libya, Iraq, and Iran. But we are in a position which, in a very short period of time, places us into that company if we do nothing. That is why my Democratic colleagues feel so strongly about this issue and believe that there are very few other issues out there more important, and if we do not turn up the pressure and find ways in which to assert our determination to get this convention considered, we will have lost an opportunity, not only for the Senate, for the country, but perhaps for the convention itself. This is why it is so critical.

Having said all of that, and I could say a lot more but in the interests of time, let me say I believe the majority leader is doing as much as he can at this point to bring us to a set of circumstances that will allow us consideration in due time. I believe there is a great deal of difference within the Republican caucus on this issue. I understand that. There are many issues that divide the Democratic caucus. So it is not out of the ordinary to be divided on an issue of this importance and controversy. But I do believe that the majority leader has given me adequate reason to be confident that we will take this treaty up in a time that will accommodate ratification on the Senate floor prior to the 19th of April.

So, given all of his cooperation and his willingness to work with us, I think the most important thing for us to do today is pass this compromise to allow us to work with Mexico to deal with the drug issue in a meaningful way without slapping them in the face. So I hope, as the Senator from California has so accurately pointed out just a moment ago, that we recognize how important this opportunity is for all of us, that we seize the moment, that we get an agreement, and we move forward.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Madam 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—HOUSE JOINT RESOLUTION 58

Mr. LOTT. Madam President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 29, House Joint Resolution 58, regarding the certification of the President with respect to Mexico, that there be no time restraints for debate on the resolution and an amendment. Further, I ask unanimous consent that there be only one amendment in order to be offered by Senators COVERDELL and FEINSTEIN.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Madam President, without objecting, I would like to ask a question of the majority leader before proceeding or determining whether to object.

As the majority leader and the Democratic leader both know, I have been very concerned that we get some agreements or understanding about how the Chemical Weapons Convention is to be handled in April. We have a deadline coming at us. I think the convention, as I understand it, goes into effect on the 28th of April. We have to, if the United States is to participate, if the judgment of the Senate is we should participate in that, we would have to make that judgment several days before that. At least that is what I have been informed.

I am just concerned that time is running out. We seem to be taking one legislative or executive matter up after another here without really having an understanding about how we are going to dispose of this Chemical Weapons Convention.

I wondered if the majority leader could assure me about how this is going to be brought to the Senate and dealt with in the coming month?

Mr. LOTT. Madam President, if the Senator from New Mexico will yield.

First, I would like to just briefly clarify what we have in this consent resolution. It is to bring up this certification issue and to allow an amendment that would put in place the framework that would be entered into last night by a bipartisan group of Senators and the administration.

So this just basically sets up a process to begin the debate and get a vote on the agreement with regard to certification, with the understanding it does set out some markers as to what we think should be done, and it does require the certification to be reported by September 1 and to the process that is being made there. But it does not have a subsequent date where a vote could occur. This is going to be the vote on certification, or decertification, depending on your point of view. So I want to clarify what I was asking for there.

With regard to the inquiry of the Senator from New Mexico, first of all, let me assure him that there is concern about the April 29 date and the need for some action before that date by a number of Senators.

There is disagreement on how essential it is to act before the 29th. As a matter of fact, whenever the United States should ratify such a treaty, certainly we would be sort of the big kid on the block and we would be involved in the process. But there are arguments on the other side of it, and I certainly understand that.

I acknowledged to the Senator from Michigan, I believe it was yesterday or the day before, that I also understand that in order to get a treaty completed and the subsequent actions that go along with it, enacting or enabling legislation—

Mr. DASCHLE. Reform.

Mr. LOTT. Reform legislation—it takes some time after the actual vote. So it is my intent for this issue to come up when we come back after the Easter recess.

There is a statute or bill that has been introduced that we hope to get up and get a vote on. Very serious. I think good efforts are underway to deal with the parallel issues of U.N. reform. The administration has even approached the bipartisan group of House and Senate Members. I think everybody is beginning to understand, themselves, and we may be able to get some reforms and some process on how we deal with what is the number we may be indebted to the United Nations for and how that ever would be addressed.

We are also working with the chairmen of the committee, Senator HELMS, and Senator BIDEN, the ranking member of this reorganization of the State Department issue. The new Secretary of State has indicated some encouraging things there, and I believe there is going to be good faith by all to try to address this issue.

There are some legitimate concerns about the treaty—the verification question, search and seizure questions, how it affects different things in America. On some of those, the administration this year came back and said, “You’re right. We have some concerns about this issue.”

So a number of them have been worked out. An equal number are within the range of being worked out. Again, Senator BIDEN has been working with Senator HELMS to address some of those concerns.

There are some we just will not be able to get worked out. I mean, we will have to have votes on amendments on the floor or there will probably be a substitute. But my intention is to continue to work with all involved, including the chairman and ranking member, on this issue and the floor in April. That is why I had our list of items. It is not my intent to stonewall or delay this.
I understand that every time we go out or every time a bill comes up, the Senator from New Mexico will be up here raising questions and maybe even objections. We have other things we need to do that are equally or more important. So it is not my intention at all to allow this thing to go on indefinitely.

But you do understand, as the majority leader, you work with the chairman, you help the chairman, and the chairman helps you, and you work with the ranking member. This is a place of great comity, and we want to keep that. I am trying to honor that as a majority leader who is, you know, sort of learning as I go along, making a few mistakes here and there, but getting some things done on the way, too. So I think you know from what we have been able to do over the last 8 months, I work steadily at these things, and at some point we are going to get to vote on this. I do not mean to say in the great blue wonder. We are working very aggressively, and I believe we are going to get a process to get it dealt with in April.

Mr. BINGAMAN. Madam President, let me just respond by saying I appreciate the statements by the majority leader. I have observed the majority leader here for several months, and I have great confidence that when he expects and intends for a particular matter to come to the Senate floor and be dealt with, that that will actually occur. We have been encouraged by his statements to that affect. On that basis, I will not object to this particular unanimous-consent request.

I will plan to renew my concern once we return from this recess if it is not clear at that time that we have all parties in agreement as to the timing to bring that convention to the floor. I think timing is essential. I have no problem with amendments and do not object to the request to accommodate a need by the majority leader, the minority leader, and the ranking member. This is a place of great comity, and we want to keep that. I am trying to honor that as a majority leader who is, you know, sort of learning as I go along, making a few mistakes here and there, but getting some things done on the way, too. So I think you know from what we have been able to do over the last 8 months, I work steadily at these things, and at some point we are going to get to vote on this. I do not mean to say in the great blue wonder. We are working very aggressively, and I believe we are going to get a process to get it dealt with in April.

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Word “cartel” implies, nor are they “federated” into a legitimate conglomerate. These syndicate leaders—the Rodríguez Orejuela brothers in Colombia to Amado Carrillo-Fuentes in Mexico, to Juan García-Apregio, Miguel Caro-Quintero, and the Arellano-Felix Brothers—are simply the 1990’s version of the mob leaders U.S. law enforcement has fought since shortly after the turn of the century.

But these organized crime leaders are far more influential, and have a great deal more impact on our day to day lives than their domestic predecessors. While organized crime in the United States during the 1940’s through the 1970’s affected certain aspects of American life, their influence pales in comparison to the violence, corruption and power that today’s drug syndicates wield. The drugs—and attendant violence that accompanies the drug trade—have reached into every American community and have robbed many Americans of the dreams they once cherished.

And I add, even, in thousands of cases, their lives.

In the face of this massive drug problem alone, and on two friendly countries, the United States and Mexico, the administration decided to certify Mexico as being fully cooperative in our joint battle. The message that sent, Madam President, to the people of both countries was that the drug menace is not being adequately addressed, and indeed, we know they are there. And no one who is an author of that resolution has it in their mind that they want to make their job more difficult. But if the only answer we get is, “I keep raising the issue,” and every time it is raised you are categorized as somebody who is defending another nation, that is inappropriate and unacceptable.

The work that has been done here is absolutely on target. This country and Mexico, and all the other countries in the hemisphere, have to go public about the scope of the enemy we are struggling with. That is what this resolution does. It takes us to a new place and a new day and a more open and honest discussion in the hemisphere about this adversary.

Technically, Madam President, this resolution will cause the administration to come to the Congress and demand that they have renewed this battle not only in the hemisphere, but in the United States. There is a mutuality about this resolution. It acknowledges that our country is a key element in the problem. Not only are we a consumer and the No. 1 consumer of these illicit drugs, but we are a producer of the drugs themselves, and a grower of them. We have to get this on the table. If you are going to eradicate marijuana in Mexico, let’s get it eradicated here. The technology, the scientists tell us we can find any of these products where they are growing. Well, let’s find them and get rid of them.

A contention that made this resolution such a struggle to come to was that the administration did not want us to come back and revisit this question later in the year. In the last hours, as the majority leader described, late last evening, that provision was removed. I think the administration knows that this is true. The legislators here, the technocrats, the administration realize that this resolution will cause the administration to come to the Congress and demand that they have renewed this battle not only in the hemisphere, but in the United States. There is a mutuality about this resolution. It acknowledges that our country is a key element in the problem. Not only are we a consumer and the No. 1 consumer of these illicit drugs, but we are a producer of the drugs themselves, and a grower of them. We have to get this on the table. If you are going to eradicate marijuana in Mexico, let’s get it eradicated here. The technology, the scientists tell us we can find any of these products where they are growing. Well, let’s find them and get rid of them.

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Mr. COVERDELL. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. REPORT REQUIREMENT.

(a) Findings.—Congress makes the following findings:

(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and economic costs in excess of $67,000,000,000 per year to the American people.

(2) An estimated 32,000,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in four American children claim to have been offered illegal drugs in the past year. Americans spend approximately $49,000,000,000 per year on illegal drugs.

(3) There is a need to continue and intensify anti-drug education efforts in the United States, particularly education directed at the young.

(4) Significant quantities of heroin, methamphetamine, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States through Mexico.

(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.

(6) There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed more than 1,000 federal law enforcement officers in an effort to eliminate corruption, although some were rehired and none has been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.

(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and United States drug law enforcement agencies and other institutions responsible for activities associated with illicit production, traffic and abuse of drugs, particularly in the common border region.

(8) The Government of Mexico recognizes that it must develop its institutional financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of the country and sought United States assistance in these areas.

(9) The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislative measures against organized crime and money laundering.

(10) The Government of the United States and the Government of Mexico are engaged in bilateral cooperation on the prevention of the production of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.

(11) Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.

(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate drug production, trafficking, and abuse of drugs and to prevent money laundering.

(13) Section 101 of division C of the Omnibus Consolidation Act, 1980 (Public Law 104-208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents within the Immigration and Naturalization Service by 1,000 per year through the year 2001.

(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.

(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.

(16) While Mexico has begun to extradite its citizens for the first time and has cooperated in arresting or deporting major international drug criminals, the United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges has been granted by the Government of Mexico.

(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.

(b) Sense of Congress on Cooperation on Drugs by Countries in the Western Hemisphere.—It is the sense of Congress that:

(A) Implementing a comprehensive anti-drug strategy in the United States targeted at reversing the rise in drug use by America’s youth;

(B) Implementing a comprehensive international drug interdiction and enforcement strategy; and

(C) Deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as a cosponsor.

Mr. HELMS. Mr. President, I ask unanimous consent to add the name of Senator LANDRIEU of Louisiana as a cosponsor.

I am genuinely grateful to the distinguished Senator from Georgia [Mr. COVERDELL] and the distinguished Senator from California [Mrs. FEINSTEIN] for their excellent work on this issue. They deserve credit for keeping the Senate focused on the question of Mexico’s counterdrug cooperation with the United States.

Through this resolution, Senators COVERDELL and FEINSTEIN, in a very fair and very essential way, made clear the Senate’s dissatisfaction with the status quo.

Mr. President, I know of no Senator who was pleased with the President’s decision to certify Mexico as cooperating fully with the United States, the evidence clearly supports a different conclusion. This resolution gives both the President of Mexico and President Clinton an opportunity for redemption.
Mexico's President Zedillo has made numerous declarations against drug trafficking— which we applaud. Moreover, we recognize that President Zedillo is no Ernesto Samper. But, as for the two countries, Colombia and Mexico, there is a difference. The difference is that in Colombia, the President was arrested and is now serving a sentence, and the President may be the only level of government not bought and paid for by the drug lords.

Mr. President, U.S. law requires more than well-meaning statements for a nation to be certified as cooperating fully. Our law requires performance. In the case of Mexico, performance has fallen far short of the rhetoric.

While the creation of bilateral commissions perhaps satisfies the bureaucratic need for meetings, meetings are meaningless unless they produce tangible results—arrests, convictions, and seizures.

The same can be said of laws: The passage of new laws does not stop drug trafficking; enforcement of laws does. We are still waiting for any implementation whatsoever of the laws against organized crime and money laundering. Indeed, the one area in which we have seen progress may have already been negated when Mexico expanded legalized gambling, a time-honored way for criminals to launder money.

Corruption with impunity remains the modus operandi for the Federal Judicial Police, which more often resembles a criminal enterprise than a law enforcement agency. At the January wedding of drug kingpin Amado Carrillo Fuentes' sister, for example, policemen were guarding Carrillo's family and friends. This is further evidence that Mexican police are more likely to protect than arrest drug traffickers and their interests. Impunity is also the unwritten law for drug traffickers and their allies in official positions, such as Gen. Jesus Gutierrez Rebollo, Zedillo's drug czar.

Here was a case in which the senior Mexican counternarcotics official was protecting the biggest Mexican drug kingpin, Amado Carrillo. The administration argues that the arrest of General Gutierrez Rebollo is evidence of the Mexican Government's commitment to fight corruption. My questions are: Why was he ever hired in the first place? Mexico's drug czar is also the head of PRI party, have he been on the drug traffickers' payroll. As long ago as 1999, I wrote to the President, Manuel Bartlett, as one senior official compromised by drug traffickers.

Mr. President, I won't cite all the statistics that show that, over the past 6 years, arrests of drug traffickers and cocaine seizures have decreased significantly in Mexico, while the volume of cocaine, heroin and methamphetamine going through or coming from Mexico increases. Despite this record, the United States has consistently presumed that the Mexican Government has been a faithful partner in the fight against illegal drugs. The vast majority of the Mexican people are our allies; but I have grave reservations about most of the Mexican Government.

The President and Barry McCaffrey, amongst others, have spoken eloquently about the horrors of drug use on our streets, recognizing that this scourge is destroying lives throughout this hemisphere. The American and Mexican people deserve better. Silence is tacit consent to this corruption which allows the drug trade to flourish. Only by exposing the corruption can we begin to make a genuine difference in attacking this evil.

In this light, Mr. President, the refusal to recognize the marriage between Mexico Government officials and the drug cartels is troubling. Congress must make known its disagreement with the conclusion that the Mexican Government is cooperating fully. Mrs. Feinstein, Mr. President, ask to be recognized for such time as I might consume within the hour allocated to me. The PRESIDING OFFICER: (Mr. Ashcroft). The Senate is recognized. Mrs. Feinstein. Thank you, very much.

Mr. President, this country has always had a great debate about drugs. Do you fight drugs on the supply side, or do you fight drugs on the demand side? There is no question but that we have a demand problem. But there is also no question that we have a supply problem. My answer to that is that this country has never really done both really well. We have never really encouraged an all-out fight against drugs on both the supply side and the demand side.

What is before us today is somewhat limited in scope because it has to do with the certification involving Mexico, and whether that action should, in fact, take place; where Mexico should be certified, as the President said.

The resolution now before this body, known as the Coverdell-Feinstein amendment, I think is significant. Let me tell you the two ways that I look at this.

This resolution is either the first step to a new and forceful partnership to fight drugs all out on both the supply side and the demand side, and to join with Mexico in so doing, to accept President Zedillo's statement that the No. 1 drug problem in the No. 1 drug problem in Mexico, and to add to that the United States statement that drugs are, in fact, the No. 1 security problem for the United States of America, which I believe them to be, or this is the first step in a major battle next year, if this resolution is ignored, to decertify Mexico as being noncooperative in the supply side of the cooperation that goes into the retardation of drug flow into this country.

Mr. President, I want to begin by once again paying my respects to the Senator from Georgia, the chairman of the Western Hemisphere Subcommittee, Senator Coverdell. He and I share a dedication to the idea that the status quo on United States-Mexican counterdrug cooperation is simply not acceptable, and his leadership on this issue has helped us reach this point. It has been an honor and a privilege to be his partner in this effort. And I look forward to continuing to work with him and his outstanding staff in the fight against international drug trafficking.

I also want to acknowledge the Senator from Texas, Senator Hutchison, whose contribution to this effort was invaluable. Her State, like mine, shares a long border with Mexico. So this issue hits home to us in a direct and a meaningful way. Other Senators too numerous to list, with names like Dodd, Kerry, McCain, Domenici, as well as others, the majority leader, the Democratic leader, have all weighed in to bring this effort to fruition. And I have appreciated working with each and every one of my colleagues to get to this outcome.

Just over a year ago, as has been said, Senator D'Amato and I started talking about whether Mexico merited certification as a fully cooperative partner in the war against drugs. Our view was that Mexico had simply not made enough progress in the war on drug trafficking to justify certification. At that time, despite the fact that we laid down 10 specific criteria, none of them was met.

Well, people have paid attention this year. On February 28 of this year, the President made the decision to certify Mexico as fully cooperating with the United States coalition's efforts against drug trafficking. But it just didn't wash in the Congress. The evidence simply does not support the claim that Mexico met the standard of full cooperation in 1996. As all of my colleagues are well aware, Senate procedures made it impossible for us to get a vote on what many of us believed was the best option—to decertify Mexico but allow the
President to waive the sanctions based on what is termed a “national interest waiver.”” If decertification with a waiver had come up for a vote I believe it would have passed the Senate by a large and even possibly veto-proof margin. I do not say that lightly. In the House it is perhaps more than adequately stated. Instead, the House passed with over 250 votes a resolution that decertifies Mexico in 90 days unless specific conditions are met.

So as we will pass today, expresses Congress’ deep concern over the lack of progress in key areas of Mexico’s counterdrug effort.

Let me quote from subsection (c) of the amendment. “It is the sense of the Congress that there has been ineffective and insufficient progress in halting the production in, and transit through, Mexico of illegal drugs.”

This statement has never before been made by this body and the other body in concert. And I believe it will be, and no one should underestimate what that means.

In short, while we could not decertify Mexico, the Congress rejects the administration’s claim that Mexico has fully cooperated with the United States. The evidence I believe is overwhelming. Last week, I tried to lay this case out with some specificity, the case that Mexico has not earned decertification. I will not repeat here all of the facts to prove that Mexico has not met the test of full cooperation. But let me just remind my colleagues of a few of those facts.

In 1993, per ounce, it was $1,200. Look at it go straight down. Today, it is $400. Part of that is the fact that it is in competition with the pure white cocaine that comes from other places, but still the black tar heroin is heavily used by addicts, and you can see the drop in the street price, which clearly means more supply.

Then you take the major traffickers. What has happened is that as the Cali cartels of Colombia become less potent in this area, the Mexican cartels have taken over. Specifically, Senator COVERDELL enumerated four of them—the J uarez, Tijuana, Sonora, and Gulf cartels. And our DEA has clearly stated to us in testimony, written and verbal, that the Mexican major drug cartels today are operating with impunity, and even the State Department admits that “the strongest groups such as the Juarez and Tijuana cartels have yet to be effectively confronted.”

Mexican cartels have assassinated 12 high-level prosecutors and senior law enforcement officers in just the last year. Here is the clincher. None of these murders has been solved. Twelve major Federal and statewide prosecutors, sometimes the prosecutor, people who want to do a good job, have been assassinated for doing that good job. It has often been said that those they cannot buy, the cartels will kill.

Corruption is endemic in Mexico’s Government, police, and military. The Mexican drug czar was arrested for corruption as was another senior army general just 2 days ago. DEA Administrator Constantine has said “there is not one single law enforcement institution in Mexico with whom DEA has an entirely trusting relationship.”

Mexico has enacted money laundering legislation last year. So far the legislation has not been implemented. Banking regulations were finally issued last year, but these do not take effect until May, and their effectiveness has not yet been evaluated.

Mexico has failed to adequately fund the Binational Border Task Force agreed to by the two sides in a much touted bilateral meeting, and as we all know, to this day Mexico has forbidden our DEA agents taking part in these border task forces, if they cross the border from our country to Mexico, to carry sidearms or protect themselves on that side without the permission of the Mexico authorities. That is why originally we felt it was so important to have this body be able to monitor progress, compare progress, and make a finding if we found the progress inadequate.

That has been removed from this resolution, but the administration will still have 90 days to move into Mexico and make sure that I and others in this body will come to the floor and make our comments on September 2 or 3 or 4 or 5 on whether we regard this progress as being adequate.

So as we engaged in negotiations with the administration over the past week on this resolution, it was extremely important to put into place a mechanism by which we could hold the administration accountable. We have done that. And subsection (c) states that the President to support on progress in 10 specific areas—and I urge Members to begin to look at this. It begins on page 6 of the resolution following this historic statement that it is the historic statement that it is the sense of Congress that there has been ineffective and insufficient progress in halting the production and transit through Mexico of illegal drugs. We say that in nut in the snapshot because I the President shall submit to the Congress a report and then we list 10 areas of concern to be addressed in the report. Let me outline those 10 areas.
The first is effective action to dismantle the major drug cartels and arrest and extradite their leaders. This goes specifically to the two most powerful groups, the Juarez and Tijuana cartels, as well as others like the Sinaloa and Guadalajara cartels.

Second, better cooperation between the United States and Mexican law enforcement including the funding and deployment of the Binational Border Task Forces and allowing United States agents to train these forces to arm themselves for defense. That is the implication. By September 1 we will know whether it has been achieved or not. The answer then will be yes or no. Third, better enforcement at the border. This means increased screening for and seizures of contraband. It also means, and Senator Hutchison was very effective in incorporating this into our resolution, that we call for the funding and the assignment of an additional 1,000 agents on the border this next year. The administration’s budget has funding for 500. Let me say to the administration, from this side of the aisle, that is not adequate. We are asking for 1,000, by official action, incorporated in this legislation.

Improved cooperation on extraditions— that is the fourth. This goes specifically to the need for Mexico to extradite Mexican nationals who are wanted in the United States on drug charges. A good start would be the 2, such requests pending. There are several dozen more on the way. On September 1, we will see how many extraditions there have been.

Fifth states easier rules of prosecution of drug traffickers. At the present time, the evidentiary rules in Mexico—and Mexico is aware of this—are such that, in their country it is very difficult to come by a conviction.

Sixth, full and ongoing implementation of effective money laundering legislation and enforced regulations— for banks and other financial institutions— these are the money-changing houses outside of banks—with penalties and sanctions for those who do not comply and immunity for those who help so people who turn in money launderers will not be assassinated. We are hopeful—and I commend Mexico for taking action in this regard—we are hopeful that last week’s progress in issue these regulations will lead, now, to enforcement. We know it is one thing to have something on the books, it is another thing to see that something is carried out and enforced. On September 1, Senator Coverdell and I and others will both be looking at these. Are they in place? Have they been enforced?

Seventh, increased eradication of drug crops, including marijuana and opium— this is the seventh. We hope and expect that eradication figures will be increased this year. I believe our Nation is prepared to play a role in any bilateral cooperation that the Mexican Government would wish in that regard.

Eighth, implementation of a comprehensive screening program to identify, weed out, and prosecute corrupt officials at all levels of the Mexican Government, police, and military. This means vigorous screening of candidates for high-level policing and corrupt policemen after their dismissal, and prosecution of those found to be corrupt. We commend Mexico for firing 1,250 law enforcement officers. The problem is, none were prosecuted. That is the problem. And we are asking for cooperation.

I think it is worth noting that the Los Angeles Times reported yesterday that 3 percent of the Mexican police tested positive for drug use in its survey. This was 3 percent of Federal personnel screened. I think it added up to some 424 Federal law enforcement officers who failed drug tests. We have that same problem of motivation. So we admit it and we try and screen. We are asking our partner in Mexico to do the same thing.

Ninth, we have a clause in there regarding support by the United States of Mexico’s efforts to combat corruption. I cannot conclude without saying that Mexico has made efforts. I believe Mexico has made efforts. I simply question the adequacy of those efforts. But, for those efforts that have been made, we should provide support, and I believe every Member of this Congress, and certainly this Senate, wants to do so. So, this clause reads, “the rendering of support to Mexico in its efforts to identify, remove and prosecute corrupt officials.” The U.S. asks us for that support, but we would certainly say that support would be forthcoming.

The 10th and final provision calls for “the augmentation and strengthening of bilateral cooperation.” This is not specific in the law as we are writing. It is nonspecific. At the administration’s request, we removed a direct reference to air and maritime cooperation. But I think the record should show that Congress does expect this report to discuss progress made in such areas as aircraft overflight and refueling rights, aircraft radar coverage, and maritime refueling rights.

I look forward to receiving this report on September 1. The record will reflect that, and Senator Coverdell and I and Senator Hutchison and others, come September 1, as sure as the sun will come up, we will make an inquiry to see what the progress has been. And if Congress finds the progress cited by the administration to be inadequate, it will no doubt find ways to respond.

This report, in essence, in addition to the findings carried up to point in this resolution, states two senses of the Senate, urging the President on his visit to put forward this new, multilateral cooperative, hemispheric drive, if you will, reflect a new strategy, a new plan, the lateral cooperation, and certainly this Senate, wants to see specific sense of the Senate, and our conclusions as to why we would have to say there has not been full cooperation up to this point.

I very much hope, in summary, that there will be a very strong vote in this Chamber for this resolution. If it passes, I have been assured by John Hilley of the White House Office of Legislative Affairs and General McCaffrey, Director of the Office of National Drug Control Policy, that the administration will work hard to get this resolution passed by the House. If they do, I believe it will pass the House. John Hilley and General McCaffrey also assured me that the President will sign the resolution as passed by the House.

We, for the first time in history, will have passed a law, not a sense of the Senate resolution, but a law which states a purpose, which states a new effort, which states specifics, and which asks that on both the supply side and the demand side there be a new effort by both the United States of America and the sovereign, independent country of Mexico, to address the drug problem together, both on the demand side here with us and the supply side there with Mexico.

It is a very important, significant piece of legislation. I believe, I sincerely believe, it can have major, long-term impact. If it does not, the alternative is very clear next year. It is very clear. And it will not be just Senator D’Amato and I next year, or Senator Coverdell and I, and Senator Hutchison and others, and hopefully a majority this year, it will be a full-blown effort to see that this progress is carefully evaluated. And whatever action we must take, we will, in fact, take.

Mr. President, let me express my thanks to the distinguished Senator from New Mexico, Senator Bingaman, for lifting his objection. I know he has very deep and heartfelt feelings about the Chemical Weapons Convention. I have said to him informally, and I will say here, I will certainly do everything I possibly can to provide him with any help I can give, to see that it comes to pass. But I am very pleased he has withdrawn his objection and I will be able to bring this debate to a conclusion with a vote on this resolution.

Mr. President, I ask how much time remains on my hour.

The PRESIDING OFFICER. The Senator from California has 31 minutes of the remaining.

Mrs. FEINSTEIN. I thank the Chair. Mr. President, I yield the floor and reserve the remainder of my time.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, before the Senator from California leaves, I want to express my gratitude for her tireless work. I do want to mention, while she is here, a debt I believe we owe to her—and not just for her service on the Foreign Relations Committee. Senator Helms of North Carolina hovered over these efforts throughout, and as late as minutes before an accord was struck,
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personally heard out all the suggestions that had been made, compromises, and I believe was a major contributor to the conclusion by his attention, concurrence and coauthorship of this provision. I know the Senator from California would acknowledge that as well.

Mrs. FEINSTEIN. Will the Senator yield for a moment?

Mr. COVERDELL. I yield.

Mrs. FEINSTEIN. Thank you very much. I would like to acknowledge that. The chairman of the Foreign Relations Committee is, in fact, a cosponsor of this legislation. Like me, he had very strong feelings, and I know when you have very strong feelings, compromise is difficult. He did do that. I am very thankful, because I think we have a very strong piece of legislation as a result, and his support was certainly vital and, I think, crucial to getting this resolution on the floor and getting the vote that, hopefully, we will get. So I thank the Senator from Georgia.

Mr. COVERDELL. I thank Senator FEINSTEIN. Mr. President, also thank Dan Fisk and Elizabeth DeMoss from Senator HELMS’ Foreign Relation Committee and Dan Capito with Senator FEINSTEIN, Randy Schuermann on the majority leader’s staff, and especially Terri Delgadillo and Steve Schrage of my staff.

I yield up to 10 minutes of my time to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. HUTCHINSON. Thank you, Mr. President. I would like to commend Senator Coverdell, in particular, for his leadership on this issue, his hard work and, along with him, Senator Feinstein, Senator Helms, the chairman, Senator McCain, Senator Dodd, Senator Hutchinson, and the leaders for the hard work they did. Certainly they took many, many hours working to resolve a very thorny and very difficult issue.

Having said that, it is with regret and some reservation that I say I believe the resolution before us today is totally insufficient. We have now taken a very substantive and meaningful action against a poor decision by the Clinton administration and turned it into a political football and, Mr. President, I believe we have fumbled the football on the goal line.

While I realize the outcome of this vote is evident, it is clear I cannot, in good conscience, stay silent and not speak to the deficiencies of the resolution on which we will be casting our votes.

As best I can tell, while the resolution says many good things, while it says some very meaningful things, when you boil it all down and when you look at it, the essence of what we get from this resolution is a report that we are asking the administration to give us in a few months, and that, after all is said and done, is all there is to it.

I hold in my hand several newspaper accounts, recent newspaper articles which raise serious questions as to the efficacy of the Mexican Government’s counternarcotics efforts. Let me just give you some of the headlines:

“Another Mexican General is Arrested and Charged with Links to Drug Cartel.”

“2nd Mexican General Faces Drug Charges.”

“242 Fail Drug Exams in Mexican Law Enforcement.”

The list goes on and on. I ask an unanimous consent that these articles be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:


ANOTHER MEXICAN GENERAL IS ARRESTED AND CHARGED WITH LINKS TO DRUG CARTEL (New proof that traffickers have corrupted high levels of Mexico’s military)

(By Julia Preston)

MEXICO CITY, March 17.—A Mexican army brigadier general was arrested today on charges that he offered a multimillion-dollar bribe to a top Mexican law enforcement official on behalf of a notorious cocaine cartel. Brig. Gen. Alfredo Navarro Lara is the second high-ranking military officer to be jailed on drug-related charges in a month. His arrest is new proof that traffickers have succeeded in corrupting the highest levels of the Mexican armed forces.

Ilesus Gutierrez Rebollo, a division general who was the head of the federal drug agency, was arrested on Feb. 18 and accused of protecting and receiving benefits from Mexico’s most powerful drug lord, Amado Carrillo Fuentes.

Today’s arrest also indicates that competing drug gangs have divided the official corps in their campaign to buy protection. General Navarro Lara is accused of trying to buy off the authorities in the border state of Baja California in the service of the Arellano Felix brothers, a criminal cartel that has waged a bloody war across northern Mexico against the rival band of Mr. Carrillo Fuentes.

The only announcement of General Navarro Lara was a terse press release tonight by the office of Attorney General Jorge Madrazo Cuellar. Neither Mr. Madrazo nor any Defense Ministry official was available for further comment.

According to the release, General Navarro Lara invited the top federal justice official in Baja California to a private meeting in a luxurious Guadalajara Tijuana hotel early this month. The general is said to have offered the official, Jose Luis Chavez Garcia, who is also an army brigadier general, payoffs of between $1 million a month in return for cooperation in allowing cocaine and other narcotics to pass through the state en route across the border into the United States.

General Navarro Lara is said to have conveyed a threat from the Arellano Felix brothers that they would kill General Chavez Garcia and his family if he refused to agree to the plan.

A justice official who formerly held the top post in Baja California, Ernesto Ibarra Santes, was shot dead in Mexico City in September 1996. Several gunmen arrested in that killing were known to be hired members of the Arellano Felix gang.

General Navarro Lara was formally charged today with drug trafficking and racketeering and was confined to a maximum security penitentiary on the outskirts of Mexico City. He was described in news reports here as a commander in a military region with headquarters in the central city of Guadalajara, where General Gutierrez Rebollo also served.

In his first sworn statements taken at the prison, General Navarro Lara admitted making the bribe offer in return for any payments from the Arellano Felix brothers and only cooperated with them after they threatened to kill one of his children.

The arrest comes as President Ernesto Zedillo is struggling to rebuild Mexico’s anti-narcotics program after the devastating arrest of General Gutierrez Rebollo, under pressure from the United States, which is moving to reverse President Clinton’s recent decision to certify Mexico as a fully cooperating ally in the drug war.

Zedillo has lobbied with determined to detect and arrest officials implicated in the drug trade—no matter how high their rank.

The attorney general’s office announced late Monday that Brig. Gen. Alfredo Navarro Lara had been charged with drug corruption, bribery and criminal association and jailed earlier in the day outside Mexico City in theAlmostaya de Juez high-security federal prison.

On Feb. 18, Gen. Jose de Jesus Gutierrez Rebollo, then Mexico’s anti-drug czar, was sent to Almoloya after he was charged with taking bribes to protect the nation’s most powerful drug-trafficking cartel, allegedly headed by Amado Carrillo Fuentes.

Gutierrez’s arrest last month stunned a nation unaccustomed to drug corruption within its army and sent shock waves as far as Washington just two weeks before the Clinton administration certified Mexico as a U.S. ally in the drug war. President Clinton cited the arrest as evidence that Mexican President Ernesto Zedillo is committed to rooting out drug corruption—even in the nation’s powerful army.

But U.S. congressional concerns that widespread official drug corruption here had contributed to spiraling drug enforcement efforts helped drive the House to pass a resolution decertifying Mexico last week.

As the Senate begins debate this week on that decertification resolution—which Clinton has vowed to veto—Navarro’s arrest Monday further demonstrated both the depth of drug corruption in Mexico and Zedillo’s resolve to punish it.

* * * * *

MEXICO LET SUSPECTED DRUG TRAFFICKER MOVE $188 MILLION OUT OF SEVERAL BANKS

(By Wall Street Journal staff reporters Laurie Hays and Michael Allen in New York and Craig Torres in Mexico City)

Mexican officials failed to stop a major suspected drug trafficker from spirited...
away $168 million despite a joint U.S.-Mexi-
can effort to freeze his bank accounts, U.S. of-
officials allege.

The money transfers, which effectively crippled the 
kingpin's financial empire, were part of an 
investigation into Mexican money laundering, came just 
weeks before President Clinton certified that 
Mexico was cooperating fully in the inter-
national war on drugs. U.S. officials say the 
episode is likely to fuel congressional criti-
cism of the decision.

Clinton administration officials them-

selves have sharply criticized Mexico han-
dling of the affair. Testifying before a Senate panel earlier this month, Deputy Treasury Secretary Lawrence Summers said he had registered "our strong protest" at the failure to freeze the money.

A spokesman for the Justice Department said agency officials, along with those from the State and Treasury departments, had a "face-to-face confrontation" with Mexican officials over the incident. He declined to elaborate.

Mexican officials involved in the matter 
disputed the U.S. version of events.

The case centers on the Gaxiola Medina family, a prominent clan that runs a local 
lumber and sugar business in the northern Mexican state of Sonora.

INDICTMENT IN UNITED STATES

In May 1994, a federal grand jury in Detroit indicted Rigoberto Gaxiola Medina on charges of 
money laundering. The indictment accused the defendant of laundering $2 million in 
marijuana sales to Mexico, but the man hasn't been found.

The operation loaded marijuana on trucks in Tucson, Ariz., and delivered it throughout the U.S. Sales proceeds were allegedly collected in Michi-
gan and Florida banks.

BANCO MEXICANO AND BANCA SERFIN

Mr. Gaxiola Medina didn't enter a plea in the case and couldn't immediately be located for comment.

The U.S. Customs Service began a money-
laundering investigation into the money transfers in April 1996, according to people familiar with the matter. U.S. agents con-
tacted Mexican Finance Ministry officials, who in turn traced almost $148 million in 
deposits to 15 Mexican bank accounts. The Fin-
cance Ministry put in an official request to the Mexican Finance Ministry's office on Jan. 8 to freeze the accounts, these people add, 
but when the money was frozen on Jan. 20, only $16 million remained.

CUSTOMS OFFICIALS WERE NOTIFIED BY THE MEXICANS ON FEB. 27 THAT THE MONEY WAS GONE, THESE PEOPLE ADD—ONE DAY BEFORE THE WHITE HOUSE'S DECISION TO CERTIFY MEXICO WAS ANNOUNCED.

Mr. Garcia Palzuzez, an attorney for the Gaxiola Medina family, said the family busi-
nesses naturally deal in large sums of money 
and foreign exchange. Mexican law-enforce-
ment officials "didn't encounter any crime 
related to drug trafficking and they aren't 
going to find out," said Mr. Garcia Palzuzez, adding that there isn't "proof of 
money laundering." 

U.S. officials have long worried about Mexico's role in laundering drug profits. 
"Given the primary methods used to move narcotics, especially the 39-themed money laundering operations," the State Department wrote in its latest over-
view of narcotics trends.

Mr. HUTCHINSON. Mr. President, the importance of Mexico's full co-
operation with the United States 
anticartels efforts cannot, I believe, be overstated. Drug use among Ameri-
can teenagers has nearly doubled in 
the last 5 years. More importantly, 
more than 70 percent of illegal narcot-
cs coming into the United States flow 
from Mexico. The facts unequivocally show us that many of 
those drugs originate in Colombia, in-
cidentally, which we decertified, but 70 
percent of those coming into the Unit-
ed States now flow through the nation of Mexico.

Mr. President, as we all know, on 
February 28, the Clinton administra-
tion certified that Mexico cooperated 
fully with United States efforts to 
combat international narcotics traf-
ficking. A few months later—on Feb-
uary 27, the day before the admin-
istration received a bipartisan letter from 39 Senators—I signed it, Senator FEINSTEIN signed it, and many of my 
colleagues signed it—urging our Gov-
ernment to deny certification to Mex-
ico. The facts unequivocally show us that Mexico has not—I say, has not—
fully cooperated with us.

Not one Mexican national out of the 
100 or more that the United States 
wife for trial here on serious drug 
charges has been extradited to the 
United States, despite our Govern-
ment's numerous requests. Not one has been 
extradited.

Our own DEA Administrator, Tom 
Constantine, has recently said:

There has been little or no effective action taken against the major Mexican-based car-
tels.

Mr. President, I ask you, can we not do better? Tom Constantine said, in 
short, there is not one single law en-
forcement institution in Mexico with 
whom DEA has an entirely trusting rela-
tionship. Can we not do better than
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that, certifying a country that cannot fully cooperate with our counterdrug efforts? What message does this send to our children about the seriousness of the drug war? Our children are the real victims of this policy.

I have heard the repeated argument that if the narcotics market in the United States was not so bloated, then there would be no reason for a continual supply of drugs coming across our borders. Supply and demand. Quite frankly, I agree with that assertion. However, let’s tackle that issue in the crime bill, not on the certification of a foreign country not being cooperative with our efforts.

I am committed to winning the war on drugs, and we can only do that by championing the causes to reduce the amount of drugs in this country, appropriating funds for anticocaine efforts, and assisting the DEA in the fight. But Mexico has not been helpful, and that is the fact and that is the truth.

Let me think, that while we stand aside and certify Mexico’s full cooperation, we pass a resolution that asserts that in fact that has not been the case.

I have the joint resolution before me. It says this:

There is evidence of significant corruption affecting institutions of the Government of Mexico (including the police and military).

... It says this:

In 1996, the Attorney General of Mexico dismissed more than 1,200 Mexican federal law enforcement officers... although some were regarded as none [none] has been successfully prosecuted for corruption.

We are going to say, through the certification of Mexico, that they have been fully cooperative when that is not the reality of the resolution that we are passing.

We say in the resolution:
The Government of Mexico has recently approved, but has yet to implement fully, new and more effective legislation against organized crime, the drug trade, and money laundering.

That is what we say in the resolution we are going to vote for, which flies absolutely in the face of the certification of Mexico.

The resolution says:

Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken. And yet we are going to certify Mexico as being fully cooperative and making progress.

We say in a resolution that we are going to vote on that says:

Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.

So while we say that arrests and seizures are down, we are going to say that we are going to certify them as making progress and being fully cooperative.

Then on page 6 of the resolution, the sense-of-Congress portion of the resolution, we say:

It is the sense of Congress that there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs.

While we say that, we stand aside and allow certification to take place.

I ask Mr. COVERDELL, who controls this time, for 5 additional minutes.

Mr. COVERDELL. Mr. President, I yield 5 additional minutes to the Senator from Arkansas.

Mr. HUTCHINSON. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. So while we say in the resolution it is our sense they have been ineffective and there has been insufficient progress, we allow certification to go forward, which says in fact they have been making progress and that they have been fully cooperative.

To my colleagues I simply say, I think that is inconsistent, I think that is intellectually dishonest, and it is unfortunate, and it does a disservice to the citizens and our constituents whom we serve.

We pass a resolution asserting that they have failed, that they have not made progress, and then we allow certification to go forward.

How can we reconcile our treatment of the nation of Colombia a year ago and certification with a straight face now certify Mexico through which 70 percent of the illegal drugs flow into this country? You do it. I cannot.

I believe that this certification process has become a sham. It is intellectually dishonest, and it is unjustifiable, and it is discrediting the resolve and the will and the sense of the Congress.

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We say in the resolution that they have not been fully cooperative and they have not been making adequate progress. You reconcile that. I cannot. I yield the floor.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. I yield up to 10 minutes of my time to the distinguished Senator from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I ask the Senator, how much time do you have?

Mr. COVERDELL. I assume about 20 minutes.

The PRESIDING OFFICER. The Senator from Georgia has 29 minutes remaining.

Mr. DOMENICI. Mr. President, under those conditions, I ask that you notify me when I have used 7 minutes. I do not think I should use 10.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 7 minutes.

Mr. DOMENICI. Mr. President, about 4 years ago I came to the floor of the U.S. Senate—I did not check for the exact date, but I came to the floor to congratulate and praise Mexico. In particular, I was praiseworthy of their then-President Carlos Salinas.

I even said on the floor of this Senate that, man for man, I thought he had the best Cabinet in the free world. In fact, I chose some of his Cabinet members because of their tremendous intellectual capacity and great training and compared them with our then-Cabinet members and said, I am pleased to tell the Senate that for the first time in history they probably have a better Cabinet than the United States of America.

For those people in Mexico who wonder how Senators like Senator Domenici have become more and more concerned about what is going on in Mexico, let me suggest that it was a very serious letdown to this Senator. It was a serious letdown having made statements like that, to find out what they were doing and what that pinnacle of free enterprise and privatization, a demonstration of our best and our finest economics, Carlos Salinas, was all about.

So it was that just a few weeks ago, as one Senator, I joined in saying to the President that he should not certify Mexico as being in compliance and cooperating fully.

But I would remind my good friend, the new Senator from Arkansas, that in the Congress do not certify. The President certifies. What has happened, even with many of us saying he should not, the President certified that Mexico was in cooperation and compliance.

So now we are confronted with the situation where our own President and Congress say the President is not complying with what he has included in a very able drug czar, Gen. Barry McCaffrey, have told us that the best thing we can do is keep the pressure on Mexico, but not to proceed with decertification from our end on the legislative side because in their opinion, instead of making matters better, it will make matters worse. Instead of causing more cooperation, it will cause less. Instead of causing Mexico to work with us in many areas that they are working in that we are now all becoming familiar with, it will force them politically to sever those kinds of relationships and to go their own way.

Might I remind fellow Senators, all of this is happening in the context of an election in Mexico which is going to take place in the not-too-distant future.

Fellow Senators, I understand Mexico. My State borders Mexico. For those who wonder about their culture, I would remind you that 38 to 40 percent of the residents of my State speak the Spanish language. While many of them are truly Hispanics from Spain, there are many who are Mexican Americans. But in all respects, I understand how the relationship of Mexico and its populace, to the United States. I understand how they feel about us in terms of whether we really are their friends or are we the big giant in the north who is always trying to tell them what to do.

So I have come to the conclusion, absolutely and unqualifiedly, that it is
better for us not to override the President but to go ahead and state our case, state our case in a resolution and then say goodspeed to the President and General McCaffrey and all the others. Let us see if we can get better cooperation between these two great neighbors in the near future.

I remind everyone the best experts now say we are not going to fix this drug problem with Mexico where all of these drugs come flowing into our States. I might say to my friend, Senator Coverdell, they are pouring into my State, you can be assured, and into the principal city, although it is a couple hundred miles from the border, Albuquerque. We have never had so many murders and gang slayings and drug addictions as we have now because we are at the crossroads of the two interstate highways, both of them leading in some way to the south toward Mexico.

So I am aware of that. But I came to the floor to make sure that Mexico understands that we have once again—and I hope it will be rather unanimous in the Senate—that we have come to the conclusion that we want to urge our nations to cooperate and we are urging, if not begging, Mexico to do what it can to be more cooperative and do more to alleviate this scourge on our people.

I want to also say that the current President of Mexico, Ernesto Zedillo is a very competent man. Some say he is not a good enough politician. But indeed he has a good enough brain and a good enough commitment to that country, I believe—and here again I hope I am right—that he is absolutely honest, that he is truly dedicated to clean up what he can clean up in Mexico.

President Zedillo I hope you will do that. And I hope America is there helping you rather than hindering you as you attempt to do that.

This resolution is a good resolution because it requires that sometime in September a full report will be sent to the Congress of the United States by our President, indicating whether there has been progress made in the many areas cited in this resolution. We are clearly laying before the Mexican leaders what we hope is a constructive resolution, by saying these are the kinds of things where we must see some progress. We will be around for another day. The Mexican Government knows that. The President will be around next year and have to decide on certification again. I think the President understands that we are not expecting certification to come easy and to be a matter of course or ever just be a matter of whatever the State Department recommends. We are moving in the direction of saying we should be honest about it.

For now, most of us who urged that the President not certify, we have all come to the same conclusion. We want to lay before the American people and the Mexican people and their government what we think is going wrong in Mexico and say we want to help with it. We want to say that we are willing to stand back and do what we can in our appropriation process with the things we need to be border for law enforcement, but we are also saying to Mexico, you can count on it. We are doing this because our President urges us to. Gen. Barry McCaffrey, the drug czar, urges us to. The State Department, because we are going to hold all of them accountable, not just Mexico.

We are expecting our Government to say the Senate really is serious and we should do something about these areas. I must say to our Government, we really risk future action by the U.S. Senate—I do not speak for the House—if we do not get some real performance and some honest evaluation in this report that we are requesting here.

That is what I feel this will do more good in our efforts to work binationally with Mexico. We need to work with Mexico on myriad fronts—those affecting this drug scourge that is flowing into American cities and thus into our young people and Americans across the board.

I thank Senator Coverdell for his leadership, and the distinguished Senator from California.

It was a pleasure to help you get the letter signed. I think I got a few Senators, and I am pleased to have been on that. I feel this will do more good in our efforts to work bi-nationally with Mexico. We need to work with Mexico on myriad fronts—those affecting this drug scourge that is flowing into American cities and thus into our young people and Americans across the board.

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I thank Senator Coverdell for his leadership, and the distinguished Senator from California.

The President, the question is not whether or not Mexico would be an ally in the war against narcotics, which would involve offending Mexican sensibilities. Given the realities of Mexican history or the Mexican political situation, it would cause political complications.

Mr. President, the question is not whether or not Mexico would be an ally in the war against narcotics. That is the only question that was asked. It is the only question that is relevant.

The truth is unmistakable. Mexico is not acting, is not acting, is not an ally in the war against narcotics, and saying that it is or postponing the judgment, as would be done by this resolution, does not escape that truth.

What is it, Mr. President, we would say to the law enforcement officers from New York to Los Angeles to Chicago, to small towns all across America, to DEA agents around the world, who risk their lives every day facing the truth, if we will not face the truth? Mexico has had an opportunity in the last year to choose side in the war against narcotraffickers. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited. They had a choice when the United States filed 52 extradition requests with the Mexican Government and no one was extradited.

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to make that choice again. I believe, Mr. President, that given the extensive corruption in the Mexican Government, the compromising of Mexican law enforcement officials, and their pervasive operation of narcotrafficking criminals, Mexico may now not only lack the will, but may no longer possess the ability to control the flow of narcotics to the United States. We cannot construct a policy of interdicting narcotics in Mexico by becoming a part of a silent conspiracy, where Mexico pretends to be helping interdict narcotics and we pretend to believe them.

This judgment gets no less painful after 6 more months pass than it will be today. It was said, Mr. President, during the cold war that the United States and the Soviet Union went eye to eye and America never blinked. The United States and Mexico are now facing a war against narcotics, and we have made an unfortunate decision to turn our face away from the truth. The proper action of this Senate, in my judgment, would be to vote to decertify Mexico and place both Mexico and those who influence her on notice that a price will be extracted for failing to choose sides in the war against narcotics.

Mr. President, I know this is a difficult decision for every Member of the Congress, and on our borders will come home alive. Our choice is easy. Look at the facts, review the evidence, and tell the truth. There is an open season on the American narcotics trade. Mexico an ally in the war against drugs will not make them a friend and not force them to choose sides. This is a painful choice that must be made by the citizens of Mexico and her business and political leaders. If some are waiting for this postponement of judgment until September 1 because they believe it would cause political problems for the PRI, the current political leadership of Mexico, then let it be so.

We Americans or Mexican purpose by hiding from judgment the current political leadership of Mexico. It is a moment of truth by our own people. If elements of the leadership are corrupted or compromised against the interests of not only other nations against fighting narcotics, but against defending Mexico in the interests of our own people, then let the Mexican people understand that truth and vote accordingly. That is the decision, Mr. President, we all must make.

I yield the floor.

Mr. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COVERDELL. 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. COVERDELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I yield myself such time as I might consume.

In the last few weeks, the Congress has spent considerable time considering Mexico. A great deal has been said and a number of proposals are on the table about how to respond to the President’s decision to certify Mexico as fully cooperating.

These proposals include a resolution to simply decertify Mexico. And a resolution that would put on record the Congress’ concern about the lack of visible progress on drugs. We also have a House proposal that is critical of the administration. This proposal would create another minicertification process. That means we get to have this discussion on Mexico all over again in September based on a report to follow the President’s summit in Mexico next month.

In my view, these various proposals reflect a generalized concern about Mexican cooperation and a lack of consensus on how best to respond.

We need to ask ourselves where we began on this issue. The whole reason for this debate grows out of a simple fact. Congress did not accept the President’s decision. Mr. President, in Congress doubt the willingness or ability of Mexico to fight drugs. In response, Congress sought to exercise its legal obligations under the Foreign Assistance Act to find a means to overturn his decision. The means available were not satisfactory. Thinking in the Senate does not seem to favor a straight up-or-down decertification of Mexico. In addition, any such effort, even if it should pass both Houses, will face a veto. Congress does not have the votes to override. Thus, our options on how to proceed have narrowed.

Many people have compared the decision to decertify Colombia with the decision to certify Mexico. They have found the problems in both countries, both countries have corruption problems but they were judged differently. While that is true, the basic reason is that the situations are not the same.

The reason for decertifying Colombia was based on real information and evidence of corruption at the highest levels of Government. We do not have parallel information on Mexico. On the other hand, when you look at the same categories of achievement or cooperation, Mexico scores at best as well as Colombia on most of these. This is not to say that we should be content with what Mexico has done. I do not believe that Mexican officials are content. Nor do I think they take any pride in recent revelations about high-level corruption. My point is that we should not be hasty in making decisions about a country with whom we are so closely linked. We should not rush to decisions involving our third largest trading partner.

In addition, I offered an approach that I believe was both reasonable and responsible. It would have maintained our concern for accountability but it did not create yet more certification procedures for us to have to get through. And, I doubt that circumstances will be any less ambiguous 90 or 120 days from now. My proposal did establish clear guidelines whereby we all—Mexico, Congress, and the public—could judge the state of cooperation as it applies to Mexico. There was no process that Congress created. We created that process with clear intent and deliberation. I do not think it is time to change that. It is not time for the proposal we examine at Governmentcurrently on the table. Given where we started, it does not achieve what we said we expected at the outset. Nevertheless, it is the only proposal on the table. Thus we come to this vote today. I yield my time to the gentlewoman from California with reservations.
First, it is clear that we cannot overstate the role of Mexico as a source for narcotics. Mexico is the primary transit route for cocaine entering the United States, a major source country for heroin, methamphetamine, and marihuana. It is a major money laundering center for illicit profits from the narcotics trade.

Second, I believe we agree that the United States bears a significant responsibility for combating the narcotics trade. Undeniably, the demand for cocaine in the United States is one of the factors driving the Mexican narcotics trade. But we are not solely to blame for Mexico’s ills.

As the Mexican Government continually reminds us, Mexico is a sovereign nation, and it has the responsibility to do all that it can to confront the threat of the powerful drug cartels—cartels which now have considerable influence in Mexican society.

Third, we agree that corruption in Mexican law enforcement is endemic. That is why, as some Members of Congress have noted, even President de la Mora acknowledged in his State-of-the-Nation address last fall.

Fourth, we all agree that Mexico must do much, much more in the war against the drug traffickers. As White House officials acknowledged last month when the President made his certification, all this leads to the fundamental question now facing us: What can Congress do to help us achieve our objective of reducing the flow of narcotics from Mexico to the United States?

I was disappointed that the President certified that Mexico had met the standard of fully cooperating, or taking adequate steps on its own. The systemic corruption in Mexico, combined with several failures to follow through on commitments made, argued against granting Mexico a full stamp of approval. Instead, I urged the President to invoke the national waiver, because the traffickers will continue to benefit by our isolation, and Mexico will be an important contribution to spurring even greater cooperation between our two Governments.

Mr. CHAFFEE. Mr. President, I am pleased that the Senators from Georgia, California, and Texas were able to reach agreement with the administration on a resolution addressing certification of Mexico’s cooperation in fighting illegal drugs. I have been strongly opposed to a straight or even qualified decertification, which I believe would have undermined U.S. interests and been counterproductive in our efforts to address the scourge of illegal drug use in America.

I am not here to argue that the situation in Mexico itself, with respect to drug trafficking, is in any way acceptable or serves United States interests. The Senators from California, Georgia, and Texas were able to reach agreement with the administration on a resolution addressing certification of Mexico’s cooperation in fighting illegal drugs. I have been strongly opposed to a straight or even qualified decertification, which I believe would have undermined U.S. interests and been counterproductive in our efforts to address the scourge of illegal drug use in America.

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United States. The statistics with which we have become familiar are alarming and worsening: 10.9 percent of children in the United States between 12 and 17 years of age use illegal drugs; Mexico is the source of 70 percent of the marijuana shipped into the United States, and is a transit point for between 50 percent and 70 percent of the cocaine shipped into our Nation; drug arrests and drug seizures in Mexico are only half of what they were just 4 to 5 years ago; more than 52 out of every 100 United States extradition requests for drug dealers in Mexico, although few, if any, Mexican nationals have been extradited to the United States on drug charges; drug-related corruption has reached the highest levels of the Mexican Government, with the recent arrest of Mexico's highest ranking anti-drug official.

Mr. President, I could go on, but the fact is clear: the Mexican Government, in partnership with the United States, must do a better job of stopping illegal drug production and trafficking. The 10 billion dollars' worth of narcotics that is illegally smuggled from Mexico into the United States each year must be sharply reduced, or even better, eliminated.

But let's be clear about one thing: Solely addressing the situation in Mexico—the "supply side" of the drug problem—is incomplete and insufficient. Precious little time in the debate on decertification has been devoted to addressing the demand side of this problem, that is, the tragic, insatiable appetite for illegal drugs in the United States. If there were no demand for illegal drugs here at home, the drug war would be over and our fight against drugs. We would be agreed to in these negotiations at least for needed accountability to Congress and the American people.

On February 28, President Clinton certified to Congress that the Government of Mexico was fully cooperating with the United States in antidrug efforts. The question before the Senate today is whether we should overrule the President's decision and decertify Mexico? I have argued that, despite the deteriorating situation in Mexico, congressional decertification is the wrong approach, and would actually be counterproductive in solving these problems. I am gratified that the authors of the original decertification resolution have made significant compromises with the administration so that such a vote has been avoided.

Decertification would have been a slap on the face of the diplomatic and extradition pacts agreed to in these negotiations at least in part addresses this critical aspect of our fight against drugs. We would be remiss in not putting today's debate in its proper perspective.

Nevertheless, Congress is right to speak out in an appropriate manner on the deterioration of antidrug efforts in Mexico, and the need to take concrete measures to stem this tide. I would argue that much—not enough, but much—can be done by the administration in an effort for their cooperation with the United States in combating drugs. The specter of losing most United States foreign aid and having IMF and World Bank loans vetoed is certainly a strong incentive for governments such as Mexico to cooperate with us and take needed action.

Despite all of the problems in Mexico, there is evidence that the certification law has compelled Mexico to do more than it would have done were the law not in place. President Zedillo, in particular, has taken a number of steps, including the arrest and firing of thousands of corrupt and criminal individuals in Mexico. His Government has effectively dismantled an area the equivalent of 5½ times the island of Manhattan. Finally, President Zedillo has declared the drug cartels and the corruption associated with them to be Mexico's principal national security threat. But more needs to be done, and the Clinton administration must appropriately use the tools available at its disposal to make further progress on achieving some very important goals. The amendment before us today not only maintains the administration's ability to enhance its cooperation with Mexico, but provides for needed accountability to Congress and the American people.

On Friday, March 20, President Clinton drew a fine line, but a sensible one, between certifying Mexico and decertifying Columbia as a reliable partner in the United States' antidrug trafficking. The record of both Latin countries in stemming the dread trade is sad. But at least the Mexican government is demonstrably trying—it had the political courage to arrest its corrupted drug policy chief on the eve of the certification proceedings—while the president of Colombia was beyond redemption. It is an arguable decision, but it fits the exigencies of the American certification law, and it also fits the facts.

By now it is accepted in the White House and elsewhere in the administration that the American certification law is a blunt instrument poorly designed for the delicate political work of drug enforcement. In a hemisphere where the premise of effective diplomacy is to respect the sovereignty of our neighbors, it is clear that American power to bear on supply and transit states without either consulting them or providing them with a reciprocal opportunity to pass judgment on American policy is an absurd retraction. The inevitable result is still the law, and the president is bound to enforce it. The President of Mexico is right, in announcing the administration's decision on Friday, acknowledge the obligation of the United States to press ahead with its own strategy to reduce demand—a strategy it had introduced, to something less than full public attention, earlier in the week. The demand equation remains the true front line of the war on drugs.

Mexico was unconditionally certified as an American drug-fighting partner. So it is not exposed either to the political rebuke or to the economic penalties that follow from being de-certified. But Mexico is far from being in the clear. Mrs. Albright publicly listed the particular policy areas (capture and extradition of kingpins, money laundering and so on) in which the United States expects to see Mexican progress, and which she, the attorney general and the anti-drug czar will monitor.

A considerable number of legislators have indicated that they will attempt to reverse the administration's certification of Mexico. They should ask themselves how such a gesture, satisfying as it might be for the moment, actually would serve their cause, and what effect it might have in other areas of policy—trade, immigration, environment—where good relations with Mexico are vital to American interests.

Mr. CHAFEE. Mr. President, the amendment before us today represents a more prudent approach to this sensitive issue. It outlines in detail the serious problems involved in Mexico today, and makes it clear that further progress is needed. However, instead of simply clubbing Mexico and walking away, this amendment sets specific benchmarks for improved anti-drug efforts by Mexico, and requires a progress report from the administration by September 1. Among other things, this report must describe the extent to which our two nations have made significant and demonstrable progress on dismantling drug cartels, improving law enforcement relationships, and increasing cooperation on
The United States and Mexico must work together to combat the problem. But while I and others expect far more from the Mexican Government to deal with corruption and the violence perpetrated by their own agents, unless we curb the demand in our own country, drug abuse will remain a national crisis.

In the last 10 years, the United States has spent $103 billion on programs to deal with drug-related problems. Yet the DEA reports that the amount of cocaine entering the country, as well as the rates of heroin and cocaine abuse among Americans, have remained steady. Again, the evidence is clear. We will not solve this problem until we address the causes of drug use and addiction in our own country.

Mr. President, I want to thank Senators Dodd, Feinstein, Coverdell, Kerry, McCain, and Hutchinson who have worked very hard to reach a compromise on this difficult issue.

Mr. DeWine. Mr. President, I rise today in support of the Mexico resolution. I think it offers a constructive solution to the bilateral problem we are facing. It gives the President of the United States an opportunity to discuss with President Zedillo of Mexico the various concerns many of us have about the progress our two countries are making in the drug war. And it does so without provoking unnecessary and counterproductive tensions between our countries.

The problems in Mexico's drug enforcement are well known. You can hardly open a newspaper without learning about even more instances of corruption and incompetence at all levels of government and law enforcement. It's a sad chronicle that makes for truly depressing reading. It's understandable why so many concerned Members of Congress are raising serious questions about the effectiveness of Mexico's antidrug effort.

But it's important that we in Congress stay focused on doing what's in our own national interest—not on symbolic gestures that fail to accomplish that interest.

The problems we face are real. There are 12.8 million Americans who use illegal drugs, including 1.5 million cocaine users and 600,000 heroin addicts.

More than 1 out of every 10 children between 12 and 17 years of age use illegal drugs. One out of every four claims to have been offered illegal drugs in the past year or more. The American people recognize that these are important problems—and that we have to take serious action.

But let me point out, Mr. President, that there are many, many people in Mexico who support our goals. To succeed, we need that support.

Without their support, it would not have been possible for Mexico to make even today's limited progress against the drug traffickers.

The progress is limited, but it is nonetheless real.

Over the last year, in spite of the well-known cases of corruption, the Mexican Government has posted increases in drug seizures and crop eradication. That includes a 15-percent increase in marijuana seizures, a 63-percent increase in cocaine seizures, and an almost 80-percent increase in heroin seizures.

Mexican authorities reported an increase of nearly 14 percent in the number of people arrested on drug trafficking and related offenses, including 28 high-level members of drug trafficking organizations. This year, as has been widely reported, Mexican authorities arrested General Jesus Gutierrez Rebollo—who had been in charge of the National Institute to Combat Drugs—for supporting the activities of the Juarez cartel.

We didn't catch him, Mr. President. The Mexicans themselves did.

Should we expect further improvements in law enforcement operations? Absolutely. We need to monitor the anti-drug effort that these agreements are supposed to ensure. In other words, keep close watch on how many of these arrests lead to prosecution and jail time.

In 1996, the Mexican Congress passed laws to address the problems of money laundering, chemical diversion, and organized crime. Now we should insist on full enforcement of those new laws.

This year, we have seen improved cooperation in the areas of money laundering and extradition. Mexico and the United States established a high level contact group on narcotics control to explore joint solutions to the shared drug threat and to coordinate bilateral efforts. We should now expect this increased cooperation to yield clear, positive results.

But one thing is clear: Both Governments need to dedicate greater resources to stop trafficking along our border. Senator Hutchinson informed the Foreign Relations Committee last week of the enormous difficulties faced by her fellow Texans along the border. Specifically, ranchers with property along the border and Mexican ranchers with property as a back door into our Nation.

These ranchers have been told by Federal officials that it would be years before enough new border agents could be assigned to better secure their property.

Listen to some of the stories these ranchers tell—stories about the gunfights they have fought with drug gang members having to carry guns whenever they leave the house. It sounds like a John Ford movie about the Old West.

That has got to change.

Mr. President, I am going to conclude by making a broader point about Mexico's future. In my view, with this resolution, we create the opportunity for a new round of cooperation between the United States and Mexico. Mexico is not only a neighbor with whom we share a 2,000-mile border, it is also this country's third largest trading partner. If we are to be successful in our anti-drug efforts, Mexico must be our ally.
Yes, the Government of Mexico needs to do more within its borders, and with us, to combat drug trafficking. The real question before us is how can we improve on that partnership.

We all know what the problems are. We are facing drug cartels, and they are very serious. But we should also recognize that this is a crucial moment in Mexico’s history—and they need our support if they are going to continue in the right direction.

What the Mexican people are trying to do is make the transition from a one-party state, in which corruption and excessive government mandates stifle the hope for widespread prosperity, to a multiparty state that creates jobs and rewards job creators.

President Zedillo appears to be trying to free up Mexican society and reform the political process—changes that will make Mexico a more stable neighbor for the United States. He is opposed by powerful elements in his ruling party, and make no mistake, the outcome is still in doubt.

Now more than ever, the people of Mexico need to know that we want them to be our partners. Our national interest is served by a prosperous and democratic Mexico—a Mexico that offers hope and opportunity for its citizens.

The drug war is one area where we must continue to work together. We should redouble our efforts to look for constructive solutions—to reduce trafficking, to crack down on money laundering, and most important of all, to reduce the demand for drugs.

Our countries must be united in a very important partnership. In the anti-drug effort, as in so many other areas, we have a major common challenge, and we can only prevail if we face it together.

Mr. President, I yield the floor.

Mr. CAMPBELL. Mr. President, this month of Congress have been engaged in a difficult debate over whether to uphold or overturn the President’s certification of Mexico as fully cooperating with the United States to fight drug trafficking.

This debate has had a growing negative impact on U.S. relations with an important country and trading partner along our southern border. The debate also has shown how the certification process under the Foreign Assistance Act of 1961 is not as effective as Congress originally intended it to be.

Under current law, notice provided to Mexico to certify that its progress in the deployment of 500 Border Patrol agents in 1997 as required by my compromise, the Senate is considering today reflects to some extent the main components of my bill. The pending resolution recognizes that Mexico has taken insufficient steps to stop drug trafficking and it stipulates a 6-month period of time in which to review Mexico’s progress in this area. The resolution also requires the President to submit a report to Congress by September 1 on Mexico’s progress.

However, the resolution we consider today does not nearly go far enough. Its findings regarding Mexico are not specific; it does not provide specific steps Mexico must take to continue receiving aid; and it does not amend the existing law to improve the certification process in the future, as my bill does.

I am voting in favor of the pending resolution today because it is the only legislation the Senate will consider this week to address the certification process for Mexico and many colleagues to support S. 457 to improve the certification process for the future.

I thank the Chair and I yield the floor.

Mr. BURNS. Mr. President, I rise today to express my support for the joint resolution that the majority leaders, my fellow Republican and Democratic colleagues, and the administration has concluded with relation to certification of Mexico. Even though I do not think that this resolution goes far enough, I realize that this agreement is a bipartisan effort that should be enacted for the good of the Nation.

Frankly, I am disappointed that we consider a nation that supports drug cartels the United States; and while my colleagues, including Senators Coverdell, Feinstein, and Hutchison, have done an excellent job detailing what must be done to further our and Mexico’s efforts to fight illegal drugs, I want to concentrate for a moment on the need for additional United States Border Patrol agents.

Border control must also be a top priority for the United States; and while my colleagues, including Senators Coverdell, Feinstein, and Hutchison, have done an excellent job detailing what must be done to further our and Mexico’s efforts to fight illegal drugs, I want to concentrate for a moment on the need for additional United States Border Patrol agents.

First, I am pleased that one of three things we are asking the President to do by September 1 is detail the progress made in the deployment of 1,000 additional U.S. Border Patrol agents in 1997 as required by my amendment to the Immigration Act of 1996.

Without an effectively controlled border, the United States cannot even begin to win the war on drugs. I was disturbed that the President’s fiscal year 1997 budget to Congress requested the addition of only 500 Border Patrol agents, instead of the 1,000 required in the 1996 Act. Senators Gramm, Domenici, and Hutchison and I recently joined in sending a letter to the President, urging him to comply with the law, revise his budget request, and...
deploy 1,000 additional agents in 1997. Without an adequate contingent of customs and border agents, the problem of individuals smuggling drugs and illegal immigrants across our border will only worsen.

Border Patrol agents are on the front lines day in and day out, working hard to seal off our borders from increasing levels of illegal immigration and the drug trade. The agents that Congress has added over the past few years have made a difference, but the need for additional personnel and equipment continues to grow. Drug traffickers and illegal alien smuggling continues to grow—illegal immigrants are expected to increase by 275,000 per year over the next several years—and the effects of illegal drugs, particularly methamphetamine, have been devastating for the citizens of Arizona and the rest of the Nation.

Just a few weeks ago, a study on drug use in America showed a large increase in youth drug use over the last 5 years. Arizona fared poorly, with much higher drug use rates than the national average. Including a startling statistic that our sixth graders are twice as likely to have tried methamphetamine than high school seniors nationwide. While we continue to talk about the need to fight illegal drugs, the precursor chemicals that make methamphetamine are being smuggled into Arizona in increasing volume. It must stop.

As the resolution we are voting on today says, the abuse of illicit drugs results in at least 14,000 deaths per year in the United States, and "exacts economic costs in excess of $67 billion per year to the American people."

Although many of us would like to see more specific actions that the Mexican government should take to show serious improvement in the war against drugs, it is my hope that Mexico will be able to show significant accomplishments in the areas outlined in the resolution. Likewise, the administration must be able to show specific, detailed action in the war against drugs and other things, deploying 1,000 additional agents in 1997.

Mr. President, not rhetoric, but actions. That is what we must demand of Mexico and that is what we must demand of ourselves. We must work diligently to eradicate the scours of illegal drugs that has taken so many of our citizens, young and old alike, hostage. This compromise resolution should be passed by the U.S. Senate.

Mr. DASCHLE. Mr. President, I join with my colleagues today in strongly endorsing this bipartisan resolution, which represents an important step in the fight to curb the flow of drugs from Mexico.

This resolution strongly registers Congress' unhappiness with the current situation in Mexico. It includes a clause stating that it is the sense of Congress that "there has been ineffective and insufficient progress in halting the production in and transit through Mexico of illegal drugs."

There is ample evidence that Mexico is not doing enough to combat this problem. Let me cite a few examples.

More than half the cocaine coming into the United States is smuggled across the United States-Mexico border.

Major quantities of heroin, marijuana and methamphetamine used in the United States are produced in Mexico.

Drugs are being moved illegally across the United States-Mexico border by major criminal organizations operating on both sides of the border.

And, of great concern to the United States, there is evidence of significant corruption affecting the Mexican Government and undermining its anti-drug commitments. The most dramatic recent evidence of this fact was Mexico's February 1997 arrest of its drug czar, General Gutiérrez.

This resolution helps move us beyond the annual certification debate in achieving concrete action in a constructive way. Passage of this resolution will strengthen the President's hand in his upcoming April trip to Mexico. It puts the United States in a position of cooperative cooperation from the Mexicans in fighting the war on drugs. And, most importantly, it puts the Mexicans on notice that we will expect such cooperation.

This resolution clearly expresses Congress' dissatisfaction that the Mexican Government must do more and that the United States needs a plan to push that effort. The resolution lays out the positive steps they must take by requiring the President to submit a report to Congress by September 1 of this year laying out progress with Mexico in the following important areas: Investigation and dismantling of drug cartels, development and strengthening of the working relationship between the United States and Mexican law enforcement agencies, border security and interdiction, drug certification process; denial of safe havens for those responsible for drug trafficking, including improvement of cooperation on extradition matters between the United States and Mexico; simplification of evidentiary requirements for narcotics and other related crimes; full implementation of effective laws and regulations to combat money laundering; eradication of crops intended for illicit drug use; establishment of screening process to assess the suitability of all law enforcement personnel involved in the fight against organized crime; and the support given to Mexico in its efforts to identify and remove corrupt officials throughout the government, including law enforcement and military officials.

The resolution also directs that the report include progress on important domestic goals, including the implementation of antidrug education efforts in the United States focusing on reducing drug use among young people; the implementation of a comprehensive international drug interdiction and enforcement strategy; and providing the additional personnel needed to get the job done.

This resolution is not, and must not be, the end of this process. The 1998 drug certification process will give Congress another chance to express its support or disappointment with the progress that is being made with Mexico.

The resolution is not perfect, but it takes us in the right direction.

Let there be no mistake: the United States cannot tolerate anything less than an all-out effort to control illegal drugs. Mexico must demonstrate a dramatic increase in its cooperation in the effort to stop the flow of drugs across the United States-Mexico border. The United States obligation is to insist on Mexico's cooperation and to make it clear that we will do everything we can to support their effort. We will be closely monitoring progress in this area. Without it, we will face an intolerable threat to our children and a severe degradation of our relationship with Mexico.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeds to call.

Mr. DODD. 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. DODD. How much time remains?

The PRESIDING OFFICER. The leader has 50 minutes.

Mr. DODD. Mr. President, I yield myself 15 minutes of leader's time, and I will try to use less than that time.

Mr. DODD. Mr. President, I commend them for their work in putting this resolution together. I commend them for their work in putting this resolution together. I am happy to have been a part of it. Even though I do not agree with every word in it, on balance I believe it is a very constructive approach to a very difficult problem. I am sure that all of us who worked to forge this compromise would have liked to see things added or subtracted depending upon our points of view. But, that is the nature of how a resolution like this is assembled.

Let me begin these remarks by thanking the sponsors of this resolution that is pending before the Senate. I want to especially thank our colleagues, Dianne Feinstein from California, Kay Bailey Hutchison from Texas, John McCain of Arizona, and others who worked tirelessly in helping put this resolution together. I commend them for their work in putting this resolution together. I am happy to have been a part of it. Even though I do not agree with every word in it, on balance I believe it is a very constructive approach to a very difficult problem. I am sure that all of us who worked to forge this compromise would have liked to see things added or subtracted depending upon our points of view. But, that is the nature of how a resolution like this is assembled.
March 20, 1997

CONGRESSIONAL RECORD—SENATE

S2597

fear, worry, and frustration over the ongoing threat posed by the Mexican drug cartels. We have paid a very heavy price for their relentless efforts to ply their trade wherever they can get away with it. The human costs of drug abuse are mounting. This scourge that still ravages this country called drugs has caused great damage to millions of people in this country and elsewhere.

The pending amendment is an attempt to express to our neighbor and ally to the south of us, Mexico, that more than 50 percent of all the drugs that come to this country are produced or transit through, that we would like to see more cooperation in our efforts to eliminate drugs from both our countries.

Mr. President, the economic costs to the American people from the illegal use of narcotics is in excess of $77 billion annually. Estimates are that nearly 13 million Americans regularly use illegal substances and that the drug kingpins total more than $49 billion annually—a rather remarkable statistic.

The Mexican drug cartels allocate more than $6 billion of ill-gotten gains for the sale of drugs in order to bribe, or otherwise corrupt Mexican law enforcement and judicial authorities involved in counternarcotics programs. We consume 50 percent of all the illegal drugs produced in the world. We represent 5 percent of the world’s population. So clearly the United States is at the heart of the international drug problem. More and more, this is not solely an American problem. Drug consumption is beginning to ravage countries which in the past never had a problem with illegal substances and drugs. But today that is changing, and even in producing countries—transit countries—nations where money laundering goes on, consumption and the ravages of consumption are beginning to wreak havoc in these nations as well.

I cite just of few statistics. There are clearly many more. I know my colleague from California provided some other statistics in the course of her remarks concerning, for example, the amount of product coming into this country.

Let me say that I think it is perfectly appropriate and proper that we raise the issue of the effectiveness of our allies and neighbors’ counter-narcotics efforts. But we should admit as well that we could do a better job here at home in helping to wage an all out effort against illegal drug use. We need to take a good hard look in the mirror as well.

I would argue very strenuously that were it not for the consumption in this country, were it not for our consumption problems, that we would have far less of a problem with nations like Mexico and others. I don’t say that is an excuse to let those nations off the hook who produce, process, and transship these illegal drugs that wind up on our streets. But if we are going to have an intelligent and thoughtful discussion about drug abuse and illegal drug production, and the problems these create, then we need to spend at least as much time in analyzing what we as a nation are not doing in our own country that creates the market for these products as we do pointing the accusing finger at those who are involved on the supply side.

Simply put, if we did not have a domestic consumption problem we would not have the magnitude of the problem of the supply side that exists in Mexico today. With enough resources we can probably deal with Mexico. Or we can deal with Peru, and Colombia. But what we have learned historically is that as we begin to put pressure on narcotraffickers in one country, they simply relocate to another. This will continue to be the case so long as our domestic consumption rates continue to go up. In these countries, the money laundering countries, are only temporary locations in the transnational international drug trafficking business.

So the answer has to be a far more aggressive effort here at home to try to educate young people against the dangers and the problems associated with illegal drug use. We also need better treatment programs so that those who do wind up on drugs—a problem that we have some place to go to for help in breaking these incredibly debilitating habits. Yet today, there is a long waiting list at our drug treatment centers—a list of addicts wanting treatment that is currently unavailable to many of them. The waiting period to get into treatment can be as long as 4 years in some instances. Having to wait months and months for treatment certainly does not contribute to our efforts to reduce the problem of drug abuse.

I hope as we attempt to seriously come to grips with the international drug threat to the United States—and it is not going to disappear overnight—that we focus a lot of our attention on reducing domestic drug abuse. Just as I believe we need to place more emphasis on the demand side, I think we need a serious rethinking of how we approach the supply side of the equation. The current approach as embodied in the annual certification process is not working. In 1986 when Congress enacted the drug certification law there was a great deal of frustration that neither the United States nor other countries were doing enough to fight the drug war. So Congress, on a bipartisan basis, set up a certification process in order to bring attention to the issue and try to do something about it. I strongly suggest to my colleagues—and I realize that I may be in the minority—that we ought to scrap this certification process and try to come up with some alternative idea that would allow us to develop a working partnership with other governments, particularly those in our own hemisphere.

There are good people in Mexico who want to see this problem stopped as well. In fact, I made note the other day—it is worth repeating here today—that when President Zedillo of Mexico came forward and took some significant steps in dealing with the people in his own country who had been corrupted by this process, his favorability rating rose more than 10 percent in Mexican public opinion polls. It isn’t just American citizens who are deeply troubled by the rising cost of illegal substances and drugs. The people of Mexico, the average citizen in the street, is worried about this. Theirartner in Mexico City is just as worried about her child becoming hooked on these substances as a mother in Hartford, or a mother in Atlanta, or a mother in Los Angeles. We need to be sensitive to that because they are the ones who are paying to build a base of public support in Mexico that will encourage Mexican authorities to get tough on narcotraffickers and corrupt government officials.

My colleague from Georgia may have addressed this already. I will just state it briefly. I think our colleague from Georgia has a very sound idea in terms of how we might look at this problem a bit differently. He has proposed that all countries that are involved in the various aspects of the drug trade, whatever their level of involvement, sit down and start figuring out how we can work together to solve this problem. It isn’t going to be solved in one year or two. It isn’t going to be solved at all unless we come up with a common plan—a plan developed by counterparts trying to deal with this issue. That is the only way to get the kind of cooperation that is critical if we are going to be successful in dealing with our allies and others who are producing these products.

I see my colleagues. I will be glad to yield to him because I raised his name and mentioned his program.

Mr. COVERDELL. Mr. President, first, I want to acknowledge the almost tireless support of the Senator from Connecticut in behalf of the concept. I just want to take a second, the resolution before this body does for the first time enumerate the concept and calls on the administration to air it during the upcoming meetings in Mexico. I just want to mention that.

Mr. DODD. I thank my colleague for mentioning that.

I strongly urge the administration and others to take a strong, hard look at this and come forward with ideas so that we get off the certification track that brings us back here year in and year out picking winners and losers and deciding whether or not they are going to be on the good list, or the bad list. I think the ones behind the good list. Whether they are going to be certified, decertified, or granted a national interest waiver. Debating that kind of question and getting votes of 55 to 45 or 65
Mr. BROWNBACK. I thank the Chair. I thank my good colleague from Georgia for yielding time to me. I would also like to thank and recognize and compliment Senator COVERDELL, Senator FEINSTEIN, and others who have worked so hard to try to get more help in stopping all the drug trafficking through Mexico. I know they have worked very hard to try to craft a vehicle and language to be able to get at this issue, which we all want to do, which is reduce the drug trafficking. But each year we do not do that, it means a large amount of drugs will flow from and through Mexico to the United States. I applaud their efforts and their tireless work in getting this done.

However, in looking at the language of this bill, I must rise in opposition to certifying Mexico as complying with our drug-trafficking efforts, and this is not, in my estimation, as I consider this vote and weigh it carefully, about bashing Mexico. This is not about bashing Mexico. This is about again complying with the law and interpretation of that law and a judgment that each of us must make. The fact is section 490 of the Foreign Assistance Act requires that the President certify that Mexico has cooperated fully with the United States or taken adequate steps on its own to fight drug trafficking.

That is the law, and that is the interpretation and that is what each of us have to interpret, whether this is done: Has Mexico cooperated fully with the United States or taken adequate steps on its own? Sadly, I come to the conclusion the facts are that Mexico has not cooperated fully with the United States and the steps they have taken to combat the drug trade are far from adequate. I am said in taking that position and in looking at it this way, but I can arrive at no other conclusion.

There was a slight increase in 1996 in both drug seizures and arrests of drug traffickers, so this is because the numbers for 1995 were so low. Their record over the 1992 to 1993 period shows that they can do much better; they were much, much higher. So the Mexican Government, working more in cooperation with us, can do much better. In fact, Mexico's current record clearly indicates that they should not be certified for antidrug cooperation. U.S. drug agents report that the situation on the border has never been worse.

I urge the adoption of this amendment. But, more importantly, Mr. President, I urge that we find a different way in the coming weeks and months to address this issue before we find ourselves back again engaged in an exercise that is not achieving the kind of results that many of us would like to see accomplished.

With that, Mr. President, I urge adoption of the resolution and yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes Senator from Georgia.

Mr. COVERDELL. I thank my colleague from Connecticut for his remarks and again, as I have in the past, for his attention to this concept that we have been discussing for now 2 years, and hopefully this resolution will bring it to a new level of discussion. I apologize for interrupting, but I did want to note that we had embraced some of this concept in the resolution. No. 432 of 1995.

Mr. President, I yield up to 5 minutes of my time to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. I thank the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. COVERDELL. If the Senator from Georgia has yielded time to me, I will yield.

The PRESIDING OFFICER. The Senator from California.

Mr. BROWNBACK. I thank the Senator from Georgia for yielding.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the junior Senator from Massachusetts has requested time. I will yield 7 1/2 minutes of my time to him, and I believe the Senator from Georgia will yield time.

Mr. COVERDELL. If the Senator from California will withhold this allotment of time for one moment while I ask unanimous consent that both sides agreed to in trying to facilitate a number of our Members who are trying to visit the White House and some others who are trying to catch a flight. I will do this and then we move to Senator Kerry from Massachusetts under the circumstances the Senator has just outlined.

I ask unanimous consent, Mr. President, that the vote scheduled to occur at 4:45 today now occur at 3 p.m., and I ask that the following be allowed to speak for up to the designated time: Senator Kerry for 15 minutes, Senator Hutchison for 10, Senator Feinstein for 5, Senator Boxer for 5 minutes, Senator Coverdell for 5 minutes, and any statements relating to the issue provided for in the consent remain in order prior to the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and I thank the Senator from Georgia for his intercession and his participation in this important and timely discussion.
help, and I particularly want to pay tribute to the Senator from California, [MRS. FEINSTEIN], who has been pressing so hard on this absolutely vital issue of concern to every single American. I listened carefully to the comments in the Chamber, particularly those of the Senator from Connecticut a moment ago. We differ on the question of whether certification is effective or not. The fact is, were it not for certification, we would not be here today. Fighting about what the appropriate action is with respect to Mexico and there would not be such sensitivities by Mexico or us to the consequences of our actions. Were it not for the certification process, there are whole countries that would continue to disregard, as they did prior to the certification process, any notions of cooperation. It is, frankly, only by virtue of the certification process that we have made the extra judgments with respect to Mexico that lead us to understand the dire circumstances that we find ourselves in today.

Having said that, I want to comment on one other aspect of this, because the Senator from Connecticut cut, I have been, I think, forceful in speaking out on this over the last years. Any efforts to make any judgment about any other country must be accompanied by efforts to make judgments about ourselves. In fact, efforts to judge ourselves ought to come first, and we ought to be much tougher on ourselves than we are on the others.

The fact is that after all these years of so-called declarations of war on drugs and all of the talk about its importance and all of the hype, we really do not have a legitimate war on drugs in our own country. I hear some people sometimes say, well, the reason we are losing the war on drugs is x, y or z. We are not even on drugs, Mr. President. We are not fighting the war on drugs. Ask a lot of prosecutors around the country whether they have sufficient resources. Ask judges whether they can move people through the courts fast enough. What happened to the initiative to have drug courts? Ask drug addicts, who are the first people we ought to discuss this with, what they say about the system and if it is serious, because we treat less than 50 percent of the drug addicts in this country. Tell them to take the pushers’ clients away, we ought to have treatment on demand in America, clean the streets up of the addicts, have an outreach effort that identifies them in community after community and show them how to live in the United States and provide the treatment. You cannot have pushers come along fast enough to make up for that loss of business. Do you want to deal with the people who are hitting people over the heads and robbing cars and stealing radios and video games and anything else? That is the way to do it. We do not. We do not even educate all our kids in America about the danger of drugs. Only 55 percent of our children get education about drugs. The fact is that from 1966 until 1991, we enacted 43 so-called comprehensive laws to deal with international narcotics control. From 1961 to 1991, we passed over 100 federal laws to combat drugs. There have been 10 major conventions and agreements signed between 1970 and 1992. Between 1966 and 1991 we created roughly 18 new agencies, councils, offices, and institutes to pretend to deal with drugs. Since President Bush established the Office of National Drug Control Policy, we have four drug czars.

I think these efforts tell the story. Drug use by adults may be down a little bit, but the fact is that drug use by kids is on the rise. In 1992, the number of 12th graders using illegal drugs was 27 percent; in 1996 it was 40 percent. And our efforts to educate kids about the dangers of drugs are just plain inadequate. In 1996, only 36 percent of 8th graders thought that once or twice they could risk harming themselves. Similarly, only 51 percent believe that crack can harm them; and only 45 percent think that cocaine could hurt them. All of these numbers are down from their ‘91 levels.

So, as we talk about Mexico, let us not forget the failure of our own efforts. I intend to bring us back to this issue again and again, in the next months, and do our job here. Every day there are 20 million 10-15 year old kids out there who need something to do after school. We cannot shut schools in the afternoon, we cannot be devoid of after-school programs, we cannot cut sports, music, arts, all of the options for our children, and suggest that they go home to houses where there is no parent, and not expect to reap the harvest of that kind of abandonment. Mr. President, that is our responsibility.

Now, what about Mexico? They also have a responsibility. We are honest, at least, about judging our court system. We are honest about putting our cops in the street, 100,000 more of them, to try to deal with this. We are honest about trying to prosecute people, police officers and others in various departments across the country, who have shown a proclivity to break the law. That does not really happen in Mexico—not really. There is a facade of a system that pretend to be real. In fact, what really happens in Mexico is that one cartel buys out the police and the judges and the prosecutors in order to bring pressure on its rival cartels. For example, the attorney general and 90 percent of the police, the prosecutors and judges in Tijuana and the State of Baja California are judged to be on the payroll of the Arellano-Felix cartel.

Do you want to see a drug purity and have them do something? They will not. They are corrupted is endemic throughout this system. Let me turn to some other examples. During his 2 years in office, former Attorney General Lazo fired some 1,250 Federal police officers and technical personnel for corruption. Yet not one of these has been successfully prosecuted. When Mexican army officers raided the wedding party of Amado Carillo Fuentes sister, they found members of the U.S. Federal officials guarding the party. Carillo Fuentes escaped thanks to a tip from the police about the raid. And on the very day that certification for Mexico was announced, Humberto Garcia Abrego, brother of Amado Garcia Abrego, and chief money launderer of the Gulf cartel was allowed to go free by Mexican officials, even though he was still under investigation for drug related crimes.

Until the Mexican Government recognizes this reality and throws out all the policemen, prosecutors, judges, and military officials on the payrolls of the traffickers, and basically says, “We are going to start again, and we are committed to this,” it is impossible to make any kind of effort that is necessary in this effort. Our own DEA Administrator, Thomas Constantine, has told us that “There is not one single law enforcement institution in Mexico with whom DEA has an effective, existing relationship ever.

When we went down to meet with the President of the United States and various Cabinet people on this subject, President Clinton properly put the issue to us. He made a judgment, for reasons that I can understand—I do not agree with, but I understand—he made a judgment that the best way to get Mexico to try to engage in this effort was to certify them. I disagree. In my judgment, to certify anything less than what we are doing here now, is to ratify the status quo. And it is to say that the same patterns of behavior that have sufficiently gotten you by any critical judgments over the span of the last 10 years will continue into next year and the next year until whenever it is that the United States decides they are going to start to judge things the way they really are.

The way they really are is known by everybody. Let me quote from our own State Department’s International Narcotics Control Strategy Report for this year:

Taking advantage of the 2,000 mile border between Mexico and the United States and the massive flow of legitimate trade and traffic, well entrenched polydrug trafficking organizations based in Mexico have built vast criminal empires. Illicit drugs, smuggle hundreds of tons of South American cocaine, and operate drug distribution networks reaching well into the continental United States. Mexico is the principal transit route for South American cocaine, and operate drug distribution networks reaching well into the continental United States. Mexico is the principal transit route for South American cocaine, and operate drug distribution networks reaching well into the continental United States. Mexico is the principal transit route for South American cocaine, and operate drug distribution networks reaching well into the continental United States.
According to our U.S. health experts, the consumption of methamphetamine is on the rise and may soon outdistance the use of cocaine as the drug of choice in the United States. Mexican-based drug trafficking organizations are the heart of this trade. The DEA reported in 1996 that...
17 are using illegal drugs; drug-related illness, death and crime cost this country nearly $67 billion in 1996.

So I have been troubled about what we are doing on our side, and yet, shortly after taking office, the Clinton administration, the Office of National Drug Control Policy staff by more than 80 percent, hardly making it a priority. They also have made proposals to cut the DEA, the Drug Enforcement Agency, the FBI, the Immigration and Naturalization Service, and other Federal agencies, including, though Congress has authorized 1,000 Border Patrol agents, only coming forward with a budget of 500.

I have spoken to the Attorney General, Janet Reno, I have spoken to the new drug czar, Barry McCaffrey, both of whom I respect very much, and I have said this is unacceptable. I cannot have my State being overrun and have only half the contingent of new Border Patrol agents that Congress has authorized that is needed to make our country safe; that 1,000 Border Patrol agents, only coming forward with a budget of 500.

I have spoken to the Attorney General, Janet Reno, and I have asked for more. We are asking for more from our country and more from Mexico, because the fact of the matter is, we are in this together. Just like any good marriage, when there is a problem, you cannot solve it if only one party is willing to talk. We must have both parties willing to talk, both parties willing to give, both parties willing to say, yes, if we make a bigger effort together, we can lick this problem, just as we have licked the problems for over 300 years between our two countries. We don’t really have an alternative and our children’s lives are in the balance.

So the differences between Senator Feinstein and Senator Coverdell and myself and others about how we would solve this problem were all differences of what would be the most effective. There was never a difference among any of us about what the problem is. And what is true are losing the war on drugs. We are losing a generation of our young people. And that is not good enough.

We must do better. And we will do better with the resolution that is before us today that says the two countries will sit down together and we will address the concerns, we will address the concerns of money laundering, of corruption. We will address the concerns of demand on our side. And, Mr. President, I think it is important to note that that is why I hope this vote of the Senate is a clear message to our friend and neighbor to the south that we want to work together and we want results for the sake of both of our future generations.

Thank you, Mr. President.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. I would like to yield 3 minutes of my 5 minutes to the Senator from California, Senator Boxer.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President.

I want to thank the Senator from Georgia, my colleague from California, Senator Feinstein. Both of them worked so hard on this.

Mrs. BOXER. Mr. President, on February 28, the administration, pursuant to the requirement of the international narcotics trafficking statute, made a decision regarding our Nation’s fight against illegal drug trafficking. This decision was made to certify that Mexico has, in the past year, taken all appropriate and necessary actions in the fight against international narcotics trafficking.

I respectfully disagree with this decision, and I would like to explain why.

Under our international narcotics trafficking statutes, in order for a country which is known to be either a major source of narcotics or a major drug transit country to continue to receive U.S. aid, the President must certify by March 1 that the country is either performing adequately in cooperating with the United States or is taking steps on its own in the fight against international narcotics trafficking.

The law gives the administration three choices:

First, certification that the country is either fully cooperating with the United States or has taken adequate steps on its own to combat the narcotics trade.

Second, decertification of the country, concluding that the country has failed to meet the requirements of cooperation or action.

Third, no certification, but a vital national interest waiver—essentially a finding that the country has not met the standards of the law, but that our own national interests are best protected by continuing to provide assistance to the country.

The question of Mexico is complicated. Mexico is the leading transit country for cocaine coming into the United States. 90 to 70 percent of all cocaine shipped into the United States comes through Mexico. It is also a significant source of heroin, methamphetamine, and marijuana.

President Zedillo seems to be strongly committed to rid the Mexican law enforcement system of corruption and to fight the Mexican drug cartels. However, the reports and events of the past few weeks have made it clear that corruption in police ranks—even up to the very top ranks—is still rampant in Mexico.

Just a few weeks ago, it was revealed that the man hired to be Mexico’s drug czar—the head of their anti-narcotics agency—was fired after being accused of taking bribes from one of Mexico’s most powerful drug lords.

It would be as if our own drug czar, Barry McCaffrey, were found to be in league with drug gangs in our country. It didn’t. The Mexican Government tell us they were investigating their drug czar? Why did they let our own drug agency brief him and give him important intelligence about our antidrug efforts? I do not call that cooperation.

Mexico has also failed to take its own steps to meet the standards of the certification law. It has not acted boldly to root out corruption in its law enforcement establishment; it has extradited to the United States only a few Mexican nationals suspected of involvement in United States drug activities; it has failed to implement new anticrime laws enacted last year.

Given these facts, I do not believe Mexico qualifies to be certified in full compliance with the drug law. I do believe that the President would have been justified in granting a vital national interest waiver for Mexico so that sanctions would not have to be applied, and I wish that he had followed that course.

Granting a waiver would send a message to Mexico that its actions in the past year were inadequate, but it would also allow the United States to continue its efforts to work with President Zedillo and others in his administration who are committed to the drug fight. Unfortunately, our parliamentary procedures do not permit a vote on such a measure, because that is not what the President supported.

The resolution before the Senate today makes some good points. It finds that, in several areas, Mexico’s actions against narcotics trafficking have been inadequate:

First, evidence of significant corruption among Mexican officials, especially law enforcement;

Second, Mexico’s failure to fully implement new anti-money laundering laws;

Third, drug cartels operating with impunity in Mexico;

Fourth, Mexico’s failure to grant our extradition requests concerning Mexican nationals who have been indicted in United States courts; and

Fifth, decline in the number of cocaine seizures and arrests of drug traffickers in Mexico in the past few years.

These findings put Congress on record stating that Mexico is not doing enough to fight narcotics trafficking or to cooperate with the United States in doing so.

In addition to the findings, there is a sense of the Congress section stating that there has not been enough progress in halting the production in
and transit through Mexico of illegal drugs.

The meat of the resolution is contained in subsection (d), which requires the President, by September 1, to submit a report to Congress on the extent of trafficking routes into the United States and Mexico in ten areas:

First, bringing down the drug cartels;
Second, strengthening United States/Mexico law enforcement cooperative efforts;
Third, strengthening bilateral border enforcement;
Fourth, improvement of extradition matters between the United States and Mexico;
Fifth, simplifying evidentiary requirements for narcotics and related crimes;
Sixth, full implementation of money laundering laws;
Seventh, Crop eradication;
Eighth, screening back grounds of law enforcement officials;
Ninth, increasing support for Mexico's efforts to prosecute corrupt public officials; and
Tenth, strengthening overall bilateral cooperation.

The resolution does not specify a process for congressional review of the President's report. However, as Senator Feinstein said earlier, many of us will be keenly interested in the details of the report, and of course, Congress may respond in any way it deems appropriate.

So I conclude that while this resolution is not what I had hoped for, I must support it, as it is the only vehicle we will have on which to make a statement concerning the Mexico drug certification question.

Finally, Mr. President, I would like to speak briefly on another subject concerning our relationship with Mexico. That is the United States embargo against Mexican tuna and the efforts to double back the Mexican Government, to lift this embargo.

The current embargo—which was imposed in 1990 against all countries that do not have environmental policies that protect dolphins from unsafe tuna fishing practices—prohibits Mexican tuna vessels from selling their products in the United States market.

Lifting the embargo would undoubtedly lead to an increase in the number of Mexican vessels operating in the eastern tropical Pacific. I believe that, given the current power and reach of the drug cartels in Latin America—particularly Colombia and Mexico—and their frequent reliance on maritime vessels to make drug shipments, now is not the time to open up a whole new avenue of maritime trade from Mexico.

Cartels are using fishing boats and cargo ships more and more often to smuggle cocaine from Colombia to Mexico where it is then shifted to trucks and other vehicles for transport across the border into the United States.

The risk of capture for these vessels is low in an ocean so large. And even when the ships are stopped, it is hard for law enforcement to find the drugs, which are hidden in secret compartments. Many fishing vessels have sophisticated radar equipment that allows them to keep ahead of law enforcement.

According to an article in the January 30 Washington Post, our Coast Guard admits that the eastern Pacific is “one of the most difficult places for us to interdict drug shipments. It's a vast ocean. There are no chop points, only 25 tons of cargo to search—2,000 miles of coast.”

So why, at this time when narcotics trafficking in and through Mexico into the United States is threatening to undermine our two countries' relationship, would we deliberately make it harder to bring these cartels under control?

Mr. President, I ask unanimous consent to have printed in the RECORD two documents relating to this question—one, the Post article to which I just referred, and two, a recent report by the Humane Society of the United States on the predicted impact on narcotics trafficking of lifting the tuna embargo at this time.

And I trust that we will not act in any way to increase opportunities for drug smuggling.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 30, 1997]

LATIN DRUGS FLOW NORTH VIA PACIFIC—TRAFFICKERS' SHIPS HARD TO INTERCEPT

(By Molly Moore)

MEXICO CITY—The crew of the Ecuadorian ship Don Celso claimed to be fishermen, but, hundreds of miles off Ecuador, the 150-foot vessel's fishing gear looked as if it had not been used in months. And when a U.S. Coast Guard law enforcement team yanked open the fish tanks, they found 50,000 gallons of diesel fuel instead of tuna.

If there was fuel where there should have been fish, Coast Guard Petty Officer 2nd Class Kevin Kramek wondered what he would find in the fuel tanks. It took his team six days of hard searching to find out—nearly seven tons of cocaine crammed into secret containers inside the fuel tanks, the second largest maritime cocaine bust in history.

The massive cocaine discovery last October, along with three other record-breaking seizures in the months, illustrates how quickly sophisticated Colombian and Mexican drug cartels are adjusting to law enforcement efforts and finding new trafficking routes. To the satisfaction of the billions of dollars the U.S. government is spending on its war against drugs.

Even as the United States has increased interdiction efforts in the Caribbean and Mexico has forced curtailment of incoming flights of huge cargo planes stuffed with cocaine, traffickers have made the vast open waters and virtually unpatrolled shipping lanes and coasts of the eastern Pacific Ocean the primary trafficking route for cocaine entering the United States, Mexican and U.S. law enforcement authorities say.

"When you press the balloon in one area, it pops up in another," said Vice Adm. Roger T. Rufe Jr., U.S. Coast Guard commander for the Pacific Command. "There are a lot of smuggling blocks in their way in the Caribbean. It's a market economy; with demand as it is in the U.S., they have plenty of incentive to try other routes."

Most of the cocaine travels by ship from South America to the Pacific Coast, where it is unloaded onto trucks and transported across Mexican land borders into the Southwest United States.

Estimated to reach as much as two-thirds of all the cocaine destined for the United States, or at least 275 tons a year, now travels by ship via the eastern Pacific in law enforcement agencies' view as the most formidable interdiction battle they have faced in recent years.

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(By Molly Moore)

MEXICO CITY—The crew of the Ecuadorian ship Don Celso claimed to be fishermen, but, hundreds of miles off Ecuador, the 150-foot vessel's fishing gear looked as if it had not been used in months. And when a U.S. Coast Guard law enforcement team yanked open the fish tanks, they found 50,000 gallons of diesel fuel instead of tuna.

If there was fuel where there should have been fish, Coast Guard Petty Officer 2nd Class Kevin Kramek wondered what he would find in the fuel tanks. It took his team six days of hard searching to find out—nearly seven tons of cocaine crammed into secret containers inside the fuel tanks, the second largest maritime cocaine bust in history.

The massive cocaine discovery last October, along with three other record-breaking seizures in the months, illustrates how quickly sophisticated Colombian and Mexican drug cartels are adjusting to law enforcement efforts and finding new trafficking routes. To the satisfaction of the billions of dollars the U.S. government is spending on its war against drugs.

Even as the United States has increased interdiction efforts in the Caribbean and Mexico has forced curtailment of incoming flights of huge cargo planes stuffed with cocaine, traffickers have made the vast open waters and virtually unpatrolled shipping lanes and coasts of the eastern Pacific Ocean the primary trafficking route for cocaine entering the United States, Mexican and U.S. law enforcement authorities say.

"When you press the balloon in one area, it pops up in another," said Vice Adm. Roger T. Rufe Jr., U.S. Coast Guard commander for the Pacific Command. "There are a lot of smuggling blocks in their way in the Caribbean. It's a market economy; with demand as it is in the U.S., they have plenty of incentive to try other routes."

Most of the cocaine travels by ship from South America to the Pacific Coast, where it is unloaded onto trucks and transported across Mexican land borders into the Southwest United States.

Estimated to reach as much as two-thirds of all the cocaine destined for the United States, or at least 275 tons a year, now travels by ship via the eastern Pacific in law enforcement agencies' view as the most formidable interdiction battle they have faced in recent years.

So why, at this time when narcotics trafficking in and through Mexico into the United States is threatening to undermine our two countries' relationship, would we deliberately make it harder to bring these cartels under control?

Mr. President, I ask unanimous consent to have printed in the RECORD two documents relating to this question—one, the Post article to which I just referred, and two, a recent report by the Humane Society of the United States on the predicted impact on narcotics trafficking of lifting the tuna embargo at this time.

And I trust that we will not act in any way to increase opportunities for drug smuggling.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 30, 1997]

LATIN DRUGS FLOW NORTH VIA PACIFIC—TRAFFICKERS' SHIPS HARD TO INTERCEPT

(By Molly Moore)
LIFTING THE TUNA EMBARGO AND CHANGING THE DOLPHIN-SAFE LABEL: THE PREDICTED IMPACT ON NARCOTICS TRAFFICKING


Three U.S. laws are under attack from several Latin American nations who want to regain access to our lucrative tuna market: 1) the embargo provisions contained in the Marine Mammal Protection Act (MMPA); prohibiting the importation of yellowfin tuna from countries whose tunas have a test kill of over 25% more dolphins than the U.S. fleet; 2) the International Dolphins Conservation Act (IDCA); prohibiting the sale of dolphin unsafe tuna; and 3) the Dolphin Protection Consumer Information Act (DPCIA); prohibiting the use of the “dolphin safe” label on any tuna caught by chasing and setting nets on dolphins.

Since the establishment of the “dolphin safe” label and the embargo against purchasing tuna caught by setting nets on dolphins, the number of vessels fishing for tuna in the Eastern Tropical Pacific Ocean (ETP) has decreased substantially. Lifting the embargo and allowing the sale of dolphin unsafe tuna will most likely lead to a substantial increase in the number of vessels fishing in the ETP. In addition, the increased opportunities for drug traf- fickers to cause increased injury and death to dolphins create conditions that may lead to increased and easier narcotics smuggling into the United States.

THE FLOW OF NARCOTICS INTO THE UNITED STATES

Most of the world’s cocaine—estimated 80%—originates in Colombia. In recent years, Colombian traffickers have begun to funnel their cocaine through Mexico. Mexican drug smugglers became the key transporters of Colombian cocaine, a service for which they received millions of dollars. Eventually, the traffickers started to pay 50% of the load in cocaine. This development, and the weakness of the Colombian cartels during arrests and deaths, created a situation in which the traffickers gained greater control over narcotics trafficking in the Americas. According to the U.S. Drug Enforcement Administration (DEA), over 70% of all cocaine entering the United States comes through Mexico. In 1994 and 1995, over 200% of the world’s shipments of cocaine that entered the U.S. each year transited Mexico. At least two-thirds of the cocaine that enters Mexico is shipped in maritime vessels from other Latin American countries. It is then smuggled into the U.S. through various land routes into California, Arizona, and Texas.

GOVERNMENT CORRUPTION EASES SMUGGLING

Narcotics trafficking is, arguably, Mexico’s biggest business. Drug sales account for 25% of the country’s trade and 10% of its gross national product. According to the U.S. Drug Enforcement Administration, the DEA, over 70% of all cocaine transit the Eastern Tropical Pacific Ocean (ETP) every year. The ETP is the preferred tuna fishery of many Latin American tuna companies, who continue to use dolphin baiting and netting dolphins. A class 5 or 6 tuna vessel—the type used to set purse-seine nets on dolphins—is capable of concealing multi-ton drug loads with little risk of discovery than other smuggling methods. Class 5 and 6 tuna vessels fish on the high seas, often in large groups, making it extremely difficult for traffickers to be discovered.

In recent years, as counternarcotics forces have become more adept at intercepting drugs in the air, Latin American drug traffickers have shifted their preferred method of transporting cocaine to Mexico to the sea. Department of Defense records show that since 1992, known drug-trafficking events involving aircraft decreased 65 percent, while those involving maritime vessels increased 40 percent.

Most of the world’s cocaine is carried by drug smuggling ships, which are becoming more widely used by drug cartels to smuggle cocaine because the risk of capture is low. The vast majority of cocaine smuggling ships are essentially unimpeded. Mexican and American officials have acknowledged that, during the Salinas administration, at least half a dozen drug smugglers, including the J uarez Cartel’s Carillo, were “quietly” arrested and released by corrupt police and judges.

Many vessels, such as fishing trawlers and cargo ships, are being used by drug traffickers to smuggle cocaine because the risk of capture is low. The vast majority of cocaine smuggling vessels are essentially unimpeded. Mexican and American officials have acknowledged that, during the Salinas administration, at least half a dozen drug smugglers, including the J uarez Cartel’s Carillo, were “quietly” arrested and released by corrupt police and judges.

In one recent seizure, it took authorities six days of searching to discover a seven ton load of cocaine on board a vessel of the type used for tuna fishing. Moreover, many fishing vessels are equipped with radar and scanners that allow them to determine if they are being followed, giving them an edge over law enforcement officials.

Law enforcement officials state that, without informants, drug shipments in maritime vessels are essentially impossible to detect. Drug interdiction in the Eastern Pacific is making it more difficult because the U.S. has few law enforcement cooperative agreements with Pacific nations.

Officials estimate that at least 275 tons of cocaine transit the Eastern Tropical Pacific Ocean (ETP) every year. The ETP is the preferred tuna fishery of many Latin American tuna companies. Drug interdiction in the Eastern Pacific is made more difficult because the U.S. has few law enforcement cooperative agreements with Pacific nations.

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seas for months at a time. Although they may embark for specific fishing areas, these areas cover hundreds of square miles. Furthermore, unlike a cargo vessel, which generally leaves ports from point “A” to point “B,” a fishing vessel may traverse an area many times—creating unique opportunities for transporting illegal goods.

The information describes several recent incidents in which tuna vessels and other fishing-type vessels were apprehended carrying shipments of drugs. The section also discusses the arrests for alleged drug-related activity of persons with involvements in fishing businesses. In some instances, the vessels were engaged in false fishing enterprises. In addition, the sources sometimes made it clear that the vessels or business were not actually engaged in fishing, but were merely false fronts. Our discussion reflects these distinctions where they apply.

During the last eighteen months, four “record-breaking” seizures of cocaine on fishing vessels have been made: in July 1995, the Nataly I, a Panamanian tuna vessel, was caught off the coast of Peru with more than 12 tons of cocaine. In August 1996, the Erick, a Honduran-registered fishing ship crewed by Colombians and Ecuadorians, was seized off the Colombian coast with 2 tons of cocaine. In 1996, the Ecuadorian tuna-type vessel Don Celso, was captured off the country’s coast with almost 7 tons of cocaine—cargo which took a U.S. Coast Guard team 6 days to find; in January 1997, the Viva Sinaloa, a Mexican fishing vessel operating out of Mazatlan, was intercepted off Mexico’s Pacific coast carrying 3.5 tons of cocaine.

In September 1996, Manuel Rodriguez Lopez—believed to be tied to the Cali Cartel—and owner of Pesquero Rodriguez, which includes tuna companies in Baja California, was placed under house arrest at the port of La Paz on charges of money laundering. Rodriguez also owned the Nataly I and administered the fishing companies Pesquera Carimar S.A. de C.V., Pesquera Santo Tomas, Pesquera Kino, and Pesquera Azteca, to which the Nataly I was registered. The fleet’s long range fishing boats were used to transport cocaine to islands off the Mexican coast where the drugs were then loaded onto smaller boats for distribution along the Mexican coast. Castrillón helped finance the Cali Cartel, and President Ernesto Perez Balladres’ 1994 campaign; the President’s party said they had assumed his tuna business was legitimate when he made the contributions.

Víctor Julio Patino Fomeque, a leader for the Cali Cartel, allegedly owned the fishing company Pesquera Azteca, to which the Nataly I was registered. The fleet’s long range fishing boats were used to transport cocaine to islands off the Mexican coast where the drugs were then loaded onto smaller boats for distribution along the Mexican coast. Castrillón helped finance the Cali Cartel, and President Ernesto Perez Balladres’ 1994 campaign; the President’s party said they had assumed his tuna business was legitimate when he made the contributions.

The implications of lifting the embargo

The current embargo on tuna from countries whose fleets set on dolphins in the ETP prohibits Mexican tuna vessels from selling their products in the U.S. market. After the embargo was imposed in 1990, the number of Mexican vessels fishing for tuna fell from 85 to 40. The U.S. tuna market, which has been estimated to be worth $2.6 billion per year, will likely lead to a greater number of vessels operating in the ETP. More fishing vessels in the ETP will lead to conditions that may provide real and perceived opportunities for smuggling and a reduced risk of being caught. An increase in the number of vessels, combined with the likelihood that Latin American tuna vessels would have more reason to approach areas where the United States would render our interdiction efforts even more difficult.

The long term potential for the well-financed narcotics smugglers to establish facilities for “tuna” processing at U.S. ports is a significant additional incentive. The existence of family connections on both sides of the border has proven to be a significant aid to narcotics trafficking, and the extension of the same methodology to smuggling via the tuna industry is possible, should the embargo be lifted. Direct coastal access to the U.S., either through offloading at sea to small fast boats which can complete the journey to our shores, or through direct unloading at facilities at U.S. ports, may expedite smuggling by eliminating the need to cross the land border.

Mrs. BOXER. Thank you very much, Mr. President.

I thank my friend from Georgia.

Mr. COVERDELL. Mr. President, I believe, according to the previous unanimous consent, the next 5 minutes is allotted to my colleague from California.

Mrs. FEINSTEIN. Mr. President, I thank you.

I would like to talk about the Senator from Georgia. It has been a great pleasure to work with him and Senator HUTCHISON. We began this effort over a week ago. It has been a very intensive effort. I believe it has resulted in a resolution which will have dominant support from this body, pass the House, and be sent by the President of the United States.

More importantly, I think this resolution will become the law and will have teeth. And those teeth are: Administration: Report on September 1 the progress that has been made. Here are the specific areas in which we wish you to make progress. If there is inadequate progress made, it leaves no alternative really but to fuel up for a massive decertification battle in a year.

I want to say one thing about America’s demand problem. Because the Senator from Massachusetts, Senator KERRY, who spoke on this issue, I think had it right. One of the things that I have found in all of my programs in this country that work and programs that do not work. And I would just like to recommend to everybody that might be watching this a program that does work, a program which has no Government funds, a program with whom my colleagues in California and I are very familiar.

That is a program called Delancy Street in San Francisco which takes the hardest core drug addicts, with about a 4-year stay, and puts them through an intensive program—changes their environment, changes their lifestyle, and does rehabilitate. As mayor, I helped Delancy get some money. Anyways, water.

The Delancy people built their own facilities, which are stellar. They run their own businesses. They pay for their program through their labor.

And I would just like to invite—Delancy does not know I am doing this anyone, anywhere in the United States that has an interest in replicating a program to rehabilitate American drug addicts that works, to go to San Francisco, to call Mimi Silbert, the director, and take a look at a program that works, does not take dime one of public money and does it all on their own. It is one of the most impressive programs anywhere in the United States.

If we had more Delancys and more knowledge of permeations of Delancy, Delancy Streets for young children, children 14, 15, 16 years old, I think we could turn this Nation around. If we had more programs like Facts on Crack from Glide Memorial Church in San Francisco, we could turn this Nation around. But in the meantime, we have to retard the supply of drugs. And that is a major first step.

So again, I say thank you to everyone that has participated. I look forward to the vote. I thank the Chair and I yield back the balance of my few minutes.

Mr. COVERDELL addressed the Chair.

The PRESIDENT. The PRESIDING OFFICER (Mr. KEMPTHORNE). The Chair recognizes the Senator from Georgia.

Mr. COVERDELL. Mr. President, we are about at the hour to bring to a conclusion a very long and arduous effort to produce a positive result as we struggle with the ravages of drugs in our country and in Mexico and in the hemisphere.

I want to acknowledge Senator KYL of Arizona who has made a contribution in terms of border agents. Again, I want to thank the chairman of the Foreign Relations Committee, Senator HELMS of North Carolina, for his great work and, of course, my immediate colleagues in the work, Senator FEINSTEIN and Senator HUTCHISON and the staffs that have worked how long and late to produce this resolution.

This resolution is a renewal statement. It is a new place and it changes the dynamics of the debate with regard to the drug cartels in the United States, in Mexico, and the hemisphere.

I would simply close by reiterating my statement earlier. I hope all of our colleagues in the hemisphere, Mexico and the other countries, will understand that this is a new statement, it is an honest appraisal of a war that is ravaging the hemisphere countries before us as we come on the new century, and see it as a new statement, a statement of renewal and reinvigorated alliance.
Mr. President, the hour of 3 o'clock has arrived, and by the previous unanimous consent, I believe that moves us to the vote. I yield the floor.

Mrs. FEINSTEIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 3 o'clock having arrived, the question now occurs on agreeing to amendment No. 25. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The result was announced—yeas 94, nays 5, as follows:

[Roll Call Vote No. 35 Leg.]

YEAS—94

Abraham  Faircloth  Lieberman
Akaka  Fong  Lott
Allard  Ferry  Lugar
Ashcroft  Ford  Mack
Baucus  Frist  McCain
Bennett  Ginn  McConnell
Biden  Gorton  Mikulski
Bingaman  Graham  Mosley-Braun
Borah  Graham  Moynihan
Boxer  Grams  Mukowski
Breaux  Grassley  Murray
Bryan  Gregg  Nickles
Bumpers  Hagel  Reed
Burns  Harkin  Reid
Byrd  Hatch  Robb
Campbell  Helms  Roberts
Chafee  Hollings  Rockefeller
Cleland  Hutchinson  Roth
Coats  Inhofe  Santorum
Cochran  Inouye  Sarbanes
Collins  Jeffords  Sessions
Conrad  Johnson  Shelby
Coverdell  Kempthorne  Smith, Gordon
Craig  Kennedy  H.
D'Amato  Kerry  Snowe
Daschle  Kerry  Specter
DeWine  Kohl  Stevens
Dodd  Kyl  Thompson
Domenici  Lautenberg  Thurmond
Dorgan  Lautenberg  Voinovich
Durbin  Leahy  Wyden
Enzi  Levy

NAYS—5

Brownback  Smith, Bob  Torricelli
Hutchinson  Thomas  Trent

NOT VOTING—1

Warner

The amendment (No. 25) was agreed to.

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

The joint resolution was ordered to be engrossed and read the third time. The PRESIDING OFFICER. The question now is on passage of joint resolution, as amended.

The joint resolution (H.J. Res. 58), as amended, was passed.

The title was amended so as to read:

Amend the title to read as follows: A joint resolution requiring the President to submit to Congress a report on the efforts of the United States and Mexico to achieve results in combating the production of and trafficking in illicit drugs.

The PRESIDING OFFICER. Under the previous order, the Chair will now recognize the Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the Chair.

EASTER

Mr. BYRD. "The year's at the spring: the day's at the morn; morning's at seven; the hillside's dew-pearled; the lark's on the wing; the snail's on the horn; God's in his Heaven—all's right with the world."

Mr. President, the Senate is preparing to recess at the close of this week. Some Senators will use this time to travel to distant and exotic locations. Others will return home for busy rounds of meetings. Schools around the nation are also closing their doors for spring break. For many college students, spring break has become a beach vacation ritual, replete with loud parties, little self-restraint, and the overconsumption of booze—alcohol. At home, spring sales are in full force, with stores luring credit-happy buyers away from the outdoor pleasures that warming days and budding gardens invite. The celebration of winter's passing and the rekindling of life all around us has been lost, for many, in the materialistic and hedonistic whirlwind of everyday life. Our culture is so saturated with colors of spring that commercial paper flowers link the climate-controlled interior of the shopping malls with the greening of the spring earth.

But today is also the vernal equinox, that day from the celestial clock that marks the timing of the seasons, the day on which the periods of light and dark are again of equal length following the long, cold, dreary nights of winter. In 325 A.D., during the reign of that great convert to Christianity, the Emperor Constantine, the Council decreed that Easter should fall on the first Sunday after the first full moon following the vernal equinox. So, today we may look ahead with certainty toward the Sunday after next for the enduring celebration of that central mystery of the Christian faith, the resurrection of Jesus Christ.

Mr. President, although in recent years the trend has been to strip every religious overtone from our calendar and from our schools—and thank God the Constitution protects my right to stand on this Senate floor and talk about what I believe to be worthy of the title. But I do believe in the Bible and its teachings, even though I have not been in a church where they do not have rattlesnakes in all of those churches. As a matter of fact, I have never been in a church where there was a rattlesnake—a few two-legged ones perhaps, but that is where they ought to go, to church. Social life revolved around Sunday services and activities sponsored by, or otherwise intimately linked with, the church and celebrations of faith. But as I witness the slow unraveling of our communities, their weave frayed by casual greed and picked apart by drugs and violence, I worry that the clear-flowing waters of family, church and community that nourished me and millions like me are becoming baleful and turbid. The erosion of Easter into a crass and commercial “spring break” is but one sad example of the materialistic trend in this country and in this age. More media coverage is awarded to the Fat, Tuesday—also called Pancake Day—than on the entire forty days of Lent. I wonder how many people who dress up and masquerade in that carnival parade recall that the original purpose of Mardi Gras was to prepare for the Lenten fasts by using up the available cooking oil and fat in a pre-fast eating binge? The binge was fun, but it did not blot out the central religious purpose of the repentant fast to follow.

Mr. President, Easter Sunday ends forty days of religious observance beginning with Ash Wednesday, set as the beginning of Lent by Pope Gregory at the beginning of the sixth century. This coming Sunday is known as Palm Sunday, in observance of the palm-strewn entrance of Jesus into Jerusalem. The following Friday, or Good Friday, marks the day that Jesus suffered on the Cross and died. It is a solemn day indeed, yet I fear that, for too many people, it is just another day off from work, filled with errands, or shopping, or travel, with not a passing thought given to the suffering of God’s only Son on the cross.

Mr. President, the Apostle Paul said: "I am not a minister. . . . I do not profess to be worthy of the title. But I grew up in a Christian home. My foster father was a coal miner and my foster mother was the only mother I ever knew. They were religious people. They were not of the religious left or of the religious right. They were not part of the Christian center or the Christian left or the Christian right. Neither am I. They just were plain, down-to-Earth, God-fearing, God-loving Christian parents. . . . it is that I come to the Senate Chamber today as a cleric or as a minister. I probably could not be one. But I do believe in the Bible and its teachings, even though I have
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not always found it so easy to live up to those teachings.

Easter Sunday is not just a day to mark with brightly colored hard-boiled eggs or chocolate bunnies, or with jelly beans and plastic grass in wicker baskets. All of these ancient symbols of spring and rebirth have their place, but it disturbs me to think that children may know Christmas day only for its early morning toy-filled stockings, and Easter only for its baskets and Easter egg hunts.

Easter Sunday commemorates the resurrection of Jesus Christ. And I now read from the King James version.

The Lord is risen indeed. Blessed is he that cometh in the name of the Lord.

I also invite my colleagues and my Senator from Idaho, or the Senator in the other place where they sit, to recall this miracle, and the faith that gives them and gives communities throughout our Nation the strength to persevere— to fight against the violence, the greed, and the moral decay that threaten the fabric of our families, our communities, and our Nation.

And I invite my colleagues and my fellow citizens—and I invite myself—to again see Easter Sunday as the celebration of the resurrection and the promise that there is a life after death. William Jennings Bryan and my congenial colleague from the State of Illinois, Mr. Durbin, will appreciate this especially. William Jennings Bryan expressed it well in "The Prince of Peace":

If the Father deigns to touch with divine power the cold and pulseless heart of the buried acorn and to make it burst forth from its prison walls, will He leave neglected in the earth the soul of man, made in the image of His Creator? If He stoops to give to the withered rosebush, whose withered blossoms float upon the autumn breeze, the sweet assurance of another springtime, will He refuse the man suffer annihilation when it has paid a brief visit like a royal guest to this tenement of earth? No, I am sure that we live today. William Jennings Bryan spoke those words in "The Prince of Peace":

Mr. President, may all of us, as we approach the blessed Easter season, enjoy renewed hope in the message that we shall live again.

And when you get closer to 79—79 years and 4 months, as I am today—the more you will believe and begin to see more and more the truth, the universal truth, the eternal truth that God still lives, that He created this great universe and all the universes, and that He will not leave a soul or heart—created man. I am not worried about that, by what method or through what process all that was done. But we are told that God created man out of the dust of
the ground in His own image, and breathed into his nostrils the breath of life. And man became a living soul. That is good enough for me.

So, Mr. President, as we approach this Easter, let us learn again the message of Jesus, from Him who said 2,000 years ago: “I, if I be lifted up from the Earth, will draw all men unto me.”

Mr. President, I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore of the Senate from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before I speak on the subject that I am here to speak on, I want to thank the Senator from West Virginia for his statement. I know that he believes what he says. And I think that he does a wonderful public service by the expression of that philosophy.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

EXPLANATION OF ABSENCE

Mr. WARNER. Mr. President, in reference to today’s vote concerning the certification of Mexico, I was unavoidably absent due to delays in travel returning to Washington from a previously scheduled speech in Richmond, VA, to the Richmond Bar Association. Had I been present, I would have voted “aye” during the recorded vote on the provision.

Mr. President, this is the fifth time I have taken the floor to make observations about the FBI’s upside-down management of its crime lab.

In my view, the FBI’s Director, Louis Freeh, continues to mislead the public about the lab. He would have us think that the FBI lab has met the highest standards. He has maintained that the allegations of the lab’s whistleblower, Dr. Frederic Whitehurst, are all wrong. He has said that no other scientist in the lab has come forward with similar accusations. His testimony before Congress recently was totally consistent with that image.

But documents belie the Director’s rosy portrayal of the lab, and of his dark portrayal of Dr. Whitehurst. Thus far, I have released documents showing there is credibility to some of Dr. Whitehurst’s allegations. I have pointed to press accounts in which the public has learned the IG’s still-secret memo of investigation to his section chief. In it, he stated that 13 of Whitehurst’s 48 cases had significant alterations. He recommended the following: That [Supervisory Special Agent] (blank) be held accountable for unauthorized changes made in the [Auxiliary Examiner] dictation of SSA Whitehurst by administrative action to include both oral reprimands and a letter of censure.

The unit chief concluded his memo this way: “(Blank) committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly.”

The scientist-unit chief writing the memo, and who backed up Dr. Whitehurst’s allegations, identified the culprit. I won’t reveal who either one is. But the memo is significant. It reveals yet another scientist—a unit chief, no less—who substantiated Whitehurst’s allegations. It is another apparent example of an FBI lab agent shaming the evidence to get a conviction.

What was covered over by Mr. Shapiro’s team of crack lawyers less than 1 year before, was now popping up. The lab’s management was the opposite of what Shapiro and his lawyers found. That meant there were conflicting findings. And that is serious. The lab unit chief’s report was at odds with Director Freeh’s. What was senior management—those above the lab managers—to do?

The answer was not long in coming. During this time frame, FBI management indeed found a suitable discipline for this rogue agent. Mr. President, they promoted him. They made him a unit chief. The agent found to have intentionally altered evidence was promoted. That tells us how senior management resolved the dilemma. They merely said it’s not supposed to happen. His recommendation? If there were alterations, just correct the written report.

You see, Mr. President, under the long-standing Brady decision, the government is required to provide the accused with any information that might point to their innocence. Material alterations of lab analysis might fit into that category. If changes had been discovered in some reports, the proper thing to do was to judge the impact of those alterations on each court case. Instead, Mr. Shapiro thought justice would be served by simply correcting the paperwork. Cases closed.

By October 1994—about 5 months after Mr. Shapiro’s review was issued—the IG got hold of the same allegations. The IG began its own review of the 48 cases.

Meanwhile, in September 1994, the FBI lab managers discovered another agent making the same allegations of altered reports as Dr. Whitehurst was making. The allegations by then were being investigated thoroughly by lab personnel.

By January 1995, the lab’s investigation was completed. An FBI unit chief, who had authored a memo of investigation, noted the lab’s management had a serious problem. The lab had a long, checkered history of errors, alterations of lab analysis, and only then did these problems get aired.

But, the FBI’s review was headed by Mr. Freeh’s general counsel, Howard Shapiro. He’s the Director’s top lawyer, himself a controversial figure with Freeh’s own assertions. The American government is required to provide the accused with any information that might point to their innocence. Material alterations of lab analysis might fit into that category. If changes had been discovered in some reports, the proper thing to do was to judge the impact of those alterations on each court case. Instead, Mr. Shapiro thought justice would be served by simply correcting the paperwork. Cases closed.

What was covered over by Mr. Shapiro’s team of crack lawyers less than 1 year before, was now popping up. The lab’s management was the opposite of what Shapiro and his lawyers found. That meant there were conflicting findings. And that is serious. The lab unit chief’s report was at odds with Director Freeh’s. What was senior management—those above the lab managers—to do?

The answer was not long in coming. During this time frame, FBI management indeed found a suitable discipline for this rogue agent. Mr. President, they promoted him. They made him a unit chief. The agent found to have intentionally altered evidence was promoted. That tells us how senior management resolved the dilemma. They
promoted the rogue, and shot the messenger.

That set the stage for the coverup. Because just 10 months later, when the Whitehurst allegations became public, Mr. Freeh issued the following statement. It was on November 8, 1995. He said:

The FBI has vigorously investigated his (Whitehurst's) concerns and is continuing to do so. The FBI alone has reviewed more than 250 cases previously done by the Laboratory. To date, the FBI has found no evidence tampering, evidence fabrication, or failure to report exculpatory evidence. An FBI internal investigation will result in tough and swift action by the FBI.

Is that what happened to the rogue agent, Mr. President? Yes. The FBI took swift action to get him promoted.

The fact is, the statement by Mr. Freeh on November 8, 1995, was utterly false. Lab reports are evidence. If altered substantially—and 13 reports were—that is evidence of evidence tampering, and more.

Ultimately, the IG caught up with the rogue agent. The FBI did not. But the IG did. When the IG report finally reached the Bureau, this rogue agent became one of the three who were transferred from the lab. Yet no other action has been taken against him by the FBI. I aim to find out why not.

Mr. President, what is clear about all this is, the FBI is buried under a mountain of evidence showing it cannot police itself. It took the inspector general's investigation to finally root out what the FBI had covered up. Some good people in the FBI tried to do the right thing. But senior management got in the way. Senior management apparently places a higher value on maintaining image, rather than rooting out wrongdoing.

Therefore, the time may have come for independent review of the FBI. Someone needs to police the police. They cannot police themselves. That is for sure. Perhaps the way to go is to beef up the IG. I left my job as the head of the FBI's Office of Professional Responsibility, as the Director has proposed.

Growing up on the family farm in Iowa, my father taught us to revere and respect the FBI. They were the champions of right versus wrong in our society. We looked up to them, whether the FBI was justified or not.

But those honest, hardworking agents need and deserve leadership that has integrity and credibility. They need leaders who will go after bad guys, and protect good guys. Not the other way around. They need leaders who reward honesty and punish wrongdoing—not the other way around, as we see in this case.

The issue of bad management in the crime lab is serious. Bad scientific analysis used in court means good guys can go to prison, and bad guys can walk. That's not what we want. That is un-American. That's what they have in dictatorships. There is no room for that in a democracy.

Mr. President, I have talked to my colleagues about the culture at the FBI under the present management. It seems obvious to those who rush to a conviction. It seems to punish those who, in the FBI's eyes, "commit truth."

There is no better image to show this than how they treated the rogue agent—they promoted him—and how they treated Dr. Whitehurst—they went after him.

Mr. President, I do not have to say anything else. That says it all.

Mr. President, I ask unanimous consent to have relevant documents to which I referred, plus others that will help provide additional context, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

From SSA Frederic Whitehurst.
To Asst Director John Hicks.
Re alteration of laboratory report of SSA Whitehurst.

Purpose: to document the alterations of auxiliary examiner reports in laboratory reports of SSA Whitehurst ***

Recommendation: that any alteration of AE dictation of SSA Whitehurst be done with the full concurrence of SSA Whitehurst, and the Unit Chief of the Materials Analysis Unit.

Details: On 11/27/92 *** of the Materials Analysis Unit advised SSA Whitehurst, *** that *** had been told by *** that he was changing the auxiliary examiner dictation of SSA Whitehurst before publishing reports from the laboratory. The information was the first that SSA Whitehurst had concerning the changing of his dictation in the five and one half years that SSA Whitehurst had been an examiner in the Laboratory. At no time has SSA *** consulted SSA Whitehurst concerning these changes.

As a result of reviewing the information, SSA Whitehurst reviewed his files to determine if any alteration of AE dictation had its origin in the Materials Analysis Unit. After completing his review, SSA Whitehurst wrote a letter dated December 18, 1992, to Assistant Director John Hicks. The letter reads:

I believe that any alteration of AE dictation should be done with the full concurrence of SSA Whitehurst, and the Unit Chief of the Materials Analysis Unit. In light of the AE's dictation of SSA Whitehurst having been changed without SSA Whitehurst's concurrence, I hereby recommend that we make the following recommendations:

1. All reports of SSA Whitehurst that have been changed should be reviewed to determine if there was any substantive change. If changes of a substantive nature are found, the report should be corrected and signed by SSA Whitehurst.

2. SSA Whitehurst's dictation should be reviewed to determine if there were any instances of AE dictation that was not concurred with by SSA Whitehurst.

3. SSA Whitehurst should be consulted before any change of AE dictation is made.

4. The Materials Analysis Unit should be informed of all changes of AE dictation.

Dated: 12/18/92.

The AE had the following statement.

I acknowledge that I made a mistake. I would like to apologize for any inconvenience or delays that may have been caused.

Mr. President, I do not have to say anything else. That says it all.

The report is printed in the RECORD.

The final report reads:

"Present in specimen Q6 are explosive residues which have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

On the other hand, the final report dicta reads:

"Present in specimen Q6 are explosive residues which have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

The new report does not contain the statements:

"Present in specimen Q6 are explosive residues which have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

The new report is printed in the RECORD.

The final report reads:

"Present in specimen Q6 are explosive residues which have originated from a low explosive mixture which contained Pyrodex. Pyrodex is a commercial low explosive produced by Hodgdon Powder Co."

The new report does not contain the statements:

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The new report is printed in the RECORD.
Re allegations regarding changes in FBI laboratory reports by Frederick Whitehurst.

David R. Glendinning,
Office of Inspector General, Department of Justice, Washington, DC.

Dear Mr. Glendinning: As you will recall, several months ago you contacted me regarding numerous allegations your office had received against the FBI Laboratory Division (LD) from Supervisory Special Agent Frederick Whitehurst who is an explosive residue examiner in the LD. You explained that Whitehurst had made numerous allegations regarding problems in the FBI LD, but that only one, involving the changing of auxiliary examination dictation, warranted further investigation by your office. I told you that the FBI’s Office of the General Counsel (OGC) had also received the same allegations from Whitehurst and was already conducting an investigation, and that a final accounting of every report is completed, I will send you a copy of any remaining reports not enclosed with this letter. The OGC has received against the FBI Laboratory Division’s (LD) recommendation regarding numerous allegations your office has received against the FBI Laboratory Division (LD).

From: J. J. Kearney
To: Mr. Glendinning

Recommendations: 1. That SSA * * * be held accountable for the unauthorized changes he made in the AE dictate of SSA WHITEHURST by administrative action to include both oral reprimand and a letter of censure.

2. That the Assistant Director in Charge of the Laboratory Division mandate that all PEs provide a copy of all outgoing reports that include AE dictate to the respective AE’s to avoid the possibility of mistakes/errors being furnished to a contributor as a result of misuse or misinterpretation of the AE dictate by the PE.

3. That the issue as to whether or not reviewing AE reports should be furnished to the contributors in the thirteen (13) cases where I have concluded significant alterations were done SSA * * * be referred to General Counsel for resolution.

4. That Laboratory policy be re-emphasized to ensure that PEs never be allowed to testify to the results/meaning of AE dictate furnished to them that clearly fall outside their expertise.

Details: Based upon a memorandum to each Laboratory Unit Chief from J. W. Hicks dated 5/24/91, the approved, current Laboratory policy for errors made by a person in the Laboratory is clearly documented. This memorandum lists four types of errors. The alteration of another examiner's dictate without consultation with that examiner or his/her Unit Chief would fit in my opinion, the criteria of the most serious type of error defined by the "bluff or grossly negligent error." It has always been understood practice (perhaps not written policy) that PEs do not change/edit/recopy/review AE AE dictate without consulting with and receiving permission from the AE, or their respective Unit Chief. It is clear that the Examiner policy is not always being followed. The problems that could arise during testimony when AE dictate is arbitrarily altered are discussed at length in the above memorandum.


To: Mr. Kearney
From: ** *
changed cannot be over-emphasized. The wording in all MAU dictation is carefully thought out, discussed, peer reviewed often times, and results from correct interpretations. However, the interpretation and significance of explosives residue composition. He therefore should realize this deficiency and differentiate between his personal opinions and scientific fact. An expert’s opinion should be based upon objective, scientific findings and be separated from personal predilections and biases.

In order to identify a given material, it is necessary for the examiner to acquire sufficient data using acceptable scientific techniques/protocols and instrumentation to specifically identify it. If that level of data is not acquired or does not exist, then complete identification is not possible and words such as "consistent with" or "similar to" are used. This is nothing new. It is taught in our colleges and universities. It is a standard set by MAU based on experience/background, education, discussions, research and peer review of the analytical procedures in place. By recounting AE dictation, SSA *** makes an examiner in the position where he/she would be required to advise the court that the report overstates the findings and therefore is incorrect.

A FBI Laboratory report is evidence. Often times the report itself is entered into evidence at trial proceedings. The fact that SSA *** make unauthorized changes in these reports could have resulted in serious consequences during legal proceedings and embarrassment to the Laboratory as well as the entire FBI.

In conclusion, SSA *** committed errors which were clearly intentional. He acted irresponsibly; he should be held accountable; he should be disciplined accordingly. The problems regarding AE alterations by SSA *** are verified. All of the AE dictation furnished by SSA Whitaker has been reviewed. The causes, reasons and events which led to the occurrence of the errors has been discussed. The appropriate administration, in my opinion, should be that SSA *** be given a letter of censure.

Mr. ROBB. Mr. President, leadership often involves seizing the moment. And right now the moment is a real and rapidly fleeting chance to actually balance the Federal budget. For those of us who have long been dedicated to stopping the Federal Government from spending more than it takes in, the moment is now. While we're away from Washington during the recess, I hope that we will use this time to prepare ourselves for serious work on the budget when we return. We cannot let another opportunity to do what's right pass us by.

I recognize the fear on both sides. The President is understandably reluctant to embrace a necessary change in the Consumer Price Index because of its effect, however minimal, on benefits for a large and vocal segment of the population. The Republican Party is reluctant to scale back its calls for a massive tax cut because of a similar effect on an equally vocal segment of their supporters.

But simple math dictates that both must occur if we are truly interested in balancing the budget and keeping it in balance over the long term. And the reality is that entitlements have got to be curbed, and the resulting savings have got to go to reducing the deficit, not tax cuts.

The Speaker of the House has taken a bold step by expressing a willingness to square his tax cuts until the budget is balanced. I hope the President will meet this bold step by expressing his willingness to reconsider an adjustment in the CPI, or some other means to accomplish the same goal.

As meetings take place over the course of the congressional recess, I would encourage both sides to use as a starting point the Centrist Coalition budget developed last year by a bipartisan group of Senators, including myself.

The Centrist plan, known also as the Chafee-Breaux plan, was the only budget in the Senate last year that received bipartisan support. In fact, the Centrist plan received 46 votes. And to me, that seems like a logical place to start.

Our plan used conservative economic assumptions, a rational reduction in the Consumer Price Index, and a modest tax cut. We did not have, within our coalition, universal agreement on all aspects of the plan. Personally, I have always wanted to postpone even modest cuts until we actually achieve balance. But, I believe it provides a reasonable roadmap now of how to get from here to a budget that balances. I hope that this plan will help guide congressional and White House negotiators during their upcoming budget talks.

With that, Mr. President, I hope all of our colleagues come back fully reinvigorated and ready to start producing some results.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. GRASSLEY addressed the Chair. The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am very sad to report that Air Force Col. John Boyd died in West Palm Beach, FL, on March 9, 1997. He was 70 years old. He passed away after a long and difficult fight with cancer.

His remains were laid to rest today in Arlington Memorial Cemetery. John was a native of Erie, PA. But John came to Iowa to go to college. Iowa is where his Air Force career began.

He won an athletic scholarship to the University of Iowa and enrolled in the Air Force ROTC program. After graduating in 1951, he went to flight school. He earned his wings and began flying the F-86 Saber jet.

Then he went to Korea with one goal: shoot down a MIG.

But, unfortunately for everyone concerned, that conflict came to an end before his wish came true. But to John that was one of the biggest disappointments of his life.

Mr. President, I am proud that John Boyd was educated in Iowa.

He was a great American who dedicated his life to public service.

I would like to honor him by speaking briefly about some of his most important accomplishments.

First and foremost, John Boyd was a legendary Air Force fighter pilot.

But John was no ordinary jet jockey. He applied his vast intellect to understanding the dynamics of air combat maneuvering at which he excelled.

To do that, though, he had to teach himself calculus so he could work the formulas to quantify the problem.

This was the problem he saw.

Why did the heavier and slower American F-86 achieve near total domination of the superior MIG-15 encountered in Korea?

John wanted an answer to the question.

After doing some truly original and pioneering work, he began advancing a theory.

His tactical "Aerial Attack Study" became the bible for air-to-air combat training.

It was instrumental in the creation of the Fighter Weapons School at Nellis Air Force Base, NV.

That's the Air Force equivalent of the F-16's "Top Gun" program.

John being John, he never slacked off. He kept right on working and developing his theory of aerial combat.
He wanted to take it to a higher plane.
And he did.
It culminated in the Energy Manueverability Theory.
This was a very important piece of work.
John Boyd’s Energy Manueverability Theory was seminal in the development of two of our premier fighters: first the F-15 and then the F-16.
The theory helped to shape the design of those two very important airplanes.
So, Mr. President, John Boyd was truly a giant in the field of air warfare.
When I first met J ohn in early 1983, he was given his genius in an entirely different field.
He had retired from the Air Force and had set up shop over in the Pentagon.
He was given a small consulting contract and a cubbyhole-size office to go with it.
His Pentagon cubbyhole was the birthplace of some very important ideas.
That’s when I met John Boyd. He was just beginning his reform crusade.
He was the leader of the Military Reform Movement.
At that point in time, I was wrestling with the Reagan administration’s plan to pump up the defense budget.
I was searching for an effective strategy to freeze the defense budget.
Cap Weinberger was the Secretary of Defense, and he kept asking for more and more money.
The DOD budget was at the $210 billion level that year.
But Cap Weinberger had plans to push it first to $300, then $400, and finally to $500 billion.
The money sacks were piled high on the steps of the Pentagon.
It seemed like there was no way to put a lid on defense spending—that is, until John Boyd walked in my office.
To this day, I don’t know how he got there. Ernie Fitzgerald may have introduced him.
But I think John had a secret weapon.
His secret weapon was Chuck Spinney.
Chuck was an analyst in the Pentagon’s office of Program Analysis and Evaluation, or PA&E.
He had a briefing entitled “Plans/Reality Mismatch.”
John’s plan was to use Spinney’s material to expose the flaws in Weinberger’s plan to ramp up the defense budget.
So I asked DOD for Mr. Spinney’s briefing but ran smack into a stone wall.
At first, the bureaucrats tried to pretend it didn’t exist.
For example, Dr. Chu, Spinney’s boss, characterized Spinney’s briefing as nothing more than: “Scribblings and writings gathered up and stapled together.”
Well, that didn’t wash. It just added fat to the fire.
DOD could no longer suppress the truth.
The Wall Street Journal and Boston Globe had already published major reports on Spinney’s briefing. A number of other newspapers had it and were ready to roll.
The press knew this was a substantial and credible piece of work.
John’s behind-the-scenes maneuvering finally led to a dramatic hearing that was held in the Senate Caucus Room in February 1983.
It was an unprecedented event.
It was the Joint Armed Services/Budget Committee hearing ever held.
In a room filled with TV cameras and bright lights, Spinney treated the committee to a huge stack of his famous spaghetti charts.
This was Spinney’s bottom line: The final bill of Weinberger’s 1983-87 defense budget would be $500 billion more than promised. It was devastating.
Mr. Spinney’s outstanding performance won him a place on the cover of Time Magazine on March 7, 1983.
And it effectively put an end to Weinberger’s plan to pump up the defense budget.
Two years later, my amendment to freeze the defense budget was adopted by the Senate.
If John Boyd hadn’t come to my office and told me about Chuck Spinney, the hearing in the Senate Caucus Room might not have taken place.
And if that hearing hadn’t happened like it did, I doubt we would have succeeded in putting the brakes on Weinberger’s spending plans.
The Plans/Reality Mismatch hearing was just one footnote in the history of the military reform movement, but it is the one that brought me and John together.
There were many others. John was always the driving force behind anything that had to do with planning the next move, and always talking with the press.
John Boyd always set an example of excellence—both morally and professionally.
Mr. President, since John died, there have been several articles published about some of his exploits.
There was a truly beautiful obituary—if such a thing exists—in the March 13 issue of the New York Times.
It described John’s vast contributions to air warfare.
Second, there is a more colorful piece, which will appear in the March 24 issue of U.S. News and World Report.
That one is written by Jim Fallows and is entitled “A Priceless Original.”
Mr. Fallows describes some of John’s important contributions against the backdrop of his unusual character traits.
Then, there is the letter from the Marine Corps Commandant, General Krulak.
General Krulak describes John as an “architect” of our military victory over Iraq in 1991.
That’s an oblique reference to John’s “Patterns of Conflict” briefing. This piece of work had a profound impact on U.S. military thought.
It helped our top military leadership understand the advantages of maneuver warfare. Those ideas were used to defeat Iraq.
And finally, Col. David Hackworth has devoted his weekly column to John Boyd’s “Final Flight.”
I ask unanimous consent to have these reports printed in the Record.
Mr. President, we have lost a great American—a true patriot. I will miss him more than words can say.
There being no objection, the material was ordered to be printed in the RECORD, as follows:


COL. JOHN BOYD IS DEAD AT 70; ADVANCED AIR COMBAT TACTICS

(By Robert McG. Thomas, Jr.)

Col. John R. Boyd, a legendary Air Force fighter pilot whose discovery that quicker is better than faster became the basis of a far-reaching theory that helped revolutionize American military tactics, died on March 9 at a hospital in West Palm Beach, Fla. He was 70 and had lived in Delray Beach, Fla.
The cause was cancer.
To combat pilots of the late 1950’s, it was always high noon in the skies above the Nevada desert. A pilot, a crack instructor at Nellis Air Force Base, perhaps, or a hotshot Navy flier passing through would get on the radio to call him out and within minutes Colonel Boyd would have another notch in his belt.
They did not call him 40-second Boyd for nothing.
From 1954 to 1960 virtually every combat pilot in the country knew that Colonel Boyd, a former Korean War pilot who helped establish the Fighter Weapons School at Nellis, had a standing offer: take a position on his tail, and 40 twisting, turning seconds later he would have the challenger in his own gun-sights or pay $40. Colonel Boyd never lost the bet in more than 3,000 hours of flying time.
A high school swimming champion who won an athletic scholarship to the University of Iowa, Colonel Boyd, a native of Erie, Pa., had superior reflexes and hand-eye coordination, but what made him invincible in mock combat was something else.
At Nellis he taught himself calculus so he could work out the formulas that produced his repertory of aerial maneuvers and led to his 1960 report, “Aerial Attack Study,” the bible of air-to-air combat.
His combat experience was limited to a few missions in Korea, but they were enough to produce a breakthrough insight. Wondering why the comparatively slow and ponderous American F-86’s achieved near total domination of the superior MIG-15’s, he realized that the F-86 had two crucial advantages: better visibility and a faster roll rate.
This, in turn, led Col. Boyd to develop what he called the OODA Loop, to denote the repeated cycle of observation, orientation, decision and action that characterized every encounter. The key to victory, he theorized, was not a plane that could climb faster or higher but one that could begin climbing or change course quicker—to get inside an adversary’s “time cycle” faster.
The fast-cycle combat theory, expanded by Colonel Boyd into a lecture he later delivered hundreds of times, has since been widely applied to fields as diverse as aerospace procurement, battlefield strategy and business competition.
One implication of the theory was that the best fighter plane was not necessarily the one with the most speed, firepower or range.
Colonel Boyd, who enrolled at Georgia Tech
CONGRESSIONAL RECORD — SENATE
March 20, 1997

after his Nellis tour, was helping a fellow student with his homework over hamburgers and beer one night when he had an insight that led to a way to quantify his ideas. The resulting Energy Manueverability Theory, which allows precise comparisons of maneuverability, is now a standard measure of aerol performance.

As a member of the Pentagon in 1964, Colonel Boyd became an important figure in a movement that started in response to $400 hammer and other headline excesses of Defense Department spending and soon expanded to question the need for many hugely expensive weapons systems.

Although he had allies in the Pentagon, Commandant of the Marine Corps, Colonel Boyd’s ideas often went against the grain of a military-industrial bureaucracy devoted to the procurement of the most advanced, most expensive and (not coincidentally, he felt) most profitable planes.

Although his design ideas helped give the F-15 a big, high-visibility canopy, his major triumph was the F-16, a plane lacking many of the F-15’s high-tech, expensive features, but which is far more agile and costs less than half as much, allowing for the purchase of many more of them for a given expenditure.

Top Air Force officers were so opposed to the cutting-edge plane that in 1971, using an Air Force publication, the Pentagon was persuaded to accept one day’s pay every six months. As a result of the program, the F-16 was produced for less than half as much, allowing for the purchase of virtually every professional military education program in the United States—and on many abroad. In this way he touched so many lives, many of them destined to ascend to the very highest levels of military and civilian leadership.

Those of us who knew John Boyd know he man knew him as a man of character and integrit. His life and values were shaped by a selfless dedication to Country and Service, by the love of study, he was the quintessential soldier-scholar—a man whose jovial, outgoing exterior belied the vastness of his knowledge and the power of his intellect. I was in awe of him, not just for the potential of his future contributions, but for what he stood for as an officer, a citizen, and as a man.

As I write these words back to that morning in February, 1991, when the military might of the United States sliced violently into the Iraqi positions in Kuwait. Bludgeoned from the air nearly round the clock for six weeks, paralyzed by the speed and ferocity of the attack, the Iraqi army collapsed morally and intellectually under the onslaught of American and Coalition forces. John Boyd was an architect of that victory as surely as if he’d commanded a fighter wing in the desert. His thinking, his theories, his larger than life influence, were there with us in Desert Storm. He must have been proud at what his efforts paid off.

So, how does one pay homage to a man like John Boyd? Perhaps best by remembering that Colonel Boyd never sought the acclaim or the power that went with success in the military-industrial bureaucrat. He only wanted to make a difference in the next war. . . and he did.

That ancient book of wisdom—Proverbs—sums up John’s contribution to his nation: “A wise man’s words is like points, a man of knowledge adds to his strength: for by wise guidance you will wage your war, and there is victory in a multitude of counsellors.” 1

John Boyd was called up for military service in 1942. After leaving the Air Force in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment.

While still in the Air Force, Boyd was largely responsible for the early design of the F-16, which in combat was used by the Air Force to the advantage of the A-10 close air support aircraft. His “energy maneuverability theory” is still in use in designing aircraft for maximum performance and maneuverability.

Boyd is probably best known for developing the concept of the “OODA Loop,” short for observation, orientation, decision, action—effectively a guide to anticipating enemy moves in a fast-paced battle and heading them off at the pass. The term was widely used during the 1990s in briefings to the U.S. service’s ability to get “inside” Iraq’s decision-making cycle.

Boyd was the author of several pivotal books. “In the OODA Loop” was his first book, published in 1972. In 1973, he wrote “Tactics—win or learn,” and in 1974 he published “Warrior virtues.” After leaving the Air Force as a colonel in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment. He presented his findings in briefings, which came in varying lengths, starting at four hours. Boyd refused to discuss his views with those who would not attend a whole presentation; to him, they were dilletantes. To those who listened, he offered a worldview in which crucial military qualities—maneuverability, intellectual creativity, moral stamina and other “warrior” virtues—were highly effective aircraft that were temporary departures from the trend toward more expensive and complex weapons. He taught these concepts for years. After leaving the Air Force as a colonel in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment. He presented his findings in briefings, which came in varying lengths, starting at four hours. Boyd refused to discuss his views with those who would not attend a whole presentation; to him, they were dilletantes. To those who listened, he offered a worldview in which crucial military qualities—maneuverability, intellectual creativity, moral stamina and other “warrior” virtues—were highly effective aircraft that were temporary departures from the trend toward more expensive and complex weapons. He taught these concepts for years. After leaving the Air Force as a colonel in 1975, Boyd began the study of long historical trends in military success through which he made his greatest mark. He became a fanatical autodidact, reading and marking up accounts of battles, beginning with the Peloponnesian War. On his Air Force pension, he lived modestly, working from a small, book-crammed apartment. He presented his findings in briefings, which came in varying lengths, starting at four hours. Boyd refused to discuss his views with those who would not attend a whole presentation; to him, they were dilletantes. To those who listened, he offered a worldview in which crucial military qualities—maneuverability, intellectual creativity, moral stamina and other “warrior” virtues—were highly effective aircraft that were temporary departures from the trend toward more expensive and complex weapons.
He would telephone at odd hours and resume a harangue from weeks before as if he'd never stopped. But as irritating as he was, he was more influential. He will be marked by a small footprint but a telltale footprint. The did and an enormous impact on the profession of arms.

[F]rom King Features Syndicate, Mar. 18, 1997]

DEFENDING AMERICA, A GREAT AIRMAN'S FINAL FLIGHT

(By David H. Hackworth)

Col. John R. Boyd of the United States Air Force is gone.

Future generations will learn that John Boyd, a legendary fighter pilot, was America's greatest military thinker. He remembered that while he touched on the last 52 years of service to our country as not only the original "Top Gun," but as one smart hombre who always had the guts to stand tall and tell it like it is.

He didn't just drive Chinese fighter pilots nuts while flying his F-86 over the Yalu River during the Korean War. He spent decades outfoxing the top brass to climb the ranks and the cost-plus, defense-contractor rat race to run for cover.

He was not only a fearless fighter pilot with a laser mind, but a man of rare moral courage. The mission of providing America with the best airplane came first, closely followed by his love for the troops and his concern for their welfare. Many of the current crop of Air Force generals could pull out of their moral nose dive by following his example.

After the Korean War, he became known as "40-Second" Boyd because he defeated opponents in aerial combat in less than 40 seconds.

"I was a contemporary of his," his old wingman E. B. Gentry said in an interview last period say he was the best fighter pilot in the U.S. Air Force.

Not only was he skilled and brave, but he was also a brain. The Air Force recognized this and sent him to Georgia Tech, not to be a "rambling wreck," but to become a top graduate engineer. It was there that he developed the fighter tactics which proved so effective during the Vietnam War, and the concepts that later revolutionized the design of fighter aircraft and the U.S.A.'s way of fighting wars, both in the air and on the ground.

He saved the F-15 from being an 80,000-pound, swing-wing air bus, streamlining it into a streamlined and mean fixed-wing fighter, which Desert Storm proved still has no equal.

Boyd was also a key player in the development of the F-16, probably the most agile and maneuverable fighter aircraft ever built, and costing half the price of the F-15. The top brass didn't want it. To them, more expensive was better. Boyd outfoxed them by developing it in secret.

Chuck Spinney, who as a Pentagon staffer sweats under the Pentagon's canteen, demanded tough love says, "The most important gift my father gave me was a deep belief in the importance of doing what you think is right—to act on what your conscience says you should act on and to accept the consequences. The most important gift Boyd gave me was the ability to do this and survive at the same time."

Boyd never made general—truth-tellers seldom do in today's slick military because the Pentagon brass hate the truth, and try to destroy everyone who tells it. They did their best to do a number on John. But true to form, he always out-maneuvered them.

Norman Schwarzkopf is widely heralded as the hero of the 1990-1991 Gulf War. Stormin' Norman simply copied Boyd's playbook, and the Marines were brilliant during their attack on Kuwait.

As USMC Col. Mike Wylly tells it, Boyd "applied his keen thinking to Marine tactics, and today we are a stronger, sharper Corps."

His example inspired many. He affected everyone with whom he came in contact. He trained a generation of discs in all the services, and they are carrying on his good work, continuing to serve the truth over self.

For those who know the name Boyd has already become a synonym for "doing the right thing." His legacy will be that integrity—doing the hard right over the easy wrong—remains more important than all the stars, all the plush executive suites and all the buck.

God now has the finest pilot ever at his side. And he, in all His wisdom, will surely give Boyd the recognition he deserves by promoting him to air marshal of the universe.

For sure, we can all expect a few changes in the design of heaven as Boyd makes it a better place, just as he did planet earth.

The PRESIDING OFFICER. The Senator from Kentucky.

ANTITRUST IMPLICATIONS OF THE COLLEGE BOWL ALLIANCE

Mr. McCONNELL. Mr. President, Senator BENNETT of Utah, Senator THOMAS of Wyoming, and I have been working on a matter that we wish to discuss with our colleagues in the Senate for the next few moments. Senator THOMAS needs to leave so he is going to lead off. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. I thank the Chair.

Mr. President, I rise today to speak about the college football Bowl Alliance. I am concerned that under the Bowl Alliance structure, athletic excellence is not being recognized in postseason I-A college football play.

Fresh in the minds of Wyoming football fans is the last game of regular season of the nationally ranked Cowboys played against No. 5-ranked Brigham Young University for the Western Athletic Conference [WAC] championship title. Both teams went into the game believing the winner would be selected for major postseason bowl action. UW and BYU delivered a terrific conference championship game. BYU won 28-25 over Wyoming in overtime. It was the first WAC title game won in overtime. Unfortunately, neither team was invited to a major New Year's bowl.

The 1996 selections to the New Year's bowl games shed revealing light on the national recruiting. I am concerned that under the Bowl Alliance structure, athletic excellence is not being recognized in postseason I-A college football play.

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The 1996 selections to the New Year's bowl games shed revealing light on the national recruiting. I am concerned that under the Bowl Alliance structure, athletic excellence is not being recognized in postseason I-A college football play.

The Bowl Alliance operates outside the purview of the National Collegiate Athletics Association [NCAA]. The Bowl Alliance was created in 1993 when the Atlantic Coast Conference, the Big East Conference, the Big 12 Conference, the Southeastern Conference, and the Western Athletic Conference [WAC], the Big West Conference, Conference USA, the Mid American Conference and the 11 Independent teams.

The Bowl Alliance claims its purpose is to create optimal matchups and identify and national champions. Considering the 1996 selections for the bowl games, I question if quality matchups is the true goal. Last season, TV viewers saw No. 20 Texas lose to No. 7 Penn State in the Sugar Bowl, Texas' record was 6-4. Time will show No. 9 Virginia Tech losing to No. 6 Nebraska a 41-21, appearance in a Bowl Alliance game pays well. Each participating team approximately $8,000,000 back to its school. In addition, the teams get the national visibility and prestige that leads to strong athletic recruitment. Conferences outside the alliance have a remote chance of participating in one of the Alliance Bowls. Over time it will hurt the quality of the nonalliance teams who will have difficulty in recruitment. The Alliance Bowl structure will make the alliance teams stronger and relegate the nonalliance teams to a second-tier status.

The Bowl Alliance is a pure monopoly through the use of the at-large rule. Although the champions of the self-selected Alliance Bowl conferences automatically appear in one of the major bowl games there are two remaining at-large spots. It is questionable as to whether those two spots are truly at-large and open to any high-quality team that can play their way into one of the spots. A team from the WAC was deserving of one of those at-large spots last year, but the invitation never came.

I am concerned for the future of the athletes and schools in the nonalliance conferences. That is why I joined with Senators MITCH MCCONNELL, ROBERT BENNETT, and MIKE ENZI in writing to the Department of Justice [DOJ] and the Federal Trade Commission [FTC] to request an investigation of the Bowl Alliance. We suspect possible violations of the Sherman Antitrust Act. In 1995, Federal Trade Commission officials said that a number of conferences, including the Rose Bowl participants, went home with a total of $68 million. The 28 teams that played in the minor bowl games shared a pot of
Mr. President, at a time when the competitive college basketball, we are nevertheless reminded of the fundamental unfairness of college football’s pseudo playoffs. Specifically, I am talking about the College Bowl Alliance. The alliance is a coalition of top college football conferences and top postseason bowls. Over the past few years, the alliance has entered into a series of restrictive agreements to allocate post-season millions, while 28 teams get a share of less than $34 million. In short, the alliance and the coalition teams have ensured that teams stronger while relegating the remaining teams to mediocre, second-class status. If you don’t believe it’s easier for alliance teams to recruit, just pick up the phone and call the coach at an independent school like Central Florida, or the coach at the University of Louisville or BYU. These coaches will tell you time after time that the top high school athletes don’t want to play for teams that don’t have a shot at the top New Year’s bowl games.

Mr. President, this issue is about more than football, apple pie, and alma mater. He won’t be allowed to play Goliath—he’d better do it during basketball season. He won’t be allowed to play Goliath when the football postseason rolls around. Despite this pledge, the alliance continued its apparent boycott of nonalliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, both members of the nonalliance Western Athletic Conference [WAC], met the alliance criteria. Wyoming finished the season 10-2 and ranked 22d in the country, while BYU won 13 games and was ranked fifth best team in the country. Neither team, however, was afforded an opportunity to play in the alliance bowls. In fact, BYU’s record and ranking was superior to nearly every alliance team, including four of the six teams who participated in the high-visibility, high-payoff alliance bowls.

Mr. President, this issue is about more than football, apple pie, and alma mater. It is about basic fairness and open competition. This is about a few conferences and a few bowls dividing up a huge multimillion-dollar pie among themselves. In 1997, the eight participants in the alliance bowls, including the Rose Bowl participants shared an estimated pot of $98 million while the 28 nonalliance bowl participants were left to divide a much smaller amount. The alliance agreements have the purpose and effect of making the already-strong alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

Mr. President, in college football, there can be no Cinderella stories. There can be no unranked, unknown Coppin State going to the playoffs and beating the SEC regular season champion, South Carolina, and going down to the wire with a Big 12 power like Texas. A team like Coppin State could never make it to the lucrative college football postseason. You see, a team like that would be excluded because it’s not in the College Bowl Alliance and its fans don’t travel well. It doesn’t even have a shot. College football has no room for a Sweet 16 that includes teams like St. Joseph’s and the University of Tennessee at Chattanooga. The opportunity to be in college football’s Elite Eight and Final Four is essentially determined before the season begins. The basic message, Mr. President, is that—if David wants to slay Goliath, he’d better do it during basketball season.

The Justice Department promised to promptly review the matter. Shortly thereafter, the College Bowl Alliance entered into a revised agreement. Where otherwise the New Year’s bowls would be open to any team in the country with a minimum of eight wins or ranked higher than the lowest ranked—alliance-conference champions. Despite this pledge, the alliance continued its apparent boycott of nonalliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, both members of the nonalliance Western Athletic Conference [WAC], met the alliance criteria. Wyoming finished the season 10-2 and ranked 22d in the country, while BYU won 13 games and was ranked fifth best team in the country.

Mr. President, in summary, there is substantial evidence that the most powerful bowls have entered into agreements to allocate the postseason bowl market among themselves and to engage in a group boycott of nonalliance teams and bowls. The effect of these agreements is to ensure that the strong get stronger, while the rest get weaker.

I have joined with my colleagues—Senator BENNETT, Senator ENZI, and Senator THOMAS—to request that both the Justice Department and the Federal Trade Commission investigate the intent and effect of the alliance agreements. I ask unanimous consent that the Justice Department letter be printed in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. In closing, I’d like to point out that this effort is much more than just a few Senators cheering for their home teams. The Supreme Court has said it much more clearly than we ever could. So, I quote the Court, which I seem to be doing quite often these days:

[One of the classic examples of a per se violation of section 1 is an agreement between competitors at the same level of the market structure to allocate territories in order to minimize competition ... This Court has reiterated time and time again that “horizontal territorial limitations ... are naked restraints of trade with no purpose except stifling of competition.”]" The fundamental principle of antitrust law should guide the review of the Justice Department and the Federal Trade Commission. In the words of the D.C. Circuit, “the hallmark of the [unlawful] ‘group boycott’ is the effort of competitors to barricade themselves from competition at their own level.”

Today, we are calling on all interested parties to break the barricade.
We are challenging the NCAA, the Bowl Alliance commissioners, and the Alliance bowl committees to take action to bring about genuine competition to college football and the postseason.

Postseason playoffs can be a reality for college football. It works for college basketball, college baseball, and it works for college football—at the Division I-AA, Division II, and Division III levels. They all have a playoff system, all of them except Division I.

The attempt by a group of competitors at one time to compete in postseason bowls should be based on merit, not membership in an exclusive coalition.

So, Mr. President, I thank my good friend and colleague from Utah, Senator Bennett, for his fine work on this issue. And also Senator Enzi for his great work on this. We are hoping for the best. Obviously, the solution to this problem that we would all prefer is for the organizations themselves to solve this on their own. But, if they choose not to, it seems pretty clear to each of us that this is an antitrust case the Justice Department should pursue.

With that, Mr. President, I yield the floor.

EXHIBIT 1

Hon. J. oel I, Klein,
Acting Assistant Attorney General, Antitrust Division, U.S. Department of Justice, Washington, DC.

DEAR MR. KLEIN: We believe that there is substantial evidence of serious violations of Section 1 of the Sherman Act (15 U.S.C. §1) by the College Bowl Alliance ("Alliance"). The Alliance is a coalition of top college football conferences and representatives of top postseason college football bowls. Over the past few years, the Alliance has entered into a series of restrictive agreements to allocate the market of highly-lucrative New Year's bowls. By engaging in this market allocation, the coalition bowls and the coalition teams have ensured that they will receive millions of dollars, while the remaining teams and bowls are left to divide a much smaller amount. In 1996, for example, the eight Alliance bowl participants (including the Rose Bowl participants) went home with a total of $68 million, while the 28 non-Alliance bowl participants shared a pot of $31 million. Moreover, the Alliance agreements have the additional purpose and effect of having the already-strong Alliance teams stronger while relegating the remaining teams to a future of, at best, mediocre, second-class status.

As you will recall, the Antitrust Division commenced a review of this coalition in late 1995. Shortly thereafter, the Alliance agreed that the Big Eight, Big Ten, and Big East would be open to all non-Alliance teams based on merit. The 1997 New Year's Bowls, however, proved to the contrary. We are writing to advise you of these recent market events and to urge that you initiate an investigation to bring about genuine competition to college football and the postseason.

I. BACKGROUND

Courts have routinely decided that agreements among competitors to allocate territories and exclude would-be competitors are a violation of Section 1 of the Sherman Act. See, e.g., Smith v. Pro Football, Inc., 593 F.2d 1173, 1178 (D.C. Circuit 1978). As the D.C. Circuit explained: "The classic 'group boycott' is a concerted attempt by a group of competitors at one level to protect themselves from competition from non-group members who seek to compete at that level. Typically, the boycotting group combines to deprive would-be competitors of another market in which they need to participate in order to enter (or survive in) the level wherein the group operates .... The hallmark of the 'group boycott' is the effort of competitors to bar themselves from competition at their own level."1

II. ANTI-TRUST LAW

A. ORIGINAL COLLEGE BOWL ALLIANCE AGREEMENT

In 1991, five college football conferences (ACC, Big East, Big Eight, Southeastern, and Southwestern) formed the Independent University of Notre Dame, formed a coalition with the prestigious College Bowl Committees of the Federal Express Orange, USF&G Sugar, IBM Fiesta, and Mobil Cotton Bowls ("Alliance bowls").2 The Pac-10 and Big Ten also participated in the coalition, although their champions played in the Rose Bowl under a separate agreement. The coalition agreement was expressly designed to reduce competition in the postseason match-ups of teams and bowls, thus opening up an opportunity to vie for a lucrative, high-visibility bowl. The contract specifically guaranteed that teams participating in any of the Alliance bowls would receive a minimum payout based on similar terms. Typically, an Alliance bowl team has taken home a purse in excess of eight million dollars. Moreover, the original Request for Proposal contained a clause requiring that no Alliance bowl or Alliance team could compete in time slots opposite other Alliance bowls.

The agreement also stipulated the procedure by which the top-ranked and lesser-ranked teams would be matched up with participating Alliance bowls. Three conferences were guaranteed berths at a specific Alliance bowl regardless of the ranking of their champion team. Any team not in the Alliance, however, was precluded from competing in any of the Alliance bowls, regardless of its record or ranking. The Alliance conference and Notre Dame received substantial benefits from the coalition agreements. They were assured a berth at a major postseason bowl—regardless of their overall record or ranking. The participants in the Alliance bowls were guaranteed to receive a substantial minimum payment and national visibility. Such visibility in turn enhanced fund-raising, and athletic recruiting for the coalition.

By dividing the lucrative market of major postseason bowls among themselves, the Alliance Conferences and Notre Dame effectively and exclusively a substandard coalition of 1A teams from any of the prestigious New Year's Bowls. The excluded teams were those which were either independent or in non-Alliance conferences such as the Western Athletic Conference, the Big West, and the Middle America Conference.

B. INITIAL REQUEST FOR ANTI-TRUST INVESTIGATION

In response to these market allocations, Senator Mitch McConnell formally requested that the Justice Department investigate the intent and effect of the Alliance Bowl agreements. Specifically, Senator McConnell pointed out that the Alliance Bowl agreements precluded a non-Alliance team from going to the significant and lucrative Alliance Bowls—even when the non-Alliance team had a better record or ranking than an Alliance team. In response, the Justice Department commenced a review of the Bowl Alliance.

C. REVISED COLLEGE BOWL ALLIANCE

Thereafter, the College Bowl Alliance entered into a revised agreement whereby the 1997 New Year's bowls would supposedly have two of the six Alliance slots reserved for any team in the country with a minimum of eight wins or ranked higher than the lowest-ranked conference champion from among the champions of the Big Ten, the Big East Football, The Big Twelve and Southeastern conferences. At that point, Senator McConnell concluded that the "new arrangement seems to open competition to the top tier bowl games." (Letter from Honorable Mitch McConnell to the College Football Association, December 21, 1995.) The Justice Department apparently made a similar determination.

Notwithstanding the promise of open competition, the Alliance announced that it would consider non-Alliance teams for the "remaining slot(s) in the Alliance bowl, if the term of this special restrictive agreement. The Alliance demanded that the terms of this "participation agreement" be kept confidential. Nevertheless, the key term of this arrangement apparently was that the at-large participants had to promise to accept the offer from an Alliance bowl. They were offered from non-Alliance bowls. In the words of the Alliance, "[t]here are no 'pass' or withdrawal options."3

D. CONTINUED BOYCOTT OF NON-ALLIANCE TEAMS

The potential antitrust fears became a reality after the 1996 regular season when the Alliance continued its apparent boycott of non-Alliance teams. During the 1996 season, Brigham Young University and the University of Wyoming, members of the non-Alliance Western Athletic Conference, had "a minimum of eight wins or [were] ranked higher than the lowest-ranked [Alliance] conference champion..."4 BYU, in fact, met both of the Alliance criteria—by compiling a perfect 12-0, 1 record and earning a ranking of the fifth best team in the country. This record and ranking was superior to nearly every Alliance team, including the University of Texas, No. 1 ranked; the University of Florida, No. 2 ranked; the University of Nebraska, No. 6 ranked; and a No. 20 ranking; the University of Oklahoma, No. 11-2 record and a No. 7 ranking; Virginia Tech, 10-2 record with a No. 13 ranking; and the University of Michigan, No. 6 ranking. Nevertheless, BYU did not receive an at-large invitation to play in any of the prestigious Alliance bowls; while Texas, Penn State, Virginia Tech, and Nebraska all were invited to play in various Alliance bowls, with the attendant financial and recruiting benefits. Similarly, Wyoming finished the season at an impressive 10-2 record and a No. 22 ranking, but was not afforded an offer to play in the Alliance bowls.

E. FORMATION OF THE "SUPER ALLIANCE"

In June 1996, the Alliance lock on college football power was strengthened as the Rose Bowl

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1The Bowl Alliance was originally called the Bowl Coalition. Additionally, pursuant to the dissolution of the Southwest Conference, the Big Eight became the Big 12, and the Cotton Bowl dropped out of the coalition.

2In the fall of 1996, the Alliance sent out "participation offers" to presumably all of the non-Alliance teams. Both Brigham Young and the University of Wyoming signed the restrictive participation agreements, but included a proviso stating they would not agree to all of the restrictive terms. Specifically, the University of Wyoming explained that "the University .... and the Western Athletic Conference will not comply with any expressed or implied provision that prevents other members of the Western Athletic Conference from participating in bowls that compete with any Alliance Bowl, or with any other provisions that might violate antitrust laws."
Bowl agreed to join the Alliance, which guaranteed the Big Ten and Pac-10 conferences automatic berths in an Alliance bowl. The Alliance has officially renamed itself the “Super” Bowl of the Century. 

II. SHERMAN ACT PROHIBITS MARKET ALLOCATIONS AND GROUP BOYCOTTS

The Sherman Act prohibits the Alliance agreements. Section 1 of the Sherman Act is violated by an agreement that (1) unreasonably restrains trade, and (2) affects interstate commerce. The Alarmed entities acted with the clear intent to exclude non-Alliance bowls and the non-Alliance teams. See also United States v. Paramount Pictures, 338 U.S. 131 (1949) (striking down block booking because it “eliminates the possibility of bidding for films by theater. [Such agreements] eliminate the opportunity for the small theater to obtain the choice first runs, and put a premium on the size of the circuit.”)

(B) NO PRO-COMPETITIVE EFFECTS

The Alliance cannot establish that its restrictive agreements produce any pro-competitive benefits. The Alliance’s own language reveals that it did not have even a pro-competitive purpose. The Alliance states that its “framework enhances the quality of postseason college football by providing teams a less restrictive manner.” Layden, Tim, “Bowling for Dollars,” Sports Illustrated, Dec. 16, 1996 at 30.

The Alliance goals fall far short of actually allowing the best teams to compete in the best bowls. The 1996 season is a painful re-iteration of this fact. Millions of football fans are getting to watch a highly-competitive match-up between No. 5 ranked BYU and another top-ranked team, they were forced to endure two blow-outs in the Fiesta Bowl where No. 7 Penn State defeated No. 20 Texas 38-15, and the Orange Bowl, where No. 6 Nebraska trounced No. 9 Virginia Tech 41-21. These match-ups were based on membership in the Alliance, not on merit.

In short, the Alliance “framework” fails to enhance competition, as well as failing to meet its own standards. If the reason inquiry must end here where the anti-competitive restrictions are “not offset by any pro-competitive justifications sufficient to save the plan.” NCAAs, 468 U.S. at 97-98.

III. CONCLUSION

Based on the facts available at this time, it is clear that the Alliance agreements fail under either a per se rule or a rule of reason. As the Court has explained, “the essential inquiry remains the same—whether or not the challenged restraint enhances competition.” NCAAs, 468 U.S. at 104. The result is an Alliance intensive price competition in the lucrative New Year’s bowl games, and guarantee every Alliance team an opportunity to reap the short- and long-term profits of a high-visibility bowl. The Alliance not only perpetuates the current power structure, but, in fact, exacerbates it. The strong get stronger, while the rest get weaker.

As policymakers and football fans, we urge the Government to use its statutory enforcement powers to break this lock on
college football. We have every reason to believe that your investigation will reveal additional evidence of the Alliance's anti-competitive purpose and effects. Action must be taken to restore completely open competition to college football and to postseason bowls.

Sincerely,

MITCH MCCONNELL,
CRAG THOMAS,
ROBERT F. BENNETT,
MIKE ENZI,

The PRESIDING OFFICER, The Senator from the home State of the BYU Cougars, the Senator from Utah.

Mr. BENNETT. Mr. President, I thank you for that commercial. I must, in the spirit of full disclosure, report that I am not a graduate of Brigham Young University but of the University of Utah, which happens to be ranked in the top three in the current basketball season along with the University of Kansas and the University of Kentucky. I wish the Final Four could include Utah, Kentucky, and Kansas, but I am afraid Utah and Kentucky will have their showdown prior to the Final Four and only one of the two will make it. If it is not Utah—as I am confident, of course, that it will be—I hope, for the sake of the membership with the Senator from Kentucky, that it will be Kentucky that goes to the Final Four with Kansas.

But the very fact that we can have this conversation about the NCAA underscores the importance of what we are talking about with respect to football. These teams will get to the Final Four in basketball on the playing field and not in the boardroom. The decision will be made on the basis of how good they are and how entertaining they can be on television by virtue of their skill, rather than how sharp the negotiators were that put together the stacked deck in advance of the final event. I have a chart here that reports what happened last bowl circumstance. Every team in color, whether it is the two in yellow, the two in orange, or the two in red, appeared in an alliance bowl.

The two teams in white, No. 2 and No. 4, that did not appear in an alliance bowl, appeared in the Rose Bowl, which is now part of the alliance. Only one of the top seven teams did not appear in a lucrative alliance bowl—and that happens to be the team from BYU.

Rather than go on in a parochial fashion, as the Senator from the State in which BYU appears, I would like to summarize this circumstance from a source that is clearly not parochial and not particularly biased to BYU as a school.

I am quoting from the article that appeared in Sports Illustrated on the 16th of December, 1996, entitled, "Bowling For Dollars." In the article they made it very clear what the real criteria was here. Quoting from the article:

Sunday's selections shed revealing light on the alliance... It was the shunning of Brigham Young, however, despite the fact that they have a higher ranking and a better record than either of the at-large teams chosen (Nebraska and Penn State) by the alliance, that served to trash two widely accepted myths.

Myth No. 1. The purpose of the alliance is to determine the true national champion.

Sports Illustrated says:

Not even close. The purpose of the alliance is to avoid the creation of NCAA-run national playoffs. Such playoffs would put the NCAA in charge of the billion-dollar Salvage fund event would generate. The alliance exists to keep the money available to the association of the hand bowls and the four conferences that receive guaranteed berths in those bowls.

A fairly direct statement to the point raised by my friend from Kentucky.

Now, Sports Illustrated goes on:

Myth No. 2. The alliance bowls exist to give fans the best possible games.

Bowls are businesses, with major corporate sponsorship and huge television deals. Their purpose is to fill stadiums, generate TV ratings, and create precious "economic impact" on their communities in the days leading up to the games.

Now, Mr. President, comes the paragraph that makes it clear that Sports Illustrated is not necessarily friendly to BYU in every circumstance, but summarizes why this decision was made.

BYU fails, not only on the strength-of-schedule issue but also on the economic-im pact side. Bowls, particularly the Sugar Bowl, thrive on bar business. One of the tenets of the Mormon faith is abstinence from alcohol. You do the math. In the French Quarter, they don't call the most famous thoroughfare Milk Street. "We used to go to the Holiday Bowl and bring a $50 bill and the Ten Commandments, and break neither" says BYU Coach LaVell Edwards. Utah, Kansas, and Nebraska, on the other hand, travel like Deadheads, and spend like tourists.

Choosing bowl teams based in significant part on the rabbidity and spending habits of their fans isn't fair to the audience watching the bowls at home. For all its flaws, BYU would be a more intriguing opponent for Florida State than a team the Seminoles have already beaten. Unfortunately, money rules all matchups.

Mr. President, BYU did go to a postseason game—the Cotton Bowl. The President Officer from Kansas and this Senator from Utah entered into a friendly wager, which fortunately this Senator from Utah won when BYU beat the team from Kansas.

Satisfying as that victory was for Brigham Young University, the point made by Sports Illustrated is still important. It is the fans on television who support the tremendous amount of money available to these alliance bowls, and create precious "economic impact." The purpose is to fill stadiums, generate TV ratings, and create precious "economic impact."

It is those fans who were deprived of the opportunity of seeing the best game available that BYU to a friendly wager, which fortunately this Senator from Utah won when BYU beat the team from Kansas.

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competitive WAC teams kept out of the top college bowl games because of the anticompetitive College Bowl Alliance. These clandestine agreements keep our players on the bench and in the grandstand when they should be out there on the field.

I think it is interesting we are discussing the anticompetitive effects of the college football alliance in the midst of the NCAA college basketball tournament. The NCAA basketball playoffs are, while not perfect, aimed to include the finest 64 college basketball teams in the nation. In this tournament, any of those 64 teams has the possibility of winning the national championship. This arrangement is designed to maximize competition for the benefit of all the players, the fans, and the schools involved. In contrast, the College Bowl Alliance has decreased the competitiveness of college football to the detriment of the fans and schools involved.

The alliance is a coalition of top football conference representatives of the top post-season college football bowls. Over the past few years, the alliance has entered into a number of restrictive agreements designed to control the market of the most highly lucrative New Year's football bowl games. These agreements effectively preclude the nonalliance teams from having access to the most prestigious and lucrative bowl games, even when one of the nonalliance teams has a better record and a higher national ranking than any of the alliance teams. These restrictive agreements are bad for football, and they violate Federal antitrust law.

I strongly urge the Justice Department and the Federal Trade Commission to use their statutory powers to end the alliance's anticompetitive stranglehold on college football if they cannot do it on their own. I told the Chairman and yield the floor. Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. McCONNELL. Will the Senator from Minnesota just allow me a couple minutes?

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank my good friend from Wyoming for his important contribution to this issue and express to our colleagues that we intend to stay interested in this. There is some indication in today's paper that some accommodation to the WAC and to the Conference USA may be forthcoming. But I want to reiterate that we need to have been left out that the antitrust case is clear and that the four of us plan to continue our interest in this, if the problem is not solved by the organizations themselves. I thank my friend from Wyoming for his important contribution.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I would like to add one more statement for the record and information of the Senate. The Senator from Wyoming referred to his team's record of 10 and 2. One of those two was a loss to Brigham Young University literally in the last seconds with a field goal that no one expected anybody could make that caused the game to go into overtime, and then Brigham Young won in overtime.

If that had gone the other way, it would have been Wyoming that would have earned the position. BYU was number five in the country.

BYU's victory over Wyoming that pulled BYU to that level. That is why I am happy to join with him in saying we both got robbed.

The PRESIDING OFFICER. The Senator from Minnesota has the floor.

Mr. GRAMS. Thank you very much, Mr. President.

Not to take away from the debate of my fellow Senators and friends here, I still have to just root on our Minnesota Golden Gophers tonight as they take on Clemson in the "Sweet Sixteen" and hope and wish them the best.

The 90TH BIRTHDAY OF HAROLD STASSEN

Mr. GRAMS. Mr. President, I rise today to pay tribute to the accomplishments and contributions of a great Minnesotan, Harold Edward Stassen, as he approaches his 90th birthday.

Harold Stassen began to make his mark on our nation's history when he was elected Governor of Minnesota in 1938 at the young age of 31. He was known as the Boy Governor, he was twice reelected and remained the youngest chief executive of any State until 1943.

In 1943, Mr. Stassen resigned from office as Governor to accept a commission in the U.S. Navy. There, he served honorably on the staff of Adm. William Halsey until 1945, and attained the rank of Captain. During World War II, Mr. Stassen earned the Legion of Merit award, was awarded six major battle stars, and was otherwise decorated three times.

One little known fact about Harold Stassen is that he was personally responsible for freeing thousands of American prisoners of war in Japan shortly before the country surrendered in World War II.

According to a 1995 newspaper account, Mr. Stassen spent 2 weeks planning the evacuation of some 35,000 prisoners from POW camps scattered throughout Japan. At that time, there was considerable anxiety that Japanese soldiers would choose to retaliate against the prisoners for their country's loss in the war.

On August 29, 1945, before the official surrender date, Mr. Stassen actually set foot in Japan and began what would be the largely successful implementation of his evacuation plan.

After World War II, Harold Stassen was appointed by President Franklin Roosevelt as a delegate to the 1945 San Francisco conference on the founding of the United Nations. He is now the only living American who participated in the drafting, negotiating, and signing of the United Nations Charter.

Mr. Stassen went on to become an influential advisor throughout the administration of President Eisenhower. This included serving as a member of the National Security Council, as the Director of the Foreign Operations Administration, and as the Deputy Representative of the United States to the United Nations Disarmament Commission.
Mr. Stassen also has made many contributions outside of public life, including his service as the president of the University of Pennsylvania from 1948 to 1953. However, he will be best remembered for his lifelong career in the United Nations. Since his involvement in the founding of the United Nations, Harold Stassen has maintained a dedicated and passionate commitment to bettering this international organization.

In fact, he has published numerous proposals for reforming the United Nations Charter and has made it his personal mission to educate the American public about the U.N.

Just 2 years ago, we celebrated the 50th anniversary of the United Nations. On April 13th of this year, Harold Stassen will celebrate his 90th birthday. A wide array of national and State officials will come together on this day in St. Paul, MN, to recognize Mr. Stassen.

As we continue our bipartisan efforts to renew and strengthen the relationship between the United States and the United Nations, I think it is fitting to honor one American with a distinguished record of public service who has lived that effort.

As the chairman of the International Operations Subcommittee, the U.S. Congressional Delegate to the United Nations General Assembly, and also a fellow Minnesotan, I want to wish Harold Stassen a very happy 90th birthday and congratulate him for his accomplishments and many positive contributions to the history of the State of Minnesota, the United States, and the United Nations.

Thank you very much, Mr. President. I yield the floor.

Mr. GORTON addressed the Chair. The PRESIDING OFFICER. The Senator from Washington.

AGRICULTURE IN WASHINGTON STATE

Mr. GORTON. Mr. President, agriculture is a cornerstone of Washington State’s economy. Washington State farmers produce over $5.8 billion worth of agriculture products, employ more than 100,000 people, and export nearly a quarter of all their goods to international markets. Without a doubt, agriculture is Washington’s No. 1 industry.

As I travel around the State I have listened closely to the comments, suggestions, and concerns of our State’s agriculture community. Farmers and ranchers in Washington have without exception told me they want a smaller and less intrusive Government; a Government that lets farmers, ranchers, and local communities make decisions for themselves; and most importantly, a Government that will step up to the plate and fight for issues that affect their lives. As Washington’s senior Senator, I plan to work for just that.

The web of Federal practices, laws and regulations governing agriculture in the United States should offer our farmers consistency, flexibility and market access for their goods. Farmers view the Federal Government, like the weather and seasons, as an outside force to be dealt with. I want to ensure that the Federal Government is a partner with agriculture, instead of an east-coast overseer.

This year, the wheat, barley, canola, pea, and lentil, potato, hops, sweet cherry, and apple associations, as well as countless other growers’ organizations, have been in Washington, DC. From our discussions, I have compiled a list of broad agriculture priorities on which I will focus in the 105th Congress.

I have always had, and will retain, open channels of communication with my State’s agriculture communities. Firsthand knowledge of the situations and problems that farmers and growers face is, for me, an invaluable tool as I work on issues that impact their way of life. So, I intend to meet with farmers, ranchers, processors, shippers, and other agricultural interests during the April recess to discuss these matters.

For 3 days I will tour eastern Washington to discuss private property rights, tax reform, salmon recovery issues, agriculture research, transportation issues, the Endangered Species Act, trade policies, regulatory relief, the future of the Hanford reach and the reform of immigration policies important to the agricultural communities throughout Washington State.

During my visits to Yakima, Spokane, and the tri-cities, I will discuss my top 10 priorities for agriculture, refine them, and solicit feedback from the various agriculture interests that are affected by a wide range of intrusive Federal policies. My visit to eastern Washington will give me the opportunity to continue discussions already begun with Washington State’s farmers, explain my intentions, and reaffirm my commitment to the agriculture community.

To reiterate, the agriculture community’s interests are Washington State’s interests—Washington’s economic health and job base are greatly affected by the success or failure in this sector of our economy. I will therefore pursue my top 10 priorities, which I believe will help build a stronger future for Washington State.

Two years ago agriculture communities in eastern Washington gave me the opportunity to work for them, represent their interests, and fight against policies that threaten their livelihood. As their Senator, I will be working aggressively to promote their interests in the 105th Congress.

Mr. President, I take this occasion to thank my friend and colleague from Hawaii who is no longer the Majority Leader, but I have and has waited patiently for recognition, allowing my short remarks to precede his longer ones. He is a kind and thoughtful gentleman.

Mr. AKAKA. Mr. President, I thank my colleague for his appreciation and wish him well during this break.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 490 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

ASIAN-AMERICANS AND THE POLITICAL FUNDRAISING INVESTIGATION

Mr. AKAKA. Mr. President, as we prepare for hearings on campaign fundraising irregularities, I would like to express concern about the negative impact that this issue is having on the image of the Asian-American community.

Mr. President, Asian-Americans are an important part of our body politic. They have made significant contributions to politics, business, industry, science, sports, education, and the arts. Men and women like Senator Dan Inouye, Kristy Yamauchi, Tommy Kono, I.M. Pei, David Henry Hwang, An Wang, and Ellison Onizuka have enhanced and invigorated the life of the Nation.

Indeed, Asian-Americans have played a fundamental part in making this country what it is today. Asian immigrants helped build the great transcontinental railroads of the 19th century. They labored on the sugar plantations of Hawaii, on the vegetable and fruit farms of California, and in the gold mines of the West. They were at the forefront of the agricultural labor movement, especially in the sugarcane and grape fields, and were instrumental in developing the fishing and salmon canning industries of the Pacific Northwest. They were importers, merchants, grocers, clerks, tailors, and gardeners. They manned the assembly lines during America’s Industrial Revolution. They operated laundries, restaurants, and vegetable markets. They also served our Nation in war: the famed all-nisei 100th/442d combat team of World War II remains the most decorated unit in U.S. military history.

Despite their historical contributions, Asian immigrants and Asian-Americans have suffered social prejudice and economic, political, and institutional discrimination. They were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They were required to attend segregated schools. They were even denied burial in white cemeteries—in one instance, a decorated unit in U.S. military history.

For more than 160 years, Asians were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They were required to attend segregated schools. They were even denied burial in white cemeteries—in one instance, a decorated unit in U.S. military history.

Due to their historical contributions, Asian immigrants and Asian-Americans have suffered social prejudice and economic, political, and institutional discrimination. They were excluded from churches, barber shops, and restaurants. They were forced to sit in the balconies of movie theaters and the back seats of buses. They were required to attend segregated schools. They were even denied burial in white cemeteries—in one instance, a decorated unit in U.S. military history.

Mr. President, it is my hope and belief that Asian-Americans will be treated with the dignity and respect that they deserve.
denied their right to naturalize, a law that remained in effect until 1952. Without citizenship, Asians could not vote, and thus could not seek remedies through the Tамmany Halls or other political organizations as did other immigrant groups. The legacy of this injustice is seen today in the relative lack of political influence and representation of Asian-Americans at every level and in every branch of government.

Additionally, Asians were denied immigration rights. The Chinese Exclusion Act of 1882 singled out Chinese on a racial basis, and the Gentlemen's Agreement of 1908 and the National Origins Act of 1924 prohibited Japanese immigration—while permitting the annual entry of thousands of immigrants from Ireland, Italy, and Poland. The 1924 law also allowed European immigrants to bring their wives from their homelands, but barred the entry of women from China, Japan, Korea, and India. Women who served in the United States citizen were prohibited from bringing Asian wives into the country. Conversely, the 1922 Cable Act provided that any American woman who married an Asian would lose her citizenship. The 1917 Immigration Act and Nationality Act eliminated immigration by national origins that the vestsiges of these legal restrictions were lifted.

Asians were also targeted by laws prohibiting them from owning property. The alien land laws passed by California and other Western and Southern States earlier this century, fostered by nativists and envious competitors, placed heavy obstacles in the path of struggling Asian immigrants and their children that were not faced by others.

Perhaps most egregiously, Asians were denied civil rights guaranteed under the Constitution. The relocation of Asian-Americans from the west coast and Hawaii and their detention in internment camps between 1941 and 1946 is one of the worst civil rights violations in our history. One hundred twenty thousand men, women, and children of Japanese descent, two-thirds of them citizens, were incarcerated behind barbed wire fences, without due process or evidence of wrongdoing, under the grim view of machine gun towers. German-Americans or Italian-Americans who served as volunteer citizens, spoke only English, watched television and went to the movies, danced to the latest music, and felt they earned their place in society through workplace contributions and military service. As they, assimilated, Asian-Americans enjoyed success in many areas of endeavor; in fact, they have been so successful that Asian-Americans have been cited as the "model minority". Today, Asian-Americans tend to have higher achievements, some are prominent in business and the professions, and they have been cited by social scientists for having community spirit, a sense of fiscal responsibility, and a strong work ethic.

But the model minority image is mythical in many respects. On average, Asian-Americans earn less than Caucasians. There is a significant income disparity between Asians and whites with equal educational credentials. Asian-Americans also tend to be located in secondary labor markets, where wages are low and prospects minimal, and occupy lower or technical positions, where income potential is not as great as in the executive or professional fields. Fewer Asian-Americans are managers than in the case with other population groups; they constitute less than half of 1 percent of the officers and directors of the Nation's thousand largest companies.

In corporate America, Asian-Americans have their own "glass ceiling." In addition, many Americans mistakenly view the successful assimilation of more established, affluent groups such as Chinese-Americans and Japanese-Americans as the community norm. They do not realize that the community is extremely diverse in terms of ethnicity and recency of immigration. The more recent arrivals from Southeast Asia—Vietnamese, Thais, Cambodians, Laos—have significantly lower levels of income, education, and occupational advancement.

Perhaps because of their success, perceived and otherwise, Asian-Americans continue to suffer for their minority status. They are periodically targets of hate crimes. The 1982 baseball bat killing of Vincent Chin in Detroit, a scapegoat for the Detroit auto industry's inability to compete with Japan, illustrated America's ignorance about Asian-Americans—Chin was of Chinese, not Japanese, heritage—and the inequality of justice for Asian-Americans—the killers paid a fine of $3,780

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An Asian-American who was held without trial in the infamous Topaz internment camp in 1943, and who was subjected to a brutal attack by guards, was never convicted of a crime. But the model minority image is mythical in many respects. On average, Asian-Americans earn less than Caucasians. There is a significant income disparity between Asians and whites with equal educational credentials. Asian-Americans also tend to be located in secondary labor markets, where wages are low and prospects minimal, and occupy lower or technical positions, where income potential is not as great as in the executive or professional fields. Fewer Asian-Americans are managers than in the case with other population groups; they constitute less than half of 1 percent of the officers and directors of the Nation's thousand largest companies.

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controversy. For example, an early Washington Post front page headline trumpeted an “Asian Funds Network.” However, upon a careful examination of the article, the reader found the article was principally concerned with Asian-American donors and the CNN story is not presumed to have a bearing on their patriotism.

Despite the fact that Asian-Americans have paid taxes, lived and worked here for several generations, and died in military service, a different standard applies: Asian-Americans are still deemed to have an extraordinary, perhaps sinister, connection to their countries of origin.

Mr. President, I think that I speak for the entire Asian-American community in expressing the hope that we can get to the bottom of this whole controversy, wherever the cards may fall. Those responsible for violations of laws or improper acts should be identified and appropriately dealt with by the relevant authorities. However, I know that Asian-Americans also agree that the gratuitous attention to the heritage and citizenship of John Huang and others fundamentally is unjust and destructive. According to the press and others, John Huang isn’t simply a DNC fundraiser or even an Asian-American fundraiser; rather, he is referred to as a “Taiwan-born naturalized citizen with ties to an Indonesian conglomerate or, worse, an ‘ethnic Chinese with overseas connections.’”

Last fall, during an appearance at the University of Pennsylvania, Presidential candidate Ross Perot erroneously referred to John Huang as an “Indonesian businessman.” Later, alluding to the fundraising controversy, Mr. Perot rhetorically asked his audience, “Wouldn’t you like to have someone out there named O'Reilly? Out there hard at work. You know, so far we haven’t found an American name.” The implication of these and other characterizations is that being Asian and naturalized, rather than of European stock and native born, somehow renders one less American.

Mr. President, this hypochondria or qualification of citizenship status is one of the subtle ways in which Asian-Americans are cast as different and therefore suspicious. To some, Asians and Asian-Americans are the Fu Manchu of Hollywood legend—evil, cunning, and inescrutable Easterners who march in lockstep to some hidden agenda. According to this view, being of Filipino or Thai or Pakistani heritage is all the same—if your skin is yellow or brown, you are alleged to share certain inviolable characteristics and your race; your individualism fades into a kind of monolithic group identity.

Thus, all Asians and Asian-Americans are, by extension, responsible for John Huang’s or Charlie Trie’s or Johnny Chung’s alleged misdeeds. Furthermore, goes this circular reasoning, since it is accepted that Asians lack individualism, John Huang, Charlie Trie, and Johnny Chung must be part of an Asian conspiracy.

A columnist for the New York Times played on this stereotype when, in a series of editorials last year, he wrote of the “persecution of the White House by Asian interests” and characterized John Huang as “the well-subsidized Lippo operative placed high inside Clinton Commerce.” The columnist also referred to an “Asian connection” which provided contributions through “front men with green cards.” Even the respected Wall Street Journal described some of John Huang’s donations as coming from “people with tenuous connections to this country,” although it is unclear whether it was referring to Asian residents or Asian-Americans.

A more recent manifestation of this stereotype can be found on this week’s cover of the National Review, which depicts President Clinton and Mrs. Clinton with slanted eyes, buckteeth, and wearing a cooie hat and Mao cap, respectively, over the headline, “The Manchurian Candidates.” This is a true low for reporting standards, more reminiscent of William Randolph Hearst’s Yellow Press than of modern journalism. Some irresponsible publications, in the interests of sensationalism, are obviously more than willing to conflate racist stereotypes with modern standards of objective journalism. The President, Mrs. Clinton, and the Asian-American community are owed an apology for this gross affront to decency and taste.

Mr. President, a second major fallout of the fundraising affair is the impression that legal Asian-American participation in the political process is illegitimate. Charges of undue influence on the part of the Asian-American community have been raised with regard to immigration policy, specifically, the “fourth preference” category that allows siblings of citizens to immigrate.

The press makes much of the fact that Asian-Americans who are contributors to political campaigns are also contributors to the campaign. Certainly Asian-Americans, the majority of whom are immigrants, wish to be reunited with their families. However, it is improper to imply that contributions to political campaigns by Asian-Americans should be held to a higher standard or any more suspect than contributions by other Americans. This is tantamount to suggesting that the practice of giving to political campaigns should be limited only to non-Asian-Americans.

A third troublesome impact of the fundraising allegations is the overhasty and excessive reaction to the issue of legal contributions by permanent residents. In the wake of the “Asian donor” story, proposals have been made to eliminate their eligibility to make political contributions. Alarmed by the public fallout of the controversy, the Clinton administration and the Democratic National Committee have preemptively decided not to accept contributions from permanent residents or U.S. subsidiaries of foreign corporations. And a number of Members of Congress have returned contributions from individuals who are not Asian, residents who are Asian, not because the contributions were illegal but because they feared the public’s reaction to their accepting “Asian” money.

Mr. President, I acknowledge that there are legitimate concerns regarding the wisdom of allowing permanent residents to make contributions to political campaigns, apart from the possibility that proscribing such contributions might violate the First Amendment rights of legal residents. As my colleagues know, the Supreme Court has held that campaign contributions are an activity protected by the First Amendment, and the First Amendment rights of legal residents are fully protected.

In this instance, however, I am more concerned by the possibility that the only reason why campaign contributions by permanent residents has become an issue now is because, for the first time, Asians and Asian-Americans happen to be involved in a major way. Evidence of this perhaps can be seen in the DNC’s private audit of supposedly suspect contributions.

Reportedly, DNC auditors asked Asian-American donors whether they were citizens, how they earn their money, if they would provide their tax returns, and other intrusive questions, while threatening to tell the press if the donors did not cooperate. Some of the Asian-Americans contacted were longtime political contributors with impeccable reputations, who were naturally outraged. The DNC audit clearly smacked of selective harassment of those who happened to have Asian surnames; it underscores the Asian-American community’s fear that they are being asked to pay for the alleged transgressions of a handful of individuals who happen to be of Asian heritage.

Mr. President, a fourth major concern of the fundraising affair is that it has undermined Asian-American leadership opportunities in Government. According to some analyses, the fundraising affair impelled the Clinton administration to drop from consideration the names of University of California-Berkeley Chancellor Chang-Lin Tien and former U.S. Congressman Norm Mineta for the positions of Secretary of Energy and Secretary of Transportation, respectively. Thus far, neither of the nominees has been named to the Cabinet rank, and only a handful are represented in the senior ranks of Government.
Furthermore, I would not be surprised to learn that every Asian-American candidate for political appointment is currently being scrutinized for contacts he or she may have had, no matter how innocent, with the Asian and Asian-American principals in the fundraising investigation. As a consequence, I greatly fear that promising Asian-American candidates for responsible Federal office will fall by the wayside, victims of guilt by association.

A fifth and perhaps most serious impact of the fundraising story, however, is its long-term effect on Asian-American participation in the political process. Last year, a record 75,000 Asian-Americans registered to vote, a sign of the Asian-American community's newfound confidence and political maturity. I am deeply concerned that biased scrutiny of Asians and Asian-Americans by the press, politicians, and investigators will kill this initial flowering of a historically quiescent and apolitical community, a flowering that led to the historic election of an Asian-American to governorship of a mainland State.

Will this scandal confirm Asian-American fears that the system is rigged against them, discouraging them from participating in the development of public policy in a meaningful way? If so, this would be tragic for a community that is by far the fastest growing in the Nation, which is expected to comprise 7 percent of the population by 2020, and which has so many skills and experiences to offer our country. This tragedy would be compounded for those immigrants recently escaped from the yoke of authoritarianism, who might find the consequences of political activism reminiscent of the penalties experienced in their countries of origin.

In conclusion, Mr. President, as we investigate fundraising and attempt to remember the bigotry, prejudice, and discrimination faced by Asian immigrants and Asian-Americans as they struggled for acceptance in the New World. Let us recall how they overcame steep social, economic, and institutional barriers to become valuable contributing members of society.

With this in mind, Mr. President, let us keep our attention on matters of substance—the laws that were possibly broken in the Nation, which is expected to comprise 7 percent of the population by 2020, and which has so many skills and experiences to offer our country. This tragedy would be compounded for those immigrants recently escaped from the yoke of authoritarianism, who might find the consequences of political activism reminiscent of the penalties experienced in their countries of origin.

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fourth preference, which allows citizens to sponsor their brothers and sisters as immigrants.

Huang recognized the obvious. He organized a dinner featuring together Asian-Americans and the Democratic Party at a lucrative fund-raiser, a dinner at the Hay-Adams Hotel in Washington at $25,000 per couple. President Clinton himself attended the fete.

Huang wrote a briefing memo prior to the dinner stating that immigration would be a key issue in the upcoming election. President Clinton denies that he ever read the memo. In any event, his administration had already made the strategically sensible decision to oppose abolition of the fourth preference.

Critics have suggested that this series of events demonstrates that the president "flip-flopped" on the fourth preference, sacrificing the interests of the American public in controlling the borders for an infusion of foreign money to his campaign. Such a view, of course, ignores the fact that the people who seek to bring over their relatives are themselves citizens. And the view is based on an erroneous understanding of what the administration had done.

In fact, in the past, the Clinton administration had sought only to suspend use of the fourth preference temporarily, so that the waiting list was cleared out. It never pushed for outright elimination of the provision. Thus, a misunderstanding of the distinction between use of the fourth preference and abolishing it may have produced the appearance of impropriety.

Indeed, the scandal is not that Asian-Americans were able to voice our views on immigration, but that we had to look like we were potential donors of large sums of money before we would be heard. Assuming that all Asian-Americans contributors to save the national tradition of immigration, there is nothing shocking about people trying to bring together their families or actively participating in politics in an effort to do so.

Immigration connects our nation to the rest of the world. Much as the rules of immigration affect citizens along with their immigrant relatives, they also turn on domestic politics blended with foreign affairs. If Asian-Americans and others who care about allowing immigration into the United States are motivated by some sort of racial self-interest, then the same might be said of whites and others who wish to close the borders.

Thus, a misunderstanding of the distinction between use of the fourth preference and abolishing it may have produced the appearance of impropriety. But the truly scandalous stuff was old news by Dec. 27. What that day's story added was news of the existence of this document outlining a plan to raise money from Americans of Asian descent. And that alone was considered worthy of the high-scarf treatement.

Leave aside this particular story, and consider the "campaign-gate" scandal as a whole. What if the same thing had happened with Europeans and Americans of European descent? It would be just as improper and/or illegal. But would we really be so worked up about it? Would William Safire write a column about it every 15 minutes and use the loaded word "aliens" to describe European noncitizens? If Indonesian magnate James Riady looked like John Major, would Newsweek have published a grainy black-and-white photo of him on its cover? ("Clinton's European connection" wouldn't pack quite the same punch as "Clinton's Asian-American connection that Newsweek put on its cover and Safire has used 16 times in 13 weeks.) Would the Times be billing minor investigative twists as lead stories?

Indeed, would its reporters even write stories like that Saturday's? The lead para-graph, which crystallizes the story's news value, is this: "A White House official and a leading fund-raiser for the Democratic National Committee helped de-vice a strategy to raise $7 million from Asian-Americans partly by offering rewards to the largest donors, including special access to the White House, the committee's records show." You mean Democrats actually offered White House visits to Americans who cough up big campaign dough? I'm shocked. Wait until the Republicans discover this tactic! The Friday after Christmas is a slow news day, but it's not that slow. And as for the "unprecedented" scale of the fund-raising goal: Virtually no political reporter in 1996 fund-raisings was on an unprecedented scale, as we've long known.

There are some interesting nuggets in the Times story. For one thing, the fact that they were repeated in the third paragraph, that fundraisers told Asian-American donors that "po-

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The New York Times runs a lot of headlines about scandals, but rarely does it run a headline that is a scandal. On Saturday, Dec. 28, it came pretty close. The headline over its lead Page One story read: "Democrats Hoped To Raise $7 Million From Asians in U.S." On the inside page where the story continued, the headline was: "Democrats' Goal: Asian-Americans to Help Build "Asian-American" Political Machine." The story was accurate, but the story was wrong. The story was actually about a 1996 Democratic National Committee document outlining a plan to raise (as the lead paragraph suggests) $7 million from Asian-Americans.

Memo to the New York Times: "Asian-Americans" are American citizens of Asian ancestry, not Asian citizens of some Asian Nation. And "Asians in U.S." are citizens of some Asian nation who are visiting or residing in the United States. This is not nit-picking. It gets at the heart of the subtle, probably subconscious racial prejudice that has turned a legitimate and highly focused scandal into a journalistic blockbuster.

Would a Times headline call Polish-Americans "East Europeans"? (Or, in the jump headline, just "East Europeans"?) And the headline was only half the problem with Saturday's story. The story itself was wrong-headed, it applied an inherently scandalous about Asian-Americans giving money to a political campaign. In fact, the inaccurate headline was necessary to prevent the story from seeming absurd. Can you imagine the Times running—over its lead story—the headline "Democrats Hoped To Raise Millions From U.S. Jews"? Political parties have a great interest in raising money, so allowing immigrants to come to this country is the heart of the subtle, probably subconscious racial prejudice that has turned a legitimate and highly focused scandal into a journalistic blockbuster.

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Congressional Record - Senate
March 20, 1997

HAPPY BIRTHDAY TO SENATOR DANIEL PATRICK MOYNIHAN

Mr. LEAHY. Mr. President, on March 16, Daniel Patrick Moynihan, the senator from New York State, turned 70. Senator Moynihan has been referred to, quite properly, as the intellectual of the Senate and called by many, a renaissance man. I mean no disrespect when I say that during a couple of the gatherings of the Irish on March 17, he was also referred to as the "World's Largest Leprechaun."

To me, Senator Moynihan is a good friend and a mentor, a wise voice that I heard before I was in the Senate, and since. He is a man who has spoken with great prescience on issues involving families and the economy, global power and welfare reform, on so many things.

Senator Moynihan has served in administrations of both Democrat and Republican Presidents. He has always been ahead of his time, sometimes with a controversial voice that then turns out to be the only accurate voice.

Like all other Senators, I wish him very well as he heads into the latest decade of his life.

Mr. President, I ask unanimous consent that a column by David Broder entitled "The Moynihan Imprint" be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 16, 1997]

THE MOYNIHAN IMPRINT
By David S. Broder

Today is the 70th birthday of a unique figure in the public life of this nation for the past four decades, the senior senator from New York, Daniel Patrick Moynihan. Tomorrow, a day-long symposium and a celebratory dinner at the Woodrow Wilson Center will make it clear just how large Moynihan's legacy is.

Precisely delivering the papers to be delivered, as Georgetown professor Robert A. Katzmann, a onetime student of Moynihan's and organizer of the tribute, allowed me to do, was a reminder of just how rich and varied the New York Democrat's contributions have been.
CONGRESSIONAL RECORD – SENATE

He has been prescient about subjects as diverse as the crisis of the American family and the breakup of the Soviet Union. As his fellow scholar Seymour Martin Lipset points out, he is a Renaissance Man. The title “The Negro Family: The Case for National Action,” was bitterly controversial at the time. But 30 years later, everyone has come to understand that the wave of out-of-wedlock births and the scarcity of jobs in the inner cities are overwhelming the welfare system and threatening the stability of the whole country. As Michael Barone of Reader’s Digest notes, it was Moynihan in January of 1965 who said that “the defining event of the decade might well be the breakup of the Soviet empire.”

Moynihan was unable to persuade his colleagues in the House or Senate, in either party, to head off the family crisis he discerned, or to curb the excessive costs of the 1960s arms race with the Russians. But as Stephen Hess, his deputy in the Nixon White House, and a half dozen others argue, he was a shrewd and often successful operative in policy jobs and diplomatic posts under Presidents Harry Truman, Dwight Eisenhower, and Richard Nixon for the last 20 years as a member of the Senate.

For all his focus on social problems, Moynihan has left a strong physical imprint on the nation as well. In his Labor Department days under President Kennedy, he managed to redesign federal standards for government buildings and to launch the rehabilitation of Pennsylvania Avenue into what is now nearing completion as the grand ceremonial thoroughfare of the Republic.

As a senator, Moynihan six years ago fundamentally redirected national transportation policy by converting the traditional highway philosophy of the nation’s first secretary of transportation to the philosophy of the mid-1970s, called the Intermodal Surface Transportation Efficiency Act—a charter for states and communities to use federal funds for mass transit as well as roads. Characteristically, as another paper points out, he had written a magazine article as far back as 1960 on the negative impact the highway-building boom of the 1950s was having on older cities like New York.

Sweeping as they are, the papers to be delivered tomorrow do not embrace all the aspects of Moynihan’s life and career. Sen. Harry Hatfield of Oregon, with his wife, Liz, a warmhearted woman with the toughness it takes to have run most of his campaigns, Moynihan has a great gift for friendship, a talent for keeping score of the histories of our relations with foreign countries, and communities to use federal funds for mass transit as well as roads. Characteristically, as another paper points out, he had written a magazine article as far back as 1960 on the negative impact the highway-building boom of the 1950s was having on older cities like New York.

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Moynihan delivered a Gridiron Club dinner during the Reagan administration remains indelible in the memories of all who were there. It was his idea to invite a bemused President Reagan that David Stockman—Reagan’s precocious but controversial budget director, who had been a live-in baby sitter of the Moynihan family—be married to his wife, Liz, a warmhearted woman with the toughness it takes to have run most of his campaigns, Moynihan has a great gift for friendship, a talent for keeping score of the history of our relations with foreign countries, and communities to use federal funds for mass transit as well as roads. Characteristically, as another paper points out, he had written a magazine article as far back as 1960 on the negative impact the highway-building boom of the 1950s was having on older cities like New York.

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some are cosmic, others more modest: Our generation greatest spotter of ideas that might make our society somehow better. This is a remarkable talent. But what turns it into great purpose is a finely attuned antenna for knowing when an idea is ready for the public arena, the skill to be in position to make his ideas matter, and the flair to make them matter. It is a hallmark of intellectual energy and political smarts that is so rare that when such a person is also blessed with long life, we must create opportunities to celebrate."

(By Seymour Martin Lipset, Hazel Professor of Public Policy, George Mason University)

Why was Moynihan so prescient? I would say because it is known from the beginning that there is no first cause, not in politics, not in social science.

What Pat teaches is that not only are there no utopias, there are no solutions, not in social science. We use that terminology and it means clearly that one of their highest priorities, says the first thing to do is to cut the revenue anticipated by $200 billion. So they take this sliver off to start with. They reduce our revenue from $8.5 trillion down to $8.3 trillion. And then address this gap between expenditure and revenue. It makes no sense to me why you would dig the hole deeper before you start filling it in. That is what our friends on the other side of the aisle have been talking about.

Instead of addressing this $9.3 trillion worth of expenditures with $8.5 trillion of revenue, they say cut it to $8.3 trillion of revenue to begin with. So now we have a $1 trillion bill that will be added to the national debt.

Mr. President, this chart shows where the money is going to be going over the next 5 years. This is where the money is scheduled to be spent, and I think this is where we are in trouble. Across the way are struggling with as they struggle to come up with a budget resolution. Where are you going to cut? If we can see we are facing with adding $1 trillion to the national debt based on the spending and revenue. So everybody is struggling with as they struggle to come up with a budget resolution. Where are you going to cut? If we can see we are facing with adding $1 trillion to the national debt based on the spending and revenue.

Mr. President, I want to thank the forbearance of my good friend, the senior Senator from North Dakota, and yield the floor.

Mr. CONRAD addressed the Chair. THE PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I want to thank the Senator from Vermont for his observations on the ranking member of the Committee, who is clearly an American legend.

I also want to just say to my colleague, Senator Bumpers, who is coming on the floor, that I will be brief so that Senator Bumpers can have his time. And I look forward to hearing his remarks.

THE BUDGET

Mr. CONRAD. Mr. President, let me just say that Senator Domenici, the chairman of the Budget Committee, has come to the floor this afternoon and presented two possible budgets. One is the President’s budget, but without the trigger mechanism the President provided to assure balance even if the Congressional Budget Office projections are the ones that are used. The President’s budget, of course, reaches unified balance by the estimates of the CBO, the Congressional Budget Office, but it does not reach balance by the estimates of the Congressional Budget Office. And I want to emphasize, “unified balance.” All of us need to understand that is not real balance. Nobody should anywhere about any of these budgets that talk about balancing on a so-called unified basis, because when they use that big word, what they are talking about is putting all of the trust funds into the pot to claim balance. So I think it is important to understand I do not believe any of these budgets that claim unified balance are really balanced budgets at all.

But, with that said, I think it is also important to understand when you hear these differences between Office of Management and Budget projections and Congressional Budget Office projections, the fact is both of them over the last 4 years have been overly pessimistic. They have overestimated what the deficit would be. And I think that is also important to keep in mind.

As I understand it, the Senator from New Mexico, the chairman of the Budget Committee, offered the President’s budget at without this trigger mechanism. Why did the President not balance according to CBO’s projections? Well, very simply, when he did his budget he did not have available to him the CBO baseline. He did not have available the CBO projections. Although he asked for them, and asked for them repeatedly, they were not prepared in time.

So in order to fulfill his responsibility to present a budget, he used his Office of Management and Budget projections, which he has, I believe, have been overly pessimistic, not a rosy scenario, overly pessimistic over the last 4 years in order to present a budget. He provided a trigger mechanism so that if, in fact, CBO’s projections were different, even more pessimistic than his own Office of Management and Budget’s, that he could still be in unified balance by the year 2002. I also understand the Senator from New Mexico has offered a second budget, of course, with no trigger tax cuts and also has very deep cuts in domestic discretionary spending. When we use the term “domestic discretionary spending,” what we are talking about is that category of spending that includes education, roads, bridges, airports, parks. Those are the categories of spending that are included in so-called domestic discretionary spending.

Mr. President, if I could, the reason I came to the floor this afternoon was to try to put this all in some perspective. Because I think unless people have an idea of what we are talking about in terms of the estimated expenditures of the Federal Government over the next 5 years and the estimated revenues and where the money goes, it is very hard to understand the nuances of these budget discussions.

This chart shows over the next 5 years what we are anticipating spending from the Federal Government: $9.3 trillion. The revenue that is forecasted for the Federal Government over the next 5 years is here in this block: $8.5 trillion.

So it is readily apparent that we are faced with a circumstance that, without change, we are going to be adding $800 billion to the national debt.

Unfortunately, our friends on the other side of the aisle in Senate bill 2, which means clearly that one of their highest priorities, says the first thing to do is to cut the revenue anticipated by $200 billion. So they take this sliver off to start with. They reduce our revenue from $8.5 trillion down to $8.3 trillion and then address this gap between expenditure and revenue. It makes no sense to me why you would dig the hole deeper before you start filling it in. That is what our friends on the other side of the aisle have been talking about.

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Then there is nondefense discretionary spending, which I referred to earlier and which Senator DOMENICI, in the second budget that he laid down here, would cut very deeply. He would cut from an unconstrained baseline $263 billion. This is a tremendous amount of money out of defense and nondefense. Those two are called discretionary spending. From the nondefense discretionary side, the budget he just presented would cut out of that one area in the magnitude of the budget law enforcement.

What we are talking about there is education, roads, bridges, airports, parks, recreation, roads, bridges, parks, education, what we are scheduled to spend over the next 5 years of $1.5 trillion. Again, that is a tremendous amount of money out of this category. That is the kind of draconian options that will be presented to this Congress and a future President if we fail to act.

We have a responsibility to respond. I submit that having tax cuts of $200 billion over the next 5 years that explode to $500 billion over the next 10 years is not rational, is not responsible, is not the way to begin to fill in the hole. I have never seen anybody that went out to fill in a hole and the first thing they did was dig it deeper. It makes a very little sense to me.

I hope this puts in some perspective what it is that we face this year. This is not going to be easy. That is, hopefully, being consistent with what I have communicated here. When you look at what the scheduled revenue is of the Federal Government—maybe we could show that chart again—$9.3 trillion are the expenditures, and we are scheduled to have $8.5 trillion of revenue. If the first thing you do is take $200 billion out of the revenue column, now you are at $8.3 trillion, and you have $9.3 trillion of expenditures, you have $1 trillion added to the national debt. Is that what we want to do? To have the kind of effect that some of us talked about, you have to borrow it all. Does that make sense? Should we borrow money to have a tax cut? Does that make sense to people? We already have a $5 trillion national debt. How deep in the hole are we going to go around here before we respond?

Mr. President, these are the major categories of Federal spending. I think one can see that if we are going to be serious about balancing the budget and doing it in an honest way, we have a tall order in front of us. Talking about tax cuts of $200 billion over the next 5 years, which our friends on the other side of the aisle have put up as their Senate bill No. 2, really makes no sense to me. It especially makes no sense to me. It especially makes no sense to me. It especially makes no sense to me. If we can't touch that, and the other side says, in order to have a big tax break, you begin to wonder what can we do around here? Goodness knows, if we can't correct a mistake, which I believe the CPI is in terms of adjusting for the cost of living based on the best evidence that we have, what can we do? If our friends on the other side want to have dessert before we start eating our vegetables in the face of this enormous challenge of these long-term fiscal imbalances, then how serious are they really about addressing the challenges facing America's future?

We have an opportunity here to do something great for America, because this isn't just some dry discussion about making columns of numbers add up. That isn't what this is about. This is not a counting exercise. This is about the future economic strength of America. This is about what kind of jobs are going to be available for our kids. This is about what kind of life future generations will have before they go on to college. This is about the competitive position of America. That is what is at stake. It is not just some dull, lifeless debate about balancing a budget. This discussion is about what we can do to strengthen America for the future and the difference that we can make in the lives of the people of our country by being responsible now, because what we have been told is, if we balance this budget in this window of opportunity which we have before the baby boomers start to retire, our economy in the future will be 30 percent larger than if we fail to act.

Some may be listening to this saying, “Wait a minute. I am lost. What is the connection between balancing the budget now and having a bigger economy later?” It is very simple, but it is very real. If we are going to grow the economy, if we are going to make it bigger, if we are going to have more jobs, we need investment. To have investment you have to have savings. The biggest threat to savings in this country is the deficits that the Federal Government runs, because those deficits take money out of the pool of savings of our society.

That is why this debate matters. It is perhaps the single most important debate we will have in this Congress this year. If we all do it seriously and honestly and face our responsibilities squarely, we can do something great for our country.

I thank the Chair. I yield the floor.

Mr. DURBIN addressed the Chair. The PRESIDING OFFICER (Mr. BENNETT). The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

THE NOMINATION OF PETE PETERSON

Mr. DURBIN. Mr. President, I rise this evening to address an issue which is one that many of us have labored over for decades, the legacy of the Vietnam war.

So many people have said and written that the returning veterans did not receive the credit which they deserved for putting their lives on the line for our Nation. Regardless of the wisdom or popularity of that war, so many of those veterans came home and, frankly, it found difficult to start their lives again in America.

In this Congress of the United States, about 12,000 men and women have served in the House of Representatives, and it is my understanding that 1,843 men and women have served in this U.S. Senate.

It was my good fortune to serve in the House before I came to the Senate and my better fortune to meet an extraordinary individual in the House of Representatives, a Vietnam veteran, who had an amazing story to tell. This colleague of mine in the House from the State of Florida, Pete Peterson, was an Air Force pilot in the Vietnam war. Pete served 27 years in the Air Force. He gave the choice of his adult life in service to his country. But the most amazing part of his service in Vietnam was not in an airplane in the clouds but on the ground. For 6½ years Pete.
Peterson was a prisoner of war in Vietnam. He is a very soft-spoken and friendly person. He hardly ever brings up the subject about his military service. But one day over lunch, I said, “Pete, if you are ever comfortable talking about it, tell us what you remember about those 6½ years.” For the next hour Pete spoke and answered our questions from his colleagues in the House. I will tell you that my memory of that conversation will be with me for the rest of my life. To try to talk about that moment to envision or imagine what it must have been like to spend 6½ years in a prison camp in North Vietnam is almost beyond any of us. He talked about the deprivations, physical and mental, and how he managed to survive.

Pete is not one to boast about it. He is not alone in having gone through that experience. Our colleague from Arizona, Senator John McCain, had a similar experience as prisoner of war in Vietnam. I have not spoken to my colleague, John McCain, about it. But I read about it in a book published recently, entitled “The Nightingale Song,” which told the history and the story of others who went through that experience.

The interesting thing about Pete Peterson is that he came out of that experience, went to work in Florida, and decided that there was more to give to this country. So he ran for the U.S. House of Representatives and was elected.

Then in April of last year President Clinton turned to then Congressman Pete Peterson and asked him to undertake what was a major responsibility, to serve as the first U.S. Ambassador to Vietnam. It was a controversial posting. Some in this body and others really questioned whether or not we should have diplomatic relations. But many, like Pete Peterson and John McCain, believe that we have reached that moment in history where the best thing for both of our countries is to have diplomatic relations. I thought the President made a wise choice.

Those who watched the program 60 Minutes which was on last Sunday night may have seen the segment about Pete Peterson, once a downed pilot in a rice paddie in Vietnam, pushed away into a prison camp for 6½ years, now with the opportunity to return to the Senator from Florida, but also Senator John McCain, also a man from the opposite side of the aisle who identified with Pete's experience and said that he would be an excellent choice as the Ambassador to Vietnam.

So we come this evening to the Chamber in the hopes that we can make it clear that his name, Pete Peterson's name, will come before this Senate for consideration and, I hope, confirmation in the very near future.

The majority leader, Senator Lott, and I had a conversation on this subject last week which kind of put enough to return to the Chamber for this moment to speak to this issue. I thank my colleague for doing that. I will at this point yield the floor so the Senator from Mississippi may make comments on this confirmation of Pete Peterson.

Mr. LOTT addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. LOTT. If the Senate from Illinois will yield, I will be glad to respond to his comments. They have certainly been very good ones.

We all understand and appreciate and agree with the remarks about the tremendous service and the quality of man that Pete Peterson is. I am satisfied that he would be a great representative for our country in any position, whether it be an easy one, a great luxury, or a tough one, as this one will be when he is confirmed.

The Senator from Florida said that there are those of us in the Chamber and in America who doubt the wisdom of going forward with this normalization with Vietnam for a variety of reasons. Particularly, the Senator from New Hampshire, Mr. Smith, has raised a lot of questions and concerns over the years about POWs and missing in action, accounting for those POWs. He is very concerned about those servicemen that have not been identified, have not been accounted for. He has made that very clear. He has serious doubts that Vietnam is actually doing all that it can or that it has done it in moving toward normalization and accounting for those POWs and MIAs, and he has asked me as majority leader in a very good, strong letter, lengthy letter to give him an opportunity to ask some questions and get some answers.

I try to honor that kind of request for any Senator on either side of the aisle when that opportunity arises. I and I have also joined him through my staff that deals with the Intelligence Committee to work with the intelligence staff to try to get a report or reports in response to the questions that Senator Smith has asked.

Those reports may not be sufficient or they may not be good, but Senator Smith has indicated he has no desire to hold this nomination up at length. In fact, I think he told me he wants me and the Senator that this is an excellent choice for any position.

So it is my intent, barring some unforeseen complication, that this nomination will be brought up on Tuesday or Wednesday the week we come back. I believe that would be the 8th or 9th. I do not think it would be appropriate to hold it up beyond that. And again, barring something that I cannot imagine—it might now—and, of course, assuming that over the next 2½ weeks we will get these reports—we would call that nomination up. I think we would be able to do that, and I certainly want to. I do not see any reason why we would not be able to do that in my conversations with Senator Smith.

We appreciate the interest of the Senator in his former colleague from the House, and look forward to working with the Senator on this and other issues.

Mr. DURBIN. I thank the majority leader. This will be good news in Marianna, FL, where Pete Peterson is waiting for word on his new assignment. He has accepted the important assignment for this country. He has given so much more than any of us have ever been asked to give. And this new assignment to Vietnam is one that Pete takes very seriously.

My colleague and friend from Mississippi, the majority leader, has raised an important critical issue of the unaccounted for POWs and MIAs. I cannot think of a person who will take that responsibility more seriously than Pete Peterson, who knows men whom he served with in the Air Force and other branches who are not accounted for. And I am certain that he will work with diligence to try to establish their whereabouts to the satisfaction of the families as quickly as he can.

Of course, in terms of our relations with Vietnam, that debate will go on, and our relationship with that country will be decided based on the conduct of Vietnam toward the United States and visa versa. A man of Pete Peterson's stature, I think will enhance that relationship, and I am confident that when he is called for consideration on Tuesday or Wednesday after we return, he will receive strong bipartisan support for this assignment.

I thank the majority leader for coming to the floor. I know he has a very busy schedule, but I consider this an important matter, as I am sure he does. I appreciate his cooperation. I think my colleague from Arkansas for giving me the opportunity to speak first.

I yield back my time. Mr. LOTT addressed the Chair. The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Will the Senator from Arkansas allow me to put a couple brief
Mr. LOTT. I thank the Senator.

TRIBUTE TO SAM ADCOCK

Mr. LOTT. Mr. President, I take this opportunity to recognize and say farewell to an outstanding staffer and dear friend of mine, Sam Adcock.

For the past 7 years, Sam has served not only as my national security advisor, but as one of my most-trusted and able advisors. Sam is moving on to other challenges, but it is my privilege to commend him for the service he has provided me and the Senate as a whole.

The youngest of four children born to Pat and Larry Adcock, Sam was born in Baton Rouge, LA, and although Sam was not a native Mississippian, he assured me he had relatives in the Magnolia State.

I am not sure what effect being the youngest in such a large family had on Sam, but I think it must have played some part in cultivating his competitive nature.

It is this, combined with a gut instinct for effective legislation, which has made Sam Adcock such an important part of my team.

Sam joined my staff as a full-time employee in 1990, after serving for a year as my military liaison. He served as my legislative assistant while I was a member of the Armed Services Committee, and quickly sank his teeth into the complicated process of military appropriations.

Mississippi's shipyards and military bases owe Sam Adcock a debt of gratitude for the countless hours he spent arguing on their behalf.

During the 1991, 1993, and 1995 Base Realignment and Closure (BRAC) procedures in large part to Sam's hard work, Mississippi was the only State that had no bases closed.

Among the many areas where Sam's expertise was invaluable to me were the development of the LHA and LHD programs. Perhaps one of our greatest legislative triumphs was working in 1995 to help Ingalls Shipbuilding of Pascagoula, MS, win the $1.4 billion contract for LHD 7.

Sam worked around the clock to help Ingalls win this contract so important to the men and women of Jackson County, MS, but that was not unusual for him. I know Mississippians would be proud to know how relentlessly Sam pursued what was in their State's best interests.

The country, too, should be proud to have had such a champion of strong military ideals fighting to preserve our Nation's military prowess. I could always count on Sam to go into a meeting for me, and to come away with the best possible deal for Mississippi and our country as a whole.

In addition to his service as my armed services advisor, Sam was promoted to the position of legislative director. He has always been a take-charge kind of guy, and he ensured that my office's legislative staff was prepared and proactive. As effective as Sam's leadership was, he was also one of the most well-liked members of my staff.

While those who have worked against Sam know what a formidable opponent he is, those who have worked with him know what a pleasant and approachable man he is as well.

As Sam Adcock moves on to a new and exciting position as vice-president for government operations at Daimler Benz, I wish him, his wife Carol, and their young son Austin, the best of luck.

Sam exemplifies all that is good in the congressional staffers who work so hard on Capitol Hill. He is honest, industrious, intelligent, and talented.

My office will be poorer for his departure, but the people of this country are richer from his time as a Senate staffer. For his loyal and dedicated service, I thank him.

Mr. President, I yield the floor.

TRIBUTE TO JIM GRAHNE

Mr. LOTT. Mr. President, I want to express the gratitude of the Senate to Jim Grahne, the director of our Senate Recording and Photographic Studios. Jim is retiring this week after 27 years of dedicated service to the Senate.

Jim Grahne has been one of our most talented technical and management professionals in the Office of the Sergeant at Arms.

He is an engineer by training and profession and has used his skill, creativity, and expertise to shepherd the Senate through nearly 30 years of broadcast and photographic technology. I am referring to the television, radio and photographic services on which we, as members, and as an institution, so readily rely.

It was Jim's leadership that made technically possible the broadcast of the proceedings of the Senate floor.

While that accomplishment may be one of his professional highlights, he always sought ways to improve products and services to members.

Some of the recent successes of Jim and his staff include the installation of a fiber optic network for the broadcast of committee hearings, CD-ROM and on-line photo data base services for members' offices. Jim and his staff have also pioneered the use of closed captioning text, audio and visual technologies.

This year the studios released full text and audio search and retrieval of floor proceedings. Offices may now search for and download any speech or debate text and audio with 15 minutes of its being given.

Our gratitude for Jim is not limited to his understanding and appreciation for technology. Because he came to the Senate from the commercial news and broadcast industry, he understands the importance of the press and of the role played by visual and sound images.

Every day that the proceedings of the Senate are made available to the press here and around the world, it is an affirmation and practical example of democracy in action. That goal has been an important part of Jim's motivation.

Mr. President, our Senate family wishes Jim and Linda, his wife of 34 years, and their children—Mark, Lena, and Karen—the very best and hope he gets some time to spend on that sailboat with his granddaughter, Megan.

But, knowing Jim as we do, we can expect his sleeves will be rolled up and into another challenge in the very near future.
will be no votes during the session of the Senate on Monday, April 7, the day that we return, although there will be debate on that day. I expect debate to occur on the pending motion to proceed to the nuclear waste bill on that Monday, and the Senate may be asked to consider other legislative or executive items on that Monday. I will be discussing Monday’s schedule further with the Democratic leader and will inform the Senate as to what other items the Senate may consider when it reconvenes following the Easter recess period.

I thank all my colleagues for their attention. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. LOTT. Mr. President, just in conclusion, I want to recognize the Senator from Arkansas, who is in the Chamber at this time. I thank him again for his courtesy in allowing me to do this and recognize that he is a member of the Committee on Energy and Natural Resources that reported this legislation. I think it is very important legislation. I understand that the Senators from Nevada will have to make their points in opposition to what has been done, but I do think it is just absolutely essential that this country face up to the need to deal with our nuclear waste. There is no easy way to do it. There is no perfect solution for all 100 Senators. But we passed it last time through the Senate and it died aborning in the House. I am told this time that we will, when we pass it, the House will also pass it, and this time we hope we can get it to the President. And we hope we can get it to the President in a way that he feels he can sign it.

We must do this because it is an issue that will not go away. Nuclear waste is sitting in cooling pools and barrels all over this country from South Carolina to Vermont, from the banks of the Mississippi River to the shores of the Pacific Ocean. We must deal with this problem, and so that is why I take this procedure to make sure that we get it up for consideration and for debate when we return from the Easter recess.

I thank the Chair. I thank the Senator from Arkansas.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say before I begin my remarks on a separate subject, that the majority leader is absolutely right when he talks about the necessity for developing a system of disposing of high-level nuclear waste in this country from our nuclear powerplants.

If, when I was Governor of Arkansas 22 years ago, wondered how on Earth we were going to deal with that. That was the reason I was always opposed to building the nuclear plants when we had not figured out how we were going to decommission the ones that we had and dispose of the nuclear waste that was coming out of them. So it is one of the most difficult, knotty problems I have ever faced.

I am ranking on the Energy Committee and we have wrestled with this at length over the years. This is no time to debate it, except to say it is one of the most awesome, difficult problems I have ever been confronted with.

FORGO TAX CUTS UNTIL WE BALANCE THE BUDGET

Mr. BUMPERS. Mr. President, I rise to pay tribute to my colleague in the House, Speaker GINGRICH. For those of you who think that I must need a salva test for saying that, here is why. It was earlier this week in a press conference, that Speaker GINGRICH made a very responsible statement. He said that this Congress should forgo tax cuts until we balance the budget—an eminently sensible, unassailable proposition insofar as I am concerned.

I expected the reception he got. Some of his very best friends in the House jumped on him and said, “You have betrayed us.” Thirty House Members sent him a hot letter, saying, “What on Earth are you thinking?”

I don’t know what thinking, but I assume he was thinking the same thing I was thinking, and that is that the snake oil of cutting taxes and balancing the budget makes no sense whatever. We have tried it. Ten years from now, or 20 years, memories will have faded a little further, I would rather expect people to say, yes, we can cut taxes and balance the budget. But we are, really, only 4 years away from the end of George Bush’s tenure as President; we are 16 years away from 1991 when the U.S. Senate took leave of its senses and passed a massive tax cut on the proposition that if we would do that and simultaneously balance the budget, which was at that moment $87 billion out of kilter, that we could do it. Interestingly, in 1994 if we just bought into this proposition that we needed to cut taxes monumentally to stimulate the economy.

But I am again happy to report to my colleagues I did not buy that snake oil. There were 11 Senators—believe it—11 U.S. Senators who said, “This is crazy. It will never work. It makes no sense whatever. It violates economic principle, violates normal sanity.” But we went ahead and did it, and I will never forget the day I walked out of President Reagan, at Rancho Mirage, signed the bill. In front of about 100 television cameras, saying, “You have given me the tools. Now I’ll do the job and nobody will be left behind.”

Here is what happens. Twelve years later, we had accumulated $2.5 trillion in additional debt to go with the already $1 trillion debt that we had incurred during the first 200 years of this country’s history—actually less than that. But from the day from when we ratified the Constitution in 1789, until the day we passed that tax cut in 1981, the debt had accumulated to less than $1 trillion. Twelve short years later, we had increased that trillion-dollar debt by $3 trillion, and the national debt at that time then became $4 trillion, and we have been striving to dig ourselves out of that hole ever since.

Mr. President, 3 or 4 weeks ago I was warning about that deficit and its impact. I was in the office and one of the most conservative Republican Senators in the U.S. Senate, who happens to be a good friend, came over to me and he said, “I’ll tell you, D ALE, confidentially, I’ve never seen things better. The economy is as good as it ever gets. We are going right in this country.” I almost fainted. I said, “I could not agree with you more.”

I sometimes wonder why people are not dancing in the streets. Since 1992 we have taken the deficit from $20 billion to $107 billion in 4 short years. The unemployment rate in this country is the lowest in years. Some economists say you cannot get it much lower than 5.3 or 5.4 percent. Interest rates are at a manageable level.

Mr. President, this week I was on the Senate floor during the last debate of one of the last legislative days. I was lucky enough to be there to put the record here in this chamber of the last debate that took place in the Senate to try to put across a message as to what other items the Senate may consider on that Monday. I will be discussing Monday’s schedule further with the Democratic leader and will inform the Senate as to what other items the Senate may consider when it reconvenes following the Easter recess period.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. LOYD. Mr. President, let me say before I begin my remarks on a separate subject, that the majority leader is absolutely right when he talks about the necessity for developing a system of disposing of high-level nuclear waste in this country from our nuclear powerplants.
the economy? And why do we want to stimulate an economy that is perking along so well that Alan Greenspan keeps Wall Street on edge every day saying, "If this economy gets any hotter, I'm going to raise interest rates"? That is the threat every time the Federal Reserve Board meets, the threat of higher interest rates. You cut capital gains taxes, and I promise you it will not be long until you will have an interest rate increase from the Fed. You cut these other taxes to the tune of $200 billion over the next 5 years, and I promise you interest rates will go up. Alan Greenspan will see to it. And if interest rates go up, the market will drop and economic activity will drop. So why would we insist on making a crazy economic decision to stimulate an economy which is moving along sharply?

I see statements in the press every morning of some politician saying, "Well, people know how to handle their money much better than Washington. It's a lot better to leave it in their pocket than send it to Washington." I understand that, and I understand that if you are looking for applause, that statement is a good way to get it. But I also know that what we have got here is an opportunity that does not present itself often, and that is to honestly balance the budget and give the people of this Nation a night's sleep like they have never had before.

The Senator from New Mexico offered two budgets this afternoon. One was the President's. I said many times on this floor, I am not enamored with the President's budget. I am not enamored with any budget which does not reduce the deficit this year and next. The Senator from New Mexico is getting very close to singing my song. You like bipartisanship? You like for Republicans and Democrats to agree? The Senator from New Mexico probably is not that different than Washington, is getting awfully close to doing it with his resolution which says no tax cuts until we get to a balanced budget using CBO's figures.

Mr. President, the Budget Committee has been deliberating, and I think they have been making some progress, incidentally. They even think they have the deficit down to $111 billion now, and if they are that close, I think it is absolutely imperative that we improve over the $29 billion deficit by cutting it below $107 billion this year and an even better next year.

One of the things about the proposal of the Senator from New Mexico is that when we reach that happy day—when we are in balance—then half of any surplus will go to reduce the cuts made in nondefense discretionary spending. That is education, law enforcement, environment, health care, medical research. It is all the things that make us a great nation. But the Senator from New Mexico very carefully has focused on making cuts in nondefense discretionary spending. Well, what is wrong with asking the Defense Department to help out? Why in the name of all that is good and holy would we, in 1996, insist that the Defense Department take $9 billion more than they even asked for?

I sit on the Defense Appropriations Committee, and I stand today. I get absolutely nauseated at times. You take the F-22 fighter plane, which we do not need, I promise you—and I am going to stand at this desk and maybe lose another battle on the F-22—but whenever they start talking to me about building 438 airplanes at $180 million each to compete with a Russian airplane that is not even on the drawing board, let alone being off the drawing board, and at a time when we are building 1,000 advance F-18's which will be as good, or better, than any plane that could possibly challenge us for the next 20 years, and then follow that in 2015 with a joint strike fighter—no, they want to fill in what they say is a gap with a plane, Mr. President, that costs $180 million each to compete with an airplane and 100,000 throwing chairs. Would you like to know how much the estimated cost of the F-22 has gone up in the past year compared to what we were told in 1996? $15 billion. $15 billion in 1 year. God knows what it will be by the year 2016 or 2017 when we start building these airplanes. We will not be able to afford them, I can tell you that.

I am simply saying that we should look at what the President wants to cut. The Senator from New Mexico has a $100 billion cut in Medicare. And what about Medicaid? I do not know whether we are cutting Medicaid $9 billion or $22 billion. You hear conflicting numbers on that, but bear in mind what these programs are. Medicare is health care for our elderly; Medicaid is health care for the poor, the most vulnerable of all our children.

Last year, we cut welfare recipients' food stamps, everything, for the poorest 19 percent of the people in the country, $55 billion. Mr. President, I am not going to go home and tell my constituents that I voted to savage the most vulnerable people in our population, the children and the elderly and the poor, and that I voted to give the money to the wealthiest 5 percent of the people in America. I promise you, if I were running against somebody that had done that, I could make that case in spades and be absolutely certain of my ground.

I did not vote for the welfare bill last year. I was one of the 21 people that did not. You can call me a bleeding heart liberal. You can call anything you want to. But when this body starts saying the only way we can balance the budget is by giving the Pentagon billions they did not even ask for and cutting Medicare by $100 billion, and depriving the poorest children in the country of Medicaid to the tune of $22 billion, and then using $55 billion in welfare cuts—you say I should have to say I never went to Methodist Sunday school as a boy, but I did. I believed those Methodist Sunday school stories about my obligation to my fellow man. You hurt your fellow man, you insult God.

So I am not going to do it, whether you want to talk about religion or whether you want to talk about common sense, whether you want to talk about what has made this country great. One thing that has made this country great is our commitment to the elderly. We reduced the poverty rate among them from 25 percent to 12 percent since 1950. We ought to keep doing it. We ought to come to our senses.

I intend to sit down and visit with the Senator from New Mexico and talk seriously with him about this. I am not negotiating on behalf of the President or anybody else. But I want to applaud the Senator from New Mexico this afternoon because he has made a very important statement that a lot of people on that side will disagree with. But I think he is on the right track. I think NEW GINGRICH made a very important statement earlier this week, and I applauded him for it.

Mr. President, I appreciate having the opportunity to make these statements. I have been intending to do this all week, and it has been on my schedule. I could not do it. But I am feeling better tonight about the direction we are headed than I have in some time.

I yield the floor. Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: Calendar Nos. 39, 40, 6L and 62.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOT. Mr. President, for the information of all Senators, this involves two appointments to the Federal Mine Safety and Health Review Commission, a nominee to be a U.S. district judge for the District Court in DC, Colleen Kollar-Kotelly, and Rose Ochi to be Director, Community Relations Service, Department of Justice.

NOMINATION OF JUDGE COLLEEN KOLLAR-KOTELLY

Mr. LEAHY. Mr. President, last night we finally broke through the stall and the Senate confirmed the nomination of Merrick Garland to be a judge on the United States Court of appeals for the District of Columbia Circuit. During that extended debate on a nomination that had been delayed too long, I urged the Republican leadership to take up the nomination. Tonight, I urge Colleen Kollar-Kotelly to the U.S. District Court for the District of Columbia.

I am encouraged that those who schedule matters in the Senate have
hearing our plea and are finally willing to consider this nomination, as well. When we confirm Judge Kollar-Kotelly, we as a Senate will literally double the number of judges we have confirmed this year—from one to two. Unfortunately, there will still be 68 vacancies on the district courts around the country and a record 24 vacancies on the Federal courts of appeals.

Judge Colleen Kollar-Kotelly’s nomination was first received from the President in March 1996 and was previously reported to the Senate in September 1996. This nomination was not acted upon before the adjournment of the 104th Congress. She was renominated at the beginning of this Congress; her nomination was re-reported again without a single dissent from the Judiciary Committee 2 weeks ago. During that time there has been an anonymous Republican with an unspecified connection to the Senate, who has said the nomination from being considered. In other words, there is an unspecified hold.

Over the last 5 years, the District Court for the District of Columbia has been at full strength with 15 active judges for about 6 months every year. The court has been operating with three vacancies for over a year and another judge is currently absent due to illness. I understand that the vacancies have been contributing to a rise in the backlog of civil and criminal cases pending before the court.

The criminal case backlog increased by 37 percent in 1996. So much for getting tough on criminals. We are fortunate to have the fewest judges who are willing and able to pitch in during these vacancy periods. Indeed, senior judges recorded one-third of the total court time spent by all judges in this district from July 1995 to June 1996. In the words of the court’s chief judge: “The Court cannot continue to rely on senior judges to bear this much of the caseload.” I agree.

I thank the majority leader for agreeing to proceed to Senate consideration of Judge Kollar-Kotelly’s nomination. And I thank Chairman Hatch of the Judiciary Committee for pressing forward with this important nomination.

The Senate has not been doing its job when it comes to considering and confirming nominations for judicial vacancies. I asked last night what justified the unconscionable delay in taking up Judge Garland’s nomination, what fatal character or record the Republicans had uncovered? I ask those questions again with respect to this nominee, a hard-working woman who has been serving on the superior court bench here in the District of Columbia for the last 13 years, having been appointed by President Ronald Reagan. The answer is the same: There is no explanation why she was not confirmed before now. She is another of the unlucky victims of the majority’s shotgun of the confirmation process last year.

With respect to this nominee, I note that the ABA Standing Committee unanimously found her well qualified for this position, thereby giving her the ABA’s highest rating. She has been an associate judge of the Superior Court of the District of Columbia since 1984 and has served as the deputy presiding judge of the Criminal Division. Before that she was a chief legal counsel at Saint Elizabeths Hospital here in the District. She served as an attorney in the appellate section of the Criminal Division of the Department of Justice for about 6 years.

She is a distinguished graduate of Catholic University and its Columbus School of Law. She clerked for the Honorable Catherine B. Kelly on the District of Columbia Court of Appeals. She has been active in bar associations and on numerous committees of the Superior Court.

I thank all Senators for confirming this nominee as a judge on the United States District Court for the District of Columbia.

Mr. FAIRCLOTH. Mr. President, I am not going to object to the unanimous consent for the confirmation of Colleen Kollar-Kotelly to be U.S. district judge for the District of Columbia. I think it would be like it recorded that if we had conducted a rollover on the nominee, I would have voted in the negative.

Mr. LOTT. Mr. President, I ask unanimous consent that the nominations be considered, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate’s action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were confirmed as follows:

The JUDICIARY


DEPARTMENT OF JUSTICE

Rose Ochi, of California, to be Director, Community Relations Service, for a term of 4 years.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 2002. (Reappointment)

Theodore Francis Verheggen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

Mr. LOTI. Yield the floor, Mr. President.

Mr. BURNS addressed the Chair. The PRESIDING OFFICER. The Senate from Montana.

(The remarks of Mr. Burns pertaining to the introduction of S. 509 are located in today’s Record under “Statements on Introduced Bills and Joint Resolutions.”)

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTIAL-BIRTH ABORTIONS

Mr. SANTORUM. Mr. President, I rise to talk about an issue that was talked about at great length today in the House of Representatives and voted on. That is the issue of partial-birth abortions, or as the Congressman who led the debate on the floor of the House, Congressman HENRY HYDE, refers to it as partial-birth infanticide where, in fact, you have a baby that is at or near viability in the fifth and sixth month of pregnancy when most of these abortions are performed, delivered completely out of the mother, and all that is left in the mother is the head—what we are talking about here is not an abortion. What we are talking about is killing a child.

I think, incredibly, frankly, given the results of the last election where the Republicans lost seats in the House, and getting a sufficient number of House votes to override—a hopefully not, but probably—Presidential veto of this bill—we needed 290 votes. We thought going in we would be assured of that number. In fact, we thought we would be well assured given the results of the election and what we thought was the intention of the Members.

It turned out that the House passed the partial-birth abortion ban by a vote of 295 to 115. We needed 290 votes, five votes more than the required constitutional majority of 67 percent of the House. So they do have enough votes in the House of Representatives to override a Presidential veto.

The action now shifts here to the U.S. Senate. We are going into recess and will be for the next couple of weeks, but I have had conversations with the majority leader, and we anticipate bringing that bill up sometime shortly after we reconvene here in the Senate in April and hope for a full debate on this issue.

As to what happened in the House, when we saw the number of votes change, resulting in a sufficient number to override the President’s veto, I hope that same kind of dynamic occurs here in the Senate. Those votes changed because of new information that has been brought to light about what actually is going on out in America on this issue of partial-birth abortions. We were originally told by the advocates of the procedure, the industry and those who support the procedure, the abortion rights groups, that...
this was “a rare procedure.” That phrase was used over and over again, “a rare procedure.” The President of the United States used “a rare procedure,” done only in the third trimester, in cases where the mother’s life or health was in danger, or where there was a severe fetal deformity.”

That was the argument and the reason the President vetoed it, and that is why many Members of the Senate stood here and said they could not find them in the record, or where if someone was in this kind of dire consequence that they would limit a person’s option.

We had plenty of medical testimony at the time, and even more has come in since, that says that this is never an indicated procedure to protect the life or health of the mother, never an indicated procedure. It is not in any textbook on obstetrics. You will not find it in any of the medical literature. I am quoting lots of obstetricians who have testified before Congress, including an obstetrician in the House of Representatives, Dr. Tom Coburn, a Member of the House, and C. Everett Koop, the former Surgeon General, who worked with the Surgeon General himself, and many of these doctors who have overwhelming medical authority that this procedure is never indicated to protect the life and health of the mother.

But we also found out new information, and the fact is this is not a rare procedure. This is a procedure that is done thousands upon thousands of times. The estimate given by the abortion providers is 3,000 to 5,000 times a year. The only independent evidence we have been able to gather is by a press reporter in Bergen County, N.J., who surveyed a clinic in her community, and in that one clinic in northern New Jersey there were 1,500 partial-birth abortions performed every year. Now, if there are 1,500 in one clinic, and we have other doctors who have testified in Nebraska, Bellevue, NE—no offense to my colleagues from Nebraska, but hardly a large metropolitan area—where this doctor said in the last 2 years he has done 1,000 partial-birth abortions, if you just take those two isolated instances and the fact, as the reporter from Bergen County said, that this procedure, according to the doctors there, is done in other places in the New York metropolitan area, but if you just take those two instances, it is very hard to say we only have 3,000 to 5,000 of these being performed nationwide.

There is no way to check because the people who provide the statistics are the advocates for the procedure. So, of course, they are not going to give us the real numbers. They know that their Achilles heel in this debate, in the debate not just on partial-birth abortions but, frankly, on all abortions, is late-term abortion. This is not something the American public feels comfortable with, but in fact, something the American public overwhelmingly rejects. They think that goes too far. So there is really no reason for them to give us accurate information. When I say there is no reason for them to give us accurate information, it is because there is no way to check whether that information is accurate.

The Government keeps no statistics on the number of partial-birth abortions. So there is no way for anybody to independently verify this.

Now, I have asked many reporters who have covered this issue, “How do you go about verifying your story instead of taking what the Alan Guttmacher Institute,” which is an arm of the abortion advocacy group and is always cited in literature and in the press as this “independent source.” That is just ludicrous. They are an advocate, a zealous advocate of the absolute right to choose. So using their information is as bad as using the providers themselves who are advocates of the procedure.

Now, some reporters have actually gone through the process of calling their clinics. We have gotten a variety of different feedback. I talked to a reporter from the Baltimore Sun who said in hospitals and clinics in Baltimore that do abortions, and they hung up the phone on her. They didn’t want to talk to the press. It is none of their business. Others have said they have called and had women say, “We don’t do that here.” They very well may not do it, but we have no way of checking. The press has no way of checking because they are not going to make their records available. It is confidential, and I understand that. But there is no way for us to know how many abortions are done, partial-birth or late-term abortions. You will have advocates get up for this procedure on the Senate floor and talk about this as being “very rare,” or “only a few thousand a year.” ‘But in the context of children—children are used a lot on this floor as a defense for a lot of Government programs. Imagine if you were talking about 3,000 to 5,000 children who we would let starve to death in this country: what would we do about it here? Would we say it is only 3,000 or 5,000 who we are going to let die because we don’t want to take any action? I am not too sure that we would do that. But, in fact, there is what we are doing. We are accepting their numbers, which I don’t accept. I don’t think, frankly, the press should accept them. I think throwing this number out of 3,000 to 5,000, quoting an advocate of the procedure, is not just in the context of children—children are part of the argument that this procedure would not be used just by knowing what the procedure is. Take a case. We have a mother whose life is in danger. Now, I will add that we have a provision in this bill to protect the life of the mother. If this procedure is ever needed to protect the life of the mother, it can be used. But let me suggest that that would never happen. We have it in there, frankly, for cosmetic reasons. It would never happen. But if there is an imminent danger, would any physician use a procedure that takes 3 days to perform? If the woman presents herself to the hospital in a life-threatening condition, would you say, “We have this great procedure that takes 3 days to do; we will give it a 2-day mediation, come back in 2 days”? You would if you want to kill the mother, or if you want malpractice, but not if you want to provide competent medical services to a woman in need. So it would not be used, that is my point.

Let’s talk about the health condition. Again, if somebody presents herself with a severe health consequence, So I hope that when we have this debate, we realize, number one, that it is not a rare procedure. And, frankly, we don’t know how rare it is. What we do know is that the numbers given out in the past were lies. Let’s call it what they were—lies, a deliberate attempt by the abortion industry and advocates to mislead the Congress. They sent people up here and they testified to that lie. So now we are going to believe them and give them a second chance to lie.

I am sorry. Fool me twice, shame on me. They are not going to fool me twice. I am not going to accept their number, and I don’t think anybody should. They have no credibility because they have lied once and, number two, there is no independent verification of that number, because they will not open up their books. They won’t even let reporters talk to them. So I encourage the press covering this debate now, and who covered it in the past, not to use a phony number. As horrible as that number is, my goodness we are talking of an admission of at least 3,000 to 5,000—maybe it’s 30,000 to 50,000, who knows? It is not a rare procedure, and it is not done just on mothers who have severe health complications or life-threatening ailments.

We know that. One reason is obvious that we know it. We know it by understanding what the procedure is. The other reason we know is because we have all the medical experts testifying that this procedure is never indicated to protect the health of the mother. The only information we have is from the abortion industry and advocates of the procedure, and it is not used just by knowing what the procedure is. Take a case. We have a mother whose life is in danger. Now, I will add that we have a provision in this bill to protect the life of the mother. If this procedure is ever needed to protect the life of the mother, it can be used. But let me suggest that that would never happen. We have it in there, frankly, for cosmetic reasons. It would never happen. But if there is an imminent danger, would any physician use a procedure that takes 3 days to perform? If the woman presents herself to the hospital in a life-threatening condition, would you say, “We have this great procedure that takes 3 days to do; we will give it a 2-day mediation, come back in 2 days”? You would if you want to kill the mother, or if you want malpractice, but not if you want to provide competent medical services to a woman in need. So it would not be used, that is my point.

Let’s talk about the health condition. Again, if somebody presents herself with a severe health consequence,
for the advocates who you may have recognize your obligation to those children and can't. If you have been blessed with a healthy baby and a healthy pregnancy, I don't know why you would do this procedure. But the point is, you would not go through this 3-day procedure if there was an imminent pregnancy, I don't know why you would do this procedure. But the point is, you would not go through this 3-day procedure if there was an imminent health risk to the mother. It is not just a logical argument.

This procedure was not designed by a physician who was looking out for the health and life of the mother. This was designed by a physician, in his own words, to be inefficient, to be designed by abortionists, not for the mother. It is efficient in that the mother can come in and do it on an outpatient basis. Late-term abortions are much more complicated. It is much more invasive. This basically prepares the woman for a shorter visit to the clinic and a more convenient way for this abortionist to perform the abortion and to be able to do more of them in one day. That is the reason this procedure was developed.

You will hear testimony of people who have written textbooks on abortion, who said they would never use this, and they do late-term abortions. So I just ask my colleagues to listen to all of the facts. We have, I think, last year at this time, unfortunate, and I will not point blame at anybody. I am not sure there is blame. We had a situation where the vote came up in an election year, in an election climate. Members are people, too. They feel a comfort zone on issues. It is very hard for them to sort of break out of this comfort zone into unknown territories, particularly around a very politically charged environment, even though the facts were there; many of the facts were available for the other side. Certainly, a lot of them were not given credibility in the mainstream media. Now they have been.

So I ask many of my colleagues who have already cast a vote more than once on this issue to have an open mind, to step back and look at the reality of partial-birth infanticide and recognize your obligation to those children, recognize your obligation to your constituents in trying to ascertain the truth and making that decision that is in the best interest for America and for your State, not for the interest group that supports you in your election, not for the advocates who you may have good relationships with. We are in our comfort zone with people who agree with us. It is very easy for us to sort of hang around those people and sort of feed off each other. I understand that. But sometimes you have to step back from all of that. You have to step out in the cold, hard facts and make a decision using your mind and using your heart on what is right—not what is right politically for me, not what is right for my friend, but what is right for our culture and what is right for our whole existence as a country.

I think when we do that, I think when Members take time to do that, we will see something very special happen here, which is what happened in the House today. Members will have stepped out of that comfort zone, which I know is very hard to do, will take an honest look at the facts and make a decision that is right for America. That is my hope.

I am going to be working very diligently, and I know other Members are, in making sure that this information is disseminated.

I again encourage the press to do your job, fact-check your stories before you write them, and ascertain the truth. Do not just report what people say. I know some people think that is their job. If that is the job of a reporter, then reporting has sunk to a new low in this country if all we do is run around and report what people say. That is not journalism, in my book. At least make an attempt to find out the truth. At least check. This is serious stuff. We are not talking about how the Senate buys paper here. It is important. It takes taxpayer dollars. We have a system. We are talking about very weighty issues. We are talking about the issues of life and death, about a barbaric procedure that just goes beyond any vision that I can imagine that people in this country have of what our civilization and what humanity is.

So take that responsibility seriously on your side. We take it seriously here. I think, if you do your job and if Members of the Senate do their job, which is to honestly face the facts, allow those facts to rebound off your sense of judgment, your sense of right and wrong, then I think what will bounce back is a vote to end this barbarism in this country by an overwhelming vote.

**MORNING BUSINESS**

(During today's session of the Senate, the following morning business was transacted.)

**ACCEPTANCE OF PRO BONO LEGAL SERVICES**

Mr. BYRD. Mr. President, on October 3, 1996, the Senate adopted Senate Resolution 321, which was introduced, and which had the bipartisan support of both the Majority and Minority Leaders. The resolution authorizes a Senator to accept pro bono legal services when challenging the constitutionality of a Federal statute, and then only when the statute in question expressly authorizes the Senator to file such a suit.

In addition, Senate Resolution 321 required the Select Committee on Ethics to establish regulations providing for the public disclosure of information relating to the acceptance of pro bono legal services performed as authorized by the resolution. Those regulations were adopted by the Committee on February 13, 1997, and were subsequently printed on page S1485 of the CONGRESSIONAL RECORD dated February 24, 1997.

Specifically, those regulations state, in relevant part:

A Member who accepts pro bono legal services with respect to a civil action challenging the validity of a Federal statute as authorized by S. Res. 321 shall submit a report to the Office of Public Records of the Secretary of the Senate and the Senate Select Committee on Ethics.

The regulations go on to state:

All reports filed pursuant to these regulations shall include the following information: (1) a description of the civil action, including the Federal statute to be challenged; (2) the caption of the case and the cause number, as well as the court in which the action is pending, if the civil action has been filed in court; and (3) the name and address of each attorney who performed pro bono services for the Member with respect to the civil action, as well as the name and address of the firm, if any, with which the attorney is affiliated.

On January 2, 1997, I, along with former Senator HATFIELD, Senator LEVIN, Senator MOYNIHAN, and Representatives WAXMAN and SKAGGS, filed a civil action in U.S. District Court for the District of Columbia challenging the constitutionality of Public Law 104-130, the Line Item Veto Act. That suit, titled Byrd v. Raines, was filed pursuant to section 3 of the Act, which authorizes precisely this type of suit.

In our quest to utilize the best legal talent available, we have, in accordance with Senate Resolution 321, chosen to accept the pro bono services of several distinguished attorneys. To date, they have provided each of us with invaluable service through consultation, research, analysis, and legal representation.

At this time, I would like to advise the Senate that, as required by the aforementioned regulations issued by the Select Committee on Ethics, Senators LEVIN, MOYNIHAN, and I have filed the necessary reports fully disclosing the representation which we have received. However, in an effort to comply with not only the letter of those regulations, but also with their spirit, I am transmitting in the CONGRESSIONAL RECORD copies of those reports, so that all Senators will be thoroughly apprised of the details of this matter.

Mr. President, I ask unanimous consent that the two reports to which I have referred be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows: march 20, 1997
CONGRESSIONAL RECORD – SENATE


Hon. Mitch McConnell, Chairman;
Hon. Byron Dorgan, Vice-Chairman, Select Committee on Ethics,
U.S. Senate, Washington, DC.

GENTLEMEN: In accordance with the regulations of the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain pro bono legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statute. Please find below the details of this action as required by the regulations, which were published in the Congressional Record dated February 24, 1997.

1. This is a civil action in which we, as plaintiffs, have challenged the constitutionality of Public Law 104-130, the Line Item Veto Act.


3. Pro bono legal services have been provided to us by:
   - Mr. Lloyd N. Cutler, Mr. Louis R. Cohen, Mr. Lawrence A. Kasten, Wilmer, Cutler & Pickering, 2455 M Street, N.W., Washington, DC;
   - Mr. Charles J. Cooper, Mr. Michael A. Carvin, Mr. David Thompson, Cooper and Carvin, 2000 K Street, N.W., Suite 401, Washington, DC;
   - Mr. Alan B. Morrison, Ms. Colette G. Matzkie, Public Citizen Litigation Group, 1600 20th Street, N.W., Washington, DC;
   - Mr. Michael Davidson, 3753 McKinley Street, N.W., Washington, DC.

As always, it is our intent to fully comply with both the letter and the spirit of the regulations issued by the Select Committee on Ethics. We trust that this report serves to fulfill that intention. Should you or your staff wish further information pertaining to the matter, please have your staff contact Peter Kiefhaber (Senator Moynihan) at 4-7215, Linda Gustitus (Senator Levin) at 4-5538, or Mark Patterson (Senator Moynihan) at 4-7800.

Sincerely,

ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,

Hon. Gary Sisco,
Secretary of the Senate, U.S. Senate, Washington, DC.

DEAR MR. SISCO: In accordance with the regulations promulgated by the Select Committee on Ethics pursuant to Senate Resolution 321 of October 3, 1996, we are submitting this report with respect to our acceptance of certain pro bono legal services. Those services have been, and will continue to be, accepted by us in connection with the filing of a civil action challenging the validity of a federal statute. Please find below the details of this action as required by the regulations, which were published in the Congressional Record dated February 24, 1997.

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Sincerely,

ROBERT C. BYRD,
CARL LEVIN,
DANIEL PATRICK MOYNIHAN.
South of the Quabbin Reservoir, a stone’s throw from antique shops and Old Sturbridge Village, there are towns with more high school dropouts, pregnant teenagers, and families on welfare stamps per capita than in Brockton or Lynn.

And in parts of Berkshire County, where the well-to-do spend summer nights sipping wine on the porch swing, the rate until last year child abuse is the highest in Massachusetts.

Police and city officials in Boston, 80 miles from Chevy’s house in Athol, brag about a drop in juvenile crime and earn praise nationally for their efforts. It’s just part of a steady diet of good news in the Boston area these days, as some sales are up, unemployment down, consumer confidence high.

But police chiefs in many small towns watch as their crime rates soar. Child protection officials may tout an overall decline in reported child abuse, but in some places out here, it’s happening more and more.

People in these towns talk not of success stories, but of a lost generation growing up without hope on the backroads of Massachusetts.

“People in Boston think I am dealing with Mayberry RFD,” says Southbridge Police Chief Michael Stevens. “They don’t know anything. I’ve got big-city problems.”

PASSING TIME, MAKING TROUBLE

Before he was sent off to Lancaster, Chevy often has meals at Downtown Athol. It wasn’t that long ago that Main Street pulsed with the comings and goings of thousands of factory workers. On Thursdays, pay day at the two biggest mills, stores stayed open until 9 p.m.

Today, clothing shops and theaters have given way to human service agencies. One of the remaining industries is the casket manufacturer where Chevy’s father worked before he died. The buzz on the street comes not from Main Street benches, but from teenagers who hang out on Main Street benches, doing drugs and harassing passersby.

Teenagers in towns like Athol complain they are trapped. They say there is nothing to keep them busy and no buses or subways to take them to malls or theaters. When they quit school or graduate, they quickly find out there are few jobs that pay more than $6 an hour.

For some, making trouble is an easy way to pass the time.

It was three teenagers from Athol who capped off the year with the well-publicized home invasion in Heath. They are trapped. They say there is nothing to keep them busy and no buses or subways to take them to malls or theaters. When they quit school or graduate, they quickly find out there are few jobs that pay more than $6 an hour.

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For some, making trouble is an easy way to pass the time.
NEW WELFARE LAW HURTS MENTALLY DISABLED IMMIGRANTS

Mr. KENNEDY. Mr. President, under the new welfare law, many mentally disabled legal immigrants will lose their SSI and AFDC benefits. As a result, some of these immigrants will be unable to pay their room and board at residential treatment facilities. They may be forced to live on the street, without enough money to buy their life-sustaining medication.

Two cases demonstrate this problem. In the first case, Mr. X, a former officer in the South Vietnamese army, came to the US as a refugee in 1991. As a result of 12 years on the front lines of the Vietnam War, and torture in a re-education camp, he suffers from serious mental illness. At the age of 54, he is too old to start over, learn a new language, and hold down a job.

He receives treatment at a mental health center in California, and receives SSI. If his benefits are terminated, he will no longer have enough money to pay for his treatment. He is studying to pass the naturalization exam, but his memory impairment limits his ability to study.

In the second case, a refugee from Vietnam receiving SSI has been diagnosed with schizophrenia, and relies heavily on medication. Without it, he hears voices, and cannot concentrate, for destruction of anything he learned. He receives $772 a month, of which $692 goes for room and board at a residential facility. If his SSI benefits are cut off, he will be unable to pay for the facility, and will be unable to pay for his medication.

Unless Congress takes action, these stories will continue, and immigrants who need help for serious mental disabilities will be turned away from their treatment centers and residential facilities. I ask unanimous consent that two recent newspaper articles on this issue may be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Miami Herald]

A CATASTROPHE AWAITS

In the rhetoric of Congress, welfare reform was to push the able-bodied off the dole and into the work place. In the reality of South Florida's legal immigrants—those who have met every legal test for being here, but who now are cruelly rejected—it bids to push the aged, the sick, and the disabled off their balance and into the street. Or the grave.

What awaits is a human tragedy. It is unwise, unfair, and manifestly un-American. It will be felt in South Florida, where places in this, the nation made great by immigrants.

Maria Cristina Rodriguez is 76 and a social worker at the Little Havana Activities and Nutrition Center. She now runs six support groups for anxious seniors. She can't forget the 79-year-old woman who—as talk of benefits controlled this winter—jumped to her death from her subsidized apartment. “Here I finish,” said her suicide note, “before they finish me.”

Now the final count has started, and this kind of panic is spreading. One day recently, 500 distressed seniors waited for the local office of U.S. Rep. Ileana Ros-Lehtinen, to open. They said they'd been deceived. But little was to be had. Congress had spoken.
Social-service agencies already are feeling the rising tide of dread and demand. At the Little Havana Center, two 80-year-old women walked in with a written suicide pact. With no family to turn to, and facing loss of their Supplemental Security Income—their sole means of living—they thought it best to kill themselves. Heed that, Congress.

Would it have come as a surprise? It is not. Thanks to last year’s welfare-reform law, legal immigrants who are destitute, sick, or aged will lose their federal assistance to take the first steps in Florida’s 115,000 immigrants to lose life-sustaining benefits, principally food stamps and SSI.

The numbers in Dade are particularly frightening. Here, if nothing is done, 80,000 legal immigrants in Dade will lose their public assistance, nearly twice the number of Dade’s U.S.-citizen “welfare moms” who’ll lose benefits in the next two years—will lose their life-line support. That 80,000 includes elderly, the poor, and disabled. Of those, 40,000 are legal immigrants. That’s food for the poor, aged, and disabled.

The new welfare law did make some exceptions. Immigrants who worked in the United States cases to welfare, assures anmelds at Armed Forces, or who were admitted as refugees or granted asylum may remain eligible for aid. For most legal immigrants, though, only one option is a safety net.

What the welfare law did not provide was any assistance for those immigrants too old and infirm to document their work history or other criteria. Not did it provide for those already in the naturalization process. Nor did it allow for those who, because of mental disability, are not legally competent to make citizenship decisions. In this saddest of categories, at least 5,000 immigrants will lose benefits in Dade and Broward, says the Alliance for Aging, which administers federal funds to local agencies.

U.S.-citizen Floridians transitioning from welfare to work are getting two years and job training before their aid is cut. In that light, that 40,000 is far graver. Legal immigrants—a scant one year—its pathetic. It comes at a time when the Miami Immigration and Naturalization Service Office has 90,000 cases to handle. Already, becoming a citizen can easily take 10 to 13 months. Even if the INS adds 70 new employees to process applications—a plan announced this week—some 1,500 applicants could lose months of vital benefits before becoming citizens and having their eligibility restored.

Picture Dade (and to a lesser extent Broward). Elderly legal immigrants evicted and homeless. Anxiety-provoked deaths and disease. Overwhelmed families and social-service agencies. For the economy, the loss of $200 to $300 million annually. It is a book of tragedy waiting to be written not in chapters, but in paragraphs—each representing a single, undeserved, prevented human tragedy.

Many Floridians express concern, but few so far have taken meaningful action. Some legislators have been searching for solutions in Tallahassee and Washington. Governor Chiles has been pressing for federal fixes as well. Area agencies are cooperating in trying to think the unthinkable. Catholic Charities of the Archdiocese of Miami, for one, is trying to raise funds for a massive naturalization and immigrant-assistance drive. Yet, altogether, inexplicably, with five months to go, south Florida remains woefully undermobilized. (By comparison, Los Angeles County, Calif, organized 200 agencies and started a massive naturalization drive last October.)

Until federal and human efforts begin now, there won’t be enough time to avert the human carnage.

[Afrom the Salt Lake Tribune, Jan. 27, 1997]

After decades, Uncle Sam tells elderly noncitizens We won’t help you anymore. Uncle Sam rolling up welcome mat

(By Patty Henetz)

Federal lawmakers meant to be absolutely clear when they ordered the end of public assistance to legal immigrants in the Personal Responsibility and Work Opportunity Act of 1996. I just look at the bill’s name. If questions remain, its backers will spell it out: Come to America. But never forget you are a guest and must provide for your own support.

Rose Boyer assumed that responsibility when she emigrated here from Lebanon 76 years ago. But the 92-year-old widow, who has been in the United States for 55 years, can’t speak for herself because she has no idea what is going on around here. Which may be just as well, since the letter she received from the state the first week of December would have been incomprehensible even if she did not suffer from dementia.

The letter said her medical-assistance case would be closed as of Dec. 31, 1996. Under new federal regulations, she is not qualified to receive Medicaid benefits. The $2,700 her nursing-home insurance and home-care insurance would cease. Incredibly, the government appeared to be telling her it was time she quit shrinking her responsibilities.

At the state’s Humane Services Director Robin Arnold-Williams alerted Gov. Mike Leavitt that Boyer was likely to lose her aid, as could several others. The governor recognized her on her 92nd birthday. August. “He isn’t going to kick people out on the street because there was a line in the regulation that said we had to,” says Leavitt spokesman Jerry Haugland. So now, no legal immigrants will lose their Medicaid protections. And if Leavitt, state humane services officials, the immigrants’ families and friends have their way, no one will—even though on its face the federal law would have done it otherwise.

Rose Boyer’s husband was naturalized in 1939 and died in 1946. She reared nine children, all U.S. citizens. She has outlived one of them. Her youngest living child, Sandy resident Louis Boyer, is 59. Her oldest son is deceased. She gets Social Security payment of $500 per month. The other three sons have diabetes. One has lost two legs, another has lost one leg, and all three were raped. One daughter is a retired maid who can’t walk much anymore; the other daughter, a 62-year-old clerical worker who wants to retire, also has difficulty walking.

Louis Boyer helps out the five siblings who live in Utah. “I try to do what I can,” he says. “I could pay for her keep, but then I would be in trouble. Our family has a lot of problems, but so far our mother is the only one on welfare. It was a big shock when they said they were going to kick her out.”

Kris Mosley, Murray Care Center’s social worker, was beyond shock. “I was furious,” she says. “I was looking for some way to discharge this little lady who can’t walk, can’t talk, who can barely feed herself.”

It may be difficult for affected families to take comfort in this, but Utah is getting off easy. The federal welfare cuts are hammering more populous states, particularly those with the most statesmen.

Nationwide, 250,000 elderly immigrants are expected to lose their food-stamp allotments. About 500,000 legal noncitizens, the Justice Department said, will lose their Supplemental Security Income benefits. SSI is paid to qualified people with severe disabilites. In California alone, about $390,000 of the 2.7 million on Aid to Families with Dependent Children are legal noncitizens.

Utah officials are optimistic that few residents will be hurt by the new restrictions because the state can decide whether to continue some benefits. Leaders are working to avoid harming noncitizens who are in Utah legally, especially the most vulnerable elders on Medicaid.

Last fall, the Utah departments of Health and Human Services surveyed their rolls of noncitizens receiving Medicaid and found that as many as 250 could be in jeopardy. They examined ways to keep from cutting off benefits to 10 names. Further culling left only three people ineligible for Medicaid, says Michael Diely, director of the state Health Department’s division of health-care financing. Those in nursing homes, one is at the state training center.

Legal noncitizens who receive food stamps will lose that benefit April 1 and the state is not allowed to do anything to continue it. Some 1,900 Utah legal noncitizens receiving SSI are now under review; because SSI eligiities are under federal requirements increasingly strict under the reforms, hundreds stand to lose their disability pay.

The Utah Legislature this session will consider a bill, the Family Assistance Program bill, sponsored by Rep. Lloyd Frandsen, R-South Jordan, that could provide noncitizen legal residents with cash payments. And Leavitt is scheduled to take part in related negotiations with federal leaders during the National Governors Association meeting next month.

“The whole issue of a large number of people that we need to take care of and the possibility of more down the road demands the need for the federal government to step in,” Varela says.

Many of the people affected by the reforms are noncitizens who have not bothered to become naturalized. They are known as PRUCOLS, or people residing in the country under color of law. The Immigration and Naturalization Service knows and has known they are here, but has made no move to deport them. This group includes those who came to the country on temporary or student visas and never left. They work here, pay taxes, but are not legal immigrants. And Leavitt is opposed to taking part in related negotiations with federal leaders. “The state would like to see the federal government step in,” Varela says.

Andreienko’s husband was one of the millions killed during the Stalinist purges in the old Soviet Union. After her husband was killed in 1938, she decided to leave Kiev or risk death for having married an enemy of the state. Her daughter was 1 year old. For most of her life, Mila Andreikeno, now Popova, kept her father’s history a feared secret.

Hezenberg, when he was 24, was killed in 1989, when it was possible, Mila and her husband, Oleg, left Ukraine for the United States. Mila, who had been a physician, now works as a medical assistant. Oleg, formerly an engineer, decided to leave their country in 1991, after they sent for Lia, who was 82 and without other family. She became ill with dementia.

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The new law requires immigrants and US citizens seeking to bring immigrant relatives to the US to meet strict income requirements. Anyone sponsoring an immigrant relative for admission to the US must earn at least 125% of the poverty level for a family of four. The 125% of the poverty level is more than $20,000 per year.

The INS study examined sponsorship patterns under the old law, and found that 29% of US sponsors had incomes below 125% of poverty. That means 3 out of every 10 families who came here in recent years probably could not have been reunited with family members under the new 125% rule.

In addition, 52% of immigrants who sponsored their spouses did not meet the 125% income threshold. In other words, over half of all immigrants who brought in husbands or wives—the closest of all family members—would be disqualified if they tried to bring them in today.

In addition, according to the study, 29% of American citizens who sponsored their spouses earn below the 125% level. That's 10 out of 100 American citizen sponsors who could not be reunited with their spouses under the new law.

The new requirement hurts both working American families and legal immigrants. As a result, large numbers of them cannot reunite with their loved ones. The new threshold means that the average construction workers with two children could not sponsor their immigrant spouses.

We are talking about hard-working Americans and legal immigrants—people who have played by the rules. I doubt that anyone in this Congress wants to deny American citizens the opportunity to bring their spouse to America or watch their children grow up here. But, that is what the 125% requirement does. It denies hard-working Americans these opportunities because the full-time job they hold doesn't pay enough.

Supporters of the new requirement claim that the income requirement is intended to keep immigrants off welfare. But in reality, after last year's sweeping welfare reforms, there is very little public assistance for which legal immigrants qualify. They are banned from receiving SSI and Food Stamps until they have worked and paid taxes for 10 years—or until they become citizens. They are banned from Medicaid and other programs for their first five years in the United States, after which they receive assistance only if their sponsors are unable to provide for them. So even if their sponsors have only modest incomes, the immigrants they sponsor are ineligible for public aid.

I supported measure to make sponsors more responsible for the care of the immigrants they bring in. But these requirements should not be so burdensome that they prevent American citizens from having their wives or husbands or children join them in the United States.

We expect sponsors to be responsible—for more responsible than we expect ordinary Americans to be. We expect sponsors to do it all—pursue the American dream, hold a good job, and under the new law, hold a better job than almost a third of American citizens. The 125% requirement contained in the new immigration law puts family reunification out of reach for many hard-working Americans and the majority of legal immigrants.

In addition, the study found that the 125% requirement disproportionately affects minority communities. Half of the immigrants coming from Mexico and El Salvador had sponsors who earned less than 125% of the poverty level. The same was true for a third of immigrants coming from Korea and the Dominican Republic, and a fourth of immigrants coming from China and Jamaica. So, future immigrants from these countries will have unfair difficulty reuniting with their families in the United States.

Supporters of the 125% requirement often point out that the new law allows low-income sponsors to overcome the 125% hurdle by lining up backup sponsors. What they fail to say, however, is that low-income, working class sponsors usually have low-income, working class friends. As a result, it is extremely difficult to find backup sponsors with income sufficient to meet the 125% requirement.

In addition, because the new law makes sponsorship agreements legally binding contracts, non-family members are unlikely to agree to sponsorship. Friends and family know that if they agree to sponsor an immigrant, they can be sued by the federal, state, or local government if the immigrant needs public assistance. If the immigrant they sponsor is injured on the job and needs medical care, the back-up sponsor may have to pay thousands of dollars in medical bills. Many families are unwilling to ask their friends and other relatives to shoulder such a heavy burden.

I hope that all of us in this Congress who are concerned about families in the immigration laws will work together to revise these harsh provisions. There is no justification for this blatant kind of bias in the immigration laws, and Congress has an obligation to end it.

I ask unanimous consent that a recent article from the New York Times on this new study be printed at this point in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 16, 1997]

**IMMIGRATION STUDY FINDS MANY BELOW NEW INCOME LIMIT**

(By Celia W. Dugger)

A new Federal analysis has found that an immigration law adopted last fall will make it much more difficult for poor and working-class immigrants to bring family members to the United States legally, especially Mexicans and Salvadorans, whose incomes...
are generally lower than those of other immigrant groups. But congressional sponsors of the legislation say their intent was not to impose unfair burdens on immigrant families but simply to prevent them from becoming dependent on public aid.

The law requires immigrants seeking to bring relatives to meet income requirements and to make legally enforceable promises to support the newcomers.

Advocates say these restrictions are a backdoor way to slash legal immigration in a year when Republicans in Congress failed to reduce immigration levels directly. They will needlessly divide hard-working husbands and wives from each other and their children.

The law, which is to go into effect later this year, would allow only one member of the immigrant family to sponsor them. It would also require sponsors for admission to the United States to make at least 125 percent of the poverty level, or $19,500 for a family of four.

Under the old law, there was no income test for sponsors, just a requirement that incoming immigrants show they would not need public aid. The law only prevented sponsors from becoming dependent on public aid.

Another study conducted last year by the Urban Institute, a nonprofit research group in Washington, reached similar conclusions. Its examination of 1993 Census Bureau income data found that 40 percent of immigrant families in the United States and 26 percent of Americans born in the United States would not make enough to sponsor an immigrant under the new standard.

Federal immigration officials refused to discuss their new research, which had not yet been released, or to say whether the preliminary findings had changed. But several people familiar with the research—three who opposed the new law and two who favor it—described the findings on condition that their names not be used.

Based on the survey of statements signed by sponsors, immigration officials estimated that roughly half of the Mexicans and Salvadorans, one-third of the Dominicans and Koreans, one-fourth of the Chinese and Japanese and one-fifth of the Filipinos, Indians and Vietnamese would not have met the new income requirements.

One opponent of the new laws who spoke on condition of anonymity said the study showed that half of the legal permanent residents and about 3 in 10 of the citizens who sponsored their wives in 1994 would not have met the new law.

The cases surveyed included both immigrants seeking to join their families here and those already in the United States, who may have entered on student visas or illegally, trying to become legal permanent residents.

In 1994, 461,725 immigrants came to the United States to join their families here, according to federal statistics. Demographers with the New York City Planning Department estimate that about 1 in 6 of those immigrants would not meet the new standard.

But the new research comes with these cautions: the income reported on each statement was not verified, and the size of the families in the survey was too small to meet the new standard were difficult to determine in a substantial portion of the cases.

New studies of the impact of last year's immigration law are being scrutinized because the issue of immigration is so politically charged and because legal changes so often have unintended consequences.

Complicating this debate is the disagreement among experts about just how much legal immigrants rely on public assistance. The highest estimate of 21 percent says that immigrants do not receive welfare. George J. Borjas, a professor of public policy at the John F. Kennedy School of Government at Harvard University, using a broader definition of welfare benefits, says that 21 percent of all immigrant households receive some type of public assistance, compared with 34 percent of native households.

Even with the data on the income requirements, it is difficult to predict exactly what the new law will mean on immigration levels. For one thing, people who cannot immigrate legally may come anyway.

"The perverse effect of the law will be to encourage illegal immigration," said Cecilia Munoz, a deputy vice president of the National Council of La Raza, a nonprofit Hispanic civil rights organization. "He ties between families are probably stronger than our laws."

All immigrants seeking to join their families under the new law will need a sponsor when the law takes effect; the old law did not require a sponsor for those who convinced officials that they could support themselves. About one-quarter of the immigrants who joined their families in 1994 had no sponsor, according to the new research, and it is not possible to determine how they would have fared under the new law.

In addition, under the new law, sponsors who do not meet the new income standards will be allowed to recruit a friend or other relative who does earn enough to sign a statement in their stead, promising to support the new immigrant if necessary.

That may be too little too late, even for relatives, although another provision of the law is already discouraging some close family members, not to mention friends, from signing such statements, immigration lawyers say.

In the past, such promises have generally been accepted by the courts, but the new law specifically empowers federal, state and local governments to sue sponsors of immigrants who wind up on public assistance. It also allows immigrants to sue their sponsors for support. The sponsor is responsible for the immigrant's needs "until he or she becomes self-supporting," according to the law.

To others he was known for his civic involvement and his donation of time and money to worthwhile causes. He was deeply involved not only in the agricultural arena, but also as a moral man who put his family first: who had a deep and abiding faith in his God; and one who was an unabashed patriot. But in all regards and to all who knew him, Paul Hoshiko, was admired and respected.

He served on numerous boards and committees throughout his life which showed his standing in the community. One of the most prestigious positions he held was his appointment by the U.S. Secretary of Agriculture to the Colorado State Agricultural Stabilization and Conservation Committee. Some other organizations he was involved with were the Extension Advisory Committee, Colorado Seed Growers Association, Colorado Water District, member of Kersy & Greeley area Chamber of Commerce, member of Weld County Farm Bureau, Director of Lower Latham Reservoir for over 30 years, and the hospital foundation, among others. He received countless awards from these associations which illustrate his leadership and influence.

Paul was perhaps best known around the country as the "onion king". In fact, his sole appearance on commercial television (at least so far as I know) was standing on an onion field explaining to a future U.S. Senator what it took, "to be a good onion man". He was elected to the Board of the National Onion Association and served as president for five years. During his tenure the national office was moved to Greeley, Colorado. He served on the board of directors of this association until his death.

However, perhaps most notable and dearest to his heart, Paul should be recognized for his involvement and support to the 4-H program. He actively participated in this organization his entire life, both as a member and as a leader. He was continuously taking strides to
make 4-H an astronomical success, including but not limited to his active involvement in the International Farm Youth Exchange program, the National Western Stock Show, an annual State 4-H golf tournament, and a 4-H lighted softball float for the Myrtle Beach Seafood Festival. His impact on those lives he touched while partaking in the 4-H program. His devotion is reflected in the faces of those youth who had the opportunity to work with him in these projects.

In summary, Mr. President, as you can see from my remarks, Paul was a born leader. He gave to his family, community, church and region unselfishly. He was the kind of man who only comes along every so often... and his life deserves to be recognized.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, March 19, 1997, the federal debt stood at $5,367,674,335,377.56.

One year ago, March 19, 1996, the federal debt stood at $5,058,893,000,000.

Five years ago, March 19, 1992, the federal debt stood at $3,862,284,000,000.

Ten years ago, March 19, 1987, the federal debt stood at $2,423,959,000,000.

Fifteen years ago, March 19, 1982, the federal debt stood at $1,050,933,000,000, which reflects a debt increase of more than $4 trillion ($4,318,164,231,511.65) during the past 15 years.

TRIBUTE TO THE LATE EDWIN CRAIG WALL, J.R.

Mr. THURMOND. Mr. President, in any state, there are certain individuals who make their mark in one or more fields, and in the process, they not only earn personal success, but they also make significant contributions to the place they call ‘home’. I rise today to pay tribute to one such man, Edwin Craig Wall, J r., who was a successful businessman and civic booster, who recently passed away after being struck by a heart attack.

During his adult life, Mr. Wall distinguished himself as a leader of business and industry in the Grand Strand area of South Carolina. This region is one of the fastest growing parts of the Palmetto State and represents a well-developed and diversified economy that includes manufacturing, tourism, and shipping companies. Tens of thousands of South Carolinians are employed in good paying, secure jobs, and the revenues that are contributed to our State’s coffers from this area are certainly significant. Without question, Mr. Wall helped to create this very impressive picture of economic health that typifies the Grand Strand and Pee Dee.

Though Mr. Wall entered the business world with a tremendous advantage in this, he had built a very successful company called Canal Industries, he chose not to rest on the accomplishments of his namesake. Trained at the business schools of Davidson College and Harvard University, Mr. Wall was determined to find ways to streamline Canal and make it more efficient and profitable. From what I understand, he was more than successful in his objectives, as Canal is now a world leader in the seafood industry, as well as becoming a prominent company in commercial development in the Myrtle Beach area.

Perhaps one of the hallmarks of a good business person is how much they give back to their community and state, which allowed them to prosper. In the case of Mr. Wall, he was very generous in what he contributed to South Carolina and he set an excellent example for other corporate executives to follow. His expertise and insight were valued by many, and he served on countless boards, including those of Davidson College and NationsBank. He was a strong advocate of education and worked hard to ensure that the Palmetto State had a school system that would give our citizens lack for the skills they would require to succeed in life.

Mr. President, Craig Wall was a man who had a tremendous impact on life in South Carolina, and though he passed away at a young age, his star certainly shone bright. We are all grateful for the leadership and contributions he made throughout his life and career, and his wife and children have my deepest sympathies.

NATIONAL AGRICULTURE DAY

Mr. COVERDELL. Mr. President, I would guess that many in the gallery today, and even some of my colleagues, are unaware of today’s significance for rural America. Today is National Agriculture Day and should be a time of great reflection and celebration for all Americans. It is unfortunate that so many in today’s society are unaware of agriculture’s daily role in their lives, but the fault for this may lie with those of us in the agricultural sector who have not properly told our story. The significance of this day is held in the tremendous, yet quiet, success story American farmers have written in building this nation. Although our agricultural community is in a period of great transition, there still can be no dispute—American farmers produce the world safest, most abundant and affordable food and fiber. This did not come about by accident. American farmers, with a few exceptions, have enjoyed a positive partnership with their government. Congress has long backed vital research, promotion and insurance activities for farmers. These efforts, for the most part, need to continue in order to maintain our excellence. I just coming out of the 1996 Farm Bill, we should now carefully evaluate our work to determine where our policies have been successful and where we need to make improvements.

Now, what is the future of agriculture? I tend to believe that our future is in trade and technology. We are strategically positioned to compete and win on a world market. We are also leading the world in our ag research with many exciting advancements on the horizon. While our focus must concentrate on the crafting of future agriculture leaders for America. In my state, the Georgia Farm Bureau, the Georgia Agribusiness Council and the state Department of Agriculture and University, in cooperation with others involved in agriculture, have teamed up to promote a program for future ag leaders. Program participants are selected for their leadership, integrity and effectiveness and are chosen in order to better communicate with non-ag leaders the many challenges facing agriculture today. This program was adopted six years ago and is called the Georgia Agri-Leaders Forum. The Agri-Leaders of Georgia are all standouts in various fields related to agriculture. They come from the agricultural, electrical membership cooperatives, commodity groups and other organizations with a common agricultural thread. These leaders should be commended for their contributions to agriculture and the service in what should be a mission to better educate America on just what her annual harvests mean to our national security and health. They are the best and brightest in Georgia agriculture each year, and I want to recognize them on this important day. The following are the class of the 1997 Georgia Agri-Leaders Forum:

Mr. President, I want to again recognize and congratulate this fine class of ag-leaders for their contributions to agriculture and to their country on this National Agriculture Day.
NORTHERN IRELAND WOMEN'S COALITION

Mr. KENNEDY. Mr. President, earlier this week, I met with Monica McWilliams of the Northern Ireland Women's Coalition. She and Pearl Sagar were the only two women participating in the Northern Ireland peace talks. They were chaired by our former Senate colleague George Mitchell, when they began last June.

The Northern Ireland Women's Coalition is composed of Unionist and Nationalist women who have united in common cause for peace and for an end to religious discrimination in Northern Ireland. The Coalition serves as an eloquent voice of civility in an often uncivil climate. It is especially important that women's voices continue to be heard in the search for an end to the violence and a peaceful future for Northern Ireland.

Monica McWilliams talks frankly and effectively about her commitment to inclusive peace talks and an end to the violence in Northern Ireland. Speaking about the intransigence of some in the talks, she has said, "We're naming them, we're blaming them, and we're shameing them." She has called on the IRA to restore its cease-fire, and called on the British Government to admit Sinn Fein to the peace talks when the cease-fire is restored.

Monica McWilliams and her colleagues in the Coalition have shown a great deal of courage in their involvement in the political process. Mrs. McWilliams recently had her car vandalized, but as she bravely stated, "That's okay, as long as there's peace."

Mr. President, the Women's Coalition offers real hope for a better future for Northern Ireland. I ask unanimous consent that a recent article about the Coalition which appeared in the Manchester Guardian in England be printed in the RECORD.

"There being no objection, the article ordered to be printed in the RECORD, as follows:

[From the Guardian, Feb. 17, 1997]

WOMEN ALL TOGETHER NOW—IF THE POLITICAL TALKS IN NORTHERN IRELAND COLLAPSE, WILL THE WOMEN'S COALITION SURVIVE?

(By David Sharrock)


HONORING ARNOLD ARONSON ON HIS 86TH BIRTHDAY

Mr. KENNEDY. Mr. President, I am here along with a number of my colleagues to honor Arnie Aronson on his 86th birthday, which was March 11. Arnie eminently deserves his reputation as one of the greatest founders of the civil rights movement.

Throughout his long and brilliant career, he has been a leader in every stage of the struggle for equal justice for all Americans. Over half a century ago, in 1943, he headed the Bureau of Religious and Racial Discrimination, a coalition of groups that share a common commitment to equal justice and equal opportunity for every American.

At that time, Arnie also formed the Chicago Council Against Religious and Racial Discrimination, a coalition of religious, labor, ethnic, civil rights, and social welfare organizations. His organization was immensely successful in addressing the problems of discrimination.

For over 30 years, from 1945 to 1976, Arnie was program director for the National Jewish Community Relations Advisory Council, a coalition of national and local Jewish agencies. During that period, he has been on every major piece of civil rights legislation, and every major civil rights issue. In 1954, after the historic Supreme Court decision in Brown versus Board of Education, Arnie organized the Consultative Conference on Desegregation. This organization provided much-needed support to clergy members who were under fire for speaking out in favor of the decision. He coordinated the campaign that resulted in 1957 in the enactment of the first civil rights laws since reconstruction. He was also a leader in persuading Congress to enact the three great civil rights laws of the 1960's—the Public Accommodations Act of 1964.
the voting Rights Act of 1965, and the Fair Housing Act of 1968. The list goes on and on.

Arnie was also a principal founder of the Leadership Conference on Civil Rights. To this day, the Leadership Conference is the leading civil rights group in the United States.

In 1968, Arnie was instrumental in the enactment of the Civil Rights Act of 1968. He went on to form a statewide coalition of religious, ethnic, and civil rights organizations to fight against religious and racial discrimination.

He and the Leadership Conference were instrumental in the enactment of the Fair Housing Act of 1968. These laws have been critical to our civil rights efforts at every turn since.

The Statement of Purpose he drafted for the Leadership Conference says a great deal about this extraordinary man and his dedication to the rights of all: “We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully in the general life of the society with mutual acceptance and regard for difference.”

In 1985, Arnie became president of the Leadership Conference Education Fund. Under his guidance, the Fund has focused on working with young children to develop a strong prejudice and discrimination awareness. This has led to a greater appreciation for the diversity that is the Nation’s greatest strength. As we all know, the battle is not over. Civil rights is still the unfinished business of America. But because of Arnie Aronson, we have made substantial progress in this powerful proof that one person can make a difference in the lives of millions of our fellow citizens. It is an honor to join in wishing Arnie a very happy belated birthday.

Mr. LEAHY. Mr. President, I come to the Senate floor to wish Arnie Aronson a happy belated 86th birthday and to commend him on his many achievements.

Arnie has been working for civil rights for over 50 years. He began at a time when helped ads openly specified “Gentile Only” or “Irish Need Not Apply.” In the early 1940’s he organized a coalition of religious, ethnic, civil rights, social welfare, and labor organizations into the Chicago Council Against Religious and Racial Discrimination. By 1950 he was working with Roy Wilkins and many others to organize support for President Truman’s proposed civil rights effort and engineered the combination of national organizations that created the Leadership Conference on Civil Rights.

The Leadership Conference was instrumental in the enactment of the first extensive Federal civil rights laws since Reconstruction, the landmark 1954 Civil Rights Act, the fundamental Voting Rights Act of 1965 and the pivotal Fair Housing Act of 1968. They have been critical to our civil rights efforts at every turn since.

The Statement of Purpose he drafted for the Leadership Conference says a great deal about this extraordinary man and his dedication to the rights of all: “We are committed to an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice and in which every group is accorded an equal opportunity to enter fully into the general life of the society with mutual acceptance and regard for difference.”

Arnie went on to help organize clergy, churches and synagogues. He was a founding member of the National Urban Coalition and a charter member of Common Cause. He paid his debt of gratitude to the Nation by serving as the Secretary of the Leadership Conference Education Fund and helped invigorate its educational and public service activities.

I am proud to call Arnie my friend and to take this opportunity to wish him a happy belated birthday.

Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Arnold Aronson, a man that has spent his life working for a goal that is dear to my heart; an integrated, democratic, plural society in which every individual is accorded equal rights, equal opportunities and equal justice.

Mr. Aronson has dedicated his work toward achieving his goal in a time when discrimination was overt and widespread in our country. Beginning in a one-person agency founded in 1943 to combat employment discrimination against the Jewish faith, Mr. Aronson eventually became the Secretary of the Leadership Council on Civil Rights, an organization dedicated to insuring equal rights to all segments of society.

Under his guidance the Leadership Council has coordinated and facilitated the passage of the 1964 Civil Rights Act, the Voting Rights Act of 1965 and the Fair Housing Act of 1968. His ability to recognize the strength of building coalitions in support of the goal was instrumental in the passage of all of these bills, and this belief helped assure that the tough decisions that had to be made did not fracture the coalitions.

Since 1965, Mr. Aronson has served as the President of the Leadership Conference Education Fund. Under his supervision, the Fund has increasingly focused on programs aimed at developing positive intergroup attitudes among young children. This focus has included a 10-year partnership with the Advertising Council of America aimed at developing public service announcements dealing with diversity and prejudice. All children of today will be growing up into the teachers, doctors and Presidents of tomorrow. Discussing this topic with the children of today, should help us achieve our goal of equal rights, equal opportunities and equal justice for all.

Mr. President, while not a household name in the battle for civil rights, Arnold Aronson deserves our recognition for all his life’s work fighting for civil rights for all. I remain hopeful that in the foreseeable future we will be able to achieve our goal of equal rights, equal opportunities and equal justice for all.

I appreciate this opportunity to pay tribute to Arnold Aronson, and I yield the floor.

Mr. LIEBERMAN. Mr. President, I rise to make a few remarks concerning Arnold Aronson. For some Americans, civil rights is a cause. For others, civil rights has been a crusade. For Arnold Aronson, civil rights has been his life.

In his quiet, effective, persistent way, Arnold Aronson fought the battles that too many Americans simply talked about. It made no difference whether the victims were Jewish workers or Protestant pastors, black adults or white children. Arnold Aronson knew that there was only one American dream and that it applied to all Americans.

Arnold Aronson has over the last half century worked with all the big names in civil rights, Americans like A. Philip Randolph and Roy Wilkins. But Arnold Aronson had many others simply talked about. It made no difference whether the victims were Jewish workers or Protestant pastors, black adults or white children. Arnold Aronson knew that there was only one American dream and that it applied to all Americans.

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From 1945 until 1976, Mr. Aronson served as the Program Director for the National Jewish Community Relations Advisory Council, a coalition of national and Jewish agencies. He helped develop policies and programs for Jewish advocacy on issues of civil rights, civil liberties, immigration reform, church-state separation, Soviet Jewish emigration, and support for Israel.

In 1949, Mr. Aronson served as Secretary of the National Emergency Civil Rights Mobilization. This group was formed to lobby in support of President Truman's proposed civil rights program. The Mobilization consisted of approximately 5,000 delegates from 32 states representing 58 national organizations. At the time, it was described as the "greatest mass lobby in point of numbers and geographical distribution" that ever came to Washington.

In 1950, Mr. Aronson helped found the Leadership Conference on Civil Rights, one of the nation's leading civil rights organizations. He served as Secretary of the Conference from 1950 to 1980. In addition to being responsible for the overall administration of the Conference, he helped plan and coordinate the campaign that resulted in the enactment of the first civil rights laws since Reconstruction, the 1964 Civil Rights Act, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. During Mr. Aronson's tenure with the Conference, he helped contribute to some of the Conference's most productive years.

I could go on. Mr. President, for there is no shortage of achievements, but I think that these few examples are sufficient to illustrate what an extraordinary contribution Arnie Aronson has made to the civil rights of our Nation. It is no exaggeration to say that millions of men and women of all races—who may never know Arnie Aronson personally—have benefited directly from his dedication and personal sacrifice on behalf of civil and human rights. He has made a positive and constructive difference for our Nation. I am pleased to wish him a belated happy 86th birthday.

Mr. WELLSTONE. Mr. President, it is time for attention to be given to Arnold Aronson. Few students in this country, when studying Civics in their high schools and elementary schools, learn about Aronson. When they read about the 1964 Civil Rights Act, the Voting Rights Act of 1965, the Fair Housing Act of 1968, the Civil Rights Restoration Act of 1988, and the Americans with Disability Act—each in their own right a high water mark for our Nation—they hear names like King, Kennedy, and Johnson—but not Aronson.

This is a lamentable omission for two reasons. First of all, none of these landmark statutes of legislation ever have happened if it hadn't been for him. Second, school children across the Nation should be taught about the vital role non-elected individuals have played in our society, and the indispensable role of grass roots efforts and coalition building—two pillars of our political structure exemplified by Arnie Aronson. Mr. President, this nation should understand that our landmark civil rights laws were born in our Nation's communities, not in the minds of our Presidents. The truth is that the leadership came from the bottom, so to speak; not the top. The initiative required for these fundamental shifts in our society were born in the hearts of thousands of citizens, each of whom reached out to their respective communities, and were strong together delicately and persistently by a few motivated and foresighted leaders like Arnie Aronson.

The reality is that Arnie has no one to blame but himself for his lack of notoriety. Arnie, as his friends and colleagues all now, shuns publicity with the same energy that some employ in its pursuit. But had Arnie been a self-promoted boastful man, he would have satisfied the complex interpersonal agendas necessary to organize so many disparate views, so many different goals, so many challenging attitudes. Arnie weaved together practically every major civil rights organization in the country into the grandparent of all coalitions, and perhaps still one of the most successful coalitions this century, the Leadership Conference on Civil Rights. Some of the organizations that eventually found a voice under his watchful leadership at the time and now are household names; others had such distinct agendas that it is nothing short of miraculous that they were willing to lend their names to any unified cause. But Arnie is a master consensus builder, and he accomplished more than most people could imagine, by advancing the interests of others rather than himself, by the practically unknown arts of self-sacrifice and behind-the-scenes hard work.

By doing what he does, Arnie sets an example for us all. He has shown us what this Nation is capable of accomplishing, if it has the right goal in mind, and the will to reach that goal.

In announcing the results of this report, Marian Wright Edelman, CDF's President, succinctly sums up the situation. "Lack of health insurance is a problem we can solve right now and that provides a huge difference in the lives of children. The issue is whether we care enough to build the political will to do it."

The effects of children not having insurance are well known to us all: Children without health coverage are less likely to receive basic care and more costly acute care when their illness is too advanced to ignore. Further, uninsured children are more likely to suffer preventable diseases and have trouble getting the care they need. How can we reverse these trends? Proposals to address this problem are well known to all of us and simply stated through the following principles. First, make health coverage available to every uninsured child through age 18 and every uninsured pregnant woman. Second, make coverage genuinely affordable to all families. Third, give children access to comprehensive health care by insuring private health coverage for everyone. Finally, build on—do not replace—the current employer-based system, Medicare and public-private initiatives in the States.

Advocates of guaranteeing all children health insurance are telling us to act bipartisanship. And there is ample precedent for bipartisan action on behalf of children’s health. Almost every health reform bill, Democratic and Republican alike, introduced in the 101st Congress provided assistance to low-income Americans to purchase private health coverage—most had special assistance for the cost of children's coverage. In other words, we have agreed in the past that children who fall through the cracks deserve proper health care.

Children don’t vote; they do not sit on corporate boards; and they cannot argue their case on the Senate floor. But we have a vote. We can take it upon ourselves to improve the lives of our children and their families by making our nation's children our top priority.
The public has taken note. Now is the time to answer their call. Our children deserve no less.

MESSAGES FROM THE HOUSE

At 11:54 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 bill, in which it requests the concurrence of the Senate:

H.R. 1. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector.

At 7:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1122. An act to amend the Fair Labor Standards Act of 1938 to provide compensatory time for employees in the private sector; to the Committee on Labor and Human Resources.

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1470. A communication from the Assistant Secretary of Defense (Force Management Policy), transmitting, pursuant to law, the report relative to funding of morale, welfare, and recreation activities; to the Committee on Armed Services.

EC-1471. A communication from the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report entitled "Fisheries of the Northeastern United States" (RIN 0648-XX 75) received on March 19, 1997; to the Committee on Commerce, Science, and Transportation.

EC-1472. A communication from the Inspector General of the Department of Health and Human Services, transmitting, pursuant to law, the report of Superfund financial activities at the National Institute of Environmental Health Sciences for fiscal year 1995; to the Committee on Environment and Public Works.

EC-1473. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of these rules received on March 19, 1997; to the Committee on Finance.

EC-1474. A communication from the Acting Commissioner of Social Security, transmitting, pursuant to law, a report relative to the Supplemental Security Income program; to the Committee on Finance.

EC-1475. A communication from the Acting Deputy Assistant Administrator, Office of Enforcement, Federal Communications Commission, Department of Justice, transmitting, pursuant to law, the rule entitled "Consolidation, Elimination, and Clarification of Various Regulations," (RIN 1415-0001) received on March 19, 1997; to the Committee on the Judiciary.

EC-1476. A communication from the Director of the Office of the Inspectors General of the Department of Agriculture, transmitting, pursuant to law, the 1996 annual report of the Department under the Freedom of Information Act; to the Committee on the Judiciary.

EC-1477. A communication from the Director (Government Relations) of the Girl Scouts, transmitting, pursuant to law, the report of work and activities for fiscal year 1996; to the Committee on the Judiciary.

EC-1478. A communication from the Assistant Secretary of the Panama Canal Commission, transmitting, a draft of proposed legislation to authorize expenditures for fiscal year 1998 for the operation and maintenance of the Panama Canal and for other purposes; to the Committee on Armed Services.

EC-1479. A communication from the President and Chairman of the Export-Import Bank, transmitting, a draft of proposed legislation to amend the Export-Import Bank Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-1480. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the report on the internal controls and financial systems in effect during fiscal year 1996; to the Committee on Governmental Affairs.

EC-1481. A communication from the Executive Director of the United States Arctic Research Commission, transmitting, pursuant to law, the report on internal control and financial systems for the fiscal year 1996; to the Committee on Governmental Affairs.

EC-1482. A communication from the Inspector General of the United States Department of Commerce, Department of Transportation, transmitting, pursuant to law, the report on internal control and financial systems for the fiscal year 1996; to the Committee on Governmental Affairs.

EC-1483. A communication from the Chairman of the Uniform Protection Board, transmitting, pursuant to law, the annual report for fiscal year 1996; to the Committee on Governmental Affairs.

EC-1484. A communication from the Public Health Service, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, a rule entitled "Elimination of Establishment License Application" received on March 19, 1997; to the Committee on Labor and Human Resources.

EC-1485. A communication from the Acting Secretary of Labor, transmitting, pursuant to law, the evaluation report on the Youth Fair Chance program; to the Committee on Labor and Human Resources.

EC-1486. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, a rule entitled "Oil Spill Response Requirements" (RIN 1010-AB81) received on March 18, 1997; to the Committee on Energy and Natural Resources.

EC-1487. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, a rule entitled "Performance Profiles for Energy Producers 1995"; to the Committee on Energy and Natural Resources.

EC-1488. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report entitled "Performance Profiles for Energy Producers 1995"; to the Committee on Energy and Natural Resources.

EC-1489. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The National Economic Crossroads Transportation Efficiency Act of 1997"; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Affairs:
Special Report entitled "Legislative Activities Report of the Committee on Foreign Relations of the United States Senate During the One Hundred Fourth Congress" (Rept. No. 105-8).

By Mr. WARNER, from the Committee on Rules and Administration:
Report to accompany the resolution (S. Res. 54) authorizing biennial expenditures by committee of the Senate (Rept. No. 105-9).

By Mr. MURKOSWY, from the Committee on Energy and Natural Resources:
Report to accompany the bill (S. 104) to amend the Nuclear Waste Public Act of 1982 (Rept. No. 105-12).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:
S. 270 A bill to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works: J. Judith M. Espinosa, of New Mexico, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of four years.

D. Michael Rappaport, of Arizona, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term of six years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees’ agreement to respond to request for appointments before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. COLLINS (for herself, Ms. SNOWE, Mr. HATCH, and Mr. COCHRAN): S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a decedent the value of a family-owned business, and for other purposes; to the Committee on Finance.

By Mr. ROBB (for himself and Ms. MIKULSKI):
S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

By Mr. DEWINE (for himself, Mr. KENNY, and Mr. BOND):

S. 484. A bill to amend the Public Health Service Act to provide for the establishment of a national research initiative to the Committee on Labor and Human Resources.

By Mr. MCCONNELL (for himself, Mr. CRAIG, Mr. KEMPTHORNE, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS, and Mr. BOND):

S. 485. A bill to amend the Competitive, Specialty, and Research Fund Amendments Act of 1988 to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BROWNBACK (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. JOHNSON):

S. 486. A bill to amend the Omnibus Trade and Competitiveness Act of 1988 to clarify the limitation for accession to the GATT and the WTO of foreign countries that have state trading enterprises; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE, and Mrs. BOXER):

S. 487. A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KYL:

S. 488. A bill to control crime, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 490. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. MORDO:

S. 491. A bill to amend the National Wildlife Refuge System Administration Act of 1966 to prohibit the United States Fish and Wildlife Service from acquiring land to establish a refuge of the National Wildlife Refuge System unless at least 50 percent of the owners of the land in the proposed refuge favor the acquisition; to the Committee on Environment and Public Works.

By Mr. SARBANES:

S. 492. A bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KYL (for himself and Mr. GORKIN):

S. 493. A bill to amend section 1029 of title 18, United States Code, with respect to cellular telephone cloning paraphenalia; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID):

S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. LOTT, Mr. MCCONNELL, Mr. COVERDALL, Mr. HELMS, Mr. SHELBY, and Mrs. HUTCHISON):

S. 495. A bill to provide criminal and civil penalties for the unlawful acquisition, transfer, or use of any chemical weapon or biological weapon, and to reduce the threat of acts of terrorism involving the use of any such weapon against the United States, its citizens, or Armed Forces, or those of any allied country, and for other purposes; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. GRAHAM, and Mr. EFFORDS):

S. 496. A bill to amend section 9 of the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated homes for use as a principal residence; to the Committee on Finance.

By Mr. COVERDALL (for himself and Mr. FRAILEY):

S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employers to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

By Mr. CHAFEE (for himself and Mr. MCCONNELL):

S. 498. A bill to amend the Internal Revenue Code of 1986 to allow an employee to elect to receive taxable cash compensation in lieu of any other benefit that is lost as a result of a change of an individual's principal residence; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. GREGG):

S. 499. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in December 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MACK (for himself, Mr. SHELBY, Mr. COCHRAN, Mr. D'AMATO, and Mr. HAGEL):

S. 501. A bill to amend the Internal Revenue Code of 1986 to provide all taxpayers with a 50 percent deduction for capital gains, to increase the exclusion for gain on qualified small business stock, to index the basis of certain capital assets, to allow the capital loss deduction for losses on the sale or exchange of an individual's principal residence and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 502. A bill to amend title XIX of the Social Security Act to provide post-eligibility treatment of certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

By Mr. NICKLES:

S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOXER (for herself, Mrs. BOXER, and Ms. SNOWE):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal identification information without the parent's consent, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. LEAHY, Mr. D'AMATO, Mr. THOMPSON, Mr. ABRAHAM, and Mrs. FEINSTEIN):

S. 505. A bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCH:

S. 506. A bill to clarify certain copyright provisions, and for other purposes; to the Committee on the Judiciary.

S. 507. A bill to establish the United States Patent and Trademark Office as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, to authorize the appointment of examiners, to provide for reexamination reform, and for other purposes; to the Committee on the Judiciary.

By Mrs. FEINSTEIN:

S. 508. A bill to provide for the relief of Mai Hoa "Jasmin" Salehi; to the Committee on the Judiciary.

By Mr. BURNS:

S. 509. A bill to provide for the return of certain program and activity funds rejected by States to the Treasury to reduce the Federal deficit, and for other purposes; to the Committee on the Budget; to the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee supports the bill, the other Committee has thirty days to report or be discharged.

By Mr. MOYNIHAN:

S. 510. A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds through the elimination and modification of space allocated to parking; to the Committee on Rules and Administration.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. EFFORDS, Mr. DEWINE, Mr. DODD, Mr. MOSELEY-BRAUN, Mr. KERRY, Mr. KERREY, and Mr. KENNEDY):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. ROBB, Ms. MOSELEY-BRAUN, Mr. LAUTENBERG, Mr. KERRY, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. CHAFEE, Mr. EFFORDS, Mr. AKAKA, Mr. BINGAMAN, and Mrs. FEINSTEIN):

S. J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.
in commemoration of their 50th anniversary; considered and agreed to.

By Mr. SPECTER (for himself, Mr. AKAKA, and Mr. SMITH):
S. Res. 69. A resolution designating April 9, 1997, and April 9, 1998, as “National Former Prisoner of War Recognition Day”; considered and agreed to.
S. Res. 18. A concurrent resolution recognizing March 25, 1997, as the anniversary of the Proclamation of Belarusian independence, and calling on the Government of Belarus to recognize the independence of the Belarusian National Movement and the rights of the Belarusian people; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Ms. COLLINS (for herself, Ms. SNOWE, Mr. HATCH, and Mr. COCHRAN):
S. 482. A bill to amend the Internal Revenue Code of 1986 to partially exclude from the gross estate of a deceased the value of a family-owned business, and for other purposes; to the Committee on Finance.

THE FAMILY BUSINESS AND FAMILY FARM PROTECTION ACT OF 1997
Ms. COLLINS. Mr. President, today I am proud to be introducing the Family Business and Family Farm Preservation Act of 1997, which will provide urgently needed estate tax relief to our Nation's family-owned businesses and farms.

It is no accident that this is my first bill as a Member of the U.S. Senate, for I fervently believe that small family enterprises hold the key to our economic growth and prosperity and that Government policies must promote and not undermine their continued existence.

Simply put, the extremely high estate tax rates make it very difficult for many families to pass their businesses on to the next generation—the very opposite of what Government policy should be. After allowing for what is essentially a $600,000 exemption, an amount which has not been increased in a decade, the marginal rates that effectively apply for estate tax purposes range from 55 percent—higher than any other generally applicable Federal tax rates. Adding insult to injury, some of what we leave to our children has already been subject to income taxation, and the combined effect of income and estate taxes can be a tax bite as high as 73 percent.

It should come as no surprise that when a family business or farm is left to the sons and daughters of the owner, the estate often lacks the cash to pay the tax. A 1995 Gallup survey found that one-third of the owners of family businesses expect that some or all of the company will have to be sold to satisfy estate tax liabilities. That this actually comes about is reflected in the experience of the inheritors of such businesses, 37 percent of whom reported that they had to shrink or restructure the enterprises solely to meet estate tax obligations.

Mr. President, behind these statistics are the stories of hard-working Americans whose life's work is dismantled by a confiscatory tax. One of those stories was recently told to me by Judy Vallee of Cumberland, ME. In 1933, her father opened a restaurant in Portland and worked hard over time to expand the business into a chain of 25 restaurants. He passed the business to the daughter when the father died in 1977, the family was left with a staggering estate tax bill of about $1 million. Lacking the cash to pay the tax, they had to take on partners outside the family, totally restructure the company, and agree to pay the tax in installments. Unfortunately, even these measures were not enough, and they ultimately had to liquidate the business at fire-sale prices.

Ironically, Judy Vallee now finds herself in the exact same situation, but this time as a business owner and not a potential heir. When the original business was liquidated, she managed to purchase one of the restaurants in her own name, which she has now developed into a prosperous enterprise. Eager to leave the restaurant to her son and desperate to ensure that history does not repeat itself, she has spent a small fortune on life insurance to enable her son to enjoy the fruits of her own hard work.

Mr. President, jobs are the primary worry of Maine people, and often overlooked in this debate is the negative effect of the estate tax on employment. Let me give you an example. A potato bag manufacturer in northern Maine, the area I'm originally from, has told me that he would be able to expand his operation and hire more people were it not for the money he has to spend on estate planning. In another instance, the owner of a Maine trucking company made the painful decision to sell the business to a large, out-of-state corporation rather than leaving it to his children and forgoing the benefit of any tax on the estate tax. Not only was he compelled to abandon what he and his father before him had spent their lives building, but making matters worse, the new corporate owner moved the administration of operations to Minnesota, costing Maine 50 good jobs.

Maine's experience is common throughout our Nation. The Gallup survey found that 60 percent of business owners reported that they would add to their work forces were it not for the estate tax. Two studies mentioned in a Wall Street Journal editorial last month quantified the job losses caused by this levy—one put it at 150,000 and the other at 228,000. In a word, the harm is widespread.

My bill would give relief to small businesses. It would raise the amount effectively excluded from the tax from $1,000,000 to $1,500,000. This proposal does little more than compensate for inflation during the past decade. While $600,000 understandably seems like a considerable sum, the fact is that many small businesses require investment in complex or heavy equipment which easily exceeds that threshold. Referring to a machine essential to his business, the owner of a Maine sawmill recently asked me, “What are my sons supposed to do? Sell the debarker to pay the tax?” There is no justification for legalizing the confiscatory estate tax.

My legislation would also lower the effective tax rate for the next $1.5 million from 55 to 27.5 percent and would increase from 10 to 20 years the time during which family businesses could pay the tax on an installment basis.

These measures are not designed to provide relief to the very rich. Rather, the beneficiaries, Mr. President, will be enterprising Americans, many of whom risk their life savings and work at their factories, mills, offices, and farms 7 days a week to build a small business, with the reasonable expectation that their Government will let them pass it along to their children.

Prior to becoming a Member of the Senate, I ran Husson College's Family Business Center in Bangor, ME. I would challenge you today to then compare the circumstances from that experience. First, those family business owners who understand the estate tax cannot comprehend why the Federal Government imposes a tax that undermines the very type of activity it says it wishes to encourage. Second, many small business owners do not take the extreme measures required to prepare for the estate tax, often with devastating and totally unexpected consequences for their families.

Why do I call these measures extreme? In the Gallup survey, the respondents estimated spending an average of more than $33,000 over 6½ years on lawyers, accountants, and financial experts to help plan and prepare for the estate tax. The cost is not only monetary, for the average number of hours spent in the planning process was 167.

As currently designed, the estate tax represents bad public policy. In my State, it is the 30,000 small businesses, many of them family owned, which provide most of the new employment opportunities, and it is these businesses which will account for two-
thirds of the new jobs in the future. By discouraging the development and expansion of family enterprises, the estate tax stands as the enemy of job creation and economic growth.

Mr. President, it is time for our actions to match our rhetoric. If we believe in promoting family businesses, as we say we do, and if we believe in promoting family farms, as we say we do, we must change a tax policy which takes the family out of the family business and family farm. Mine is not a call for Government assistance or for special treatment. Mine is a call to reform the tax system so that the family is kept in the family business.

By Mr. ROBB (for himself and Ms. MIKULSKI):
S. 483. A bill to fully fund the construction of the Woodrow Wilson Memorial Bridge; to the Committee on Environment and Public Works.

The Woodrow Wilson Memorial Bridge Full Funding Act

Mr. ROBB. Mr. President, I introduce legislation that responds to an urgent situation facing the Capital region—the crumbling Woodrow Wilson Bridge. I am privileged to be joined today by my distinguished colleague from the other side of the Potomac, Senator MIKULSKI.

The bridge is a major bottleneck for travelers on Interstate 95, and in 7 years the current bridge will probably need to be closed as unsafe for travel.

It is with this knowledge that Congress created the Woodrow Wilson Memorial Bridge Authority in 1995 to hasten the selection, design, and replacement of the old bridge. The replacement bridge has now been selected, and construction will begin in late 1998 or 1999.

Last Thursday, the Washington Post joined the chorus calling for action to fund the bridge, and I ask unanimous consent that a copy of the Post editorial, "Fixing a Dangerous Bridge," be included in the RECORD. The Post points out that the Clinton administration's $400 million funding proposal is wholly inadequate, that it wouldn't buy three lanes at yesteryear prices. I wholeheartedly agree.

So today my distinguished colleague, Senator MIKULSKI and I are introducing the Woodrow Wilson Bridge Full Funding Act to ensure the bridge is completed quickly and funded without tolls. Our legislation authorizes full Federal funding for building the new bridge.

This proposal is forward-looking. Today, area roads are already terribly congested. Only Los Angeles has more traffic. And over the next few decades, traffic congestion is expected to increase by 70 percent. The Woodrow Wilson Bridge is a bottleneck today because it is old and narrow. Ten years from now it will have a bottleneck, because of inadequate Federal funding, we're forced to put toll booths on the bridge. We need full funding now to keep tomorrow's traffic moving.

Full funding for the bridge is also important for the environment—this metropolitan area has been classified by the EPA as a nonattainment area because of its poor air quality. Traffic congestion contributes significantly to this pollution. For that reason, I've supported mass transit initiatives like commuter rail service and the Metro System, higher fuel economy standards, alternative-fuel vehicles, and transportation alternatives such as telecommuting. These initiatives, while important, are only part of the solution.

We also need to keep traffic moving to reduce the amount of time vehicles stand idling and adding to the smog problem in this region. Full funding for the Woodrow Wilson Bridge replacement will not solve the congestion problems in northern Virginia, but it will help.

Finally, my proposal is also reasonable. The Woodrow Wilson Bridge is part of the interstate highway system. Comparable interstate projects, including the nearby Baltimore's Fort McHenry Tunnel have received 90 percent Federal funding, despite the fact the projects are owned by the individual States. The bridge, on the other hand, is wholly owned by the Federal Government. Moreover, as a recent opinion piece in Car & Travel put it, the bridge is "a major gateway to our Nation's Capital." It's time for the Federal Government to pay its share.

Mr. President, I ask unanimous consent that the text of my legislation be printed in the RECORD. There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 483

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 "Woodrow Wilson Memorial Bridge Full Funding Act".

SEC. 2. FINDINGS.

Congress finds that—
(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C. area, costing each commuter an estimated $1,000 per year;
(2) the volume of traffic in the metropolitan Washington, D.C. area is expected to increase by more than 70 percent between 1990 and 2020;
(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the greater Washington area contribute significantly to traffic congestion;
(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;
(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;
(6) the Bridge is—
(A) the only drawbridge in the metropolitan Washington, D.C. area on the Interstate System;
(B) the only segment of the Capital Beltway with only 6 lanes; and
(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;
(7) the Bridge is the only part of the Interstate System owned by the Federal Government;
(8) the Bridge was constructed by the Federal Government;
(9) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and reconstructing the Bridge; and
(10) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge; and
(11) the Federal Government should provide full funding for construction of the replacement bridge.

SEC. 3. FULL FUNDING OF BRIDGE.

(a) INTERCHANGES.—Section 404(f) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (Public Law 104-10; 109 Stat. 629) is amended by inserting "interchange," after "roadway.

(b) FUNDING.—Section 104(i) of title 23, United States Code, is amended—
(1) in paragraph (1), by striking "From" and all that follows through "Federal Fundings" and inserting "The Secretary shall obligate such sums as are necessary to carry out this subsection.

By Mr. DEWINE (for himself, Mr. KENNEDY, and Mr. BOND):
S. 484. A bill to amend the Public Health Service Act for the establishment of a pediatric research initiative; to the Committee on Labor and Human Resources.

The Pediatrics Research Initiative Act of 1997

Mr. DEWINE. Mr. President, I introduce legislation that will increase our Nation's investment in pediatric research.

THE PROBLEM

Children under the age of 21 represent 30 percent of the population—and yet, the NIH devotes only somewhere between 5 and 14 percent of its budget to their needs. Just as there has been a recognition in recent years that women and minorities have been neglected in research efforts nationwide, there's a growing consensus that children deserve more attention than they are getting.

THE SOLUTION

The bill I am introducing today would help us begin to remedy this lack of research into children's health. This legislation would create a Pediatric Research Initiative within the Office of the Director of NIH to encourage, coordinate, support, develop, and recognize pediatric research. The bill would authorize $75 million over the next 3 years for this initiative. Last year, we received a $5 million downpayment on the appropriations process, and we look forward to working with the appropriators to continue on the path toward the necessary level of funding.
This is a crucial investment in our country's future—and one that will produce a great return. If we focus on making our children healthy, we'll set the stage for a healthy citizenry 60 to 70 years into the future.

This initiative will also promote greater coordination in children's health research. Today, there are some 20 Institutes and Centers and Offices within NIH that do something in the way of pediatrics. In my view, we need to bring some level of coordination and focus to NIH's pediatric research efforts, I, along with other members of the Labor, HHS, and Education Appropriations Subcommittee, successfully secured $5 million for the NIH Office of the Director to begin this new pediatric research initiative last year.

Senator DeWine's legislation builds upon that down payment, and I look forward to working with other Members of the Senate in ensuring passage of this effort.

Although health care spending for children is only a fraction of total health care spending, we must not turn our backs on the health care needs of our children. Pediatric research offers potential savings in health care costs as well as substantial benefits to the well-being of children for a lifetime. Moreover, pediatric research contributes to new insights and discoveries in preventing and treating illnesses and diseases among our country's adult population.

Let me close by saying that this bill complements legislation I introduced last week which will provide surveillance, research, and services aimed at the prevention of birth defects, the No. 1 killer of children, as well as helping us to know the causes of about 30 percent of all birth defects. With the enactment of a pediatric research initiative and the Birth Defects Prevention Act of 1997, we will shed new light on the causes of birth defects, as well as other chronic diseases, illnesses, and other health factors affecting our Nation's children.

By Mr. McCONNELL (for himself, Mr. CRAIG, Mr. KYPHERNE, Mr. GRASSLEY, Mr. COCHRAN, Mr. ROBERTS and Mr. BOND):

S. 485. A bill to amend the Competitive, Special, and Facilities Research Grant Act to provide increased emphasis on competitive grants to promote agricultural research projects regarding precision agriculture and to provide for the dissemination of the results of the research projects, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

The Precision Agriculture Research, Education, and Information Dissemination Act of 1997

Mr. McCONNELL. Mr. President, today several colleagues and I are introducing the Precision Agriculture Research, Education, and Information Dissemination Act of 1997.

Earlier this month the Senate Committee on Agriculture, Nutrition, and Forestry began a series of hearings on reforming and reauthorizing agricultural research programs. It is our desire that as we move through this process this legislation will become part of the research reauthorization that is promised between various interests. The important support early this year from the National Science Foundation, the National Academy of Sciences, and the National Academy of Medicine will be vital in determining the results that will be achieved.

This legislation emphasizes research on precision agriculture technologies. These technologies are very exciting, and will enable the United States to maintain and augment our competitive edge in global agricultural markets. The legislation amends the Competitive, Special, and Facilities Research Grant Act of 1965 by modifying the National Research Initiative [NRI] to give the Secretary of Agriculture authority to provide research, extension, and education competitive grants and programs that emphasize precision agriculture technologies and management practices.

This legislation represents a compromise between various interests. The legislation is supported by the National Institute, National Center for Resources Innovations, Experiment Station and Extension Service Directors, Lockheed Martin, and a consortium of other high technology companies.

An identical bill H.R. 725 was introduced by Congressman LEWIS and Congressman CRAPO on February 12, 1997.

Precision agriculture technologies are rapidly advancing, and it is crucial that the agricultural research community invest in this field of research so that all farmers will be able to benefit. This bill will not only increase the investment in precision agriculture, but it will also emphasize an educational process that will assist all farmers in adopting precision agriculture technology and applications.

Emerging technologies in production agriculture are changing and improving the way farmers produce food and fiber in this country. New technologies such as global positioning satellites for monitoring, designating growth stages, soil testing, variable rate seeding and input applications, portable electronic pest scouting, on-the-go yield monitoring, and computerized field history and record keeping are just a few of the next generation technological tools in use today.

Today, these technologies can map these variables and data instantaneously as an applicator or combine drives across the field. In short, each farm field using precision technology becomes a research pilot. And in the down months or winter season a farmer can collect the data from the previous growing season and adjust dozens of important agronomic variables to maximize the efficient use of all the farmers inputs: time, fuel, commercial inputs, seed rate, irrigation—the list goes on and on.

These precision farming tools are already proving to help farmers increase field productivity, improve input efficiency, protect the environment, maximize farm profitability, and create computerized field histories that may help increase land values. Collectively, these and other emerging technologies are being used in an integrated, site-specific systems approach called "Precision Agriculture." Progressive and production minded farmers are already using these technologies. In a decade they may be as commonplace on the farm as air-conditioned tractor cabs and power steering.

Precision farming seems to offer great promise for improving production performance. Inherently, it sounds promising along with all other important agricultural variables and production conditions on an individual square foot, yard, or acre basis rather than that of a whole field. It would seem that we should be able to treat...
CONGRESSIONAL RECORD — SENATE

March 20, 1997

S 486

Be it enacted by the Senate and House of Representa
tives of the United States of America in Con
gress assembled,

SECTION 1. SHORT TITLE. This Act may be cited as the “Fairness in State Trading Act.”

SEC. 2. FINDINGS. Congress makes the following findings:

(1) State trading enterprises play a significant role in the economies of several countries that have applied to the World Trade Organization (referred to in this Act as the “WTO”).

(2) The General Agreement on Tariffs and Trade (referred to in this Act as the “GATT”), and especially GATT Article XVII, does not adequately prevent countries from using state trading enterprises as a disguised barrier to imports from the United States.

(3) The United States economy will be adversely affected by the accession to the WTO of foreign countries that have state trading enterprises that make production or procurement decisions based upon noncommercial considerations.

(4) State trading enterprises have a particularly negative impact on United States farmers.

SEC. 3. ACCESSION OF COUNTRIES WITH STATE TRADING ENTERPRISES TO GENERAL AGREEMENT ON TARIFFS AND TRADE OR WORLD TRADE ORGANIZA-


(1) by striking “major foreign country” each place it appears and inserting “foreign country”;

(2) in subsection (a), by amending paragraph (1) to read as follows:

“(1) will make purchases and sales in inter-

national trade based solely on commercial considerations (including price, quality, availability, marketability, and transpor-

tation), and”; and

(3) in subsection (b)(2)(A)—

(A) by amending clause (i) to read as follows:

“(i) will make purchases and sales in inter-

national trade based solely on commercial considerations (including price, quality, availability, marketability, and transpor-

tation), and”; and

(4) the goods produced domestically in such foreign country; and;

(4) in subsection (b)(2)(A)—

(A) by amending clause (i) to read as follows:

“(i) will make purchases and sales in inter-

national trade based solely on commercial considerations (including price, quality, availability, marketability, and transpor-

tation), and”; and

(5) in clause (ii), by striking “, in accord-

ance with customary practice,”.

Mr. HAGEL. Mr. President, I rise today as an original cosponsor of the legislation introduced by my distin-
guished colleague from Kansas, Senator BROWNBACK. This bill is an impor-
tant step toward opening foreign mar-

tets to American products—especially our agricultural products.

Several countries have State Trading Enterprises that control all imports of certain products. These trading enter-

prises create a bottleneck in trade—a bottleneck controlled by the Government, not by free enterprise. The result is that foreign politics end up control-

ing trade decisions, and American ex-

porters get hurt.

This bill would require the United States to oppose membership in the World Trade Organization for any country that has a State Trading En-

terprise that refuses to buy our prod-

ucts for reasons other than market conditions. Its purpose is simple: It
gives America leverage against countries that shut out our exporters for political reasons.

This is important for all of America’s exporters, who benefit from having a level playing field. It is especially important for women farmers. This bill will give our negotiators an important new tool to use as they oppose the unjustified actions of State trading enterprises around the world. It will help us get American dairy products into New Zealand and American wheat into Canada.

But its most important effect will be in regard to China. China is an enormous and growing market. As China emerges economically, we must do all we can to bring China into the world trading system as a full partner. If we want our exporters to do business in China’s emerging market, we need to ensure that China plays by all the rules of trade that govern the rest of the world.

The discussions about China’s accession to the World Trade Organization are ongoing. I strongly believe China must accept all obligations that WTO membership entails. That includes letting the market, not the politicians, control its trading decisions. China must dismantle its remaining State Trading Enterprises—especially the enterprise that controls the import of wheat into the country.

American farmers—especially our wheat producers—need full and free access to China’s market. This bill gives our trade negotiators a small but important tool to help ensure that will happen.

I urge my colleagues to support it.

By Ms. MIKULSKI (for herself, Ms. MOSELEY-BRAUN, Mr. INOUYE and Mrs. BOXER):
S. 485 A bill to amend the Public Health Service Act with respect to employment opportunities in the Department of Health and Human Services for women who are scientists, and for other purposes; to the Committee on Labor and Human Resources.

THE HHS WOMEN SCIENTIST EMPLOYMENT OPPORTUNITY ACT

Ms. MIKULSKI. Mr. President, I introduce the HHS Women Scientist Employment Opportunity Act. What this bill does is quite simple. It will require all agencies within the Department of Health and Human Services to establish policies to ensure employment opportunities for women scientists within the Department. It will ensure a fair break for the many dedicated women scientists serving at the National Institutes of Health, the Center for Disease Control and Prevention, the Food and Drug Administration, and other agencies or offices in the Department. Policies are to be reviewed regularly and revised if necessary.

This bill is about promoting equality. It is about supporting and advancing the careers of women scientists. It is about our Government leading the way in setting an example for both academia and industry on career policies for women scientists.

In 1992, it came to my attention that women scientists at the National Institutes of Health were not being treated fairly. Women scientists at NIH indicated that they were given research and conference assignments that would help advance their careers. They were not being adequately recognized for their accomplishments. Publication opportunities were limited. Questions were raised about comparability of pay with male colleagues.

Legislation was introduced in the 103d and 104th Congresses to address these concerns. It is encouraged that NIH voluntarily adopted some of the provisions outlined in these bills. But, this is only a start. We must continue to address the equity issues and policies impacting career advancement of our best and brightest women scientists. These issues deserve our utmost attention. That is why this bill is so important. It will ensure that the policies are in place to promote career opportunities for women scientists. And, it will ensure that policies are reviewed regularly, that progress is monitored and that policies are revised if necessary.

I urge my colleagues to support it.

By Mr. KYL:
S. 488 A bill to control crime, and for other purposes; to the Committee on the Judiciary.

THE CRIME PREVENTION ACT OF 1997

Mr. KYL. Mr. President, I rise to introduce the Crime Prevention Act of 1997. One of the most important responsibilities for the 105th Congress is to pass a tough comprehensive crime prevention bill in order to bring America’s streets. Reported crime may have decreased slightly over the past few years, but the streets are still too dangerous. Too many Americans are afraid to go out for fear of being robbed, assaulted, or murdered. In fact, according to the Bureau of Justice Statistics report “Highlights from 20 Years of Surveying Crime Victims,” approximately 2 million people are injured a year as a result of violent crimes. Of those who are injured, more than half require some level of medical treatment and nearly a quarter receive treatment in a hospital emergency room or require hospitalization.

THE CRIME CLOCK IS TICKING

The picture painted by crime statistics is frightening. According to the Uniform Crime Reports released by the Department of Justice, in 1995 there was: A violent crime every 18 seconds; a murder every 24 minutes; a forcible rape every 5 minutes; a robbery every 5 seconds; an aggravated assault every 29 seconds; a property crime every 3 seconds; a burglary every 12 seconds; and a motor vehicle theft every 21 seconds.

In short, a crime index offense occurred every 2 seconds. And this is just reported crime.

STASTICS

Again, according to the Uniform Crime Reports in 1994, there were 1,700,785 violent crimes reported to the law enforcement, a rate of 684.6 violent crimes per 100,000 inhabitants. The 1995 total was about 40 percent above that of 1985.

Additionally, in 1995 there were: 21,957 murders, a rate of 8.2 per 100,000 inhabitants; 580,545 robberies, a rate of 220.9 per 100,000 inhabitants; 2,594,995 burglaries, a rate of 987.6 per 100,000 inhabitants; 1,099,179 aggravated assaults, a rate of 418.3 per 100,000 inhabitants; and 97,464 rapes, a rate of 37.1 per 100,000 inhabitants.

Further, juvenile crime is skyrocketing. According to statistics compiled by the FBI, from 1985 to 1993 the number of homicides committed by males aged 18 to 24 increased 65 percent, and by males aged 14 to 17 increased 165 percent. In addition, according to the Department of Justice, during 1993, the youngest age group surveyed—those 12 to 15 years old—had the greatest risk of being the victims of violent crimes.

THE HEAVY COST OF CRIME

Aside from the vicious personal toll exacted, crime also has a devastating effect on the economy of our country. To fight crime, the United States spends about $90 billion a year on the entire criminal justice system. Crime is especially devastating to our cities, which often have crime rates several times higher than suburbs.

A Washington Post article detailed the work of Professors Mark Levitt and Mark Cohen in estimating the real cost of crime to society. According to the article, “Instead of merely totaling up the haul in armed robberies or burglaries, Cohen tallied all of the costs associated with various kinds of crime, from loss of income sustained by a murder victim’s family to the cost of crimes committed by others that reduce the diminished value of houses in high-burglary neighborhoods.” These “quality of life” costs raise the cost of crime considerably. Cohen and Levitt calculated that one murder costs society on average $752,785 in economic losses, with the robber’s victim paying an average of $2,900 in actual cash, but it produces $14,900 in “quality of life” expenses. And while the actual monetary loss caused by an assault is $1,800,
it produces $10,200 in “quality of life” expenses.

LEGISLATION

Fighting crime must be a top priority. Few would dispute this. According to a poll conducted for Realtors by the New York–based John Zogby Associates, that was released on January 31, 1997, voters rank crime as the most important issue. Further, according to an article in the July 19, 1995 Tucson Citizen, about 500 business, education, and government leaders in Tucson ranked crime as one of the most important issues.

Given the magnitude of the problem of crime in our society, I believe that it is important to consider a comprehensive crime package. My bill has solid reforms that should blunt the forecaster of crime. I would like to take this opportunity to outline the provisions included in the Crime Prevention Act of 1997.

VICTIM RIGHTS AND DOMESTIC VIOLENCE

Women are the victims of more than 4.5 million violent crimes a year, including sexual assaults. This includes rape, theft, and other sexual assaults, according to the Department of Justice. The National Victim Center calculates that a woman is battered every 15 seconds. A message must be sent to abusers that their behavior will not be tolerated in our society, the bill strengthens Federal enforcement purposes. The Justice Department calculates that a woman is battered every 15 seconds. A message must be sent to abusers that their behavior will not be tolerated in our society.

My bill will strengthen the rights of domestic violence victims in Federal court and, hopefully, set a standard for the individual States to emulate.

First, my bill authorizes the death penalty for cases in which a woman is murdered by her husband or boyfriend. Courts will not, under this bill, be able to dismiss cases of a defendant’s violent disposition toward the victim as impermissible “character” evidence. My bill also provides that if a defendant presents negative character evidence concerning the victim, the government’s rebuttal can include negative character evidence concerning the defendant. It makes clear that testimony regarding battered women’s syndrome is admissible to explain the behavior of victims of violence.

We must raise a high standard of professional conduct for lawyers. My legislation prohibits harassing or dilatory tactics, knowingly presenting false evidence or discrediting truthful evidence, willful ignorance of matters that could be learned from the client, and the presentation of information necessary to prevent sexual abuse or other violent crimes.

Violence in our society leaves law-abiding citizens feeling defenseless. It is time to level the playing field. Federal law currently gives the defense more chances than the prosecution to reject a potential juror. My bill protects the right of victims to an impartial jury by giving both sides the same number of peremptory challenges.

The 1994 Crime Act included a provision requiring notice to State and local authorities concerning the release of Federal violent offenders. Under the act, notice can only be used for law-enforcement purposes. This Justice Department opposes this limitation because it disallows other legitimate uses of the information, such as warning potential victims of the offender’s return to the community. My bill would delete this restriction.

It is our responsibility to continue to work to combat violent crime, wherever it occurs. Titles I and II take an important step toward protecting the rights of crime victims, curbing domestic violence, and removing violent offenders from our streets and communities.

FIREARMS

Almost 30 percent of all violent crimes are committed through the use of a firearm, either to intimidate the victim into injuring the victim, according to the Bureau of Justice Statistics. And 70 percent of all murders committed were accomplished through the use of a firearm. To help stop this violence the bill increases the mandatory minimum sentences for crimes committed with a firearm in the commission of crimes. It imposes the following minimum penalties: 10 years for using or carrying a firearm during the commission of a Federal crime of violence or drug trafficking crime; 20 years if the firearm is discharged; incarceration for life or punishment by death if death a person results.

THE EXCLUSIONARY RULE

To ensure that relevant evidence is not kept from juries, the bill extends the “good faith” exception to the exclusionary rule to non-warrant cases, where the court determines that the circumstances justified an objectively reasonable belief by officers that their conduct was lawful.

THE DEATH PENALTY

The vast majority of the American public supports the option of the death penalty. A Gallup poll conducted in April 1996 found that 79 percent of Americans support the death penalty, and an ABC News/Washington Post poll conducted in January 1995 found that 74 percent of Americans favor the death penalty for persons convicted of murder.

To deter crime and to make a clear statement that the most vicious, evil behavior will not be tolerated in our society, the bill strengthens Federal death penalty standards and procedures. It requires defendant to give notice of mitigating factors that will be relied on in a capital sentencing hearing—just as the Government is now required to give notice of aggravating factors—adds use of a firearm in committing a killing as an aggravating factor that permits a jury to consider the death penalty, and directs the jury to impose a capital sentence if aggravating factors outweigh mitigating factors.

HABEAS CORPUS

To eliminate the abuse, delay, and repetitive litigation in the lower Federal courts title VI of this bill provides that the decisions of State courts will not be subject to review in the lower Federal courts, so there are adequate and effective remedies in the State courts for testing the legality of a person’s detention. This provision limits the needless duplicative review in the lower Federal courts, and helps stop the endless appeals of convicted criminals. Judge Robert Bork has written a letter in support of this provision.

ADMINISTRATIVE SUBPOENA

The bill allows high-ranking Secret Service agents to issue an administrative subpoena for information in cases in which a person’s life is in danger. The Department of Agriculture, the Resolution Trust Corporation, and the Food and Drug Administration already have administrative subpoena power. The Secret Service should have it to protect the lives of American citizens.

CONCLUSION

The Kyl crime bill is an important effort in the fight against crime. We can win this fight, if we have the conviction, and keep the pressure on Congress to pass tough crime-control measures. It is time to stop kowtowing to prisoners, apologists for criminals, and the defense lawyers, and pass a strong crime bill.

By Mr. KYL (for himself and Mr. REID):

S. 489. A bill to improve the criminal law relating to fraud against consumers; to the Committee on the Judiciary.

THE TELEMARKETING FRAUD PREVENTION ACT

Mr. REID. Mr. President, I am proud to be an original cosponsor to the Telemarketing Fraud Prevention Act. Unfortunately, my State of Nevada has the highest rate of bogus telemarketing operations in the Nation. I have been involved over the last few years with uncovering these scams. We held a hearing last year in the Special Aging Committee to call attention to this crime, which primarily targets seniors. At the time of the hearing I called these scams electro-shocks, and stated that Congress needs to treat these telephone thugs like criminals on the street who attack and steal. This act aims to do just that.

Nationally these phone schemes cost consumers over $60 billion a year. As I stated earlier, Nevada has the highest rate of fraudulent telemarketing operations. But Kathryn Landreth, U.S. attorney for Nevada, has been working with the Department of Justice to track down these scammers. Last year they rounded up over 200 fraudulent operators in Las Vegas. Nevada AARP members served as decoys for the sting, and I again commend them for doing so.
working outside the home has dramatically increased in recent years. More than 56 percent of all mothers with children under 6 years work outside the home, and over 70 percent of women with children over age 6 are in the labor market.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home have made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years, as inflation slowly ate away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased in value by more than 45 percent since 1992.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, nor the limit in the amount of employment-related expenses used to calculate the credit, has been adjusted for inflation. My bill provides a measure of much needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more—has failed to keep pace with escalating care costs. Unlike other tax credits and deductions provided taxpayers in the Internal Revenue Code, the dependent care credit is not adjusted for inflation.

Without an adjustment for inflation, we will continue to diminish the purpose of this credit to offset the expense of dependent and child care services incurred by parents working outside the home. While the cost of quality child care will increase with escalating care costs. Unlike other tax credits and deductions provided taxpayers in the Internal Revenue Code, the dependent care credit is not adjusted for inflation.

Mr. President, the average cost for out-of-home child care exceeds $3,500 per child, per year. Child care or dependent care expenses can seriously strain a family’s budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities. Middle-class Americans are working harder than ever to maintain their standard of living. In many families, both parents have been forced to work longer hours, deplete their savings, and go deeper into debt. There is an urgent need to enact changes in our tax code that are pro-family and pro-children.

The Working Families Child Care Tax Relief Act meets both of these goals.

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 "Working Families Child Care Tax Relief Act." 

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

(a) In General—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for dependent care services necessary for gainful employment) is amended by adding at the end the following new paragraph:

"(a) such dollar amount, multiplied by"

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1996.
wildlife refuge in western Kentucky. What concerned me then and concerns me now is that those who farm about 7,000 acres within the proposed boundaries of the refuge haven't been heard on whether they support the refuge. As one farmer told me in a letter last year, "no one seems to listen to what the majority of the landowners and farmers, who are directly involved, are saying."

Well, Mr. President, I'm listening. During last month's hearing, one farmer asked for a show of hands, of the landowners present, who supported the refuge. Three hands went up. When he asked how many landowners opposed the refuge, about 60 hands went up. What's worse, when a farmer asked how many landowners had been contacted to determine support for the refuge, the Government officials admitted that not a single landowner had been contacted—despite the fact that the creation of the refuge will depend solely on the number of willing sellers.

Today I am introducing legislation to correct this practice. My bill would require the Fish and Wildlife Service to contact an independent, non-biased survey of landowners within the boundaries of a proposed refuge. If the survey shows that a majority of the landowners support the refuge, then the Service would be free to proceed with land acquisitions to create it. If not, then the Service would be prohibited from taking additional steps.

Mr. President, my bill is simply common sense: Creating a wildlife refuge depends on the willingness of landowners to sell their property to the Federal Government. We should first determine if there are enough landowners willing to sell enough land to actually create the refuge before we begin to make purchases. It doesn't make sense to draw up plans for a wildlife refuge if there won't be enough landowners willing to sell it.

Mr. President, the people of western Kentucky have asked, repeatedly, for their voices to be heard. My legislation will ensure that they will be, and that future refuges respect the wishes of affected communities.

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. 491

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

SECTION 1. LANDOWNER REFERENDA ON REFUGES.

(a) IN GENERAL.—Section 4 of the National Wildlife Refuge System Administration Act of 1966 (36 U.S.C. 668dd) is amended by adding at the end the following:

"(1) hold a public hearing on the proposed acquisition in the area in which the land proposed to be acquired is located; and

(b) acting through a private, independent entity, conduct a referendum among owners of the land that will be acquired to establish the refuge to determine whether the owners favor the proposed acquisition.

(2) APPROVAL OF ACQUISITION.—The Secretary may acquire land to establish a refuge of the System only if a majority of owners of the land voted in the referendum favor the proposed acquisition."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on October 1, 1996.

Mr. SARBANES. Mr. President, today I am introducing legislation to improve the pay system used for Federal firefighters. This bill has three broad purposes: First, to improve pay parity with municipal and other public section firefighters; second, to enhance recruitment and retention of firefighters in order to maintain the highest quality Federal fire service; and third, to encourage Federal firefighters to pursue career advancement and training opportunities.

Fire protection is clearly a major concern at Federal facilities and on Federal lands throughout the Nation. From fighting wildland fires in our national parks and forests to protecting military families from fires in their base housing, Federal firefighters play a vital role in preserving lives and property. One only needs to recall the terrible tragedies in Colorado two summers ago to see the vital importance of our Federal firefighters.

The Department of Agriculture, the Coast Guard, the Department of Commerce, the Department of Defense, the General Services Administration, the Department of the Interior, and the Department of Veterans Affairs are among the Federal agencies which rely on Federal fire fighters to protect their vast holdings of land and structures. Just like their municipal counterparts, Federal firefighters are the first line of defense against threats to life and property.

Mr. President, the current system used to pay our Federal firefighters is at best confusing and at worst unfair. These men and women work longer hours than any other public sector firefighters—yet are paid substantially less. The current pay system, which consists of three tiers, is overly complex and, more importantly, is hurting Federal firefighters to attract and retain top-quality employees.

Currently, most Federal firefighters work an average 72-hour week under exceptionally demanding conditions. The typical work week consists of a one-day-off schedule which results in three 24-hour shifts during the remainder of each week. Despite this unusual schedule, firefighters are paid under a modified version of the same Schedule G pay system used for full-time, 40-hour-per-week Federal workers.

The result of the pay modification is that Federal firefighters make less per hour than other employee at their same grade level. For example: a firefighter who is a GS-5, Step 5 makes $7.21 per hour while other employees at the same grade and step earn $10.34 per hour. Some have tried to justify this by noting that part of a firefighter's day is downtime. However, I must note that all firefighters have substantial duties beyond those at the site of a fire. Adding to this discrepancy is the fact that the average municipal firefighter makes $12.87 per hour.

Mr. President, this has caused the Fire Service to become a training ground for young men and women who then leave for higher pay elsewhere in the public sector. Continually losing the best and brightest makes no sense: Creating a wildlife refuge will depend solely on the number of willing sellers.
It would not be necessary to introduce this legislation today had OPM taken the corrective action that, in my view, is so clearly warranted. However, I have determined that legislation appears to be the only vehicle to achieve the needed change in the pay system for Federal firefighters.

Mr. President, the Firefighter Pay Fairness Act would improve Federal firefighter pay in several important and straightforward ways. Perhaps most importantly, the bill would establish a new pay structure for Federal firefighters. This bill would alleviate the current problem of firefighters being paid considerably less than other General Schedule employees at the same GS level. It would also account for the varying length in the tour of duty for Federal firefighters stationed at different locations.

In addition, the bill would use this hourly rate to ensure that firefighters receive true time and one-half overtime for hours worked over 106 in a bi-weekly pay period. This is designed to correct the problem, under the current system, of firefighters being paid based upon a bill I authorized in the 1980's. This would establish an hourly rate calculated based on an hourly rate considerably less than base pay.

The Firefighter Pay Fairness Act would also extend these pay provisions to so-called wildland firefighters when they are engaged in fighting fires. Currently, wildland firefighters are often not compensated for all the time spent responding to a fire event. This legislation would ensure that these protectors of our parks and forests would be paid fairly for ensuring the safety of these invaluable national resources.

It also ensures that firefighters promoted to supervisory positions would be paid at a rate of pay at least equal to what they received before the promotion. This would address a situation, under the current pay system, which discourages employees from accepting promotions because of the significant loss of pay which often accompanies a move to a supervisory position.

Similarly, the bill would encourage employees to get the necessary training in hazardous materials, emergency medicine, and other critical areas by ensuring they do not receive a pay cut while engaged in these training activities.

Mr. President, this legislation is based upon a bill I introduced in the 103rd Congress, cosponsored by 150 Members. I want to urge all Members of the Senate to join in cosponsoring this important piece of legislation.

As I have said before, Mr. President, fairness is the key word. There is no reason why Federal firefighters should be paid dramatically less that their municipal counterparts. As a cochairman of the Congressional Fire Services Caucus, I want to urge all members of the Caucus and, indeed, all Members of the Senate to cosponsor this important piece of legislation.

Mr. KYL (for himself and Mr. Gorton): S. 493, a bill to amend section 1029 of title 5, United States Code, with respect to cellular telephone cloning paraphernalia; to the Committee on the Judiciary.

THE CELLULAR TELEPHONE PROTECTION ACT

Mr. KYL. Mr. President, I rise to introduce the Cellular Telephone Protection Act, which would improve the ability of law enforcement to investigate and prosecute individuals engaged in the activity of cloning cellular phones. Law enforcement officials and wireless carriers support the bill as an important tool to stem this kind of telecommunications fraud.

Cell phones are manufactured with an embedded electronic serial number [ESN], which is transmitted to gain access to the telecommunications network. Those involved in cloning cell phones sit in parked cars outside of airports or along busy roadways to harvest ESN’s from legitimate cell phone users and, in a process known as cloning, use software and equipment to insert the stolen numbers into other cell phones, the clones. A single ESN can be implanted into several cloned phones. The cloned phones charge to the account of the lawful, unsuspecting user. Cellular phone carriers must absorb these losses, which, according to the Cellular Telecommunication Industry Association, amounted to about $650 million in 1995, up from $480 million in 1994. The cellular industry is expanding by about 40 percent a year; efforts to combat fraud are imperative to ensure the integrity of our communications network.

Cloning is more than an inconvenience to the 36 million Americans who currently use cellular phones, and an economic threat to the communications companies who pay for the fraudulent calls. According to the Secret Service, which is the primary Federal agency responsible for investigating telecommunications fraud, cloning abets organized criminal enterprises that use cellular telephones as their preferred method of communication. Cloned phones are extremely popular among drug traffickers and gang members, who often use cloned phones to evade detection by law enforcement. When not selling cloned phones to drug dealers and ruthless street gangs, criminals set up corner-side calling shops where individuals can make expensive long distance calls to the world on a replicated phone, or simply purchase the illegal phone for a flat amount.

The cellular telephone protection bill clarifies that there is no lawful purpose to possess, produce or sell hardware, known as copycat boxes, or software used for cloning a cellular phone or its ESN. Such equipment and software are easy to obtain—advertisements hawking cloning equipment appear in computer magazines and on the Internet. There is no legal way for cloning software and equipment, save for law enforcement and telecommunications service providers using it to improve fraud detection. The bill strikes at the heart of the cloning paraphernalia market by eliminating the requirement for prosecutors to prove that the person selling copycat boxes or cloning software programs intended to defraud.

The bill retains an exception for law enforcement to possess otherwise unlawful cloning software, and adds a similar exception for telecommunications service providers.

Moreover, the Cellular Phone Protection Act expands the definition of "scanning receivers," equipment which, unlike cloning software and devices, does have legitimate uses if not used to profit from the imperfections in the wireless communications. The bill clarifies that the definition of scanning receivers encompasses devices that can be used to intercept ESN’s even if they are not capable of receiving the voice channel. As mentioned above, criminals harvest ESN’s by employing scanners near busy thoroughfares. The revised definition of scanning receiver will ensure that these devices are unlawful when used with an intent to defraud just like scanners that intercept voice.

Finally, the bill increases penalties for those engaged in cloning. A new paradigm is needed for penalizing cloning offenses. Currently, penalties for cloning crimes are based on the monetary loss a carrier suffers, not the potential loss. First-time offenders often times do not face any jail time, which makes these cases unattractive for prosecution. Carriers and law enforcement are forced to choose between keeping the cloner on the telecommunications network to back up high losses or enduring jail time, or stemming the losses sooner only to have the cloner back on the streets in days. The penalty scheme should be revised to

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track another indicator of cloning fraud—the number of electronic serial numbers stolen.

Cloning offenses are serious crimes, and the penalties should reflect this. We know that cloned phones are used to facilitate drug traffic, and that the cloning of voice data, identity theft cases, and drug trafficking. Additionally, cloning offenses are serious economic crimes in themselves that threaten the integrity of the public communications network. In August, two individuals in New York were arrested for allegedly possessing 80,000 electronic serial numbers. Each of the 80,000 ESN's could be implanted into several cloned phones. I look forward to working with the U.S. Senate to amend the law to provide for more appropriate sentencing structure for cloning fraud.

The cellular phone protection initiative will help to reduce telecommunications fraud. In the process, other criminal activity will be made more difficult to conduct—cloned phones, now a staple of criminal syndicates, would not be so readily available. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the Record. There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 493

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 "Cellular Telephone Protection Act".

SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COUNTERFEIT ACCESS DEVICES.

(a) UNLAWFUL ACTS.—Section 1029(a) of title 18, United States Code, is amended—

(1) in paragraph (7), by striking "use of" and inserting "access to"; and

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by striking paragraph (8) and inserting the following:

"(8) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a scanning receiver;"

"(9) knowingly uses, produces, traffics in, has control or custody of, or possesses hardware or software that may be used for—

(A) modifying or copying an electronic serial number; or

(B) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services; or"

(b) PENALTIES.—Section 1029(c) of title 18, United States Code, is amended to read as follows:

"(c) PENALTIES.—The punishment for an offense under subsection (a) or (b)(1)—

"(1) in the case of an offense that does not occur after a conviction for another offense under subsection (a) or (b)(1), an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 20 years, or both; or

"(2) in the case of an offense that occurs after a conviction for another offense under subsection (a) or (b)(1), or an attempt to commit an offense punishable under subsection (a) or (b)(1), a fine under this title or twice the value obtained by the offense, whichever is greater, imprisonment for not more than 20 years, or both.

"(d) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—Section 1029 of title 18, United States Code, is amended by adding at the end the following:

"(g) EXCEPTION FOR CERTAIN TELECOMMUNICATIONS SERVICES PROVIDERS.—

"(1) DEFINITIONS.—In this subsection, the term 'telecommunications carrier' has the same meaning as in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

"(2) PERMISSIBLE ACTIVITIES.—This section does not prohibit any telecommunications services, or an officer, agent, or employee of, or a person under contract with a telecommunications carrier, engaged in protecting any property or legal right of the telecommunications carrier, from sending through the mail, sending or carrying in interstate or foreign commerce, having control or custody of, or possessing, manufacturing, assembling, or producing any other unlawful—

"(A) device-making equipment, scanning receiver, or access device; or

"(B) hardware or software used for—

"(i) modifying or altering an electronic serial number; or

"(ii) altering or modifying a telecommunications instrument so that the instrument may be used to obtain unauthorized access to telecommunications services.".

By Mr. KYL (for himself, Mr. ABRAHAM, and Mr. REID): S. 494. A bill to combat the overutilization of prison health care services and control rising prisoner health care costs; to the Committee on the Judiciary.

THE FEDERAL PRISON HEALTH CARE COPAYMENT ACT

Mr. KYL. Mr. President. I introduce the Federal Prisoner Health Care Co-Payment Act, which requires Federal prisoners to pay a nominal fee when they initiate a visit for medical attention. The fee would be deposited in the Federal Crime Victims' Fund. Each time a prisoner pays to heal himself, he will be paying to heal a victim.

Most working, law-abiding Americans are required to pay a copayment fee when they seek medical care. It is time to impose this requirement on Federal prisoners.

To date, 25 States—including my home State of Arizona—have implemented statewide prisoner health care copayment programs. In addition to Arizona, the following States have enacted this reform: California, Colorado, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Oklahoma, Maryland, Minnesota, Mississippi, Nevada, New Hampshire, New Jersey, Utah, Virginia, Tennessee, and Wisconsin. Several other States are expected to soon institute a copayment system, including Illinois, Maine, Montana, Michigan, North Carolina, Oregon, South Carolina, Washington, and Wyoming.

Moreover, according to the National Sheriffs' Association, at least 25 States—some of which have not adopted medical copayment reform on a statewide basis—have jail systems that impose a copayment.

In June, the National Commission on Correctional Health Care held a conference that examined the statewide fee-for-service programs. At the conference, Dr. Ron Waldron of the Federal Bureau of Prisons reported that survey of some of the States that have adopted inmate medical copayment programs and concluded that "Inmate user fees programs appear to reduce utilization, and do generate modest revenues."

Dr. Waldron reported that prison copayment laws resulted in the reduction of medical utilization of: between 16 and 29 percent in Florida; between 30 and 50 percent in Indiana; 40 percent in Maryland; 50 percent in Nevada; and between 10 and 18 percent in Oklahoma. Terry Stewart, director of the Arizona Department of Corrections, notes that, "Over the life of the [Arizona copayment program] the program has saved the State a total of about 31 percent in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more considered thought to, their need for medical attention." I will have his letter placed in the CONGRESSIONAL RECORD.

Reducing frivolous medical visits saves taxpayers money. A December 28, 1995, New York Post editorial, "Toward Healthier Prison Budgets," which I will also include in the Record, reported that the copayment law in New Jersey allowed the State to cut its prison health care budget by $17 million.

In the 1995-1996 edition of Sheriff, the National Sheriffs' Association President reported that copayment plans—which, as mentioned above, are operational in jail systems in at least 29 States—have: First, discouraged of service; and second, freed health care staff to focus on care to inmates who truly need medical attention. Yavapai County sheriff, G.C. "Buck" Buchanan, in a letter that I will include in the Record, writes: "This strongly suggests that the institution of [copayment reform], many inmates who were taking advantage of the health care which, or course, must be provided to them. This could be construed as frivo-
The success of the prison and jail fee-for-service initiatives should come as no surprise. Common sense says that inmates will be less likely to seek unnecessary medical attention if they are required to pick up part of the tab. I believe that Congress should follow the lead of the States and provide the Federal Bureau of Prisons with the authority to charge Federal inmates a nominal fee for elective inmate health care visits. The Federal system is particularly ripe for reform. According to the 1996 Corrections Yearbook, the system spends more per inmate on health care than any State except Vermont. Federal inmate health care totaled $327 million in fiscal year 1996, up from $138 million in fiscal year 1990. Average cost per inmate has increased over 60 percent during this period, from $2,204 to $3,549.

The Prisoner Health Care Copayment Act provides that the Director of the Bureau of Prisons shall assess and collect a fee of not less than $3 and not more than $5 for each qualified health care visit. The term "qualified health care visit" does not include any health care visit that is: Conducted during the intake process; an annual examination; initiated by the health care staff of the Bureau of Prisons; the direct result of a referral made by a prison official; or an emergency visit. Prisoners who are pregnant or determined to be seriously mentally ill are exempted from the copayment requirement altogether. No prisoner shall be denied treatment on the basis of insolvency.

The act also gives the Director of the Bureau of Prisons the authority to set by regulation a reasonable fee, not to exceed $5, for prescriptions, emergency visits, and juvenile visits. And the legislation permits the Director to charge an inmate's account for medical treatment for injuries an inmate inflicts on himself or others.

As I mentioned above, all fees will be deposited in the Federal Crime Victims' Fund.

Before I conclude, I would like to thank the Arizona Department of Corrections for its assistance in helping me draft this reform. Additionally, I appreciate the assistance that Sheriff Buchanan and his office provided me.

I look forward to working with the Department of Justice, the Bureau of Prisons, and my colleagues on both sides of the aisle, to implement a fee-for-medical-services program—a sensible and overdue reform—for Federal prisoners.

Mr. President, I ask unanimous consent that Sheriff Buchanan and his office be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

SEC. 2. PRISONER COPAYMENTS FOR HEALTH CARE SERVICES.

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

conciliation with paragraph (1), in accordance with an installment payment plan, which shall be established by the Director by regulation.

(4) NO REFUSAL OF TREATMENT FOR FINANCIAL REASONS.—Nothing in this section shall be construed to permit any refusal of treatment to a prisoner on the basis that—

(1) the account of the prisoner is insufficient; or

(2) the prisoner is otherwise unable to pay a fee assessed under this section in accordance with subsection (d)(1).

(5) USE OF AMOUNTS.—Any amounts collected by the Director under this section shall be deposited in the Crime Victims' Fund established under section 1402 of the Victims of Crime Act of 1994 (42 U.S.C. 10601).

(6) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of the Federal Prisoner Health Care Copayment Act and annually thereafter, the Director shall submit to Congress a report, which shall include—

(1) a description of the amounts collected under this section during the preceding 12-month period; and

(2) an analysis of the effects of the implementation of this section, if any, on the nature and extent of health care visits by prisoners.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 303 of title 18, United States Code, is amended by adding at the end the following:


Hon. Jon Kyl,
U.S. Senate, Senate Hart Office Building, Washington, D.C.

Re: Inmate Health Care—Fee for Service

Dear Senator Kyl:

On October 15, 1994, the Arizona Department of Corrections began its fee for service program for inmate health care. The program was intended to reduce inmate abuse of the health care delivery system, to place on the inmate some responsibility for his/her own health care, and to offset the increasing costs of inmate health care. This program has proven itself effective in accomplishing the purposes intended.

There has been a noticeable decrease in the number of requests for health care services. For example, upon implementation of the program, and depending upon the facility, we experienced an initial reduction of between 40% and 60% in the number health care requests. Over the life of the program, there has been an overall reduction of about 30% in the number of requests for health care services. This strongly suggests that inmates are being more discreet about, and giving more consideration to, their need for medical attention.

The program has also proven a great benefit to Arizona's taxpayers. From October 15, 1994 through December 31, 1996 the Arizona Department of Corrections has collected $302,843.59 for health care services provided to its inmates. This money is returned to Arizona's general fund, where it can be utilized to its inmates. This money is returned to Arizona's general fund, where it can be utilized to fund other State programs. This means that fewer taxpayer dollars are required to fund State programs.

In light of the results achieved by this program in Arizona, I highly recommend that similar programs be adopted by prison and jail systems nationwide, and I support and greatly appreciate your efforts to this end.

Sincerely,
Terry L. Stewart,
Director.
Senator JON KYL, [45x732]Senator JON KYL, that you have my full support in this pro-
to be a success and it is through this success
population.

Prior to the institution of this policy, many inmates in custody were taking advanta-
health care which, of course, must be provided to them. This could be 
strued as frivolous requests if you will, and 
took up the valuable time of our health care
providers. Time was not being utilized to full
potential including any request for psycho-
logical analysis and treatment.

Since this policy has been in effect, we have realized a reduction in inmate requests for
medical services between 45% to 50%. Consequently, when an inmate is given the choice of how to best spend his money, the preference is not for unnecessary medical care. Those in custody have nothing to do
other than take advantage of the system for

Over the past eleven months, in the special accents, perhaps—but we do not think it has something to do with the fact that the
inmates must now ante up $5 every time they demand to see a doctor.

New Jersey prison officials are extremely pleased with the new system. The fee deters
prisoners with vague or minor complaints or whose primary motivation appears to be sim-
ply, to get out of their cells for a few hours. The price was not being utilized to full
potential including any request for psychological analysis and treatment.

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potential including any request for psychological analysis and treatment.
biological threats was underscored by enactment of the 1997 Defense Against Weapons of Mass Destruction Act;

(12) the Department of Defense, in light of growing chemical and biological threats in regions of key concern, including Northeast Asia, and the Middle East, has stated that United States forces must be properly trained to deal with all missions, including those in which opponents might threaten use of chemical or biological weapons; and

(13) Australia Group controls on the exports of biological and related technology; and

(14) Australia Group controls on the export of explosives, and related technology, and transfer to third parties of chemical and biological threats.

SEC. 3. POLICY.

It shall be the policy of the United States to take all appropriate measures to—

(1) prevent and deter the threat or use of chemical and biological weapons against the citizens, Armed Forces, and territory of the United States and its allies, and to protect against, and manage the consequences of, such use should it occur;

(2) strengthen verification of chemical and biological weapons, their means of delivery, and related equipment, material, and technology;

(3) prohibit within the United States the development, production, acquisition, stockpiling, and transfer to third parties of chemical or biological weapons, their precursors and related technology; and

(4) impose unilateral sanctions, and seek immediately international sanctions, against any nation using chemical and biological weapons in violation of international law.

SEC. 4. DEFINITIONS.

In this Act:

(A) AustrAustralasia Group. The term “AustrAustralasia Group” refers to the informal forum of countries, formed in 1984 and chaired by AustrAustralasia, whose goal is to discourage and impede chemical and biological weapons proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and dual-use equipment, sharing information on target countries, and seeking other ways to curb the use of chemical weapons and biological weapons.

(B) BIOLOGICAL WEAPON. The term “biological weapon” means the following, together or separately:

(i) any micro-organism (including bacteria, viruses, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

(2) deterioration of food, water, equipment, supplies, or materials of any kind; or

(3) deleterious alteration of the environment.

(ii) Chemical or biological weapon. Any chemical weapon or any biological weapon specified in subparagraph (A), or any term of years or both, unless—

(1) a person is armed forces of the United States incident to the seizure, detention, or any other legal entity.

(1) In GENERAL. The term “knowingly” is used in the same meaning given such term in section 102(a)(26) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd±12) and includes situations in which a person has reason to believe that the use of a chemical or biological weapon or the use of the toxic properties of a chemical or biological weapon is inconsistent with the purpose not prohibited under this Act.

(2) a United States national of the United States, stockpiles, retains, distributes, or uses, or possesses any chemical or biological weapon, or biological weapon, or knowingly assists, encourages, induces, or otherwise conspires to do so, and attempts, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years or both, unless—

(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act.

(2) the use or transfer of the precursor chemicals in violation of international law.

(3) WITHIN THE UNITED STATES. The term “within the United States” means the several States of the United States, the District of Columbia, and the commonwealths, territories, and possessions of the United States, and includes all places under the jurisdiction or control of the United States, including—

(1) any of the places within the provisions of section 102(a)(4) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. sec. 1301(4));

(2) any public aircraft or civil aircraft of the United States, as such terms are defined in the Federal Aviation Act of 1958, as amended (49 U.S.C. App. secs. 1301(36) and 1301(18)); and

(3) any vessel of the United States, as such term is defined in the Act (46 U.S.C. App. sec. 103(b)).

(2) COVERED PERSONS. A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person if the person is authorized by the head of an agency of the United States to retain, own, or possess the chemical or biological weapon.

(6) JURISDICTION. Conduct prohibited by subsection (a) is within the jurisdiction of the United States if the prohibited conduct—

(1) takes place in the United States; or

(2) takes place outside of the United States and is committed by a national of the United States.

(7) REIMBURSEMENT OF COSTS. The court shall order any person convicted of an offense under this section to reimburse the United States for any expenses incurred by the United States in the investigation or prosecution of the offense, including any costs of detention, storage, handling, transportation, and destruction or other disposition of any property that was seized in connection with an investigation of the commission of the offense by that person. A person ordered to reimburse the United States for expenses...
under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered under this subsection to reimburse the United States for the same expenses.

§ 229A. Seizure, forfeiture, and destruction

(a) Seizure.—

(1) Seizures on Warrants.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or any biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant. (b) Procedure for Forfeiture and Destruction.—

(1) In general.—Except as provided in subsection (a)(2), property seized pursuant to this subsection shall be forfeited to the United States for the same expenses.

(2) Warrantless Seizures.—In exigent circumstances, seizure and destruction of any such weapon or any biological weapon described in paragraph (1) may be made by the Attorney General without a warrant, for good cause, for the purpose of protecting national security interests. (c) Other Seizure, Forfeiture, and Destruction.—

(1) Seizures on Warrant.—The Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon or biological weapon that exists by reason of conduct prohibited under section 229 of this title. (2) Warrantless Seizures.—In exigent circumstances, seizure and destruction of any such chemical weapon or biological weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant. (3) Forfeiture and Destruction.—Property seized pursuant to this subsection shall be subject to forfeiture (within the meaning of section 609(b) of the Tariff Act of 1930) to be summarily forfeited (within the meaning of section 229 of this title) to be forfeited pursuant to this section. (d) Procedure for Forfeiture and Destruction.—

(1) In general.—Except as provided in subsection (a)(2), property seized pursuant to this subsection shall be summarily forfeited (within the meaning of section 229 of this title) to be forfeited pursuant to this subsection. (2) Forfeiture upon Alternative Action.—The provisions of chapter 60 of part I of title 18, United States Code, shall apply to the forfeitures authorized by this subsection. (3) Injunction.—The Attorney General may request the court, in the same manner as provided for a search warrant, for good cause, for the purpose of protecting national security interests, to issue an injunction against—

(i) the conduct prohibited under section 229 of this title; or (ii) the taking of action or solicitation to engage in conduct prohibited under section 229 of this title.

§ 229D. Requests for military assistance to enforce prohibition in certain emergencies

The Attorney General may request the Secretary of Defense to provide assistance under section 382 of title 10 in support of Department of Justice activities relating to the enforcement of section 229 of this title in an emergency situation involving a biological weapon or chemical weapon. The authority to make such a request may be exercised by—

(a) The Attorney General; or (b) Any other person authorized by the Attorney General to act in the interest of the United States.

§ 229E. Definitions

In this chapter:

(1) AUSTRALIA GROUP.—The term ‘Australia Group’ refers to the informal forum of countries, formed in 1984 and chaired by Australia, whose goal is to discourage and impede proliferation by harmonizing national export controls on precursor chemicals for chemical weapons, biological weapons pathogens, and related equipment, sharing information on target countries, and seeking other ways to curb the use of chemical and biological weapons. (2) BIOLOGICAL WEAPON.—The term ‘biological weapon’ means the following, together or separately:

(i) Any micro-organism (including bacteria, viruses, rickettsiae or prions), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of such any micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(A) death, disease, or other biological malfunction in living human, animal, a plant, or another living organism; (B) deterioration of food, water, equipment, supplies, or materials of any kind; or (C) deleterious alteration of the environment.

(ii) Any munition or device specifically designed to cause death or other harm through the toxic properties of a chemical weapon or that is not dependent on the toxic properties of a chemical weapon to cause death or other harm; or

(iii) Any equipment specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

(i) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen gas, mustard, hydrogen cyanide, lewisite, phosgene, or sarin; (ii) Any chemical weapon as defined in paragraphs (10) and (13), respectively, of section 40101(b) of title 49, United States Code; or (iii) Any chemical weapon as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(4) RECOGNITION OF PERSON.—The term ‘person’ means any individual, corporation, partnership, firm, association, or other legal entity.

(5) PURPOSE NOT PROHIBITED UNDER THE ACT.—The term ‘purpose not prohibited under this Act’ means—

(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose; or

(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon or a military purpose not connected with the use of a chemical or biological weapon or that is not dependent on the toxic properties of the chemical or biological weapon to cause death or other harm; or

(C) any law enforcement purpose, including any domestic riot control purpose.

(6) RIOT CONTROL AGENT.—The term ‘riot control agent’ means any substance, including diphenylcyanaoarsine, diphencylarsane, chloroacetophenone, chloropicrin, bromobenzyl cyanide, 0-chlorobenzylidene malononitrile, or 3-quinuclidinyl benzilate that is designed or used to produce rapidly in humans any nonlethal sensory irritation or disabling physical effect that disappears within a short time following termination of exposure.

(7) TERRORISM.—The term ‘terrorism’ means activities that—

(A) involve violent acts or acts dangerous to human life that are(a) committed to influence the policy of a government by intimidation or coercion; or (b) intended to influence the conduct of a government by assassination or kidnapping; or (c) for the purpose of intimidating any civilian population; or (d) to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

§ 229F. Any equipment specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(3) CHEMICAL WEAPON.—The term ‘chemical weapon’ means the following, together or separately:

(i) Any of the following chemical agents: tabun, Sarin, Soman, GF, VX, sulfur mustard, nitrogen gas, mustard, hydrogen cyanide, lewisite, phosgene, or sarin; (ii) Any chemical weapon as defined in paragraphs (10) and (13), respectively, of section 40101(b) of title 49, United States Code; or (iii) Any chemical weapon as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

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(A) any industrial, agricultural, research, medical, pharmaceutical, or other peaceful purpose; or

(B) any protective purpose, namely any purpose directly related to protection against a chemical or biological weapon or a military purpose not connected with the use of a chemical or biological weapon or that is not dependent on the toxic properties of the chemical or biological weapon to cause death or other harm; or

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(7) TERRORISM.—The term ‘terrorism’ means activities that—

(A) involve violent acts or acts dangerous to human life that are(a) committed to influence the policy of a government by intimidation or coercion; or (b) intended to influence the conduct of a government by assassination or kidnapping; or (c) for the purpose of intimidating any civilian population; or (d) to cause death or other harm through the toxic properties of a chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.
(1) by striking the item relating to chapter 10; and
(2) by inserting after the item for chapter 11A the following new item:

11B. Chemical and Biological Weapons Activities

SEC. 111. DESIGNATION OF LEAD AGENCY.

The President shall designate the Federal Bureau of Investigation as the agency primarily responsible for implementing the provisions of this subtitle (in this subtitle referred to as the ‘‘Lead Agency’’).

SEC. 112. PROHIBITIONS ON CHEMICAL AND BIOLOGICAL WEAPONS-RELATED ACTIVITIES.

(a) CHEMICAL AND BIOLOGICAL WEAPONS ACTIVITIES.—Except as provided in subsection (b), it shall be unlawful for any person located in the United States, or any national of the United States located outside the United States, to develop, produce, otherwise acquire, transfer, use, own, or possess any chemical weapon or any biological weapon, or to assist, encourage or induce, in any way, any person to do so, or attempt or conspire to do so, unless—

(1) the chemical weapon or biological weapon is intended for a purpose not prohibited under this Act;
(2) the types and quantities of the chemical weapon or biological weapon are strictly limited to those that can be justified for such purpose; and
(3) the amount of the chemical weapon or biological weapon per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

(b) EXCLUSION.—

(1) IN GENERAL.—Subsection (a) does not apply to the receipt, ownership, or possession of a chemical weapon or a biological weapon by an agency of the United States or a person described in paragraph (a) against a person under this Act.

(2) COVERED PERSONS.—A person referred to in paragraph (1) is a member of the Armed Forces of the United States or any other person at any given time if the person is located outside the United States, to develop, produce, otherwise acquire, transfer, use, own, or possess any chemical weapon or any biological weapon, or to assist, encourage or induce, in any way, any person to do so, or attempt or conspire to do so, unless—

(1) the chemical weapon or biological weapon or any part thereof is intended for a purpose not prohibited under this Act;
(2) the types and quantities of the chemical weapon or biological weapon are strictly limited to those that can be justified for such purpose; and
(3) the amount of the chemical weapon or biological weapon per person at any given time does not exceed a quantity that under the circumstances is inconsistent with the purposes not prohibited under this Act.

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

(1) Chapter 10 of title 18, United States Code, relating to the development, production, or receipt of any chemical weapon or biological weapon.
(2) Section 2332c of title 18, United States Code, relating to chemical weapons.

SEC. 113. CIVIL PENALTIES.

(a) PENALTY AMOUNT.—Any person that is determined, in accordance with subsection (b), to have violated section 112(a) of this Act shall be required by order to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(b) HEARING.—

(1) IN GENERAL.—Before imposing an order under this subsection, the head of the Lead Agency shall provide the person or entity with notice and an opportunity to participate in a hearing at which the person or entity may be represented by counsel and shall be afforded a full and complete hearing.

(2) DETERMINATIONS.—The Lead Agency may issue final orders after considering the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the ability to pay, effect on business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(c) ADMINISTRATIVE APPEAL REVIEW.—The decision and order of an administrative law judge shall have the force of a final order of the Lead Agency unless, within 30 days after the notice of such decision and order is served, the person named in the complaint and any interested person file a petition to review the order in the United States Court of Appeals for the District of Columbia.

SEC. 114. REGULATORY AUTHORITY; APPLICATION OF OTHER LAWS.

(a) REGULATIONS.—The Lead Agency may issue regulations to carry out and implement this subtitle and to amend or revise such regulations as necessary if such Executive orders, directives, laws, or regulations do not require any person to submit information or data on any plant site, plant, chemical weapon, or biological weapon that such person produces, processes, owns, controls, or retains for purposes not prohibited by this Act.

(b) ENFORCEMENT.—The Lead Agency may designate its officers or employees to conduct investigations and make orders as are necessary to carry out its duties and functions under this Act.

(c) APPEAL.—If a person is dissatisfied with a decision of the Lead Agency made under this Act, the person may appeal the decision to the United States Court of Appeals for the District of Columbia.

(d) CERTIFICATE OF SUSPENSION.—The Commissioner of Patents and Trademarks shall have the power to suspend any patent under this Act.

SEC. 115. OTHER PENALTIES.

(a) PENALTY AMOUNT.—Any person that is determined, in accordance with subsection (b), to have violated section 112(a) of this Act shall be required by order to pay a civil penalty in an amount not to exceed $100,000 for each such violation.

(b) HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of sections 554 and 556 of title 5, United States Code. If no hearing is so requested, the Attorney General’s imposition of the order shall be final and unappealable.

(c) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person named in the complaint has violated section 112(a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person an order described in subsection (b).

(d) FACTORS FOR DETERMINATION OF PENALTY AMOUNT.—In determining the amount of any civil penalty, the administrative law judge shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, effect on business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(Signed by the President on May 27, 1980.)
with. If the Commissioner determines that the patent is suspended, the Commissioner shall issue to the owner of record of the patented invention a certificate of suspension, under seal, stating the length of the suspension, and identifying the product and the statute under which regulatory review occurred. Such certificate shall be recorded in the official file and shall be considered as part of the original patent. The Commissioner shall publish in the Official Gazette of the Patent and Trademark Office a notice of such suspension.

**TITLE II—FOREIGN RELATIONS AND DEFENSE-RELATED PROVISIONS**

**SEC. 201. SANCTIONS FOR USE OF CHEMICAL OR BIOLOGICAL WEAPONS**

(a) In General.—The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended by striking chapter 8 and inserting the following:

"CHAPTER 8—SANCTIONS AGAINST USE OF CHEMICAL OR BIOLOGICAL WEAPONS"

"SEC. 81. PURPOSE.

The purpose of this chapter is—

(1) to provide for the imposition of sanctions against any foreign government—

(A) that uses chemical or biological weapons in violation of international law; or

(B) that uses chemical or biological weapons against its own nationals; and

(2) to ensure that the victims of the use of chemical or biological weapons shall be compensated, and that punitive damages may be determined by courts in the United States.

"SEC. 82. PRESIDENTIAL DETERMINATION.

(a) Bilateral Sanctions.—Except as provided in subsections (c) and (d), the President shall, after the consultation with Congress, impose the sanctions described in subsection (b) if the President determines that any foreign government—

(1) has used a chemical weapon or biological weapon in violation of international law; or

(2) has used a chemical weapon or biological weapon against its own nationals.

(b) Multilateral Sanctions.—The sanctions imposed pursuant to subsection (a) are in addition to any multilateral sanction or measure that may be otherwise agreed to with respect to the actions of a foreign government.

(c) Petition for Waiver.—The President may waive the application of any of the sanctions imposed pursuant to subsection (a) if the President determines that such waiver is in the national interest of the United States. The President shall, in making such determination, take into account any information that the President receives from any source, including the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that implementing such measures would have a substantial negative impact upon the national interests of the United States.

(d) Sanctions Not Applied to Certain Existing Contracts.—A sanction described in section 83 shall not apply to any activity pursuant to a contract or international agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that performance of the activity would reduce the potential for the use of a chemical weapon or biological weapon by the sanctioned country.

"SEC. 83. MANDATORY SANCTIONS.

(a) Minimum Number of Sanctions.—After consultation with Congress and making a determination with respect to the actions of a foreign government, the President shall impose not less than 5 of the following sanctions against that government, each at the earliest practicable time:

(1) Foreign Assistance.—The United States Government shall terminate assistance under the Foreign Assistance Act of 1961, and all other emergent humanitarian assistance and food or other agricultural commodities or products.

(2) Arms Sales.—The United States Government shall not sell any item on the United States Munitions List and shall terminate sales to that country under this Act of any defense articles or defense services. Licenses shall not be issued for the export to the sanctioned country of any item on the United States Munitions List, or for commercial satellites.

(3) arms sale financing.—The United States Government shall terminate all foreign military financing under this Act.

(4) Denial of Export-Import government credit or other financial assistance.—The United States Government shall deny any credit, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States.

(5) Export controls.—The authorities of the Export Administration Act of 1979 shall be used to prohibit the export of any goods or technology on that part of the control list established under section 5(c)(1) of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.

(6) Import restrictions.—The President shall issue an order imposing restrictions on the importation into the United States of any service, good, or commodity that is the growth product or manufacture of that country.

(7) Multilateral bank assistance.—The United States shall prohibit any United States bank from making any loan or providing any credit, including to any agency or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(8) Bank loans.—The United States Government shall prohibit any financial institution of the United States from extending any loan or financial or technical assistance by or to any foreign government or instrumentality of the government, except for loans or credits for the purpose of purchasing food or other agricultural commodities or products.

(9) Aviation rights.—Within 10 days after the date of notification of a government under subsection (1), the Secretary of Transportation shall take all steps necessary to prohibit any aircraft or its crew or passengers from engaging in foreign air transportation.

(b) Termination of Air Service Agreement.—The President may direct the Secretary of State to terminate any air service agreement between the United States and a country with respect to which the President has made a determination pursuant to section 82(a) of his intention to suspend the authoritativeness of that agreement, including the Export-Import Bank of the United States.

(c) Exception.—The Secretary of Transportation may take all steps necessary to prohibit any United States air carrier from engaging in foreign air transportation.

(d) Sanctions Not Applied to Certain Existing Contracts.—The sanctions shall not apply to any existing contract or agreement entered into before the date of the Presidential determination under subsection (a) if the President determines that—

(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

(2) the government of the country is willing to accept on-site inspections or other reliable measures to verify that the government is adhering to the provisions of that Act; and

(3) the government will take all steps necessary to prevent the use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

"SEC. 84. REMOVAL OF SANCTIONS.

(a) Certification Requirement.—The President shall remove the sanctions imposed with respect to a foreign government pursuant to this section if the President determines and so certifies to the Congress, after the end of the three-year period beginning on the date on which sanctions were initially imposed on that country pursuant to section 82, that—

(1) the government of that country has provided reliable assurances that it will not use any chemical weapon or biological weapon in violation of international law and will not use any chemical weapon or biological weapon against its own nationals;

(2) the government of the country is willing to accept on-site inspections or other reliable measures to verify that the government is adhering to the provisions of that Act; and

(3) the government will take all steps necessary to prevent the use of any chemical weapon or biological weapon in violation of international law or against its own nationals.

(b) Reasons for Determination.—The certification made under this subsection shall set forth the reasons for reporting such determination in each particular case.

(c) Effective Date.—The certification made under this subsection shall take effect on the date on which the certification is received by the Congress.

"SEC. 85. NOTIFICATIONS AND REPORTS OF CHEMICAL OR BIOLOGICAL WEAPONS USE AND APPLICATION OF SANCTIONS.

(a) Notification.—Not later than 30 days after the expiration of the three-year period, the President shall notify the Congress that contains—

(1) an assessment by the President of the extent to which the United States is adhering to the provisions of that Act, and all other goods and technology under this Act (excluding food and other agricultural commodities and products) as the President may determine to be appropriate.
circumstances of the suspected use of chemical or biological weapons, including any determination by the President made under section 82 with respect to a foreign government.

(2) a description of the actions the President intends to take pursuant to the assessment, including the imposition of any sanctions or other measures pursuant to section 82.

(c) PROGRESS REPORT.—Not later than 60 days after submission of a report under subsection (b), the President shall submit a progress report to Congress describing actions undertaken by the President under this chapter, including the imposition of unilateral and multilateral sanctions and other punitive measures, in response to the use of any chemical weapon or biological weapon described in the report.

(d) RECIPIENTS OF NOTIFICATIONS AND REPORTS.—Any notification or report required by this section shall be submitted to the following:

(1) The Majority Leader of the Senate and the Speaker of the House of Representatives.

(2) The Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

(3) The Committee on International Relations and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 86. DEFINITIONS.

In this chapter:

(1) BIOLOGICAL WEAPON.—The term "biological weapon" means the following, together or separately:

(A) Any micro-organism (including bacteria, viruses, fungi, rickettsiae or protozoa), pathogen, or infectious substance, or any naturally occurring, bio-engineered or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, capable of causing—

(i) death, disease, or other biological malfunctions in a human, an animal, a plant, or another living organism;

(ii) deterioration of food, water, equipment, supplies, or materials of any kind; or

(iii) deleterious alteration of the environment.

(B) Any munition or device specifically designed to cause death or other harm through the toxic properties of any biological weapons specified in subparagraph (A), which shall be released as a result of the employment of such munition or device.

(C) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(D) Any living organism specifically designed to carry a biological weapon specified in subparagraph (A) to a host.

(2) CHEMICAL WEAPON.—The term "chemical weapon" means the following, together or separately:

(A) Any of the following chemical agents: tabun, Sarin, soman, GF, VX, sulfur mustard, nitrogen mustard, phosgene oxime, lewisite, ethyldichloroarsine, methylidichloroarsine, phosgene, diphosgene, hydrogen cyanide, cyanogen chloride, and arsine.

(B) Any of the 54 chemicals, other than a riot control agent, controlled by the Australia Group as of the date of enactment of this Act.

(C) Any munition or device specifically designed to cause death or other harm through the toxic properties of any chemical weapon specified in subparagraph (A) or (B), which would be released as a result of the employment of such munition or device.

(D) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in this section.

(3) PERSON.—The term 'person' means any individual, corporation, partnership, firm, association, or other organization.

(b) REPEAL.—Sections 306 through 308 of the Act of December 4, 1991 (Public Law 102-182) are repealed.

SEC. 202. CONTINUATION AND ENHANCEMENT OF MULTILATERAL CONTROL REGIMES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the informal forum of states known as the "Australia Group", either through changes in membership or lack of compliance with common export controls and nonproliferation measures, may weaken the effectiveness of common Australia Group export controls and nonproliferation measures in force as of the date of enactment of this Act, would substantially weaken existing common Australia Group export controls and nonproliferation measures or otherwise undermine the effectiveness of the United States; and

(b) POLICY.—It shall be the policy of the United States—

(1) to continue close cooperation with other countries in the Australia Group in support of its current efforts and in devising additional means to monitor and control the supply of chemicals and biological agents applicable to the biological and chemical weapons production facilities listed under the Wyoming Memorandum of Understanding; and

(2) to maintain effective international controls on chemical and biological weapons-related materials and technologies.

SEC. 203. CRITERIA FOR UNITED STATES ASSISTANCE TO RUSSIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, United States assistance described in subsection (b) may not be provided to Russia unless the President determines that the President certifies that either—

(1) Russia is making reasonable progress in the implementation of the Biological and Chemical Weapons Conventions; and

(2) the United States and Russia have resolved, to the satisfaction of the United States, disputes under the United States-Russia Biological and Chemical Weapons Conventions.

(b) UNITED STATES ASSISTANCE COVERED.—United States assistance described in this subsection is United States assistance provided only for the purposes of—

(1) facilitating the transport, storage, safeguarding, and elimination of any chemical weapon or biological weapon or its delivery vehicle;

(2) preventing the proliferation of any chemical weapon or biological weapon, any component or technology or expertise related to such a weapon;

(3) constructing, designing, or construction of any destruction facility for a chemical weapon or biological weapon; or

(4) supporting any international science and technology center.

(c) DEFINITIONS.—

(1) BILATERAL DESTRUCTION AGREEMENT.—The term "Bilateral Destruction Agreement" means Agreement Between the United States of America and the Union of Soviet Socialist Republics on Destruction and Nonproduction of Chemical Weapons and on Measures to Facilitate the Multilateral Convention on Banning Chemical Weapons, signed on June 1, 1990.

(2) BIOLOGICAL WEAPONS CONVENTION.—The term "Biological Weapons Convention" means the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, done at Washington, London, and Moscow on April 10, 1972.

(3) WYOMING MEMORANDUM OF UNDERSTANDING.—The term "Wyoming Memorandum of Understanding" means the Memorandum of Understanding Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding a Bilateral Verification Experiment and Data Exchange Related to
Prohibition on Chemical Weapons, signed at Jackson Hole, Wyoming, on September 23, 1993.

(4) UNITED STATES ASSISTANCE.—The term “United States assistance” has the meaning given the term in section 481(e)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)(4)).

SEC. 204. REPORT ON THE STATE OF CHEMICAL AND BIOLOGICAL WEAPONS PROLIFERATION.

Not later than 180 days after the date of enactment of this Act, and every year thereafter, the President shall submit to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate a report containing the following:

(1) PROLIFERATION BY FOREIGN COUNTRIES.—A description of any efforts by any country, China, Egypt, India, Iran, Iraq, Libya, North Korea, Pakistan, Russia, and Syria, and any country that has, during the five years prior to submission of the report, used any chemical weapon or biological weapon or attempted to acquire the material and technology to produce and deliver chemical or biological agents, an assessment of the present and future capability of the country to produce and deliver such agents.

(2) FOREIGN PERSONS ASSISTING IN PROLIFERATION.—

(A) those persons that in the past have assisted the government of any country described in paragraph (1) in that effort; and

(B) those persons that continue to assist the government of the country described in paragraph (1) in that effort as of the date of the report.

(3) THIRD COUNTRY ASSISTANCE IN PROLIFERATION.—An assessment of whether and to what degree other countries have assisted any government or country described in paragraph (1) in its effort to acquire the material and technology described in that paragraph.

(4) INTELLIGENCE INFORMATION ON THIRD COUNTRY ASSISTANCE.—A description of any confirmed or credible intelligence or other information that any country has assisted the government of any country described in paragraph (1) in that effort, either directly or by facilitating the activities of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no actions of the persons identified in subparagraph (A) or (B) of paragraph (3), but took no action to halt or discourage such activities.

(5) INFORMATION ON SUBNATIONAL GROUPS.—A description of any confirmed or credible intelligence or other information of the development, production, stockpiling, or use, of any chemical weapon or biological weapon by subnational groups, including any terrorist or paramilitary organization.

(6) FUNDING PRIORITIES FOR DETECTION AND MONITORING Capabilities.—An identification of the priorities of the executive branch of Government for the development of new technologies for detection and monitoring capabilities with respect to chemical weapons and biological weapons.

SEC. 205. INTERNATIONAL CONFERENCE TO STRENGTHEN THE 1925 GENEVA PROTOCOL.

(a) Definition.—In this section, the term “1925 Geneva Protocol” means the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, done at Geneva on June 17, 1925 (26 UST 71; TIAS 806).

(b) Policy.—It shall be the policy of the United States—

(1) to work to obtain multilateral agreement on new and strengthened international mechanisms to address the proliferation of chemical and biological weapons, to which the United States is a state party; and

(2) pursuant to paragraph (1), to work to obtain multilateral agreement regarding the control of production and other preventive measures described in chapter 8 of the Arms Export Control Act, as amended by this Act.

(c) Responsibility.—The Secretary of State shall take such actions as are necessary to achieve United States objectives, as set forth in this section.

(d) Sense of Congress.—The Senate urges and directs the Secretary of State to work to convene an international negotiating forum for the purpose of concluding an international agreement on enforcement of the 1925 Geneva Protocol.

(e) Allocation of Funds.—Of the amount authorized to be appropriated to the Department of State for fiscal year 1996 under the appropriations account entitled “International Conferences and Contingencies”, $5,000,000 shall be available only for payment of salaries and expenses in connection with efforts of the Secretary of State to conclude an international agreement described in subsection (d).

SEC. 206. RESTRICTION ON USE OF FUNDS FOR THE ORGANIZATION FOR THE PROHIBITION OF CHEMICAL WEAPONS.

None of the funds appropriated pursuant to any provision of law, including previously appropriated funds, may be available to make any voluntary or assessed contribution to the Organization for the Prohibition of Chemical Weapons, or to reimburse any account of the transfer of in-kind items to the Organization, unless or until the Convention on the Prohibition of Chemical Weapons and the United States agreement described in section (d).

SEC. 207. ENHANCEMENTS TO ROBUST CHEMICAL AND BIOLOGICAL DEFENSES.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the threats posed by chemical and biological weapons to United States Armed Forces deployed in regions of concern will continue to grow and will undermine United States strategies for the projection of United States military power and the forward deployment of United States Armed Forces;

(2) the use of chemical or biological weapons will be a likely condition of future conflicts in regions of concern;

(3) it is essential for the United States and key regional allies of the United States to preserve and further develop robust chemical and biological defenses;

(4) the United States Armed Forces, both active and nonactive duty, are inadequately equipped, organized, trained, and exercised for operations in chemically and biologically contaminated environments;

(5) the lack of readiness stems from a depad emphasis by the executive branch of Government on the priorities of the executive branch of Government to conclude and enter into international agreements described in section (d).

(b) Defense Readiness Training.—The Secretary of Defense shall ensure that the United States Armed Forces are effectively equipped, organized, trained, and exercised (including at the large unit and theater level) to conduct operations in chemically and biologically contaminated environments that are critical to the success of United States military plans in regional conflicts, including—

(1) deployment, logistics, and reinforcement operations at key ports and airfields;

(2) sustained combat aircraft sortie generation at critical regional airbases; and

(3) ground force maneuvers of large units and divisions.

(c) Discussions With Allied Countries on Readiness.—

(1) High-Priority Joint Responsibility of Secretaries of Defense and State.—The Secretary of Defense and the Secretary of State shall give a high priority to discussions on key regional and regional coalition partners, including those countries where the United States currently deploys forces, where United States forces would likely operate during regional conflicts, or which would provide citizens necessary to support United States military operations, to determine what steps are necessary to ensure that allied and coalition forces and other critical civilians are adequately equipped and prepared to operate in chemically and biologically contaminated environments.

(2) Report.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall jointly submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate and to the Speaker of the House of Representatives a report describing—

(A) the results of the discussions held under paragraph (1) and plans for future discussions;

(B) the measures agreed to improve the preparedness of foreign armed forces and civilians; and

(C) any proposals for increased military assistance, including assistance provided through—

(i) the sale of defense articles and defense services under the Arms Export Control Act; and

(ii) the Foreign Military Financing Program under section 23 of this Act; and

(iii) chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(d) United States Army Chemical School.

(1) Command of School.—The Secretary of Defense shall ensure that the United States Army Chemical School remains under the oversight of a general officer of the United States Army.

(2) United States Army Chemical School.

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Fort McClellan until such time as the replacement facility at Fort Leonard Wood is functional.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on January 1 every year thereafter, the President shall submit to the Committee on Armed Services, and the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives, the following information for the previous fiscal year:

(A) PERFORMANCE OF DEFENSE AND READINESS.—Proposed solutions to each of the deficiencies in chemical and biological warfare defenses identified in the March 1996 General Accounting Office Report, titled “Chemical and Biological Defense: Emphasis Remains Insufficient to Resolve Continuing Problems” and in paragraphs 1(b) and 2(b) of this subsection (b) to ensure that the United States Armed Forces are capable of conducting modern military operations to support the sustainability of regional contingency plans.

(B) PRIORITIES.—An identification of priorities for the executive branch of Government in the development of both active and passive defenses against the use of chemical and biological weapons.

(C) FY 1997 PROCUREMENT OF DEFENSES.—A detailed summary of all budget activities associated with the research, development, testing, and evaluation, and procurement of chemical and biological defenses, set forth by fiscal year, program, department, and agency.

(D) VACCINE PRODUCTION AND STOCKS.—A detailed assessment of current and projected vaccine production capabilities and vaccine stocks, including progress in researching and developing new vaccines.

(E) DECONTAMINATION OF INFRASTRUCTURE AND INSTALLATIONS.—A detailed assessment of procedures and capabilities necessary to protect and decontaminate infrastructure and installations that support the ability of the United States to project power through the use of its Armed Forces, including the development of new decontamination technologies.

(F) PROTECTIVE GEAR.—A description of the progress made in procuring lightweight personal protective gear and steps being taken to ensure that that programmed procurement quantities are sufficient to replace expiring battlefield overgarments and chemical protective overgarments to maintain required wartime inventory levels.

(G) DETECTION AND IDENTIFICATION CAPABILITIES.—A description of the progress made in developing long-range standoff detection and identification capabilities and other battlefield surveillance capabilities for biological and chemical weapons, including progress in developing chemical agent detectors, unmanned aerial vehicles, and unmanned ground sensors.

(H) TANKER MILITARY DEFENSES.—A description of the progress made in developing and deploying theater missile defenses for deployed United States Armed Forces, which will provide greater geographic coverage and protection against ballistic missile threats and will assist the mitigation of chemical and biological contamination through higher altitude intercepts and boost-phase intercepts.

(I) TRAINING AND READINESS.—An assessment of the training and readiness of the United States Armed Forces to operate in toxic, chemically and biologically contaminated environments and actions taken to sustain training and readiness, including at national combat training and readiness centers.

(J) MILITARY EXERCISES.—A description of the progress made in incorporating consideration about the threat of or use of chemical or biological weapons in military training exercises such as simulations, models, and wargames, together with the conclusions drawn from these efforts about the United States capability to carry out such missions, including with coalition partners, in military contingencies.

(K) MILITARY DOCTRINE.—A description of the progress made in developing and implementing service and joint doctrine for combat and noncombat operations involving adversaries armed with chemical or biological weapons, including efforts to update the range of service and joint doctrine to better address the wide range of military activities, including deployment, reinforcement, and logistics operations, combat operations, and for the conduct of such operations in concert with coalition forces.

(L) DEFENSE OF CIVILIAN POPULATION.—A description of the progress made in resolving issues related to the protection of United States population centers from chemical and biological attacks and from the consequences of such an attack, including plans for inoculation of populations, consequence management, and progress made in developing and deploying effective cruise missile defenses and a national ballistic missile defense.

SEC. 208. NEGATIVE SECURITY ASSURANCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that in order to achieve an effective deterrent against the use of WMD by the United States and United States Armed Forces by chemical weapons, the President should reevaluate the extension of negative security assurances by the United States to nonnuclear-weapons states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall submit to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report, both in classified and unclassified form, setting forth:

(1) the results of a detailed review of United States policy on negative security assurances as a deterrence strategy; and

(2) a determination by the President of the appropriate range of nuclear and conventional responses to the use of chemical or biological weapons by the United States Armed Forces, United States citizens, allies, and third parties.

(c) DEFINITIONS.—In this section:

(1) NEGATIVE SECURITY ASSURANCES.—The term “negative security assurances” means the assurances provided by the United States to nonnuclear-weapons states in the context of the Treaty on the Non-Proliferation of Nuclear Weapons (21 UST 483) that the United States will forewarn the use of certain weapons unless the United States is attacked by such nonnuclear-weapons state in alliance with a nuclear-weapons state.

(2) NONNUCLEAR-WEAPONS STATES.—The term “nonnuclear-weapons states” means states that are not nuclear-weapons states (as defined in Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483)).
The bill allows lower-income homeowners, who may not have sufficient Federal income tax liability to use a tax credit, to convert the credit to mortgage assistance. The legislation would permit such persons to receive an Historic Rehabilitation Mortgage Credit Certificate. They can use such certificate with their bank to obtain a lower interest rate on their mortgage or to lower the amount of their downpayment.

The credit would be available to condominiums and co-ops, as well as single-family buildings. If a building is rehabilitated by a developer for resale, the credit would pass through to the homeowner.

One goal of the bill is to provide incentives for middle- and upper-income families to return to older towns and cities. Therefore, the bill does not limit the tax benefits on the basis of income. However, it does impose a cap of $50,000 on the amount of credit which may be taken for a principal residence.

The Historic Homeownership Assistance Act will make ownership of a rehabilitated older home more affordable for homebuyers of modest incomes. It will encourage more affluent families to claim a stake in older towns and neighborhoods. It affords fiscally stressed cities and towns a way to put abandoned buildings back on the tax rolls, while strengthening their income and sales tax bases. It offers developers, realtors and homebuilders a new realm of economic opportunity in revitalizing decaying buildings.

In addition to preserving our heritage, extending this credit will provide an important supplemental benefit—it will boost the economy. Every dollar of Federal investment in historic rehabilitation leverages many more from the private sector. Rhode Island, for example, has used the credit to leverage 252 million dollars in private investment. This investment has created more than 10,000 jobs and 178 million dollars in wages.

The American dream of owning one’s own home is a powerful force. This bill can help it come true for those who are prepared to make a personnel commitment to join in the rescue of our priceless heritage. By their actions, they can help to revitalize decaying resources of historic importance, create jobs and stimulate economic development, and restore to our older towns and cities a lost sense of purpose and community.

Mr. President, I ask unanimous consent that an additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 496

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 “Historic Homeownership Assistance Act”.

SEC. 2. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

(a) IN GENERAL.—Subpart A of the first paragraph of section 39A(d)(1) of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after subsection (b) the following new subsection (c):

“SEC. 24. HISTORIC HOMEOWNERSHIP REHABILITATION CREDIT.

“(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

“(b) DOLLAR LIMITATION.

“(1) IN GENERAL.—The credit allowed by subsection (a) with respect to the rehabilitation of any qualified historic home shall not exceed $50,000 ($25,000 in the case of a married individual filing a separate return).

“(2) CARRYFORWARD OF CREDIT UNUSED BY REASON OF LIMITATION BASED ON TAX LIABILITY.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this section for the same taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

“(c) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section:

“(A) GENERAL.—The term ‘qualified rehabilitation expenditure’ means any amount properly chargeable to capital account—

“(i) in connection with the rehabilitation of a qualified historic home, and

“(ii) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

“(B) Certain expenditures not included.—

“(i) Exteriors. Such term does not include any expenditure in connection with the rehabilitation of a building unless at least 5 percent of the total expenditures made in the rehabilitation process are allocable to the exterior of the building.

“(ii) Other rules to apply. Rules similar to the rules of clauses (ii) and (iii) of section 42(2)(B) of this Act shall apply to this section.

“(3) MIXED USE OR MULTIFAMILY BUILDING.—If a portion of a building is used as the principal residence of qualified persons and only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

“(d) CERTIFIED REHABILITATION.—For purposes of this section:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the term ‘certified rehabilitation’ has the meaning given such term by section 47(c)(2)(C).

“(2) FACTORS TO BE CONSIDERED IN THE CASE OF TARGETED AREA RESIDENCES, ETC.—

“(A) IN GENERAL.—For purposes of applying section 47(c)(2)(C) with respect to the rehabilitation of a building to which this paragraph applies, consideration shall be given to—

“(i) the feasibility of preserving existing architectural and design elements of the interior of such building,

“(ii) the risk of further deterioration or demolition of such building in the event that certification is denied because of the failure to preserve such interior elements,

“(iii) the effects of such deterioration or demolition on neighboring historic properties,

“(B) BUILDINGS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph shall apply with respect to any building—

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out the purposes of this Act $25,000,000 for each of the fiscal years 2000 through 2010.
(i) any part of which is a targeted area residence within the meaning of section 14(c)(1), or
(ii) which is located within an enterprise or empowerment zone, but shall not apply with respect to any building which is listed in the National Register.

(3) APPROVED STATE PROGRAM.—The term 'certified rehabilitation' includes a certification made by—

(A) a State Historic Preservation Officer who administers a State Historic Preservation Program approved by the Secretary of the Interior pursuant to section 101(b)(1) of the National Historic Preservation Act, or

(B) a person, certified pursuant to section 101(c)(1) of the National Historic Preservation Act and authorized by a State Historic Preservation Officer, or the Secretary of the Interior where there is no approved State program.

subject to such terms and conditions as may be specified by the Secretary of the Interior for the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this section:

(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

(A) which has been substantially rehabilitated, and

(B) which (or any portion of which) —

(i) is owned by the taxpayer, and

(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(13); except that, in the case of any building described in subsection (d)(2), clause (ii), such term shall not apply.

(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 1034.

(4) CERTIFIED HISTORIC STRUCTURE.—

(A) IN GENERAL.—The term 'certified historic structure' has the meaning given such term by section 47(c)(3).

(B) CERTAIN STRUCTURES INCLUDED.—Such term includes any building (and its structural components) which is designated as being of historic significance under a statute of a State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance.

(5) ENTERPRISE OR EMPOWERMENT ZONE.—The term 'enterprise or empowerment zone' means any area designated under section 1391 as an enterprise community or an empowerment zone.

(6) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treated as complete before the date of the certification referred to in subsection (d).

(7) LESSEES.—A taxpayer who leases his principal residence shall, for purposes of this section, be treated as the owner thereof if the remaining term of the lease (as of the date determined under regulations prescribed by the Secretary) is not less than such minimum period as the regulations require.

(8) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer is a tenant-stockholder in a cooperative housing corporation (as defined in such section), such stock shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

(9) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—In the case of a building other than a building to which subsection (g) applies, qualified rehabilitation expenditures shall be treated for purposes of this section as—

(i) on the date the rehabilitation is completed, or

(ii) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include rules similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

(10) RECAPTURE OF CREDIT FOR PURCHASE OF REHABILITATED HISTORIC HOME.—

(A) IN GENERAL.—In the case of a qualified purchased historic home, the taxpayer shall be treated as having made (on the date of purchase) the qualified rehabilitation expenditures made by the seller of such home.

(B) QUALIFIED PURCHASED HISTORIC HOME.—For purposes of this subsection, the term 'qualified purchased historic home' means any substantially rehabilitated certified historic structure purchased by the taxpayer if—

(i) the taxpayer is the first purchaser of such structure after the date rehabilitation is completed, and the purchase occurs within 5 years after such date,

(ii) the structure (or a portion thereof) will, within a reasonable period, be the principal residence of the taxpayer,

(iii) no credit was allowed to the seller under this section or section 47 with respect to such rehabilitation, and

(iv) the taxpayer is furnished with such information as the Secretary determines is necessary to determine the credit under this subsection.

(C) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—

(A) IN GENERAL.—The taxpayer may elect, in lieu of the credit otherwise allowable under this section, to receive a historic rehabilitation mortgage credit certificate. An election under this paragraph shall be made—

(i) in the case of a building to which subsection (g) applies, at the time of purchase, or

(ii) in any other case, at the time rehabilitation is completed.

(B) HISTORIC REHABILITATION MORTGAGE CREDIT CERTIFICATE.—For purposes of this subsection, the term 'historic rehabilitation mortgage credit certificate' means a certificate—

(A) issued to the taxpayer, in accordance with procedures prescribed by the Secretary, with respect to a certified rehabilitation, and

(B) with respect to which the amount which shall be equal to the credit which would (but for this subsection) be allowable under subsection (a) to the taxpayer with respect to such rehabilitation,

(C) which may only be transferred by the taxpayer to a lending institution in connection with a loan—

(i) that is secured by the building with respect to which the credit relates, and

(ii) that is underwritten by the building with respect to which the credit relates, and

(iii) if the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, and

(D) in exchange for which such lending institution provides the taxpayer—

(i) a reduction in the rate of interest on the loan, and

(ii) a reduction in the amount of such credit which are substantially equivalent on a present value basis to the face amount of such certificate, or

(iii) if the proceeds of which may not be used for any purpose other than the acquisition or rehabilitation of such building, with respect to a specified amount of the face amount of such a certificate relating to a building—

(i) which is a targeted area residence within the meaning of section 14(c)(1), or

(ii) which is located in an enterprise or empowerment zone,

a payment which is substantially equivalent to such specified amount to be used to reduce the taxpayer's cost of purchasing the building (and only the remainder of such face amount shall be taken into account under clause (i)).

(3) USE OF CERTIFICATE BY LENDER.—The amount of the credit specified in the certificate shall be allowed to the lender only to the extent of the regular tax (as defined in section 55(c)) of such lender. The lender may carry forward all unused amounts under this subsection to the extent provided by law.

(4) RECAPTURE.—

(A) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed (or, if subsection (g) applies, the date of purchase of such building by the taxpayer)—

(i) the taxpayer disposes of such taxpayer's interest in such building, or

(ii) such building ceases to be used as the principal residence of the taxpayer,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such home.

(B) RECAPTURE PERCENTAGE.—For purposes of paragraph (A), the recapture percentage shall be determined in accordance with the table under section 30(a)(1)(B), deeming such table to be amended—

(A) by striking 'if the property ceases to be investment credit property within' and inserting 'if the disposition or cessation occurs within', and

(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One year after the taxpayer becomes entitled to the credit'.

(5) BASIS ADJUSTMENTS.—For purposes of this subtitile, if a credit is allowed under this section for any expenditure with respect to any property (including any purchase under subsection (g) and any transfer under subsection (h)), the increase in the basis of such property which will result from the dispositions result from such expenditure shall be reduced by the amount of the credit so allowed.

(6) PROCESSING FEES.—Any State may impose a fee for the processing of applications for the certification of any rehabilitation under this section provided that the amount of such fee is used only to defray expenses associated with the processing of such applications.

(7) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount which credit is allowed under section 47.

(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence.

(9) FORMING AMENDMENT.—Subsection (a) of section 1016 of such Code is amended by—

(A) in clause (i) by inserting 'when the dwelling unit is' before 'a principal residence', and inserting 'in the same dwelling unit as their principal residence' in place thereof,

(B) in clause (ii) by striking the period at the end of paragraph (25), and inserting 'and' in place thereof, and

(C) by adding at the end of the following new item:

(27) to the extent provided in section 24(j).

(10) CLERICAL AMENDMENT.—The table of sections for part A of part IV of subchapter A of chapter 1 of such Code is
amended by inserting after the item relating to section 23 the following new item:

“Sec. 24. Historic homeownership rehabilita-

tion credit.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply without re-
thrust to rehabilitations the physical work on-
which begins after the date of enactment of
this Act.

SUMMARY OF THE HISTORIC HOMEOWNERSHIP

ASSISTANCE ACT

Purpose. To provide homeownership incep-
tions and opportunities through the rehabili-
tations of historic properties. To stimulate the
revival of decaying neighbor-
hoods and communities, and the preserva-
tion of historic buildings and districts through
homeownership.

Rate of Credit: Eligible Buildings. The ex-
isting Historic Rehabilitation Tax Credit, which provides a credit of 20 percent of qualifi-
ced rehabilitation expenditures to investors in
commercial and rental buildings, is ex-
tended to homeowners who rehabilitate or
purchase a newly rehabilitated eligible home
and occupy it as a principal residence. In the
case of buildings rehabilitated by developers
and sold to homeowners, the credit is passed
through to the purchaser. The purchaser and
buildings are listed individually on the Na-
tional Register of Historic Places or on a
nationally certified state or local register, and
contributing buildings in national, state or
local historic districts.

Both single-family and multifamily resi-
dences, through condominiums and coopera-
tives, qualify for the credit. In the case of
buildings where one section of the structure
is slated for residential use and another for
commercial use, such as in two- or three-
story townhouses, the tax credit is based on
the homeowner's use of the structure. Home-
owners could utilize the historic homeowner
tax credit against the rehabilitation expendi-
tures of the residential portion, and the ex-
sting commercial rehabilitation tax credit
for the remaining portion.

Maximum Credit: Minimum Expenditures. The
amount of the homeownership credit is
limited to $50,000 for each principal resi-
dence. The amount of qualified rehabilita-
tion expenditures must exceed the greater of
$5,000 or the adjusted tax basis of the build-
ing (excluding land) within a 24-month period.
For buildings in census tracts tar-
ged as distressed for Mortgage Revenue
Bond purposes and those in Enterprise and
Empowerment Zones, the minimum expenditure
is $5,000. At least five percent of the
qualified rehabilitation expenditures must be
spent on the exterior of the building.

Pass-Through of Credit: Carry-Forward: Recapture. In the event that the rehabilita-
tion is performed by a developer, the credit accu-
crues to the homeowner. The credit cannot
be used to offset the developer's tax liability,
but instead must be passed through to the
home purchaser. The entire amount of the
credit is used to reduce federal income tax
liability, subject to Alternative Mini-
num Tax limitations. The credit is available
in the year in which the expenditures are
made, provided the property is acquired as a
principal residence by the homeowner. Any
unused credit would be carried forward
until fully exhausted. In the event the tax-
payer fails to maintain the home as a prin-
cipal residence until fully exhausted, in the event the

No “Passive Loss”: No Income Limit. The
credit is not subject to the “passive loss” limitations. Further, since the legislation is
intended to promote economic diversity
among residents and increase local property
income, it is expected that revenues, taxpayers are
eligible for the credit without regard to in-
come.

Standards for Historic Rehabilitation. To
qualify for the credit, the rehabilitation
must be performed in accordance with the
Secretary of the Interior’s Standards for Re-
habilitation, which include eligibility of ex-
dpenditures under the existing commercial re-
habilitation tax credit. The intent of the
Standards is to assist the long-term preser-
vation of an ambiance through the
preservation of historic materials and features. The Standards are to be applied to
specific rehabilitation projects in a reason-
able manner, taking into consideration eco-

donomic and technical feasibility. The pro-
posed legislation clarifies this directive.

State-Level Certifications. As under the
existing commercial rehabilitation tax cred-
it program, State Historic Preservation Of-
ficers and Certified Local Governments are
given the authority to certify the rehabilita-
tion of buildings within their respective ju-
risdictional. Standards are given the authority
to levy fees for processing applications for cer-
fication, which the property is appraised by the
homeowner.

Provided that the proceeds of such fees are
used solely to defray expenses associated
with processing the application.

Historic Rehabilitation Mortgage Credit Certificates. Lower income taxpayers may not have sufficient income tax liability to take the tax credit, but legislation would
permit any eligible for the income tax credit to
convert it into a mortgage credit certificate
which could be used either to re-

sponse to mortgage loan or to lower the down payment required
to purchase the property.

Under this option, the taxpayer transfers the
certificate to the mortgage lender in ex-
change for a reduced interest rate on a home
mortgage loan. The mortgage lender then
uses the certificate to reduce the buyer's federal income

tax liability, subject to Alternative Mini-

mum Tax limitations. The credit claimed by
the mortgage lender is not subject to recap-

ture.

In many distressed neighborhoods, the cost
of rehabilitating a home and bringing it to
market significantly exceeds the value of the
mortgage. This gap imposes a significant bur-

den on a potential homeowner because the
required downpayment exceeds his or her
means. The legislation permits the mortgage

lender to use the mortgage credit certificate to reduce the buyer’s downpayment, rather than to reduce
the interest rate, in order to close this gap.

This provision is limited to historic districts
which qualify as targeted under the existing
Mortgage Revenue Bond program or are lo-

cated in Enterprise Zones.

The mortgage credit certificate would be entitled to a $5,000 Historic
Rehabilitation Mortgage Credit Certifi-
cate which could be used to reduce in-
terest payments on the mortgage. This

provision would enable families to ob-
tain a home and preserve historic neighborhoods when they would be un-
able to do so otherwise.

Mr. President, the time has come for
Congress to get serious about urban re-

newal. For too long, we have sat on the
sidelines watching idly as our citizens
slowly abandoned entire homes and

neighborhoods in urban settings, leav-

ing cities like Miami in Florida and

others around the nation in financial

jeopardy. For example, according to

the Mortgage Bankers Association, in the
decade from 1980 to 1990, Chicago lost

41,000 housing units, Philadelphia

10,000, and St. Louis 7,000. The erosion of a

sense of community and culture once shared by

our urban neighborhoods and towns further magnifies the loss.

By addressing years of neglect and a
general decline in investment in our
older neighborhoods, this bill will em-
power families and individuals with

the financial incentives needed to revital-
ize historic housing in our urban com-

munities.

Recognizing that the States can best
administer laws affecting unique com-
munities, the act gives power to the

The bill that Senator CHAFEE and I are cosponsoring focuses on the preser-

vation of historic residences. The bill

will assist Americans who want to safe-
guard, maintain, and reside in these
homes which chronicle America’s past.

The Historic Homeownership Assistant Act will stimulate rehabilitation of
historic homes while contributing to the

revitalization of urban communities. The Federal tax credit provided in

the legislation is modeled after the existing Federal commercial historic

rehabilitation tax credit. Since 1961, this commercial tax credit has facili-
tated the preservation of many historic structures across this great land.

For example in the last two decades, in my home State of Florida, $250 million in private capital was invested in over 325

historic rehabilitation projects. These investments helped preserve Ybor City in Tampa and the Springfield Historic

District in Jacksonville.

The tax credit, however, has never applied to personal residences. It is
time to provide an incentive to individu-

als to restore and preserve homes in

America’s historic communities.

The Historic Homeownership Assist-
ance Act targets Americans at all eco-
nomic levels. The Act gives lower
income Americans with the option to
elect a Mortgage Credit Certificate in

lieu of the tax credit. This certificate

allows Americans who cannot take advan-

tage of the tax credit to reduce the

interest rate on their mortgage that

secures the purchase and rehabilitation

of a historic home.

For example, if a lower-income

family were to purchase a $35,000 home

which included $25,000 worth of quali-

fied rehabilitation expenditures, it

would be entitled to a $5,000 Historic

Rehabilitation Mortgage Credit Certifi-
cate which could be used to reduce in-

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CONGRESSIONAL RECORD — SENATE

Secretary of the Interior to work with states to implement a number of the provisions.

The Historic Homeownership Assistance Act does not, however, reflect an untied proposal. In addition to the existing historic rehabilitation tax credit, the proposed bill incorporates features from several state tax incentives for the preservation of historic homes. Colorado, Maryland, New Mexico, Rhode Island, Wisconsin, and Utah have pioneered their own successful voluntary historic preservation tax incentive for homeownership.

At the Federal level, this legislation would promote historic home preservation nationwide, allowing future generations of Americans to visit and reside in homes that tell the unique history of our communities. The Historic Homeownership Assistance Act will offer enormous potential for saving historic homes and bringing entire neighborhoods back to life.

I urge my colleagues to support this bill for the preservation of history.

By Mr. COVERDELL (for himself and Mr. FAIRCLOTH):
S. 497. A bill to amend the National Labor Relations Act and the Railway Labor Act to repeal the provisions of the Acts that require employees to pay union dues or fees as a condition of employment; to the Committee on Labor and Human Resources.

THE NATIONAL RIGHT TO WORK ACT OF 1997

Mr. COVERDELL. Mr. President, I am pleased to introduce the Coverdell-Faircloth National Right to Work Act of 1997. As many of you know, my esteemed colleague from North Carolina, Senator LAUCH FAIRCLOTH, introduced this language last Congress and I commend Senator FAIRCLOTH for his outstanding leadership on this issue.

This bill does not add a single word to Federal law. Rather, it would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. But no worker should ever be forced to join a union.

I am happy to say that my own state, Georgia, is among one of the 21 states that is a “Right to Work” state and has been since 1947. According to U.S. News and World Report, 7 of the strongest 10 State economies in the nation have Right to Work laws. Workers who have the freedom to choose whether or not to join a union have a higher standard of living than their counterparts in non-Right to Work States. According to Dr. James Bennett, an economist with the highly respected economics department at George Mason University, on average, urban families in Right to Work States have approximately $2,852 more annual purchasing power than urban families in non-Right to Work States when the lower taxes, housing and food costs of Right to Work States are taken into consideration.

According to a poll by the respected Marketing Research Institute, 77 percent of Americans support Right to Work, and over 50 percent of union households would have the right to choose whether or not to join or pay dues to a labor union. That should be no surprise. Because what this is all about is freedom. And right to work expands every working American’s personal freedom.

Mr. President, I urge my colleagues to support this legislation that expands the freedom of hard working Americans and gives them the freedom to choose whether or not to join or reject union representation and union dues without facing coercion, violence, and workplace harassment by union officials.

Mr. FAIRCLOTH. Mr. President, today I join with my good friend, Senator COVERDELL to introduce the National Right to Work Act of 1997. This is the same legislation that I introduced during the 104th Congress, and I am delighted to have Senator COVERDELL as a partner in this effort during the 105th Congress.

As I have said before, and continue to believe strongly, compulsory unionism violates the fundamental principle of individual liberty—the very principle upon which this Nation was founded. Compulsory unionism basically says that workers cannot and should not decide for themselves what is in their best interest. I can think of nothing more offensive to the core American principles of liberty and freedom.

The National Right to Work Act will address this most fundamental problem of federal labor policy: does America believe that working men and women should be forced, as a condition of employment, to pay dues or fees to a labor union? I believe, as does my colleague, Senator COVERDELL and many others, that no one should be forced to pay union dues just to get or keep a job. The National Right to Work Act would not change a single word of Federal law. Rather, the measure would repeal those sections of the National Labor Relations Act and Railway Labor Act that authorize the imposition of forced-dues contracts on working Americans. I believe that every worker must have the right to join or support a labor union. This bill protects that right. However, no worker should be forced to join a union.

In 1965, Senator Dirksen said of compulsory unionism, “Is there a more fundamental right than to make a living for one’s family without being compelled to join a labor organization?” I could not agree more.

Mr. President, I am delighted to have Senator COVERDELL introduce today along with me the National Right to Work Act of 1977.

The Commuter Choice Act of 1997

Mr. CHAFEE. Mr. President, one of the factors that has created traffic congestion in metropolitan areas in our Nation is finding a way to reduce traffic congestion. Commuters in cities across the country spend countless hours on the road traveling to and from work. This traffic places tremendous pressure on our highways and infrastructure, as well as causes monumental environmental problems. More than 100 cities fail to meet today’s clean air standards. The best way to clean up our air is to reduce the number of automobiles which are driven on a daily basis.

Unfortunately, our current tax laws actually encourage commuters to travel to work in single occupant automobiles. Today, employers can provide their employees as a tax-free fringe benefit the Energy Policy Act of 1992, the value of parking that qualifies for this benefit is limited to $170 per month. By comparison, tax-free transit or van-pool benefits are limited to only $65 per month.

There is another aspect of this benefit that makes the tax-free parking an even greater incentive for employees to drive to work. The fringe benefit must be offered by employers on a take-it-or-leave-it basis. In other words, the employee has the option of accepting the employer-paid parking or nothing at all. The tax-exempt status of the employer-provided parking is lost if employees are offered a choice between the parking fringe benefit and taxable salary.

Let me illustrate the problem this creates. Suppose an employer has two employees, Sally and Jim. Under current law, the employer can pay for a parking space across the street. This fringe benefit will not be taxable to Sally and Jim so long as the cost does not exceed $170 per month. But, let’s assume that Sally would prefer to receive cash instead of a parking space, because she can commute to work with her husband or take public transportation. The way the law is currently written, Sally’s employer cannot offer her cash instead of the parking fringe benefit, because it would cause Jim’s parking fringe benefit to become taxable.

The Commuter Choice Act of 1997, which I am introducing today along with my colleague Senator MOYNIHAN, corrects this bias in the Tax Code by allowing employers to offer their employees the choice of tax-free parking or taxable cash compensation. This proposal is completely voluntary. Employers are not required to offer cash in lieu of parking. Furthermore, it has no adverse affect on employees wishing to continue receiving tax-free parking. That fringe benefit would remain exempt from income and payroll taxes. However, my proposal would
May 20, 1997

S. 499

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 "American Farm and Ranch Protection Act of 1997."

SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) Estate Tax With Respect to Land Subject to a Qualified Conservation Easement.—Section 2031 of the Internal Revenue Code of 1986 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection (c):

"(c) Estate Tax With Respect to Land Subject to a Qualified Conservation Easement.—

(1) In General.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement.

(2) Treatment of Certain Indebtedness.—

(A) In General.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

(B) Definitions.—For purposes of this paragraph:

(i) Debt-financed property.—The term 'debt-financed property' means any property...
with respect to which there is an acquisition indebtedness (as defined in clause (iii) on the date of the decedent's death.

(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means with respect to debt-financed property, the unpaid amount of—

(I) the indebtedness incurred by the donor in acquiring such property.

(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition.

(iii) the indebtedness incurred after the acquisition of such property if such indebtedness is not acquisition indebtedness if incurred to carry on activities directly related to farming, ranching, forestry, horticulture, or viticulture, and

(iv) the extension, renewal, or refinancing of an acquisition indebtedness.

(3) TREATMENT OF RETAINED DEVELOPMENT RIGHTS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

(B) TERMINATION OF RETAINED DEVELOPMENT RIGHTS.—If every person in being who has an interest or right of possession (as defined in subparagraph (D) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2003 shall be reduced accordingly. The reduction shall be filed in the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

(C) ADDITIONAL TAX.—Failure to implement the agreement described in subparagraph (B) within 2 years of the decedent's death shall result in the imposition of an additional tax in the amount of tax which would have been due on the retained development rights subject to such agreement. Such additional tax is due and payable on the last day of the 6th month following the end of the 2-year period.

(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this section, the term 'development right' means the right to establish a development right as part of a sale of the entire tract of land subject to the qualified conservation easement, or other commercial purpose which is not subordinate to and does not interfere with the activity of the use of the land for farming, forestry, ranching, horticulture, or viticulture conducted on land subject to the qualified conservation easement in which such right is retained.

(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right described in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

(6) DEFINITIONS.—For purposes of this subsection—

(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

(I) which is located in or within 50 miles of an area which, on the date of the decedent's death—

(a) is a metropolitan area (as defined by the Office of Management and Budget) or a National Park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 50 miles of such a park or wilderness area is not under significant development pressure), or

(b) is an Urban National Forest (as designated by the Forest Service).

(II) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a conservation easement (as defined in section 2031(c)) which (I) restrains the use of the real property interest (as defined in section 2031(c)) to commercial purpose which is not subordinate to and does not interfere with the activities of farming, ranching, forestry, horticulture or viticulture conducted on land subject to the qualified conservation easement, or other commercial purpose which is not subordinate to and does not interfere with the activity of the use of such property.

(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2031(e)(2)) of the decedent.

(D) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations applying this section to interests in a partnership, corporation, or trust which, with respect to the decedent, is an interest closely held within the meaning of paragraph (1) of section 6166(b).

(E) CARRYOVER BASIS.—Section 1014(a) of such Code (relating to basis of property acquired from a decedent by transfer) is amended by adding after paragraph (3) the following new paragraph:

(3) in the case of property acquired from a decedent by transfer and by reason of the occurrence of the death of a decedent, the basis of such property is deemed a disposition under subsection (c) of section 2031.

(F) ADDITION OF THE APPlicability OF THE exclusion described in section 2031(c), the basis in the hands of the decedent.

(EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

(SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

(a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2033 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by adding after paragraph (3) the following new paragraph:

(3) the transfer of property to a qualified conservation easement (as defined in section 2033(c)), the transfer shall not be treated as a transfer of property by gift purposes for purposes of this section.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1996.

(SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to alternative valuation method) is amended by adding after paragraph (c) the following new paragraphs:

(1) the transfer of a qualified conservation easement (as defined in section 2032A(c)), the transfer shall not be treated as a transfer of property by gift purposes for purposes of this section.

(2) the transfer of property to a qualified conservation easement (as defined in section 2032A(c)), the transfer shall not be treated as a transfer of property by gift purposes for purposes of this section.

(EFFECTIVE DATE.—The amendments made by this section shall apply to gifts made after December 31, 1996.

SUMMARY OF THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1997

The American Farm and Ranch Protection Act protects family lands and encourages the voluntary conservation of farmland, ranches, forest land, wetlands, wildlife habitat, open space and other environmentally sensitive property. It enables farmers and ranchers to continue to own and work their land by eliminating the estate and gift tax burden that threatens the current generation of owners. The bill does this in the following ways:

- By excluding from estate and gift taxes the value of land on which a qualified conservation easement has been granted if the land is located in or within a 50-mile radius of a metropolitan area, a National Park, or a wilderness area that is part of the National Wilderness Area System, or an Urban National Forest; and,
- By clarifying that land subject to a qualified conservation easement can also qualify for special use valuation under Code section 2032A.
The bill also contains a number of safeguards to ensure that the benefits of the exclusion are not abused. These safeguards include the following:

The easement must be perpetual and meet the requirements of Code Section 170(h), governing deductions for charitable contributions of easements.

Easements retaining the right to develop the property for commercial recreational use would not be eligible, while other retained development rights would be taxed.

Lands excluded from the estate tax would receive a carryover, rather than stepped-up, basis for purposes of calculating gain on a subsequent sale.

The land must have been owned by the decedent or a member of the decedent’s family for at least three years immediately prior to the decedent’s death; and

The easement must have been donated by the decedent or a member of the decedent’s family.

Under Section 170(h) easements will qualify only if they are made to a federal, state or local governmental unit or certain nonprofit groups. In addition, they must be made to preserve land areas for outdoor recreation by the general public; to protect the natural habitat of fish, wildlife, or plants; to preserve open space (including farmland and forest land).

The bill is effective for decedents dying, or gifts made, after December 31, 1996.

Mr. BAUCUS. Mr. President, I am very pleased through the efforts of my colleague Senator CHAFFEE in introducing the American Farm and Ranch Protection Act today. This bill represents a bipartisan effort to help protect the open lands of our great country.

Montana is as beautiful as Big Sky country for a reason, our expansive open areas dedicated to farming, ranching, and forestry rather than building and development. Our open lands represent a way of life in Montana, they are part of our environmental and cultural heritage. And they are rapidly disappearing as ranches and farms make way for houses and building complexes.

America is losing over 4 square miles of land to development every day. In Montana alone, since 1977 over 560,000 acres of farmland have been taken out of farm use. Since 1974 the number of acres of land taken out of farm use exceeds 2.5 million.

Frequently, the pressure to abandon the farm use of land comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate’s total value, often the heirs must develop or sell off part or all of the land in order to pay the estate tax. Because land is typically appraised by the Internal Revenue Service according to its highest and best use, which usually assumes development on the property, retention of undeveloped land is extremely difficult.

I have attempted to resolve this problem through changes in the estate tax itself by my sponsorship of the bipartisan Estate Tax Relief for the American Family Act of 1997. That bill will provide an incentive for all family-owned businesses, including farms and ranches, to be passed on to succeeding generations. At the same time, however, I believe it is important to provide an incentive for the permanent preservation of environmentally significant land, so that our legacy to our children will include Montana’s open lands. The American Farm and Ranch Protection Act, which Senator CHAFFEE and I am introducing, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, the easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife, or plants, to meet a government conservation policy, or to preserve a significant historical heritage of the United States.

Title 5 of this bill represents an effort to clarify an area of the law that is of particular importance in Montana. Under current law, when mineral rights are severed from the surface rights in a piece of property, and a qualified conservation easement is created by the owner of the surface rights for the benefit of a nonprofit entity, that owner is unable to take a charitable deduction unless two conditions are satisfied: (1) the owner must prove that the probability of surface mining occurring on the property must be so remote as to be negligible, and (2) the severance of the mineral rights must have occurred before June 13, 1976. In Montana, severance of mineral rights for many properties occurred many generations earlier, and they have often been disbursed to farflung relatives in very small portions. So the probability that mining will occur is, indeed, very remote. The Internal Revenue Service, however, has asserted that some uncertainty exists about the congressional intent behind the term “ownership of the surface estate and mineral interest first separated after June 12, 1976.”

I was the original author of the language in question, and I have communicated with the IRS regarding my intention when the language was drafted. However, IRS has been unwilling to issue a favorable letter ruling which would protect landowners who, as a consequence, it is impossible for many Western landowners to make voluntary charitable contributions of conservation easements in order to protect important Western land.

In light of the confusion that this date has caused, and because it has no policy justification, our legislation would eliminate the 1976 date from the statute.

I believe this bill can be an important tool for America’s farm and ranch families in preserving their homesteads. At the same time, it makes a significant contribution to the larger public good of conserving America’s increasingly threatened rural lands. I urge my colleagues to join on the bill as cosponsors, and encourage the administration to support the legislation.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 500. A bill to authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other California national parks caused by heavy rains and flooding in December 1996 and January 1997, and for other purposes; to the Committee on Energy and Natural Resources.

THE YOSEMITE EMERGENCY RESTORATION AND CONSTRUCTION ACT.

Mrs. BOXER. Mr. President, I am today introducing a bill that will authorize emergency appropriations for cleanup and repair of damages to facilities of Yosemite National Park and other National Park Service areas in California caused by heavy rains and flooding in December 1996 and January 1997.

I expect most of the issues regarding emergency cleanup and repair due to floods in California to be addressed through the appropriations process. However, I do not therefore expect this bill to be taken up by the appropriate Senate committee and passed by the Senate. The primary purpose of introducing this bill is to set a benchmark for recovery and cleanup efforts at Yosemite National Park.

My bill takes several steps beyond the bill that was introduced last month by Congressman DOOLITTLE and RADANOVICH:

First, it authorizes emergency funding. Second, it authorizes a specific amount—$200 million in emergency funds in fiscal year 1997. Third, it specifies that funds shall only be spent in a manner that is consistent with the Yosemite general management plan, the concession services plan, and when adopted, the Yosemite Valley housing plan, and the valley implementation plan. Fourth, it specifies that funds spent on repair and rebuilding of concessions facilities shall be recovered by the Secretary of the Interior to the greatest extent practicable according to the Department of the Interior’s contract with the concessionaire. Fifth, it authorizes emergency grants to satellite communities around Yosemite to carry out mass transit visitor transportation into the park during repair and restoration activities on access roads. Sixth, it authorizes emergency appropriations for other California parks that suffered flood damage including Redwood National Park, Sequoia-Kings Canyon National Park, and others.

Seventh, it authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter for a mass transit system for Yosemite.

Mr. President, the primary goal of the emergency restoration and construction activities authorized in this bill is to reopen Yosemite National Park to the American people, and to do so in a manner which is consistent with the Yosemite Valley visitor transportation and conservation plans, and which will protect the natural habitat of fish, wildlife or plants, and other species found in Yosemite Valley. These resources are of great value to the people of California, and to the country as a whole. I urge all of my colleagues to support this legislation and to join me in authorizing these funds.
March 20, 1997

CONGRESSIONAL RECORD – SENATE S2673

Park and restore services to Park visitors as quickly and safely as possible.

The importance of emergency funding for Yosemite cannot be overstated. It is a unique national treasure, recognized all over the world for its spectacular beauty. Over four million people visit the park every year including tens of thousands of international visitors who travel to California for the sole purpose of staying in the park to experience nature. John Muir—one of our nation’s founding leaders of environmental conservation—first encountered the majestic Yosemite Valley in 1864 and immediately realized the importance of preserving its natural wonders. Muir’s foresight and passion resulted in the establishment of Yosemite National Park in October 1890. At its onset, the park included 60,000 acres miles of scenic wild lands. Today, some 106 years later, the park embraces over 761,236 acres of granite peaks, broad meadows, glacially carved domes, giant sequoias, and breathtaking waterfalls.

This winter, tropical storms with heavy rain caused serious flooding in the park. Yosemite’s major rivers and tributaries flooded many park areas and caused severe damage to infrastructure. Over 350 damage assessments have been completed by engineers, architects, resource specialists, and other technical experts. Their first damage assessment report shows serious damage to the four main routes leading into the park, major electrical and sewer systems, 224 units of employee housing, over 500 guest lodging units, over 350 campsites, 17 restoration projects, and over 10 archeological sites.

According to the National Park Service, full recovery will take years. We now begin the recovery period during which, interim solutions will be put in place for services including temporary housing and lodging while permanent construction is being completed. The Yosemite Emergency Restoration and Reconstruction Act would authorize $200 million in emergency funds to be appropriated to the Secretary of Interior for cleanup and repair of flood damages to the facilities of Yosemite National Park caused by heavy rains and flooding in December 1996 and January 1997, and other national parks in the State of California. The funds are authorized to remain available until expended.

The authorization requires that any emergency funds spent at Yosemite be consistent with the Yosemite General Services Plan, the Concession Services Plan, and when adopted, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

Funds are authorized to be spent on repair, restoration, and relocation, where appropriate to infrastructure vital to Yosemite National Park operations, including but not limited to roads, trails, utilities, buildings, grounds—including campgrounds—natural resources, cultural resources, and lost and damaged property, both within the park boundaries and at the El Portal administrative site servicing the park.

Also, funds are authorized to repair and relocation of park employee housing and the Resource Management Office; repair, maintenance, and opening of Tioga Pass Road within the boundaries of the park; and repair and expeditious opening of highways 120, 140, and 41 within the boundaries of the park.

The bill requires that funds spent on repair and relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities be recovered by the Department of the Interior to the greatest extent practicable, within the provisions of the concession contract between the Department of the Interior and the Yosemite Concession Services.

Mr. President, a key aspect to the bill is the authorization of $2.5 million in emergency grants to satellite communities around Yosemite National Park for the purpose of providing mass transit visitor transportation into the park; repair and restoration of park activities on access roads to the park.


Last, Mr. President, my bill authorizes $7 million to be appropriated in fiscal year 1998 and such sums as may be necessary for each fiscal year thereafter to the Secretary of Interior for the purpose of helping establish a mass transit system for Yosemite National Park—specifically for the purchase of electric buses and alternative-fueled buses.

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. 500

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 “Yosemite Emergency Restoration and Construction Act of 1997.”

SECTION 2. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR CLEANUP AND REPAIR OF YOSEMITE NATIONAL PARK.

(a) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section $200,000,000 for fiscal year 1997, to remain available until expended.

(b) Use of Funds.—

(1) In General.—The Secretary shall use amounts made available under subsection (a) for cleanup and repair of flood damage to the facilities of Yosemite National Park and other national parks in the State of California caused by heavy rains and flooding in December 1996 and January 1997.

(2) Included Activities.—Activities by the Secretary under paragraph (1) shall include—

(A) repair, restoration, and, if appropriate, relocation of infrastructure vital to operation of Yosemite National Park, including roads, trails, utilities, buildings, grounds (including campgrounds), natural resources, cultural resources, and lost and damaged property in the park and at the El Portal administrative site servicing the park;

(B) repair and, if appropriate, relocation of Yosemite National Park employee housing and the Resource Management Office;

(C) repair and, if appropriate, relocation of concession-operated rental cabins, motel rooms, rental structures, and concession employee housing and facilities;

(D) repair, maintenance, and opening of Tioga Pass Road in Yosemite National Park;

(E) repair and expeditious opening of Highways 120, 140, and 41 in Yosemite National Park;

(F) any other repair and restoration that is necessary for the expedient and complete opening of Yosemite National Park;

(G) making emergency grants to satellite communities around Yosemite National Park to provide mass transit visitor transportation into the park; repair and restoration activities on access roads to the park; and


SEC. 3. EMERGENCY FUNDING FOR YOSEMITE SATELLITE COMMUNITIES.

Of any amounts made available under section 2(a), the Secretary shall make available not less than $2,500,000 to make grants described in section 2(b)(2)(G).

SEC. 4. CAPITAL RECOVERY FROM CONCESSIONAIRES.

To the extent practicable under the concession contract between the Secretary and Yosemite Concession Services, the Secretary shall recover from Yosemite Concession Services any amount used under section 2(b)(2)(C).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS FOR MASS TRANSIT SYSTEM FOR YOSEMITE NATIONAL PARK.

(a) Authorization.—There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1998 and such sums as are necessary for each fiscal year thereafter.

(b) Use of Funds.—

(1) In General.—The Secretary shall use amounts made available under subsection (a) to establish a mass transit system at Yosemite National Park.

(2) Included Activities.—Activities by the Secretary under paragraph (1) shall include—

(A) using not more than $1,500,000 for the purchase of electric buses; and

(B) using not more than $5,500,000 for the purchase of alternative-fueled buses.

SEC. 6. CONSISTENCY WITH PLANS.

Activities at Yosemite National Park by the Secretary under this Act shall be consistent with the Yosemite General Management Plan, the Concession Services Plan, the Yosemite Valley Housing Plan, and the Valley Implementation Plan.

By Mr. MACK (for himself, Mr. SHELBY, Mr. COCHRAN, Mr. D’AMATO, and Mr. HAGEL):
Mr. MACK. Mr. President, today I am introducing legislation, along with Senator SHELBY, which provides real cuts in the capital gains rate and indexes capital gains to account for inflation. As we work to achieve a balanced budget, it is our belief that a real reduction in the capital gains rate is essential to ensure greater growth, innovation, and prosperity. Accordingly, the legislation we have proposed offers the best elements of existing capital gains proposals.

Perhaps most importantly, this proposal ensures that homeowners, family farms, and small businesses are not penalized for inflationary—phantom—gains by providing for the indexing of capital gains. The importance of indexing is made clear in the accompanying report recently prepared by the Joint Economic Committee.

Additionally, our bill will offer a 50-percent rate reduction for individuals and corporations, and allow the deduction of a loss on the sale of a principal residence.

Finally, this legislation encourages investment in small businesses by increasing the exclusion from gains for small business stock from 50 to 75 percent; reducing the requirement for holding stock from 5 to 3 years; increasing the eligibility size to $100 million; and providing a 60-day grace period for the rollover of stock between small businesses.

Again, I want to restate the importance of a reduced capital gains rate, which benefits all Americans by stimulating economic growth and prosperity and leading to innovation in biomedical research and other life-enhancing technologies. I look forward to my colleagues joining me in this effort to ensure that a real capital gains rate reduction is included in any balanced budget package the Congress puts together in the coming months.

Mr. President, I ask unanimous consent that additional material be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

INDEXING CAPITAL GAINS

(Prepared by Robert Stein)

The case for cutting the capital gains tax is simple and straightforward: It is a win-win situation for all involved—for taxpayers, workers and government revenue.

Everyone who invests would get more bang for their buck, which includes people who start small businesses, workers who have pension money in stocks and those who save for life's goals, like a downpayment on a home, a college education or retirement.

More than 40 percent of families own stocks, either directly or indirectly, including more than one-third that make the $10,000 to $25,000 per year. And contrary to conventional wisdom, cutting the capital gains tax will increase government revenue, making it easier to balance the budget.

One way to cut the capital gains tax is to limit the tax to real increases in the prices of assets, over and above inflation. This is called indexing. Without indexing, effective tax rates can be much higher than the government's official rate. Consider a couple that buys $10,000 worth of stocks in 1966, to help pay for their retirement. In 1996, they would have about $70,000 worth of stocks. Cashing-in these stocks could require a tax of about $33,000. But much of their gain—the difference between their initial investment and the $70,000 they end up with—was due to inflation, not real increases in purchasing power. In fact, the couple only had about $30,000 in real gains, over and above inflation. And a tax of $19,000 or $30,000 in gains is an effective tax rate of 63 percent.

Chart 1 shows a history of the difference between the top official tax rate on capital gains and the top effective tax rate, taking inflation into account. Chart 2 shows, the effective tax rate on capital gains can greatly exceed the official rate, even going well above 100 percent. In fact, if an investor sells an asset that increased in price, but which didn't keep pace with inflation, she would have to pay taxes without enjoying any real gain at all! It doesn't take much of an imagination to see how the fear of such taxes could deter investment.

(Chart not reproducible in Record.)

Would cutting taxes on capital gains reduce government revenue, making it tougher to balance the budget? Certainly not. In fact, cutting the effective tax rate on capital gains should boost growth. As the following table shows, government revenue from the capital gains tax has grown much more quickly when the effective tax rate has been low or falling than when it's been high or rising.

FIVE PHASES OF THE CAPITAL GAINS TAX

<table>
<thead>
<tr>
<th>Years</th>
<th>Effective tax rates (in percent)</th>
<th>Capital gains rate (mean) (in percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1954-1967</td>
<td>Low (10 to 40)</td>
<td>+10</td>
</tr>
<tr>
<td>1968-1980</td>
<td>Rising/Very High (37 to 126)</td>
<td>+2</td>
</tr>
<tr>
<td>1981-1986</td>
<td>Fall (97 to 39)</td>
<td>-7</td>
</tr>
<tr>
<td>1987-1991</td>
<td>Rising (39 to 61)</td>
<td>+5</td>
</tr>
<tr>
<td>1992-1994</td>
<td>Falling (61 to 50)</td>
<td>-10</td>
</tr>
</tbody>
</table>

Put simply, reducing the effective tax rate on capital gains would kill two birds with one stone: It would both ease the tax burden and make it easier to balance the budget.

Case in point: The last time the government introduced legislation to make indexing, the Congress puts to indexing. I look forward to my medical research and other life-enhancing technologies. And it's factored into the interest rate. This interest rate also reflects the inflation the two parties expect, as well as the risk that inflation will differ in either party's favor.

But by contrast, bargaining over tax costs doesn't happen with equity. Unlike with debts, nobody deducts capital gains as a cost. Indexing gains would not simply shift the tax burden from one party to another. It would reduce the total tax burden placed on investments in equity, to reflect the erosion of capital gains by inflation.

ENDNOTES

1 Family Finances in the U.S.: Recent Evidence from the Survey of Consumer Finances, Federal Reserve Board, 1995. Annual ownership includes owned through mutual funds or retirement accounts.

2 S2674. The Standard and Poor's 500 stock index rose from 85.26 in 1966 to 670.81.

3 Twenty-eight percent of the capital gain.

4 The consumer price index for urban workers rose from 235.5 in 1966 to 157 in 1996. This makes the real basis about $48,000 in 1996.

5 For example, the effective capital gains tax rate I assumed people hold their assets for five years and use the consumer price index for urban workers as the inflation index. To avoid a result where people get taxed on zero or negative real gains (which implies a tax rate of infinity!), I assume people earn a 5 percent real return per year. This results in the added benefit of giving us a view of the expected capital gains tax rate, as almost all people invest with the expectation that they will get a positive return. The expected tax rate should drive investment decisions more than any other tax rate.

6 Changes in real revenue, with nominal revenue figures adjusted by the consumer price index for urban workers.

7 This annual rate of changes does not include the huge increase in government revenue in 1996, as people cashed in their gains to avoid an incoming tax hike in 1987. In other words, if the data in the table looks for keeping capital gains taxes constant, it would have the tax index. To avoid a result where people get taxed on zero or negative real gains (which implies a tax rate of infinity!), I assume people earn a 5 percent real return per year. This results in the added benefit of giving us a view of the expected capital gains tax rate, as almost all people invest with the expectation that they will get a positive return. The expected tax rate should drive investment decisions more than any other tax rate.

8 This calculation does not use the 1966 peak as the starting point. It uses 1985. Had it used 1986 at the starting point the data would have been even more favorable for keeping capital gains tax low.

By Mr. GRASSLEY:

S. 502. A bill to amend the Internal Revenue Code of 1986 to provide eligibility treatment for certain payments received under a Department of Veterans Affairs pension or compensation program; to the Committee on Finance.

STATE VETERANS' HOME LEGISLATION

Mr. GRASSLEY. Mr. President, today I am introducing legislation which, when enacted, will modify the treatment of certain veterans benefits received by veterans who reside in State veterans homes and whose care
and treatment is paid for by the Medicare program. I am joined in introducing this bill by Senator GRAHAM.

Veterans residing in State veterans homes, who are eligible for aid and attendance [AA] and unusual medical expense [UME] benefits, lose the benefits provided under title 38 of the United States Code, who are also eligible for Medicaid, are the only veterans in nursing homes who receive, and who are able to keep, the entire AA and UME payments. This can be as much as $1,000 per month.

Other veterans, who reside in other types of nursing homes are receiving Medicaid, and who are also eligible for AA/UME can receive only 90 per month from the VA. Yet, other veterans who reside in State veterans homes but who are not eligible for the AA/UME benefits must contribute all but $90 of their income to the cost of their care.

So, even though veterans residing in State veterans homes who are eligible for AA and UME benefits and who qualify for Medicaid have all of their treatment and nursing home expense paid by the State Medicaid program, they nevertheless may keep as much as $1,000 per month of the AA and UME benefits.

It might be useful for me to review how this state of affairs came to be.

In 1990, legislation was enacted, Public Law 101-508, November 5, 1990, which modified title 38, the veterans benefits title of the United States Code, to stipulate that veterans with no dependents, on title XIX, residing in nursing homes will be able to keep all but $90 of those sums to help defray the cost of the nursing home care.

Although the written record does not document this, I believe that the purpose of exempting the State veterans homes was to allow the Homes to continue to collect all but $90 of the UME and AA paid to the veteran so as to enable State veterans homes to provide service to more veterans than they otherwise would be able to provide.

In any case, it seems highly unlikely that the purpose of exempting State veterans homes would have been to allow these veterans, and only these among similarly situated veterans, to retain the entire UME and A&A amounts.

State veterans homes were subsequently exempted from the definition of nursing homes which had been contained in those earlier provisions of Public Law 101-508 by legislation enacted in 1991, Public Law 102-40, May 7, 1991.

The result was that veterans on title XIX and residing in nursing homes who are eligible for AA and UME could receive only a $90 per month personal expense allowance from the VA, rather than the full UME and AA amounts.

State veterans homes were subsequently exempted from the definition of nursing homes which had been contained in those earlier provisions of Public Law 101-508 by legislation enacted in 1991, Public Law 102-40, May 7, 1991.

The result was that veterans on title XIX and residing in nursing homes continued to receive UME and AA. Until recently, the State veterans homes followed a policy of requiring that all but $90 per month of these allowances be used to defray the cost of care in the home.

Then, a series of Federal court decisions held that neither UME nor AA could be counted as income. The court decisions appeared to focus on the definition of income used in pre- and post-eligibility income determinations for Medicaid. The court decisions essentially held that UME and AA payments to veterans did not constitute income for the post-eligibility income determination. The reasoning was that, since these monies typically were used by veterans to defray the cost of certain series they were receiving, the payments constituted a "waste" for purposes of income gain by the veterans.

However, the frame of reference for the courts' decisions was not a nursing home environment in which a veteran receiving Medicaid benefits might find himself or herself. In other words, the UME and AA payment received by a veteran on Medicaid are provided to a veteran for services for which the State is already paying under a Department of Veterans Affairs pension or compensation program, including aid and attendance and unusual medical expense payments, may be taken into account.

By Mr. NICKLES:
S. 503. A bill to prevent the transmission of the human immunodeficiency virus (commonly known as HIV), and for other purposes; to the Committee on Labor and Human Resources.

THE HIV PREVENTION ACT OF 1997

Mr. NICKLES. Mr. President, I rise today to introduce the HIV Prevention Act of 1997. This legislation appropriately refocuses public health efforts on HIV prevention by using proven public health techniques designed for communicable diseases. The public health initiatives in this bill, which result in early detection of HIV infection, are now more important than ever in light of the tremendous advances that medical science has made.

This bill will balance the needs of HIV-infected patients with the prevention needs of those who are uninfected. The HIV Prevention Act of 1997 establishes a confidential, national HIV reporting effort as already exists for end stage HIV and AIDS; requires partner notification; mandates testing of indigent sexual offenders; protects health care patients and professionals from inadvertent exposure to HIV; provides access to insurance-required HIV test results; and allows adoptive parents to learn the HIV status of a biological or putative parent.

In addition, this legislation includes Sense of the Senate language which expresses that the States should criminalize the intentional transmission of HIV; and also expresses the Sense of the Senate that strict confidentiality must be observed at all times in carrying out all of the provisions of the act.

The Senate is on record supporting the provisions of this bill in a 1990 amendment which was adopted by voice vote. The primary sponsors of the amendment were Senators KENNEDY and MIKULSKI. During debate on the amendment, Senator KENNEDY argued, "In a case in which there is a clear and present danger, there is a duty to warn. That is the intent of the HIV Prevention Act of 1997. The best ways to warn for the prevention of further spread of HIV and AIDS are reporting and partner notification, methods which are currently in use and proven to be effective."

This bill has received overwhelming support from groups including the Independent Women's Forum, Americans for a Sound AIDS/HIV Policy, the Family Research Council, Women Against Violence, the Christian Coalition, and the American Medical Association. I quote from a letter written by the AMA in support of this legislation:

"These public health initiatives which result in early detection of HIV infection are now more important because of the tremendous advances that medical science has made. Early intervention combined with effective treatments will enable those with HIV and AIDS to live longer, healthier lives."

The HIV Prevention Act adds HIV to 52 other notifiable contagious diseases such as gonorrhea, hepatitis A, B, and C, syphilis, tuberculosis, and AIDS that must be reported to the Centers for Disease Control. In terms of partner notification, 26 states, including, I might add, Oklahoma, already require notification. It is time that these policies that are already in practice in some states are applied throughout the country in order to track and prevent further spread of HIV."

Mr. President, this legislation will greatly increase public health HIV prevention efforts that until now have focused only on AIDS. The HIV Prevention Act of 1997 is a common sense approach that is consistent with the spread of AIDS. By using proven, public health techniques and sound medical practices, this bill will curtail the...
spread of HIV. I thank the chair and encourage my colleagues to support this commonsense 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:

SEC. 1. SHORT TITLE.

This Act may be cited as the "HIV Prevention Act of 2000."

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) The States should recognize that the terms "acquired immune deficiency syndrome" and "AIDS" are obsolete. In the case of individuals who are infected with the human immunodeficiency virus (commonly known as HIV), the more important medical fact is whether or not the disease has progressed to AIDS (the stage at which the immune system is unable to deal adequately with the epidemic). The term "HIV disease" means infection with HIV regardless of whether the infection has progressed to AIDS, more correctly defined as the medical condition

(A) The performance of statistical and epidemiological analyses of the incidence in the State of cases of such disease.

(B) The performance of statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease.

(C) The assessment of the adequacy of preventive services in the State with respect to the disease.

(D) The performance of the functions required in paragraph (2).

(2) FUNCTIONS.—The functions described in this paragraph are as follows:

(A) PARTNER NOTIFICATION.—

(i) In general.—The State requires that the public health officer of the State carry out a program of notification to inform individuals that the individuals may have been exposed to HIV.

(ii) Definition.—For purposes of this paragraph, the term "partner" includes—

(I) the sexual partners of individuals with HIV disease;

(II) the partners of such individuals in the sharing of the intra-venous injection of drugs; and

(III) the partners of such individuals in the sharing of any drug-related paraphernalia determined by the State to place such partners at risk of HIV infection.

(B) COLLECTION OF INFORMATION.—The State requires that any information collected with respect to the individual is transmitted to the health insurance issuer as follows:

(i) To provide the individual with other preventive information.

(iv) With respect to an individual who undergoes testing for HIV disease but does not have positive test results for the disease, to recall the individual and inform the individual that the partners have not been exposed to HIV.

(v) To provide the partners with counseling and testing for HIV disease.

(vi) To provide the individual who has the disease to his health insurance issuer information regarding therapeutic measures for preventing and treating the deterioration of the immune system and conditions arising from the disease, and to provide the individual with other preventive information.

(vii) To provide the individual with information regarding the disease as a condition of issuing such insurance.

(C) CONSIDERATION OF RESULTS.—That if the results of the test be made available in accordance with subparagraph (B) (except that subparagraph applies only to the extent that the individual involved continues to be a defendant in the judicial proceedings involved, or is convicted in the proceedings.

(D) CONSIDERATION OF RESULTS.—That, if the results of a test conducted pursuant to subparagraph (B) or (C) indicate that the defendant has HIV disease, the fact may, as relevant, be considered in the judicial proceedings conducted with respect to the alleged crime.

(3) TESTING OF CERTAIN INDICATED INDIVIDUALS.—

(A) PATIENTS.—With respect to a patient who is undergoing a medical procedure that would place the health professionals in the risk of becoming infected with HIV, the State—

(i) authorizes such health professionals in their discretion to provide that the procedure will not be performed unless the patient undergoes a test for HIV disease and the health professionals are notified of the results of the test, and

(ii) requires that, if such test is performed and the patient has positive test results, the patient be informed of the results.

(B) FINE-RELATED SERVICES.—The State authorizes funeral-services practitioners in their discretion to provide that funeral procedures will not be performed unless the body is subjected to a test for HIV disease and the practitioners are notified of the results of the test.

(4) PERFORMING OF FINE-RELATED SERVICES.—The State requires that, if a health care entity (including a hospital) transfers a body to a funeral-related professional, the medical entity or body that is infected with HIV, the entity notify the funeral-related professional of such fact.

(6) HEALTH INSURANCE ISSUERS.—

(A) IN GENERAL.—The State requires that, if a health insurance issuer applies an applicant for such insurance to be tested for HIV disease as a condition of issuing such insurance, the applicant be afforded an opportunity by the health insurance issuer to be informed, upon request, of the HIV status of the applicant.

(B) DEFINITION.—For purposes of this paragraph, the term "health insurance issuer" means an insurance company, insurance service, or insurance organization (including a health maintenance organization) which is licensed to engage in the business of insurance in the State and which is subject to State law which regulates insurance.

(C) RULE OF CONSTRUCTION.—This paragraph may not be construed as affecting the provisions of section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to group health plans.

(7) ADOPTION.—The State requires that, if an adoption agency is giving significant consideration to approving an adoptive parent of a child and the agency knows whether the child has HIV disease,
such prospective adoptive parent be afforded an opportunity by the agency to be informed, upon request, of the HIV status of the child.

(b) **SENSE OF CONGRESS REGARDING HEALTH PROFESSIONALS WITH HIV DISEASE.**—It is the sense of Congress that, with respect to health professionals who have HIV disease,

(1) health professionals should notify their patients that the health professionals have the disease in medical circumstances that place the patients at risk of being infected with HIV by the health professionals; and

(2) the States should encourage the medical profession to develop guidelines to assist the health professionals in so notifying patients.

(c) **APPLICABILITY OF REQUIREMENTS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), this section shall apply to States upon the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) **DELAYED APPLICABILITY FOR CERTAIN STATES.**—In the case of the State involved, if the Secretary determines that a requirement established by subsection (a) cannot be implemented in the State without the enactment of State legislation, then such requirement applies to the State on and after the first day of the first calendar quarter that begins after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session is deemed to be a separate regular session of the State legislature.

(d) **DEFINITIONS.**—In this section:

(1) **HIV.**—The term "HIV" means the human immunodeficiency virus.

(2) **HIV DISEASE.**—The term "HIV disease" means infection with HIV and includes any condition arising from such infection.

(3) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

(e) **RULE OF CONSTRUCTION.**—Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300f–71 et seq.) is amended by inserting after section 2675 the following section:

***SEC. 2675A. RULE OF CONSTRUCTION.***

"Whenever the identity of an applicant for or a recipient of financial assistance under this title, compliance by the entity with any State law or regulation that is consistent with section 2675 of the Public Health Service Act of 1997 may not be considered to constitute a violation of any condition under this title for the receipt of such assistance.".

SEC. 4. SENSE OF CONGRESS REGARDING INTENTIONAL TRANSMISSION OF HIV.

It is the sense of Congress that the States should have in effect laws or regulations that provide that, in the case of the individual who knows that he or she has HIV disease, it is a felony for the individual to infect another with HIV if the individual engages in behaviors involved with the intent of so infecting the other individual.

SEC. 5. SENSE OF CONGRESS REGARDING CONFIDENTIALITY.

It is the sense of Congress that strict confidentiality should be maintained in carrying out the provisions of section 3 of this Act.

By Mrs. F. FEINSTEIN (for herself, Mrs. BOXER and Ms. SNOWE):

S. 504. A bill to amend title 18, United States Code, to prohibit the sale of personal information about children without their parent's consent, and for other purposes; to the Committee on the Judiciary.

**THE CHILDREN'S PRIVACY PROTECTION AND PARENTAL EMPOWERMENT ACT OF 1997**

Mrs. FEINSTEIN. Mr. President, I rise to urge my colleagues to support this simple but strong legislation to protect our children.

This bill, introduced by myself, Senator BOXER, and Senator SNOWE, would provide three simple protections:

First, the bill would prohibit list brokers from selling personal information about children under 16 to anyone, without first getting the parent's consent.

All kinds of information about our children—more facts than most of us might think or hope for—are rapidly becoming available through these list brokers. It is only a matter of time before this information begins to fall into the wrong hands.

Last year, a reporter in Los Angeles was easily able to purchase parents' names, birth months and addresses for about 500 children in a particular neighborhood. The reporter used the name of a fictitious company, gave a non-working telephone number, had no credit card or check, and identified herself as Richard Allen Davis, the notorious murderer of Polly Klaas. When asked about the list, the company repeatedly simply told her "Oh, you have a famous name," and sent her the information C.O.D. This is simply unacceptable.

Second, the bill would give parents the authority to demand information from the list brokers who traffic in the personal data of their children—brokers will be required to provide parents with a list of all those to whom they sold information about the child, and must also tell the parent precisely what kind of information was sold.

If this personal information is out there, and brokers are buying and selling it back and forth, it is only reasonable that we allow parents to find out what information has been sold and to whom that information has been given.

Finally, this bill would prohibit list brokers from using prison labor to input personal information. This seems like common sense to most of us, but unfortunately the use of prison labor is not currently prohibited.

Last year when I introduced this bill, I spoke of the plight of Beverly Dennis, an Ohio grandmother who filled out a detailed marketing questionnaire about her grandchildren and mailed it to a child in a particular survey. She filled out the questionnaire when she was told that she might receive free product samples and helpful information. Rather than receiving product information, however, she soon began to receive sexually explicit, fact-specific letters from a convicted rapist serving time.

The rapist, writing from his prison cell, had learned the very private, intimate details about her life because he kept a running record of personal questions he had inserted into a computer for a subcontractor. Ms. Dennis received letters with elaborate sexual fantasies, woven around personal facts provided by her in the questionnaire. This bill would have prevented the situation from ever occurring.

Finally, Mr. President, this year I have included in the bill exemptions for sales to law enforcement organizations, the Center for Missing and Exploited Children, and to accredited colleges and universities. We received a great deal of input since we introduced the bill last June, and I believe we have addressed most of the concerns about our bill with these exemptions.

This bill is really very simple. Some marketing companies may be unhappy that the government is trying to legislate how they do business, but we have to weigh the safety and well-being of our children against the small inconvenience of requiring parental consent in these cases. Given the rapidly changing nature of the marketing business and the ways in which child molesters and other criminals operate, this bill is an important step in protecting our kids from those who would do them harm.

Mr. President, I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 504

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 "Children's Privacy Protection and Parental Empowerment Act of 1997".

**SEC. 2. PROHIBITION OF CERTAIN ACTIVITIES RELATING TO PERSONAL INFORMATION ABOUT CHILDREN.**

(a) **IN GENERAL.**—Chapter 89 of title 18, United States Code, is amended by adding at the end the following:

**§1822. Sale of personal information about children**

"(a) **PROHIBITION.**—Whoever, in or affecting interstate or foreign commerce—

"(1) being a list broker, knowingly—

"(A) sells, purchases, or receives remuneration for providing personal information about a child knowing that such information was obtained without the consent of a parent of that child; or

"(B) conditions any sale or service to a child or to that child's parent on the granting of such a consent;

"(C) fails to comply with the request of a parent—

"(i) to disclose the source of personal information about that parent's child; or

"(ii) to disclose all information that has been sold or otherwise disclosed by that list broker about that child; or

"(iii) to disclose the identity of all persons to whom the list broker has sold or otherwise disclosed personal information about that child; or

"(2) being a person who, using any personal information about a child in the course of commerce that was obtained for commercial
is amended by adding at the end the follow-

for chapter 89 of title 18, United States Code, 

1141(a)).

Higher Education Act of 1965 (20 U.S.C.

Exploited Children; or

ation; or law enforcement organiza-

shall be construed to affect the sale of lists 

to whom such a person has sold or otherwise 
disclosed personal information about that child;

(3) knowingly uses prison inmate labor, or any 
worker who is an inmate of a Federal or State 
prison or a local correctional facility, or a 
worker who is registered pursuant to title XVII of the Violent Crime Control and 
Law Enforcement Act of 1994, for data proc-

essing of personal information about chil-

drren; or

(4) knowingly distributes or receives any 
personal information about a child, knowing 
or having reason to believe that the informa-
tion will be used to physically or emo-

tionally harm the child; shall be fined under this title, imprisoned 
not more than 1 year, or both.

(b) CIVIL ACTIONS.—A child or the parent of 
that child with respect to whom a viola-
tion of this section occurs may in a civil ac-
tion obtain appropriate relief, including 
monetary damages of not less than $1,000.
The court shall award a prevailing plaintiff 
reasonable attorney’s fee as a part of the costs.

(c) LIMITATION.—Nothing in this section 
shall be construed to affect the sale of lists to:

(1) any Federal, State, or local govern-

ment agency or law enforcement organiza-

(2) the National Center for Missing and 

Exploited Children; or

(3) any institution of higher education (as 
that term is defined in section 1201(a) of the 
Higher Education Act of 1965 (20 U.S.C. 
114(a)).

(d) DEFINITIONS.—In this section—

(1) the term `child’ means a person who 
has not attained the age of 18 years;

(2) the term ‘parent’ includes a legal 
guardian;

(3) the term `personal information’ means 
information (including name, address, tele-
phone number, social security number, and 
physical description) about an individual 
identified as a child, that would suffice to 
physically locate and contact that individual; 
and

(4) the term `list broker’ means a person 
who, in the course of business, provides mail-

ing lists, computerized or telephone refer-
ence services, or the like containing per-

sonal information about children.

(b) CLERICAL AMENDMENT.—The analysis 
for chapter 89 of title 18, United States Code, 
is amended by adding at the end the follow-
ing:

1822. Sale of personal information about 
children.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. D’AMATO, Mr. THOMPSON, Mr. ABRAHAM, and 
Mr. FEDERICO):

S. 505. A bill to amend the provisions of 
title 17, United States Code, with re-
spect to the duration of copyright, and 
for other purposes; to the Committee on 
the Judiciary.

THE COPYRIGHT CLARIFICATION ACT OF 1997

By Mr. HATCH:

S. 506. A bill to clarify certain copy-
right provisions, and for other pur-
poses; to the Committee on the J udici-
ary.

THE COPYRIGHT CLARIFICATIONS ACT OF 1997

By Mr. HATCH:

S. 507. A bill to establish the United 
States Patent and Trademark Organi-
zation as a Government corporation, to 
amend the provisions of title 35, United 
States Code, relating to procedures for 
patent applications, commercial use of 
patents, reexamination reform, and for 
other purposes; to the Committee on 
the Judiciary.

THE OMNIBUS PATENT ACT OF 1997

Mr. HATCH. Mr. President, intellectual 
property is vitally important to sustain-
ing the high level of creativity that 
America enjoys, which not only adds to 
the fund of human knowledge and the 
progress of science and technol-
ogy, but also results in the more 
tangible benefits of a strong economy 
and a favorable balance of trade.

For example, in 1994, copyright-relat-
ed industries contributed more than 
$385 billion to the American economy, 
or more than 5 percent of the total 
gross domestic product. This repre-

sents more than $550 billion in foreign 
sales, which exceeds every other lead-
ing industry sector except automotive 
and agriculture in contributions to a 
favorable trade balance. From 1977 to 
1994, these same industries grew at a 
rate that was twice the rate of growth 
of the national economy, and the rate of 
job growth in these industries since 
1987 has outpaced that of the overall 
economy by more than 100 percent.

Mr. President, this is impressive to 
say the least. And these figures don’t 
begin to take into account the con-
tractions of other intellectual prop-
erty sectors, including trade in pat-
ented technologies and the economic 
value of famous marks. Clearly intel-
lectual property has become one of 
our Nation’s most valuable resources.

As you know, the Judiciary Com-
mittee, is charged with monitoring the ef-
fectiveness of our intellectual property 
laws and with proposing to the Senate 
changes that are called for to meet new 
challenges. Because of the digital age 
and the global economy, we’ve had our 
hands full. Let me just go through a 
few highlights.

In the 104th Congress, we passed the 
Digital Performance Right in Sound 
Recordings Act, which, as its name sig-
ifies, adjusts the existing performance 
right in the Copyright Act to the de-
mands of the new digital media. I also 
introduced, with Senator LEAHY, the 
National Information Infrastructure 
(NII) Copyright Protection Act of 1995 
to begin to lay down the rules of the 
road for the information highway. The 
Committee held two hearings on this 
bill, but not enough time was left in 
the 104th to complete our delibera-
tions.

In response to the challenges of the 
global economy, I introduced the Copy-
right Term Extension Act of 1995, along 
with Senator THOMPSON and Senator 
FEINSTEIN, to give U.S. copyright own-
ers parity of term in the European Union. 
The EU has issued a directive to 
increase the minimum basic copyright 
term from life-plus-50 years to life-
plus-70. If we do not follow suit, U.S. 
audiencemakers in potentially all EU coun-
tries will receive 20 years less protection 
than the works of the nationals of the 
host country.

The Copyright Term Extension Act 
was approved by the Judiciary Com-
mittee. I am confident that the bill 
would have been approved by the Sen-
ate as well with little or no opposition, 
but unfortunately this important legis-
lation was held hostage by advocates of 
music licensing reform—a totally unre-
lated issue.

In patents, too, we were very active. 
The Biotechnology Process Patents 
Act was passed. Also, I introduced the 
Biotechnology Process Patents Act, which 
reformed the Patent and Trademark Office 
into a government corporation. The 
corporate form would allow the Patent 
and Trademark Office to escape the 
micromanagement that it currently 
endures from the Department of 
Commerce, although my bill preserved a 
policy link with the Department. The bill 
also made several very important sub-

After some tough negotiations, the 
Commerce administration ended up sup-
porting the final version of the bill. 

The Judiciary Committee had a hear-
ing on the bill, but Committee action 
was held hostage to yet another, to-

tally unrelated issue—judicial nomina-
tions to the courts.

In addition to improving the effi-
ciency of the patent and trademark 
systems, I have worked tirelessly for 
the number of years to rectify the injustice 
of the Hatch-Waxman Act of 1992, which 
blew a heavier burden in deficit reduc-
tion than the ordinary citizen through the 
withholding of patent surcharge funds. 
Again last year I led an ultimately un-
successful effort to ease this tax on 
American ingenuity. No one has demon-
strated more zeal for a balanced budget than I 
have. As you know, Mr. President, I was on 
the Senate floor for 3 weeks trying to 
get this body to discipline itself 
through the Balanced Budget Amend-
ment. But I do not believe that inven-
tors ought to pay a surcharge on their 
patent applications only to see that 
surcharge used for the general revenue 
rather than to improve the service 
that we receive from the PTO. The 
PTO, after all, is a self-sustaining agency, 
not receiving a penny from taxpayer 
dollars. What they charge, they ought 
to keep. I am currently looking at a 
legislative solution to this problem.

I have also been looking into the spe-
cial patent restoration rules that apply 
to pharmaceutical products. In 1984, 
Congress enacted the Drug Price Com-
petition and Patent Term Restoration 
Act. Essentially, this law commonly 
known as the Hatch-Waxman Act—allowed 
generic drug manufacturers to rely on the cost-

safety and efficacy data of pioneer 


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drug manufacturers and provided for partial patent restoration for pioneer products to offset a portion of the patent term lost due to FDA regulatory review.

I know that many are interested in revising the patent term for orphan drug legislation, and the R&D manufacturers are all able to realize benefits. Toward this end, my staff and I have been meeting with representatives of both segments of the pharmaceutical industry to identify areas of concern.

It is my hope that these discussions will result in proposals to create new incentives in our intellectual property protection system and efficiency in our regulatory processes that will increase the share of our growth industries. The industry. Our bottom line goal is clear: We want a climate that produces both innovative new medicines and lower-cost generic copies of off-patent products.

I do not guarantee success in this endeavor. Ultimately, I commit that I will listen to all parties involved and see if we can work together to forge a compromise on Hatch-Waxman reform. I would like to do it if we can, but I will not support any approach that is not balanced.

Let me just add that my willingness to work with all parties should not be construed as giving a veto to any particular party. Ultimately, the test I use will be: Will the American public be better off if a particular legislative proposal is adopted? If, and only if, this test can be met, will I ask others in this body to join me in moving legislation.

Mr. President, let me now turn to trademark legislation, an area in which we have had a lot of success. Both the Federal Trademark Dilution Act and the Anticounterfeiting Consumer Protection Act became law in the 104th Congress. The Federal Trademark Dilution Act was significant in that it established the first-ever Federal anti-dilution statute to provide nationwide protection against the whittling away of famous marks. The Anticounterfeiting Consumer Protection Act in the 104th Congress was the subject of much discussion last Congress. The Administration, various unions of the users of the Patent and Trademark Office, and, of course, the officers of the PTO itself were all involved in those negotiations. The current PTO has been hampered from micromanagement by the repeated shifting off of its user fees for other, unrelated expenditures.

The purposes of this bill are: (1) to provide for more efficient administration of the patent and trademark systems; (2) to discourage "gaming" the system in such a way as to stifle innovation; (3) to prevent the loss of patent term and theft of American inventiveness; (4) to provide for the protection of databases; and (5) to make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

The purposes of this bill are: (1) to provide for more efficient administration of the patent and trademark systems; (2) to discourage "gaming" the system in such a way as to stifle innovation; (3) to prevent the loss of patent term and theft of American inventiveness; (4) to provide for the protection of databases; and (5) to make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

The United States leads the world in innovation. That leadership is a direct result of our long-standing commitment to strong patent protection. The strong protection of patents and trademarks is of vital importance not only to the continued progress in science, but also to the economy. A vast array of industries depend on patents. From the chemical, electrical, biotechnological, and manufacturing industries to computer software and hardware. And that is critical to our economy. And that is critical to our economy.

I believe that we must not keep our intellectual property laws current and strong, but we must do everything we can to make sure that the offices responsible for the administration of those laws are properly equipped and able to do their job as efficiently as possible.

Thus, the first provision of this bill makes the Patent and Trademark Office of the government called the U.S. Patent and Trademark Organization. Basically, the effect of this provision is to separate the administration of the patent and trademark systems from micromanagement by the Department of Commerce, while maintaining a policy link to that Department. The current PTO has been handicapped by burdensome red tape regarding personnel matters, and the office has been held back from reaching its full potential by the repeated shifting off of its user fees for other, unrelated expenditures.

The government corporation proposal was the subject of much discussion last Congress. The Administration, various union representatives, representatives of the employees of the Patent and Trademark Office, and, of course, the officers of the PTO itself were all involved in helping me to craft this consensus legislation. I am confident that the product of this legislation will enhance the efficiency of the USPTO while protecting the interests of the Commerce Department and the employees of the USPTO.
The structure of the USPTO under my bill vests primary responsibility for patent and trademark policy in the head of the USPTO, the Director, and primary responsibility for administration of the patent and trademark systems in the respective Commissioners of Patents and Trademarks. The corporate form of the USPTO inculcates the Patent and Trademark Offices as much as possible from the bureaucratic sclerosis that infects many federal agencies. Further, by subdividing the organization of the patent and trademark offices, the bill will help raise the prominence of trademarks, an important part of intellectual property but long seen as the poor step-child of the more prominent patent field.

The parties interested in patents and trademarks support having close access to the President by having the chief intellectual policy advisor directly linked to a cabinet officer. The Secretary of Commerce is a logical choice. As a matter of administrative reality, this bill would leave the day-to-day functioning of the USPTO independent of the Commerce Department, the policy portion of the new organization will still be under the policy direction of the Secretary of Commerce. Further, as a government corporation, as opposed to a private corporation, the USPTO will remain subject to congressional oversight.

Mr. President, although the creation of the USPTO may be the most dramatic part of this bill, it also contains several important changes to substantive patent law that will, taken as a whole, dramatically improve our patent system.

With the adoption of the GATT provisions in 1994, the United States changed the manner in which it calculated the duration of patent terms. Under the old rule, patents lasted for seventeen years after the grant of the patent. The new rule under the legislation of the GATT, however, is that these patents last for twenty years from the time the patent application is filed.

In addition to harmonizing American patent terms with those of our major trading partners, this change solved the problem of “submarine patents”. A submarine patent is not a military secret. Rather, it is a colloquial way to describe a legal but unscrupulous strategy to game the system and unfairly extend a patent term.

Submarine patenting is when an applicant purposefully delays the final granting of his patent by filing a series of amendments and delaying motions. Since, under the old system, the term did not start until the patent was granted, no patent term was lost. And since the patent applications are secret in the United States until a patent is actually granted, no one knows that the patent application is pending. Thus, competitors continued to spend precious research and development dollars on technology that had already been developed.

When a competitor finally did develop the same technology, the submarine applicant sprang his trap. He would cease delaying his application and it would finally be approved. Then, he sued his competitor for infringing on his patent. Thus, he maximized his own patent term while tricking his competitors into wasting their money.

Mr. President, submarine patents are terribly inefficient. Because of them, the availability of new technology is delayed and instead of moving to new and better research, companies are fooled into throwing away time and money on technology that already exists.

By adopting GATT, and changing the manner in which we calculate the patent term to twenty years from filing, we eliminated the submarine problem. Under the current rule, if an applicant delays his own application, it simply shortens the time he will have after the actual granting of the patent. Thus, we have eliminated this unscrupulous, inefficient practice by removing its benefits.

Unfortunately, the change in term calculation potentially creates a new problem. Under the current law, if the Patent Office takes a long time to approve a patent application, it will not go out of the patent term, thus punishing the patent holder for the PTO’s delay. This is not right.

The question we face now, Mr. President, is how to fix this new problem. I believe that Titles II and III of the Omnibus Patent Act of 1997 solve the administrative delay dilemma without recreating the submarine patent problem. Additionally, once an application is published, Title II grants the applicant “provisional rights,” that is, legal protection for his invention. Thus, while it is true that someone could break the law and steal the invention, he would lose much of the benefit of his work. This would never be true, and it will subject them to liability for their illegal actions.

The patent term restoration provisions in Title III deals directly with the administrative delay problem by restoring the time that was lost due to undue administrative delay. To prevent any possible confusion over what undue delay means, the bill sets specific deadlines for the Patent Office to act. The office has fourteen months to issue a first-office action and four months to respond to subsequent application filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term. Thus, Title III solves the administrative delay problem in a clear, predictable, and objective manner.

Prior Domestic Commercial Use

Title IV deals with people who independently invent new art, and use it in commercial sale, but who never patent their invention. Specifically, this title provides rights to a person who has commercially sold an invention more than 1 year before another person files an application for a patent on the same invention. The law, as written, is not right.

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Title V provides for a greater role for third parties in patent re-examination proceedings. Nothing is more basic to an effective system of patent protection than reliable examination processes. Without the high level of faith that the PTO has earned, respect for existing patents would fall away and innovation would be discouraged for fear of a lack of protection for new inventions.

In the information age, however, it is increasingly difficult for the PTO to keep track of all the prior art that exists. The examiners do the best job they can, but inevitably someone misses something and grants a patent that should not be granted. The problem is the problem that Title V addresses.

Title V amends the existing reexamination process to allow third-parties...
to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way. Thus, the expertise of the patent examiner is supplemented by the knowledge and resources of third-parties who may have an interest in the validity of the patent at issue. Through this joint effort, we maximize the flow of information, increase the reliability of patents, and thereby increase the strength of the American patent system.

There are also safeguards to prevent this process from being abused by those who merely seek to harass a patent holder. First, if a third-party requestor loses an appeal of its reexamination request, it may not subsequently raise any issue it could have raised during the examination proceeding in any forum. Second, a party that loses a civil action where that party failed to show the invalidity of the patent, the party may not subsequently seek a reexamination of such patent on any grounds. Third, the burden of reexamination on the patent holder is minimized by the fact that a reexamination is not like a court review, and that the patent holder need not submit any documentation in order to prevail.

PROVISIONAL APPLICATIONS FOR PATENTS

Title VI is comprised of miscellaneous provisions. First, it fixes a matter of a rather technical nature. Some foreign courts have interpreted American provisional applications in a way that would not preserve their filing priority. This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within 12 months of filing, that it stands as a full patent application, with the date of filing of the provisional application as the date of priority. If no request is made within 12 months, the provisional application is considered abandoned.

This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

PLANT PATENTS

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included to limit the food supply. Obviously, this is no longer a concern. Second, the plant patent statute is amended to provide protection to parts of plants, as well as the whole plant. This closes a loophole that foreign growers have used to import the parts of plants, as well as the whole plant. Among the main developments is the advent of digital media and the development of the National Information Infrastructure, the Internet, and the development of the National Information Infrastructure. The Internet, have dramatically enhanced the marketable lives of creative works. Most importantly, though, is the growing international movement toward the adoption of the longer term of life-plus-50 years. Since then, a growing consensus of the inadequacy of the life-plus-50 term to protect creators in an increasingly competitive global marketplace has led to actions by several nations to increase the duration of copyright. Of particular importance is the 1993 directive issued by the European Union, which requires its member countries to implement a term of protection equal to the life of the author plus 70 years by July 1, 1995.

According to the PTO Office, Belgium, Denmark, Finland, Germany, Greece, Ireland, Spain, and Sweden have all notified their laws to the European Commission and the Commission has found them to be in compliance with the EU Directive. Luxembourg, the Netherlands, Portugal, the United Kingdom, and Austria have each notified their implementing laws to the Commission and are awaiting certification. Other countries are currently moving with speed to bring their laws into compliance. And, as the Register of Copyrights has stated, those countries that are seeking to join the European Union, including Poland, Hungary, Turkey, the Czech Republic, and Bulgaria, are likely to amend their copyright laws to conform to the life-plus-70 standard.

The reason this is of such importance to the United States is that the EU Directive also mandates the adoption of what is referred to as the rule of the shorter term. This rule may also be applied by adherents to the Berne Convention and the Universal Copyright Convention. In short, this rule permits those countries with longer copyright terms to limit protection of foreign works to the shorter term of protection granted in the country of origin. Thus, in those countries that adopt the life-plus-70 term, American works will for the first time be given the protection and be protected instead for only the duration of the life-plus-50 term afforded under U.S. law.

Mr. President, I've already cited some statistics about the importance of copyright to our national economy. The fact is that America exports more copyrighted intellectual property than any country in the world, a huge percentage of it to nations of the European Union. In fact, intellectual property is our third largest export. And, according to 1994 estimates, copyright industries account for some 5.7 percent of the total gross domestic product. Furthermore, copyright industries are contributing American workers to the rate of other industries, with the number of U.S. workers employed by core copyright industries more than doubling between 1977 and 1994. Today, these industries contribute more to the export of American workers than any single manufacturing sector, accounting for nearly 5 percent of the total U.S. workforce. In fact, in 1994, the core copyright industries employed more workers than the four leading non-copyright manufacturing sectors combined.

Clearly, Mr. President, America stands to lose a significant part of its
international trading advantage if our copyright laws do not keep pace with emerging international standards. Given the mandated application of the rule of the shorter term under the EU Directive, American works will fall into the public domain 20 years ahead of those of our European trading partners, undercutting our international trading position and depriving copyright owners of two decades of income they might otherwise have. Similar considerations hold for those European countries outside the EU that choose to exercise the rule of the shorter term under the Berne Convention and the Universal Copyright Convention.

Mr. President, adoption of the Copyright Term Extension Act will ensure fair compensation for the American creators whose efforts fuel the intellectual property sector of our economy by allowing American copyright owners to benefit from the fullest extent of foreign term despite the fact, at the same time, ensure that our trading partners do not get a free ride from the use of our intellectual property. And, as stated very simply by the Register of Copyrights in her testimony before the Judiciary Committee last Congress, it does appear that at some point in the future the standard will be life plus 70. The question is at what point does the United States move to this term * * *

As a leading creator and exporter of copyrighted works, the United States should not wait until it is forced to increase the term, rather it should set an example for other countries,“

Mr. President, this bill is of crucial importance to our Nation’s copyright owners and to our economy. It is also a balanced approach. It contains a provision, allowing the actual creators of copyrighted works in certain circumstances to bargain for the extra 20 years, except in the case of works made for hire, libraries and archives, too, will be pleased to see that the bill provides them with additional latitude to reproduce and distribute material during the extension term, and it does not extend the copyright term for certain works that were unpublished at the time of the effective date of the 1976 act. This latter provision means that libraries and archives will be able to go forward with their plans to publish those unpublished works in 2003, the year after the current guaranteed term for unpublished works expires.

La Cienega v. ZZ Top

Mr. President, the Copyright Term Extension Act of 1997 also includes a provision to overturn the decision in La Cienega Music Co. v. ZZ Top, 53 F.3d 550 (9th Cir. 1995), cert. denied, 116 S. Ct. 331 (1995). In general, La Cienega held that distributing a sound recording to the public—for example by sale—is a “publication” of the music recorded on it under the 1909 Copyright Act. Under the 1909 act, publication without copyright notice results in loss of copyright protection. Almost all music that was first published on recordings did not contain copyright notice, because publishers believed that it was not technically a publication. The Copyright Office also considered these musical compositions to be unpublished. The effect of La Cienega, however, is that virtually all music before 1978 that was first distributed to the public on recordings has lost copyright protection—at least in the 9th Circuit.

By contrast, the Second Circuit in Rosette v. Rainbo Record Manufacturing Corp., 546 F.2d 461 (2d Cir. 1975), aff’d per curiam, 546 F.2d 461 (2d Cir. 1976) has held the opposite—that public distribution of a recording is a publication of the music contained on them. As I have noted, Rosette comports with the nearly universal understanding of the music and sound recording industries and of the Copyright Office.

Since the Supreme Court has denied cert in La Cienega, whether one has copyright in thousands of musical compositions depends on whether the case is brought in the Second or Ninth Circuits. This situation is intolerable. Overturning the La Cienega decision will remove the uncertainty on this important issue by confirming the wisdom of the custom and usage of the affected industries and of the Copyright Office for nearly 100 years. My bill, however, also contains a provision to ensure that Congress’ affirmation of this viewpoint will not unexpectedly upset the disposition of previously adjudicated or pending cases.

The Copyright Clarification Act of 1997

Finally, Mr. President, I am introducing the Copyright Clarification Act of 1997 to make a series of truly technical amendments to the Copyright Act. The need for these technical corrections was brought to my attention in the last Congress by the Register of Copyrights, Ms. Marybeth Peters. This bill was passed by the House of Representatives in similar form in the 104th Congress. Unfortunately time ran out on our defeat of the same bill in the Senate. The version I am introducing today is identical to H.R. 672, which passed the House under suspension of the rules just yesterday. I hope the Senate will follow suit and act expeditiously to make these important technical amendments.

CONCLUSION

Mr. President, each of the three bills I am introducing today is tremendously important. For the information of my colleagues I am submitting a brief summary of the Omnibus Patent Act of 1997, a section-by-section analysis of the Copyright Term Extension Act of 1997, and a summary of provisions of the Copyright Clarification Act of 1997. I ask unanimous consent that they be printed in the Record, along with the text of the Copyright Term Extension Act of 1997 and the text of the Copyright Clarification Act of 1997.

There being no objection, the material was ordered to be printed in the Record, as follows:
CONGRESSIONAL RECORD — SENATE

S2683

March 20, 1997

SEC. 4. DISTRIBUTION OF PHONORECORDS. Ð The proposed legislation is entitled the Copyright Term Extension Act of 1997. SECTION 2. DURATION OF COPYRIGHT PROVISIONS

This subsection amends §304(c) of the Copyright Act to extend for an additional 20 years the application of common law and statutory terminations provision to works that have been fixed before February 15, 1972. Under §304(c) of the Copyright Act, an author or its agent may terminate the copyright on a work if it was created between January 1, 1978, and December 31, 1997. This subsection extends the period for termination under §304(c) of the Copyright Act to the end of the 30th year after the year in which the work was created. This subsection also amends §304(c) of the Copyright Act to extend the term of protection for sound recordings embodied in phonorecords.

This subsection amends §303 of the Copyright Act to extend the minimum term of protection for works created before 1972. Under §303 of the Copyright Act, the term of protection for works created before 1972 is the life of the author plus 50 years. This subsection extends the term of protection for these works to the life of the author plus 70 years.

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For most individual creators, the existing power of termination under §304(c) will allow them to terminate prior transfers and to bar their use. In such an act, the amendment to the Copyright Act and the extension under the Copyright Term Extension Act of 1997. Section 2(d)(2) of the Copyright Act makes corresponding amendments to §102 of the Copyright Renewal Act of 1992 (P.L. 102–207, 106 Stat. 265) to reflect the changes made by the Copyright Term Extension Act.

This subsection amends §108 of the Copyright Act, governing limited exemptions from the right of reproduction for libraries and archives, including nonprofit educational institutions that function as such, by redesignating subsection (h) as subsection (i) and inserting a new subsection (h). The new subsection (h) provides that the limited exemption does not apply where the copyright owner provides notice to the Copyright Office that the conditions regarding commercial exploitation and reasonable availability have not been met. The new subsection (h) provides that the exemption does not apply to subsequent transfers other than by license.

SECTION 4 DISTRIBUTION OF PHONORECORDS

Section 4 affirms the longstanding view that the public distribution of phonorecords prior to 1972, did not constitute publication of the work and was exempt from termination under §102 of the 1990 Copyright Act. This section overrules the decision in LaCienega Music Co. v. 22. Top., 53 F.3d 950 (9th Cir. 1995), cert. denied, 116 S.Ct. 391 (1996), which held that the sale of records constituted “publication” of the musical composition under the 1990 Act, and implicitly ruled that unless such a copy contained a copyright notice, the composition entered the public domain immediately upon the first sale. The result of such a view is that potentially thousands of such phonorecords have been sold without the knowledge of their presumed copyright protection as unpublished works under the 1990 Act. Section 13 adopts the view of the Second Circuit that the sale plus 90 years of the public distribution of phonorecords to the public did not constitute a publication for copyright purposes. Rosette v. Rainbo Record Mfg. Corp., 344 F.Supp. 1183 (S.D.N.Y. 1972), New York Record Mfg. Corp., 84 F.2d 237 (2d Cir. 1936).

SECTION 5 EFFECTIVE DATE

Subsection (a) provides that this Act and the amendments made thereby shall be effective on the date of enactment. Subsection (b) provides, however, that the overturning of the LaCienega decision will not retroactively affect the disposition of previously adjudicated cases. Mr. LEAHY. Mr. President, I am glad to be working with Senator HATCH as original cosponsors of this, the Copyright Term Extension Act of 1997. We worked together on this matter last Congress to craft a bill that was reported to the Senate Judiciary Committee to the Senate by a vote of 15 to 3. I raised a number of questions and concerns during our Judiciary Committee hearing on this issue back in September 1995. I spoke of a letter I had received from Dr. Karen Burke Lefevre, of Vermont and the Rensselaer Polytechnic Institute. She expressed reservations, as a researcher and author, that Congress not extend the term for unpublished works beyond the term set by the 1976 Act. This category of materials is set to expire in 2002. They include anonymous works and unpublished works of interest to scholars. In section 2(c) of the bill we introduce today, we accommodate these interests and preserve the public availability of these materials in 2003, if they remain unpublished on December 31, 2002.

I want to thank Marybeth Peters, our Register of Copyrights, for supporting this improvement in the bill, and Senator HATCH for working with me on it. I am concerned about libraries, educational institutions and nonprofits being able to access materials and provide access in turn for research, archival, preservation and other purposes. We have also made progress in this area as reflected in section 3 of the bill. Copyright industry and library representatives have narrowed their differences. I ask for their continued help in crafting the best balance possible to create a workable noncommercial purpose during the extension period without undercutting the value of copyrights.

At our hearing I also raised the notion of a new right of termination for works where the period of termination in current law has already passed and the 20-year extension inures to the benefit of a copyright transferee. This bill creates such a right of termination in section 2(d) of the bill.

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By extending to life plus 70 years, Congress will help ensure that American creators receive comparable protection in other countries. If we do not act, other nations will not be required.
Congressional Record — Senate

March 20, 1997

S2685

To provide American authors and artists with any more protection than we offer them at home.

And, before the United States is the world’s leader in the production of intellectual property, and because the State of California is home to many of the leading copyright industries, this issue is of great importance to me. We could be the net losers if we do not move toward greater harmonization.

Intellectual property—the collective creation of our nation’s makers of movies, music, art, and other works—is an enormous asset to the nation’s economy and balance of trade.

The International Intellectual Property Alliance estimates that copyright-related industries contributed more than $365 billion to the U.S. economy in 1994, with more than $50 billion in foreign sales.

Many other countries have preferred to appropriate and re-sell American films, music, and computer programs—some of the great exports of my State of California—rather than license American works.

The United States suffers greatly from illegal duplication of our work. Why, then, should we sit back and allow European companies to legally profit from the use of our works, without paying us in return?

As Prof. Arthur Miller of Harvard Law School aptly bluntly put it: “Unless Congress matches the copyright extension adopted by the European Union, we will lose 20 years of valuable protection against rip-off artists.” Since America is the world’s principal exporter of popular culture, extension of the basic copyright term is an important step in the right direction.

Reciprocity in copyright protection becomes even more necessary in today’s global information society, where computer networks span the continent and intellectual property is shuttled around the world in seconds.

The world has changed dramatically since 1976, when Congress established the present copyright terms. Many copyrighted works have a much longer commercial life than they used to have.

Videocassettes, cable television, and new satellite delivery systems have extended the commercial life of movies and television series. New technologies not only have extended but also have expanded the market for creative content. Cable television, which promises to do the same.
(B) is located in an establishment making no direct or indirect charge for admission; and

(C) is a line which, if a fee is made, is not in a prominent position where it can be readily examined by the public; and

(D) affords a choice of works available for performance and permits the choice to be made by the patrons of the establishment in which it is located.

(2) An ‘operator’ is anyone who, alone or jointly with others, owns or operates a phonorecord player.

(A) owns a coin-operated phonorecord player;

(B) has the power to make a coin-operated phonorecord player available for placement in an establishment for purposes of public performance; or

(C) has the power to exercise primary control over the selection of the musical works made available for public performance on a coin-operated phonorecord player.

SEC. 7. REGISTRATION AND INFRINGEMENT ACTIONS.

Section 411(b)(1) of title 17, United States Code, is amended to read as follows:

(1) serves upon the infringer, not less than 30 days in advance of the registration, a notice of intention to register, identifying the work and the specific time and place of registration;

(2) in any subsequent calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) in the following manner:

(1) The Register shall conduct a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. The study shall also consider the timing of any increases in fees and the authority to use such fees consistent with the budget.

(2) The Register may, on the basis of the study conducted pursuant to paragraph (1), and subject to paragraph (3), by regulation, increase the fee specified in subsection (a) in the following manner:

(i) authorizing the distribution of royalty fees collected under sections 111, 119, and 1005 that the Librarian has not found are not subject to controversy and

(ii) accepting or rejecting royalty claims filed under sections 111, 119, and 1007 on the basis of timeliness or the failure to establish the basis for the claims.

(3) by amending subsection (d) to read as follows:

(d) SUPPORT AND REIMBURSEMENT OF ARBITRATION ROYALTY PANELS.

(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS.—In determining the costs incurred by the Copyright Office for purposes of section 802(h)(1), the Librarian of Congress shall provide for the costs of the proceedings. Each such arbitrator is an independent contractor acting on behalf of the United States and shall be hired pursuant to a contract with the Librarian of Congress and the arbitrator. Payments to the arbitrators shall be considered costs incurred by the Copyright Office and shall be due and paid by the Copyright Office. Such costs shall be considered costs to the extent that such costs are paid out of the fees collected under this chapter. Such de...
CONGRESSIONAL RECORD — SENATE

S2687

March 20, 1997

Summary of Provisions—Copyright Clarification Act of 1997 (S. 506)

The Copyright Clarification Act is intended to make several technical, yet important, changes to Copyright law, as suggested in the 1991 Copyright Amendment Act of 1991. The following is a brief summary of its provisions.

Satellite Home Viewer Act Technical Amendments. Section 2 makes technical corrections to the Satellite Home Viewer Act of 1994 (SHVA), as recommended by the Copyright Office. First, the bill corrects the dollar figures specified in the Act for royalties to be paid by the 1994 SHVA amendments mistakenly reversed the rates set by arbitration in 1992 for signals subject to FCC syndicated exclusivity black-out rules. The second correction concerns the effective dates of SHVA amendments. Second, the bill corrects errors in section numbers and references resulting from the failure of the 1994 SHVA amendments to account for changes made to Title 17 by the Copyright Royalty Tribunal Act of 1993. Third, the bill replaces references to the “effective date of the Satellite Home Viewer Act of 1988” with the actual calendar date so as to avoid confusion caused by the two Acts bearing the same name.

Copyright Restoration. Section 3 clarifies ambiguities resulting in errors in the Copyright Restoration Act, which was enacted as part of the 1994 Uruguay Round Agreement to extend foreign copyright protection in the U.S. for certain works from WTO member countries that had fallen into the public domain. First, the bill corrects a drafting error that precludes U.S. creators of derivative works from continuing to exploit those works if copyright protection in the underlying foreign work is restored under GATT. Second, it amends the notice, reporting requirements. Third, the bill clarifies Congress’ intent that the effective date of restoration is January 1, 1996 (not 1990 as some commentators suggest). Fourth, the bill clarifies the definition of “eligible country” as it pertains to limited copyright restoration to account for future increases in technology costs. The bill also allows the Register of Copyrights to invest funds from the prepaid fees in interest bearing securities in the U.S. Treasury and to use those investments for Copyright Office expenses. It is expected that the proceeds will be used for the development of the Copyright Office’s new electronic registration, recordation, and deposit system.

Copyright Arbitration Royalty Panels (CARPs). Section 9 clarifies administrative issues regarding the operation of the CARPs. First, it gives the Librarian of Congress express authority to pay panel members directly in ratemaking and distribution proceedings and clarifies that CARP members are independent contractors acting on behalf of the U.S. (thus subject to laws governing the conduct of government employees). Second, it clarifies that copyright owners and users are responsible for equal shares of the costs of ratemaking proceedings. Third, it clarifies by way of example the procedural and evidentiary rulings the Librarian of Congress can issue with respect to CARP proceedings. Fourth, it clarifies that the 1997 ratemaking proceeding for the satellite carrier compulsory license is a CARP proceeding.

Digital Audio Recording Devices. Section 10 adds a tax on digital audio recording devices to the Copyright Act, thereby imposing a tax on_imported digital audio recording devices and computer software that are subject to U.S. customs duties.

Miscellaneous Technical Amendments. Section 12 makes various technical corrections as well as several capitalization, and other, corrections, to title 17.

Section 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 101. SHORT TITLE.
This Act may be cited as the "United States Patent and Trademark Organization Act of 1997".
from bankrupt, insolvent, and decedents' estates; (14) may accept monetary gifts or donations of services, or of real, personal, or mixed property, to carry out the functions of the Organization; (15) may execute, in accordance with its bylaws, rules, and regulations, all instruments of transfer, conveyance, and delivery, either by contract or by self-insurance. (d) CONSTRUCTION.—Nothing in this section shall be construed to nullify, void, cancel, or annul a contract or agreement entered into by the United States Patent and Trademark Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Organization, for relocation of the United States Patent and Trademark Organization to the United States Patent and Trademark Office, for each office for submission by the Director; (ii) adjust fees to provide sufficient revenue to cover the expenses of such office; and (iii) expend funds derived from such fees for only the functions of such office; and (ii) each such office is not involved in the management of any other office. (3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Organization. (4) COMPENSATION.—The Director shall receive compensation at the rate of pay in effect for level III of the Executive Schedule under section 5304 of title 5, United States Code, and, in addition, may receive as a bonus, an amount which would raise total compensation to the equivalent of the level of the rate of pay in effect for level II of the Executive Schedule under section 5313 of title 5, based upon an evaluation by the Secretary of Commerce of the Director's performance as defined in an annual performance agreement between the Director and the Secretary. The annual performance agreement shall incorporate measurable goals as delineated in an annual performance plan agreed to by the Director and the Secretary. (5) REMOVAL.—The Director shall serve at the pleasure of the President. (6) DESIGNATION.—The Director shall designate an officer of the Organization who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director. (C) OFFICERS AND EMPLOYEES OF THE ORGANIZATION.— (1) COMMISSIONERS OF PATENTS AND TRADEMARKS.—The Director shall appoint a Commissioner of Patents and a Commissioner of Trademarks under section 3 of title 35, United States Code and section (e); and (2) OTHER OFFICERS AND EMPLOYEES.—The Director shall— (A) appoint officers, employees (including attorneys), and agents of the Organization as the Director considers necessary to carry out its functions; (B) fix the compensation of such officers and employees, except as provided in subsection (e); and (C) define the authority and duties of such officers and employees and delegate to them such of the powers vested in the Organization as the Director considers necessary to carry out its functions; (D) LIMITS OF COMPENSATION.—Except as otherwise provided by law, the annual rate of basic pay of an officer or employee of the Organization shall be fixed at a rate that does not exceed, and total compensation payable to any such officer or employee for any year may not exceed, the annual rate of basic pay for level II of the Executive Schedule, as reduced under section 5313 of title 5, United States Code. The Director shall prescribe such regulations as may be necessary to carry out this subsection. (e) INAPPLICABILITY OF TITLE 5, UNITED STATES CODE, GENERALLY.—Except as otherwise provided in this section, the provisions of title 5, United States Code, shall not apply to the United States Patent and Trademark Organization. (1) IN GENERAL.—The provisions of title 5, United States Code, shall apply to the United States Patent and Trademark Organization and its officers and employees: (A) Section 3105 (relating to employment of relatives; restrictions). (B) Subchapter II of chapter 55 (relating to employment limitations and political activities, respectively). (C) Chapter 71 (relating to labor-management relations), subject to paragraph (2) and subsection (g). (D) Chapter 71 (relating to political recommendations). (F) Subchapter II of chapter 61 (relating to flexible and compressed work schedules). (G) Section 2302(b)(8) (relating to whistle-blower protection) and whistle-blower related provisions of chapter 12 (covering the role of the Office of Special Counsel). (H) COMPENSATION SUBJECT TO COLLECTIVE BARGAINING.—(A) IN GENERAL.—Notwithstanding any other provision of law, for purposes of applying chapter 72 of title 5, United States Code, pursuant to paragraph (1)(D), basic pay and other forms of compensation shall be considered to be among the matters as to which the Director may bargain in good faith extends under such chapter. (B) EXCEPTIONS.—The duty to bargain in good faith shall not, by reason of subparting and (1)(D) be construed to extend to any benefit under title 5, United States Code, which is afforded by paragraph (1), (2), (3), or (4) of subsection (g). (C) LIMITATIONS APPLY.—Nothing in this subsection shall be considered to allow any limitation under subsection (d) to be exceeded. (3) PROVISIONS OF TITLE 5, UNITED STATES CODE, THAT CONTINUE TO APPLY, SUBJECT TO CERTAIN REQUIREMENTS.—(1) RETIREMENT.—(A) The provisions of subchapter II of chapter 84 of title 5, United States Code, shall apply to the Organization and its officers and employees, subject to subparagraph (B). (B) The amount required of the Organization under the second sentence of section 8334(a)(1) of title 5, United States Code, with respect to any particular individual shall, instead of the amount which would otherwise apply, be equal to the normal-cost percentage (determined with respect to officers and employees of the Organization using dyestatistical assumptions, as defined by section 8401(9) of such title) of such individual's basic pay, minus the amount required to be withheld from such pay under such section 8334(a)(1). (i) The amount required of the Organization under section 8334(k)(1)(B) of title 5, United States Code, with respect to any particular individual shall be equal to an amount computed in a manner similar to that specified in clause (i), as determined in accordance with clause (iii). (ii) The regulations necessary to carry out this subparagraph shall be prescribed by the Office of Personnel Management. (C) The United States Patent and Trademark Organization and its officers and employees shall be considered to be among the matters as to which the Director may bargain in good faith extends under such chapter.
B(ii) With respect to any individual who becomes an officer or employee of the Organization pursuant to subsection (i), the eligibility of such individual to participate in such program as an annuitant (or of any other person to participate in such program as an annuitant based on the death of such individual) shall be determined in accordance with the requirements of section 8905(b) of title 5, United States Code. The preceding sentence shall not apply if the individual ceases to be an officer or employee of the Organization for any period of time after becoming an officer or employee of the Organization pursuant to subsection (i) and before separation. (ii) The Government contributions authorized by section 806(g)(2) of such title with respect to the United States Postal Service for individuals associated therewith. (iii) The date on which such sectionwhose employment with the Organization under this subsection, are obligated to make contributions under subsection (a); or (I) the date on which a Director qualifies under subsection (a); or (II) the date occurring 1 year after the effective date of this title. (c) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(1) L ABOR RELATIONS AND EMPLOYEE RELATIONS.ÐThe Organization shall adopt all labor agreements which are in effect, as of the day before the effective date of this title, is an officer or employee of the Director. (2) O THER PERSONNEL .Ð(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Office of the Commissioner of Patents and Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act. (3) A ccumulated Leave .ÐThe amount of leave accrued or paid or payable after the effective date of this title, is an officer or employee of the Director.

(4) TERMINATION RIGHTS.ÐAny employee referred to in paragraph (1) or (2) of this subsection whose employment with the Organization terminates during the period beginning on the effective date of this title shall be entitled to rights and benefits, to be afforded by the Organization, similar to those available to employees who would have had under Federal law if termination had occurred immediately before such date. An employee who would have been entitled to appeal any termination to the Merit Systems Protection Board, if such termination had occurred immediately before such effective date, may appeal such termination occurring within such 1-year period to the Board under such procedures as it may prescribe.

(5) TRANSITION PROVISIONS.—(A)(i) On or after the effective date of this title, the President shall appoint a Director of the United States Patent and Trademark Organization who shall serve until the earlier of—(I) the date on which a Director qualifies under subsection (a); or (II) the date occurring 1 year after the effective date of this title. (b) The President shall not make more than 1 appointment under this subparagraph. (B) The individual serving as the Assistant Commissioner of Patents on the day before the effective date of this title shall serve as the Commissioner of Patents until the date on which a Commissioner of Patents is appointed under section 3 of title 35, United States Code, as amended by this Act. (C) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(1) COMPETITIVE STATUS.ÐFor purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status required by section 22.0 of title 5, United States Code, as amended by this Act.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (3)) shall be transferred to the Organization if—(i) such individual serves in a position for which a major function is the performance of work reimbursing the Patent and Trademark Office, as determined by the Secretary of Commerce; (ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent’s work time, as determined by the Secretary of Commerce; or (iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director. (B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall made without a break in service.

(3) ACCUMULATION OF LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, is obligated to make contributions under subsection (a); or (I) the date on which a Director qualifies under subsection (a); or (II) the date occurring 1 year after the effective date of this title. (c) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(1) COMPETITIVE STATUS.ÐFor purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status required by section 22.0 of title 5, United States Code, as amended by this Act.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (3)) shall be transferred to the Organization if—(i) such individual serves in a position for which a major function is the performance of work reimbursing the Patent and Trademark Office, as determined by the Secretary of Commerce; (ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent’s work time, as determined by the Secretary of Commerce; or (iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director. (B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall made without a break in service.

(3) ACCUMULATION OF LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, is obligated to make contributions under subsection (a); or (I) the date on which a Director qualifies under subsection (a); or (II) the date occurring 1 year after the effective date of this title. (c) The individual serving as the Assistant Commissioner of Trademarks on the day before the effective date of this title shall serve as the Commissioner of Trademarks until the date on which a Commissioner of Trademarks is appointed under section 53 of the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946), as amended by this Act.

(1) COMPETITIVE STATUS.ÐFor purposes of appointment to a position in the competitive service for which an officer or employee of the Organization is qualified, such officer or employee shall not forfeit any competitive status required by section 22.0 of title 5, United States Code, as amended by this Act.

(2) OTHER PERSONNEL.—(A) Any individual who, on the day before the effective date of this title, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (3)) shall be transferred to the Organization if—(i) such individual serves in a position for which a major function is the performance of work reimbursing the Patent and Trademark Office, as determined by the Secretary of Commerce; (ii) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent’s work time, as determined by the Secretary of Commerce; or (iii) such transfer would be in the interest of the Organization, as determined by the Secretary of Commerce in consultation with the Director. (B) Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall made without a break in service.

(3) ACCUMULATION OF LEAVE.—The amount of sick and annual leave and compensatory time accumulated under title 5, United States Code, before the effective date described in paragraph (1), by any individual who becomes an officer or employee of the Organization under this subsection, is obligated to make contributions under subsection (a); or (I) the date on which a Director qualifies under subsection (a); or (II) the date occurring 1 year after the effective date of this title.
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records, books, drawings, specifications, and other papers and things pertaining to patents shall be kept and preserved, except as otherwise provided by law.

(b) For the purposes of this title, the United States Patent Office shall also be referred to as the ‘Office’ and the ‘Patent Office’.

(b) POWERS AND DUTIES.—Section 2 of title 35, United States Code, is amended to read as follows:

§2. Powers and duties

The United States Patent Office, under the policy direction of the Secretary of Commerce through the Director of the United States Patent and Trademark Organization, shall have the powers and duties of the Patent Office.

(1) granting and issuing patents;

(2) conducting studies, programs, or experiments involving domestic and international patents, and the administration of the Patent Office, or any other function vested in the Organization by law, including programs to recognize, identify, assess, and forecast the technology of patented inventions and their utility to industry;

(3) authorizing or conducting studies and programs, particularly with foreign patent offices and international organizations, in connection with the granting and issuing of patents; and

(4) disseminating to the public information with respect to patents.

(c) ORGANIZATION AND MANAGEMENT.—Section 1 of part I of title 35, United States Code, is amended to read as follows:

§3. Officers and employees

(a) COMMISSIONER.—(1) IN GENERAL.—The management of the United States Patent and Trademark Organization shall be vested in a Commissioner of Patents, who shall be a citizen of the United States and who shall be appointed by the Director of the United States Patent and Trademark Organization, and shall serve at the pleasure of the Director of the United States Patent and Trademark Organization. The Commissioner of Patents shall be a person who, by reason of professional background and experience in patent law, is especially qualified to manage the Office.

(d) DUTIES.—(A) IN GENERAL.—The Commissioner shall be responsible for all aspects of the management, administration, and operation of the Office, including granting and issuing of patents, and shall perform such duties in a fair, impartial, and equitable manner.

(B) ADVISING THE DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION.—The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization of all activities of the Office undertaken in response to obligations of the United States under treaties and executive agreements, or which relate to cooperative programs with those countries. The Commissioner of Patents is responsible for granting patents. The Commissioner of Patents shall advise the Director of the United States Patent and Trademark Organization of matters of patent law and shall recommend to the Director of the United States Patent and Trademark Organization changes in law or policy which may improve the ability of United States citizens to secure and enforce patent rights in the United States or in foreign countries.

(c) REGULATIONS.—The Commissioner may prescribe regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office. The Director of the United States Patent and Trademark Organization shall, upon such regulations being consistent with the policy direction of the Secretary of Commerce, prescribe regulations.

(d) CONSULTATION WITH THE MANAGEMENT ADVISORY BOARD.—(1) The Commissioner shall consult with the Management Advisory Board established in section 5–1. (2) on a continuing basis on matters relating to the operation of the Office; and

(ii) before submitting budgetary proposals to the Director of the United States Patent and Trademark Organization submitting to the Office of Management and Budget or changing or proposing to change patent fees or regulations.

(iii) The Director of the United States Patent and Trademark Organization shall determine whether such fees or regulations are consistent with the policy direction of the Secretary of Commerce.

(3) OATH.—The Commissioner shall, before taking office, take an oath to discharge faithfully the duties of the Office.

(4) COMPENSATION.—(A) IN GENERAL.—The Commissioner shall receive compensation at the rate of pay in effect for level IV of the Executive Schedule under section 5314 of title 5.

(B) BONUS.—In addition to compensation under subparagraph (A), the Commissioner may, at the discretion of the Director of the United States Patent and Trademark Organization, receive as a bonus, an amount which would raise total compensation to the equivalent of the rate of pay in effect for level III of the Executive Schedule under section 5314 of title 5.

(b) OFFICERS AND EMPLOYEES.—The Commissioner, the Deputy Commissioner, and each Commissioner in the event of the absence or removal of the Commissioner, shall be appointed by the President and shall serve at the pleasure of the President. Other officers, attorneys, employees, and agents shall be selected and appointed by the Commissioner, and shall be vested with such powers and duties as the Commissioner may determine.

MANAGEMENT ADVISORY BOARD.—Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

§5. Patent Office Management Advisory Board

(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

(d) DUTIES.—(1) IN GENERAL.—The Board of Patent Appeals and Interferences shall, on written application of a patent owner, or a third-party requester in a reexamination proceeding—

(ii) in reexamination proceedings; and

(ii) upon applications for patents; and

(b) COMPENSATION.—Each member of the Board shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of the Advisory Board or otherwise engaged in the business of the Advisory Board, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, and while away from such member’s home or regular place of business such member may be allowed travel expenses, including per diem in lieu of subsistence, at rates prescribed by section 5703 of title 5.

(g) ACCESS TO INFORMATION.—Members of the Advisory Board shall be provided access to records and information concerning patent applications required to be kept in confidence by section 135(a).

(h) CONFORMING AMENDMENTS.—Section 6 of title 35, United States Code, is amended to read as follows:

§7. Board of Patent Appeals and Interferences

(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent Office a Board of Patent Appeals and Interferences. The Commissioner, the Deputy Commissioner, and the examiners-in-chief shall constitute the Board. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability.

(d) DUTIES.—(1) IN GENERAL.—The Board of Patent Appeals and Interferences shall, on written application of a patent owner, or a third-party requester in a reexamination proceeding—

(i) review adverse decisions of examiners—

(iii) in reexamination proceedings; and

(iv) upon applications for patents; and

(v) determine priority and patentability of invention in interference declared under section 133(a).

(2) HEARINGS.—Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Deputy Commissioner. Only the Board of Patent Appeals and Interferences may grant rehearings.

(g) ANNUAL REPORT OF COMMISSIONER.—Section 14 of title 35, United States Code, is amended to read as follows:

§14. Annual report to Congress

The Commissioner shall report to the Director of the United States Patent and Trademark Organization such information as the Director is required to submit to Congress annually under chapter 91 of title 31, including—

(1) the total of the moneys received and expended by the Office; and

(2) the purposes for which the moneys were spent:
§ 42. Patent Office funding

(1) FUNDING.—

(b) USE OF MONEYS.—Moneys from fees shall be available to the United States Patent and Trademark Office for services performed by or materials furnished to the extent provided in appropriations Acts, the functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed by the United States, or in obligations or other instruments of the United States, or in obligations or other instruments of a lawful investment for fiduciary, trust, or public funds. Fees available to the Commissioner under this section shall be used only for the processing of patent applications and for other services and materials relating to patents.


SEC. 115. UNITED STATES TRADEMARK OFFICE.

(a) ESTABLISHMENT OF THE UNITED STATES TRADEMARK OFFICE AS A SEPARATE ADMINISTRATION.—The provisions of this chapter which relate to the trademark offices and international organizations may be referred to as the `Trademark Office'.
made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

(b) Basis for Appointments.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background in management in corporate finance and management.

(c) Meetings.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

(d) Duties.—The Advisory Board shall—

(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to under paragraph (1);

(3) transmit the report to the Director of the United States Trademark and Patent Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

(4) publish the report in the Trademark Office Official Gazette.

(f) Compensation.—Each member of the Advisory Board shall be compensated for each regular (including travel time) meeting which such member is attending and for which travel expenses, including per diem in lieu of subsistence, are authorized by section 5703 of title 5, United States Code.

(g) Access to Information.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

SEC. 55. ANNUAL REPORT TO CONGRESS.

The Commissioner shall report to the Director of the United States Patent and Trademark Organization on such information as the Director is required to report to Congress annually under chapter 91 of title 5, United States Code.

(a) the moneys received and expended by the Office;

(b) the purposes for which the moneys were spent;

(c) the quality and quantity of the work of the Office; and

(d) other information relating to the Office.

SEC. 56. TRADEMARK OFFICE FUNDING.

(a) Fees Payable to the Office.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

(b) Use of Moneys.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided for in this Act, all functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit in the United States or in obligations of the United States, or in obligations or other instruments which are lawful investments for fiduciary accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.

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made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

(b) Basis for Appointments.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background in management in corporate finance and management.

(c) Meetings.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

(d) Duties.—The Advisory Board shall—

(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to under paragraph (1);

(3) transmit the report to the Director of the United States Trademark and Patent Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

(4) publish the report in the Trademark Office Official Gazette.

(f) Compensation.—Each member of the Advisory Board shall be compensated for each regular (including travel time) meeting which such member is attending and for which travel expenses, including per diem in lieu of subsistence, are authorized by section 5703 of title 5, United States Code.

(g) Access to Information.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

SEC. 55. ANNUAL REPORT TO CONGRESS.

The Commissioner shall report to the Director of the United States Patent and Trademark Organization on such information as the Director is required to report to Congress annually under chapter 91 of title 5, United States Code.

(a) the moneys received and expended by the Office;

(b) the purposes for which the moneys were spent;

(c) the quality and quantity of the work of the Office; and

(d) other information relating to the Office.

SEC. 56. TRADEMARK OFFICE FUNDING.

(a) Fees Payable to the Office.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

(b) Use of Moneys.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided for in this Act, all functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit in the United States or in obligations of the United States, or in obligations or other instruments which are lawful investments for fiduciary accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.

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made within 3 months after the effective date of the United States Patent and Trademark Organization Act of 1997. Vacancies shall be filled in the manner in which the original appointment was made under this section within 3 months after they occur.

(b) Basis for Appointments.—Members of the Advisory Board shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Trademark Office, and shall include individuals with substantial background in management in corporate finance and management.

(c) Meetings.—The Advisory Board shall meet at the call of the Chair to consider an agenda set by the Chair.

(d) Duties.—The Advisory Board shall—

(1) review the policies, goals, performance, budget, and user fees of the United States Trademark Office, and advise the Commissioner on these matters; and

(2) within 60 days after the end of each fiscal year, prepare an annual report on the matters referred to under paragraph (1);

(3) transmit the report to the Director of the United States Trademark and Patent Organization, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

(4) publish the report in the Trademark Office Official Gazette.

(f) Compensation.—Each member of the Advisory Board shall be compensated for each regular (including travel time) meeting which such member is attending and for which travel expenses, including per diem in lieu of subsistence, are authorized by section 5703 of title 5, United States Code.

(g) Access to Information.—Members of the Advisory Board shall be provided access to records and information in the United States Trademark Office, except for personnel or other privileged information.

SEC. 55. ANNUAL REPORT TO CONGRESS.

The Commissioner shall report to the Director of the United States Patent and Trademark Organization on such information as the Director is required to report to Congress annually under chapter 91 of title 5, United States Code.

(a) the moneys received and expended by the Office;

(b) the purposes for which the moneys were spent;

(c) the quality and quantity of the work of the Office; and

(d) other information relating to the Office.

SEC. 56. TRADEMARK OFFICE FUNDING.

(a) Fees Payable to the Office.—All fees for services performed by or materials furnished by the United States Trademark Office shall be payable to the Office.

(b) Use of Moneys.—Moneys from fees shall be available to the United States Trademark Office to carry out, to the extent provided for in this Act, all functions of the Office. Moneys of the Office not otherwise used to carry out the functions of the Office shall be kept in cash on hand or on deposit in the United States or in obligations of the United States, or in obligations or other instruments which are lawful investments for fiduciary accounts receivable which are related to functions, powers, and duties which are vested in the United States Patent and Trademark Office by this title.
(2) HEADING.—The heading for part I of title 35, United States Code, is amended to read as follows: “PART I—UNITED STATES PATENT AND TRADEMARK OFFICE.”

(3) TABLE OF CHAPTERS.—The table of chapters for part I of title 35, United States Code, is amended by adding the item relating to chapter I to read as follows: “1. Establishment, Officers and Employees, Functions .......... 1.”

(4) TABLE OF SECTIONS.—The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

**CHAPTER 1—UNITED STATES PATENT AND TRADEMARK OFFICE AND EMPLOYEES, FUNCTIONS**

“Sec.
1. Establishment.
2. Powers and duties.
3. Officers and employees.
4. Restrictions on officers and employees as to interest in patents.
5. Patent Office Management Advisory Board.
6. Duties of Commissioner.
8. Library.
9. Classification of patents.
10. Certified copies of records.
11. Publications.
12. Exchange of copies of patents with foreign countries.
14. Annual report to Congress.”.

(5) COMMISSIONER OF PATENTS AND TRADEMARKS.—(A) Section 41(b)(1) of title 35, United States Code, is amended by striking “Commissioner of Patents and Trademarks” and inserting “Commissioner”.

(B) Section 159 of title 35, United States Code, is amended by striking “Commissioner of Patents and Trademarks” and inserting “Commissioner”.

(C) Section 159A(c) of title 35, United States Code, is amended by striking “Commissioner of Patents” and inserting “Commissioner”.

(D) PATENT AND TRADEMARK OFFICE.—The provisions of title 35, United States Code, are amended by striking “Patent and Trademark Office” each place it appears and inserting “Trademark Office”.

(E) AMENDMENTS TO THE TRADEMARK ACT OF 1946.—

(1) REFERENCES.—All amendments in this subsection refer to the Act of July 5, 1946 (commonly referred to as the Trademark Act of 1946).

(2) AMENDMENTS RELATING TO COMMISSIONER.—Subsection (a) of section 115(a)(2) of this Act is amended by striking the undesignated paragraph relating to the definition of the term “Commissioner” and inserting the following: “The term ‘Commissioner’ means the Commissioner of Trademarks.”.

(3) AMENDMENTS RELATING TO PATENT AND TRADEMARK ORGANIZATION.—(A) Section 115(a)(1) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(B) Section 1(a)(2) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(C) Section 1(b)(1) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(D) Section 1(b)(2) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(E) Section 3(b)(2) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(F) Section 3(e) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(G) Section 2(d) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(H) Section 7(a) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(I) Section 7(d) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(J) Section 7(e) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(K) Section 7(f) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(L) Section 7(g) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(M) Section 9(a) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(N) Section 8(b) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(O) Section 10 is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(P) Section 12(a) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(Q) Section 12(a) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(R) Section 13(b)(1) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(S) Section 152 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(T) Section 17 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(U) Section 21(a)(2) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(V) Section 21(a)(3) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(W) Section 21(a)(4) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(X) Section 21(b)(3) is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(Y) Section 21(b)(4) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(Z) Section 24 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(AA) Section 30 is amended by striking “Patent and Trademark Office” each place such term appears and inserting “Trademark Office”.

(CC) Section 31 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

/DD) Section 34(a) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(EE) Section 34(d)(1)(B)(i) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(FF) Section 35 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(GG) Section 36 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(HH) Section 37 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(ii) Section 38 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(J) Section 39 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(K) Section 41 is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(LL) Section 42 (as redesignated under section 102 of this Act) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(MM) Section 72(a) (as redesignated under section 115(a)(2) of this Act) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(NN) Section 75 (as redesignated under section 115(a)(2) of this Act) is amended by striking “Patent and Trademark Office” and inserting “Trademark Office”.

(PP) Section 73 of title 5, United States Code, is amended—

(i) by striking “Commissioner of Patents, Department of Commerce”; and

(ii) by striking “Deputy Commissioner of Patents and Trademarks.”

“Assistant Commissioner for Patents, Assistant Commissioner for Trademarks.”

(d) AMENDMENT TO TITLE 31.—Section 9301 of title 31, United States Code, is amended by adding at the end the following:

“(O) the United States Patent and Trademark Organization.”;

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978—Section 5306 of title 5, United States Code, is amended—

(1) in paragraph (3) by striking ‘or the Commissioner of Social Security, Social Security Administration’; and inserting the ‘Commissioner of Social Security, Social Security Administration; or the Director of the United States Patent and Trademark Organization, United States Patent and Trademark Organization’; and

(2) in paragraph (4) by striking ‘or the Veterans’ Administration, the Social Security Administration;’ and inserting ‘the Veterans’ Administration, the Social Security Administration, or the United States Patent and Trademark Organization’.

Subtitle C—Miscellaneous Provisions

SEC. 341. REFERENCES.

Any reference in any other Federal law, Executive order, rule, regulation, or delegating authority, or any document of or pertaining to a department, agency, or office from which a function is transferred by this title to a department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(1) to the head of such department, agency, or office is deemed to refer to the head of the department, agency, or office to which such function is transferred; or

(2) to such department, agency, or office is deemed to refer to the department, agency, or office to which such function is transferred.

SEC. 342. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this title may, for purposes of performing such function, authorize any other department, agency, or office under any other provision of law that were available with respect to the performance of
that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this title.

SEC. 144. TRANSFER OF ASSETS.

(a) Long Title.—This section may be cited as the “Patent Application Publication Act of 1997”.

(b) Definitions.—For purposes of this title, the vesting of a function in a department, agency, or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

(c) Termination of Affairs.—The Director shall provide for the termination of the affairs of all entities terminated by this title.

(d) Incidental Transfers.—The Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this title.

(e) Continuance of Suits.—If any Government officer or employee of any office transferred under this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with such functions, as may be necessary to effectuate the purposes of this title.

(f) Administrative Procedure and Judicial Review.—Except as otherwise provided by this title, any administrative or judicial proceeding transferred by this title shall apply to the exercise of such function by the head of the Federal agency, and the agency, or the officer or employee of such agency, to which such function is transferred by this title.

SEC. 144. TRANSFER OF ASSETS.

Existent appropriations and funds available for such functions, programs, and activities terminated pursuant to this title shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities.

SEC. 149. DEFINITIONS.

For purposes of this title—

(1) the term “office” includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term “office” includes any office, agency, bureau, institute, council, unit, organizational entity, or component thereof.

TITLE I—EARLY PUBLICATION OF PATENT APPLICATIONS

SEC. 201. SHORT TITLE.

This title may be cited as the “Patent Application Publication Act of 1997”.

SEC. 202. EARLY PUBLICATION.

Section 122 of title 35, United States Code, is amended to read as follows:

“(a) Confidentiality.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent Office and no information concerning the same shall be communicated without authority of the owner necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Commissioner.

“(b) Publication.—

“(1) In general.—Subject to paragraph (2), each application for patent, except applications under section 365 of this title shall be published in accordance with procedures determined by the Commissioner, as soon as possible after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title.

“(2) No information concerning published patent applications shall be made available to the public except as the Commissioner determines.

“(C) Notwithstanding any other provision of law, a determination by the Commissioner to release or not to release information concerning a published patent application shall be final and nonreviewable.

“(2) EXCEPTIONS.—(A) An application that is no longer pending shall not be published.

“(B) An application that is subject to a secrecy order pursuant to section 181 of this title shall not be published.

“(C)(i) Upon the request of the applicant at the time of filing, the application shall not be published in accordance with paragraph (1) until 3 months after the Commissioner makes a notification to the applicant under section 132 of this title.

“(ii) Applications filed pursuant to section 363 of this title, applications asserting priority under section 119 or 365(a) of this title, and applications asserting the benefit of an application under section 365(c) of this title shall not be eligible for a request pursuant to this subparagraph.

“(iii) In a request under this subparagraph, the applicant shall certify that no information disclosed in the application was not and will not be the subject of an application filed in a foreign country.

“(C) The Commissioner may establish appropriate procedures and fees for making a request under this subparagraph.

“(C) Pre-Issuance Opposition.—The provisions of this section shall not operate to create any new opportunity for pre-issuance opposition. The Commissioner may establish appropriate procedures to ensure that this title does not create a new opportunity for pre-issuance opposition that did not exist prior to the adoption of this section.”

SEC. 203. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) In a Foreign Country.—Section 119(b) of title 35, United States Code, is amended to read as follows:

“§ 119. Foreign application for patent shall not be published to create any new opportunity for pre-issuance opposition. The Commissioner may establish appropriate procedures to ensure that this title does not create a new opportunity for pre-issuance opposition that did not exist prior to the adoption of this section.”

SEC. 204. EARLY PUBLICATION OF PATENT APPLICATIONS.
and may require the payment of a surcharge as a condition of accepting an untimely claim during the pendency of the application.

(3) The Commissioner may require a certified copy of the original foreign application, specification, and drawings upon which it is based if not in the English language, and such other information as the Commissioner considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.

(2) RIGHTS. Section 120 of title 35, United States Code, is amended by adding at the end the following: "The Commissioner may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments during the pendency of the application with which an amendment containing the specific reference to the earlier filed application is submitted. The Commissioner may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Commissioner may establish procedures, including the payment of a surcharge, to accept unavoidably late submissions of amendments under this section.";

SEC. 204. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting "provisional rights" after "patent"; and

(2) by adding at the end the following new subsection:

"(1) IN GENERAL.—In addition to other rights provided by this section, a patentee shall have the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent pursuant to subsection (b) of this title, or in the case of an international application filed under the treaty defined in section 351(a) of this title designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is—

"(A) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States or

"(B) had actual notice of the published patent application, and where the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, a translation of the international application into the English language;

"(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be limited to the right of this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

"(3) RIGHT BASED ON A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than the period of delay. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (2).

"(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

"(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty of an international application designating the United States shall commence from the date that the Patent Office receives a copy of the publication under the treaty defined in section 351(a) of this title of the international application. The publication under the treaty of the international application is in a language other than English, from the date that the Patent Office receives a translation of the international application in the English language.

"(B) COPYRIGHTS.—The Commissioner may require the applicant to provide a copy of the international application and a translation thereof.

SEC. 205. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(a) of title 35, United States Code, is amended to read as follows:

"(e) the invention was described in—

"(1) a publication in a country other than the United States at least 1 year before the filing date of the application for patent published under section 122(b) of this title; or

"(2) a pending United States application for patent, published under section 122(b) of this title, by another entity, or

"(B) a patent granted on an application for patent by another entity.

SEC. 206. COST RECOVERY FOR PUBLICATION.

The Commissioner shall recover the cost of early publication required by the amendment made by section 202 by adjusting the basic examination fees under title 35, United States Code, by charging a separate publication fee, or by any combination of these methods.

SEC. 207. CONFORMING CHANGES.

The following provisions of title 35, United States Code, are amended:

"(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting "and published applications for patents" after "Patents".

"(2) Section 12 is amended—

"(A) in the section caption by inserting "and applications" after "patent"; and

"(B) by inserting "and published applications for patents" after "patents".

"(3) Section 13 is amended—

"(A) in the section caption by inserting "and applications" after "patents"; and

"(B) by inserting "and published applications for patents" after "patents".

"(4) The items relating to sections 12 and 13 in the table of sections for chapter 1 are each amended by inserting "and applications" after "patents".

"(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting "; publication of patent applications" after "applications".

"(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting "; provisional rights" after "patent".

"(7) Section 181 is amended—

"(A) in the first undesignated paragraph—

"(i) by inserting "by the publication of an application or" after "disclosure of the invention"; and

"(ii) "the publication of the application or after "withhold"; and

"(B) in the second undesignated paragraph by inserting "by the publication of an application or after "disclosure of an invention";

"(C) in the third undesignated paragraph—

"(D) in the fourth undesignated paragraph by inserting "the publication of an application or" after "and" in the first sentence.

"(8) Section 294 is amended by adding at the end the following paragraph:

"(f) increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title."

SEC. 208. LAST DAY OF PENDENCY OF PROVISIONAL APPLICATION.

Section 139(a) of title 35, United States Code, is amended by adding at the end the following:

"(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or legal holiday as defined in rule 6(a) of the Federal Rules of Civil Procedure, the period of pendency of the provisional application shall be extended to the next succeeding business day."

SEC. 209. EFFECTIVE DATE.

Sections 202 through 207.—Sections 202 through 207, and the amendments made by such sections, shall take effect on April 1, 1998, and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications and patents issued after April 1, 1998.

S. 2696

March 20, 1997

CONGRESSIONAL RECORD—SENATE

TITLE III—PATENT TERM RESTORATION

SEC. 301. PATENT TERM EXTENSION AUTHORITY.

Section 154(b) of title 35, United States Code, is amended to read as follows:

"(b) TERM EXTENSION.—

"(1) BASIS FOR PATENT TERM EXTENSION.—

"(A) DELAY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

"(i) the proceeding under section 139(a) of this title;

"(ii) the imposition of an order pursuant to section 181 of this title;

"(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court where the patent was issued pursuant to a decision in the review reversing an adverse determination of patentability; or

"(iv) an unusual administrative delay by the Patent Office in issuing the patent, the term of the patent shall be extended for the period of delay.

"(B) ADMINISTRATIVE DELAY.—For purposes of paragraph (A)(iv), an unusual administrative delay by the Patent Office is the failure—

"(i) by inserting "by the publication of an application or under paragraph (2) of such treaty in the English lan-
1. "(i) make a notification of the rejection of any claim for a patent on any objection or argument under section 132 of this title or give or mail a written notice of allowance under section 133 of this title not later than 14 months after the date on which the application was filed;

(ii) respond to a reply under section 132 of this title not later than 4 months after the date on which the reply was filed or the appeal was taken;

(iii) act on an application not later than 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 of this title or a decision on appeal under section 145, 146 or 147 of this title where allowable claims remain in an application; or

(iv) issue a patent not later than 4 months after the date on which the issue fee was paid under section 151 of this title and all outstanding requirements were satisfied.

2. "(2) LIMITATIONS.—

(A) IN GENERAL.—The total duration of any extensions granted pursuant to either subclause (i) or (iv) of paragraph (3)(A) or both such subclauses shall not exceed 10 years. To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any extension granted under this subsection shall not exceed 10 years.

(B) REDUCTION OF EXTENSION.—The period of extension of the term of a patent under this subsection shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application. The Commissioner shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing of examination and prosecution of applications.

(C) DISCLAIMED TERM.—No patent the term of which has been disclaimer without a specified date may be extended under this section beyond the expiration date specified in the disclaimer.

3. "(3) PROCEDURES.—The Commissioner shall prescribe regulations establishing procedures for the notification of patent term extensions under this subsection and procedures for contesting patent term extensions under this section.

SEC. 302. EFFECTIVE DATE.

The amendments made by section 301 shall take effect on the date of the enactment of this Act and, except for a design patent application under chapter 16 of title 35, United States Code, shall apply to any application filed on or after June 8, 1995.

TITLE IV—PRIOR DOMESTIC COMERCIAL USE

SEC. 401. SHORT TITLE.

This title may be cited as the "Prior Domestic Commercial Use Act of 1997".

SEC. 402. DEFENSE TO PATENT INFRINGEMENT BASED ON PRIOR DOMESTIC COMMERCIAL USE.

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

§ 273. Prior domestic commercial use: defense to infringement

"(a) DEFINITIONS.—For purposes of this section—

(1) the terms 'commercially used', 'commercially used', and 'commercial use' mean the use in the United States in commerce or the use in the design, testing, or production in the United States of a product or service which the person can assert a defense under this section, whether or not the subject matter at issue is accessible to or otherwise known to the public;

(2) the terms 'used in commerce', and 'use in commerce' mean that there has been an actual sale or other commercial transfer of the subject matter at issue or that there has been a failure of an applicant to engage in reasonable efforts to commercialize the transfer of a product or service resulting from the use of the subject matter at issue; and

(3) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

(b) DEFENSE TO INFRINGEMENT.—

(1) IN GENERAL.—A person shall not be liable as an infringer under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims in the patent being asserted against such person, if such person had, acting in good faith, commercially used the subject matter before the effective filing date of such patent.

(2) EXHAUSTION OF RIGHT.—The sale or other disposition of the subject matter of a patent by a person entitled to assert a defense to infringement with respect to that subject matter shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

(c) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

(1) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

(2) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license to practice in the United States, commercial use, and to improvements in the claimed subject matter; and

(3) EFFECTIVE AND SERIOUS PREPARATION.—The person who can assert a defense under this section is subject to the following:

(A) before the effective filing date of the patent, the person reduced the subject matter to practice in the United States, completed a significant portion of the total investment necessary to commercially use the subject matter, and made a commercial transaction in the United States in connection with the preparation to use the subject matter; and

(B) thereafter, the person diligently completed the remainder of the activities and investments necessary to commercially use the subject matter, and promptly began commercial use of the subject matter, even if such activities were conducted after the effective filing date of the patent.

(d) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense.

(e) ABANDONMENT.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense.

(f) REQUIREMENTS.—The request shall—

(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title; and

(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested and the application of such prior art to the claims fail to comply with the requirements of section 112 of this title.

(g) PERSONAL DEFENSE.—The defense under this section may only be asserted by the person who performed the acts necessary to establish the defense and, except for any conduct during the time the patent owner, the right to assert the defense shall not be licensed or assigned to another person except in connection with the good faith assignment to a person asserting the defense or someone in privity with that person.

(h) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney's fees under section 285 of this title.

SEC. 403. EFFECTIVE DATE AND APPLICABILITY.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication thereof, including a consent judgment, has been made before such date of enactment.

TITLE V—PATENT REEXAMINATION REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the "Patent Reexamination Reform Act of 1997".

SEC. 502. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new section:

(e) The term 'third-party requester' means a person requesting reexamination under section 302 of this title who is not the patent owner.''.

SEC. 503. REEXAMINATION PROCEDURES.

(a) REQUEST FOR REEXAMINATION.—Section 302 of title 35, United States Code, is amended to read as follows:

§ 302. Request for reexamination

"(a) IN GENERAL.—Any person at any time may file a request for reexamination by the Commissioner of Patents and Trademarks under section 302 of title 35, United States Code, and submitted prior to the provisions of section 301 of this title or on the basis of the requirements of section 112 of this title except for the requirement to set forth the best mode of carrying out the invention.

(b) REQUIREMENTS.—The request shall—

(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of a reexamination fee established by the Commissioner of Patents pursuant to the provisions of section 41 of this title; and

(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested and the application of such prior art to the claims fail to comply with the requirements of section 112 of this title.

CONGRESSIONAL RECORD—SENATE
"(c) COPY.—Unless the requesting person is the owner of the patent, the Commissioner promptly shall send a copy of the request to the owner of record of the patent.”

(b) DETERMINATION OF ISSUE BY COMMISSIONER.—Section 303 of title 35, United States Code, is amended to read as follows:

**§ 303. Determination of issue by Commissioner.**

"(a) REEXAMINATION.—Not later than 3 months after the filing of a request for reexamination under the provisions of section 302 of this title, the Commissioner shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. The Commissioner’s initiative, and any time, the Commissioner may determine whether a substantial new question of patentability is raised by patents and publications or by the failure of the patent specification or claims to comply with the requirements of section 112 of this title except for the best mode requirement described in section 112(b).

(b) RECORD.—A record of the Commissioner’s determination under subsection (a) shall be placed in the official file of the patent, and be promptly mailed to the owner of record of the patent and to the third-party requester, if any.

(c) FINAL DECISION.—A determination by the Commissioner under subsection (a) shall be final and nonappealable. Upon a determination that no substantial new question of patentability has been raised, the Commissioner shall issue and publish a reexamination fee required under section 302 of this title.

(c) REEXAMINATION ORDER BY COMMISSIONER.—Section 304 of title 35, United States Code, is amended to read as follows:

**§ 304. Reexamination order by Commissioner.**

“If, in a determination made under the provisions of section 303(a) of this title, the Commissioner finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for reexamination of the patent in accordance with section 302 of this title.

(d) CONDUCT OF REEXAMINATION PROCEEDINGS.—Section 305 of title 35, United States Code, is amended to read as follows:

**§ 305. Conduct of reexamination proceedings.**

"(a) Subject to subsection (b), reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133 of this title. In any reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim, except that no amended or new claim enlarging the scope of the claims of the patent shall be permitted.

(b) RESPONSE.—(1) This subsection shall apply to an examination proceeding in which the order for reexamination is based upon a request by a third-party requester.

(2) With the exception of the reexamination request, any document filed by the patent owner or the third-party requester shall be served on the other party.

(3) If the patent owner files a response to any Patent Office action or the reexamination request or amendment filed under subsection (a), in any reexamination proceeding under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be considered with special dispatch within the Office.”

(e) APPEAL.—Section 306 of title 35, United States Code, is amended to read as follows:

**§ 306. Appeal.**

"(a) PATENT OWNER.—The patent owner involved in a reexamination proceeding under this chapter—

(1) may appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent, and

(2) may be a party to any appeal taken by a third-party requester pursuant to subsection (b) of this section.

(b) THIRD-PARTY REQUESTER.—A third-party requester may—

(1) appeal under the provisions of section 134 of this title, and may appeal under the provisions of sections 141 through 144 of this title, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; or

(2) be a party to any appeal taken by the patent owner, subject to subsection (c) of this section.

(c) PARTICIPATION AS PARTY.—

(1) IN GENERAL.—A third-party requester who, under the provisions of section 141 through 144 of this title, files a notice of appeal or who participates as a party to an appeal made under section 145 of title 35, United States Code, is amended to read as follows:

"(a) PATENT OWNER. The patent owner in a reexamination proceeding in which the order for reexamination is based upon a request by a third-party requester may appeal from the decision of the Patent Office, addressing all the issues involved in the appeal.

(b) THIRD-PARTY REQUESTER. A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.

(c) THIRD-PARTY. A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.

(f) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding at the end the following section:

**§ 308. Reexamination prohibited.**

"(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for reexamination of a patent has been issued under section 324 of this title, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent reexamination of the patent until a reexamination certificate is issued and published under section 307 of this title, unless authorized by the Commissioner.

(b) FINAL DECISION. Once a final decision has been entered against a party in a civil action arising in whole or in part under section 139 of title 15, United States Code, the party has not sustained its burden of proving the invalidity of any patent claim in suit, then neither the patent owner nor its privies may thereafter request reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action, and a reexamination request by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of law.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 35, United States Code, is amended by adding at the end the following:

``§ 308. Reexamination prohibited.”

SEC. 504. CONFORMING AMENDMENTS.

(a) PATENT APPLICATION SEARCH SYSTEMS.—Section 44(a)(7) of title 35, United States Code, is amended to read as follows:

"(7) On filing each petition for the revival of an unintentionally delayed application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner to any proceeding, $1,250, unless the petition is filed under sections 133 or 151 of this title, in which case the fee shall be $110.

(b) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

"§ 134. Appeal to the Board of Patent Appeals and Interferences.

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

(c) THIRD-PARTY. A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.

(d) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding at the end the following section:

**§ 134. Appeal to the Board of Patent Appeals and Interferences.**

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY. A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.

(f) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding at the end the following section:

"(a) PATENT APPLICANT.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(b) PATENT OWNER.—A patent owner in a reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

"(c) THIRD-PARTY. A third-party requester may appeal to the Board of Patent Appeals and Interferences from the final decision of the primary examiner favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal.

SEC. 505. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date that is 6 months after the date of the enactment of this Act and shall apply to all reexamination requests filed on or after such date.
(b) Effective Date.—The amendments made by subsection (a) apply to a provisional application filed on or after January 6, 1995.

SC. 602. INTERNATIONAL APPLICATIONS.

Section 101 of title 35, United States Code, is amended as follows:

(1) In subsection (a), insert "or in a WTO member country" after "or to citizens of the United States".

(2) At the end of section 119 add the following new subsections:

(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

(g) As used in this section—

"(l) the term ‘WTO member country’ has the same meaning as the term is defined in section 101(b)(2) of this title; and

"(2) the term ‘UPOV Contracting Party’ means a member of the International Convention for the Protection of New Varieties of Plants.”

SEC. 603. PLANT PATENTS.

(a) Tuber Propagated Plants.—Section 163 of title 35, United States Code, is amended by striking "a tuber propagated plant or".

(b) Plant Propagated Plants.—Section 163 of title 35, United States Code, is amended to read as follows: "A plant patent, the grant to the patentee, such patentee's heirs or assigns, shall have the right to exclude others fromsexually reproducing the plant, and from using, offering for sale, or selling the plant so reproduced, or any parts thereof, throughout the United States, or from importing the plant so reproduced, or any parts thereof, into the United States;"

(c) Effective Date.—The amendments by subsection (a) shall apply on the date of enactment of this Act. The amendments made by subsection (b) shall apply to any plant patent issued on or after the date of enactment of this Act.

SEC. 604. ELECTRONIC FILING.

Section 22 of title 35, United States Code, is amended by inserting "printed or type-written" and inserting "printed, type-written, or on an electronic medium;"

OMNIBUS PATENT ACT OF 1997—SUMMARY

TITLE I—THE UNITED STATES PATENT AND TRADEMARK ORGANIZATION

This title establishes the United States Patent and Trademark Organization (USPTO) as a wholly owned government corporation connected for policy-making purposes to the Department of Commerce. Like the existing U.S. Patent and Trademark Office, the USPTO is charged with patent and trademark policy formulation and the administration of the patent and trademark systems. But unlike the present structure, the USPTO will be freed from a heavy-handed federal bureaucracy, which inhibits the ability of the Patent and Trademark Office to meet the demands of the private sector that fully sustains its operation through user fees. Heightened efficiency is also achieved by separating the policymaking functions from the day-to-day operating functions.

The USPTO is headed by a Director of the U.S. Patent and Trademark Office, who is charged with advising the President through the Secretary regarding patent and trademark policy. He or she is appointed by the President with Senate confirmation, and he or she serves at the pleasure of the President.

The USPTO has two autonomous subdivisions: the Patent Office and the Trademark Office. Each office is responsible for the administration of its own system. Each office controls its own budget and its management structure and procedures. Each office must generate its own revenue in order to be self-sustaining and to provide for the Office of the Director. The Patent Office and the Trademark Office are headed by the Commissioner of Patents and the Commissioner of Trademarks, respectively. The two Commissioners are appointed by the Director and serve at his or her pleasure.

TITLE II—EARLY PUBLICATION

Title II provides for the early publication of patent applications. It would require the Patent Office to publish pending applications eighteen months after the application was filed. This rule is made for applications filed only in the United States. Those applications will be published eighteen months after filing or three months after the office issues its first response on the application, whichever is later. Additionally, once an application is published, Title II grants the applicant “provisional rights,” that is, legal protection for his or her invention.

TITLE III—PATENT TERM RESTORATION

Title III deals with the problem of administrative delay in the patent examination process by restoring to the patent holder any part of the patent term that is lost due to undue administrative delay. Title III gives clear deadlines in which the Patent Office must act. The office has fourteen months to issue a first office action and four months to respond to subsequent applicant filings. Any delay beyond those deadlines is considered undue delay and will be restored to the patent term.

TITLE IV—PRIOR DOMESTIC COMMERCIAL USE

This title provides rights to a person who has commercially sold an invention more than one year before the effective filing date of a patent application by another person. Anyone in this situation will be permitted to continue to sell his or her product without being forced to pay a royalty to the patent holder.

TITLE V—PATENT RE-EXAMINATION REFORM

Title V provides for a greater role for third parties in patent re-examination proceedings by allowing third-parties to raise a challenge to an existing patent and to participate in the reexamination process in a meaningful way.

TITLE VI—MISCELLANEOUS

Provisional Applications for Patents

This title amends section 115 of Title 35 of the U.S. Code to clarify that if a provisional application is converted into a non-provisional application within twelve months of filing, that it stands as a full patent application, with the rest of the provisional application as the date of priority. If no request is made within twelve months, the provisional application is considered abandoned. This clarification will make certain that American provisional applications are given the same weight as other countries' provisional applications in other countries' courts.

Plant Patents

Title VI also makes two corrections to the plant patent statute. First, the ban on tuber propagated plants is removed. This depression-era ban was included for fear of limiting the food supply. This is no longer a concern. Second, the plant patent statute is amended to include plants of parts. This closes a loophole that foreign growers have used to import United States plants for commercial use as well as to include parts of plants without paying a royalty because the entire plant was not being sold.

Lastly, this title also allows for the filing of patent and trademark documents by electronic medium.

By Mrs. FEINSTEIN:

S. 508. A bill to provide for permanent resident status to Jasmin Salehi, a California constituent who is currently assisting the LA district attorney with the prosecution of her husband's murderer.

Jasmin Salehi is a Korean immigrant who was denied permanent residency after her husband was violently murdered at a Denny's in Reseda, CA, where he worked as manager. Local INS officials in Los Angeles denied Jasmin's application because the law requires legal immigrants be married for 2 years before they become eligible for permanent resident status. Jasmin and Cyrus Salehi were newlyweds who had been married only 11 months before the murder.

I have previously sought administrative relief for Jasmin by asking the INS if any humanitarian exemptions could be made in Jasmin's case, but the local INS officials in Los Angeles has told my staff that there is nothing they can do.

Jasmin met and married Cyrus Salehi, an American citizen, in March 1995 and has completed all the paperwork necessary to obtain her green card. But now, Jasmin has been told that she can stay in the United States as long as the district attorney needs her to prosecute her husband's murderer. Despite here assistance in the prosecution, Jasmin would be deported once the investigation and subsequent trial are completed.

Jasmin has done everything right in order to become a permanent resident of this country—except for the tragedy of her husband's murder 13 months before he could become a permanent resident. I hope you support this bill so that we can help Jasmin begin to rebuild her life in the United States.

Mr. President, I ask for unanimous consent that the attached news article and the bill be entered into the RECORD. Without objection, the material was ordered to be printed in the RECORD, as follows:

S. 508

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

1. Permanent Residence:

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1311 et seq.), Mai Hoa Jasmin” Salehi, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees.
to Korea, she will be a stranger in her own country, a place where stigmas are attached to orphans and widows, of which she is both. Born Mai Hoa Joo in Seoul, Korea, in 1964, Salehi's parents died within months of each other when she was 14. A college graduate, Salehi visited the United States several times before she immigrated.

During a 1993 visit, Salehi met her husband at a Denny's in Los Angeles. They continued their relationship even as Salehi returned to Korea. Once married, Salehi received a work permit after she applied for a green card and began working at a clothing manufacturer in downtown Los Angeles, where she still puts in 10-hour days. But her salary as a production manager was not enough to cover the mortgage payment on the small house the couple owned, even though they had part ownership of the Denny's restaurant where her husband was killed.

“She has run into a lot of roadblocks, but will then be used said Francine Myers. "She will do all right as long as she feels like she has the support behind her.”

By Mr. BURNS: S. 509 A bill to provide for the return of certain program and activity fund rejected by States to the Treasury to reduce the Federal deficit, and for other purposes.

S. 510 A bill to authorize the Architect of the Capitol to develop and implement a plan to improve the Capitol grounds, the better utilization of the existing spaces of the grandest cities in the world. The McMillan Commission re...

whatever the States send back may be used by other States, funds which are inconsistent with State priorities. Usually this money was returned by the order of August 4, 1977, as modified by the order of April 11, 1986, with instructions that if one Committee reports, the other Committee have thirty days to report on it. Mr. BURNS. Mr. President, I rise to introduce the Fair and Responsible Fund Use Act. It is a bill that will provide for the return of funds, rejected by a State, to the Treasury. These funds have been specifically to reduce the Federal deficit.

Mr. MOYNIHAN. Mr. President, nearly 100 years ago, in March of 1901, the Senate Committee on the District of Columbia was directed by Senate Resolution to “report to the Senate plans for the development and improvement of the entire park system of the District of Columbia.” (For the purpose of preparing such plans the committee ** * may secure the services of such experts as may be necessary for a proper consideration of the subject.” And secure “such experts” the committee assuredly did. The Commission formed what came to be known as the McMillan Commission, named for committee chairman Senator James McMillan of Michigan. The Commission’s membership was a “who’s who” of late 19th and 20th-century architecture, landscape design, and art: Daniel Burnham, Frederick Law Olmsted Jr., Charles F. McKim, and Augustus St. Gaudens. The Commission traveled that summer to Rome, Venice, Vienna, Budapest, Paris, and London, studying the landscapes, architecture, and public spaces of the grandest cities in the world. The McMillan Commission returned and fashioned the city of Washington as we now know it.

We are particularly indebted today for the Commission’s inspiration of the Mall. When the members left for Europe, the Congress had just given the Pennsylvania Railroad a 400-foot wide swath of the Mall for a new station and trackage. It is hard to imagine our city without the magnificent stretch of greenery from the Capitol to the Washington Monument, but such would have been the result. Fortunately, when in London, Daniel
Burnham was able to convince Pennsylvania Railroad president Alexander Cassatt that a site on Massachusetts Avenue would provide a much grander entrance to the city. President Cassatt asserted and Daniel Burnham gave us Union Station.

But the focus of the Commission’s work was the District’s park system. The Commission noted in its report:

Aside from the pleasure and the positive benefits to health that the people derive from a city’s open spaces, there is another essential benefit. In any capital city like Washington there is a distinct use of public spaces as the indispensable means of giving dignity to Government buildings and of making some contacts between the great departments * * * [V]istas and axes; sites for monuments and museums; parks and pleasure gardens; fountains and canals; in a word all that goes to make a city a magnificent and consistent work of art were regarded as essential in the plans made by L’Enfant under the direction of the first President and his Secretary of State.

Washington and Jefferson might be disappointed at the affliction now imposed on much of the Capitol Grounds by the automobile.

Despite the ready and convenient availability of the city’s Metrorail System, the daily ordinary number of Capitol Hill employees drive to work. No doubt many must. But must we provide free parking? If there is one lesson learned from the Intermodal Surface Transportation Efficiency Act of 1991, it is that we can no longer always afford it. Free parking is a powerful incentive to drive to work when the alternative is to pay for public transportation. As we have created parking spaces around the Capitol, such as the scar of angle-park that goes at the foot of Pennsylvania Avenue, the area has made available “temporarily” during construction of the Thurgood Marshall Federal Judiciary Building, demand has simply risen to meet the available supply. The result—the Pennsylvania Avenue space has become permanently, and in part of the Nation’s main street remains an aesthetic disaster.

Today I am reintroducing legislation to complete the beautification of the Capitol Grounds, as envisioned by the illustrious McMillan Commission in 1901, through the elimination of most surface parking and restoration of the sites as public parks. The Arc of Park Capitol Grounds Improvement Act of 1997 would require the Architect of the Capitol to construct underground parking facilities, as needed. The facilities, which will undoubtedly be expensive, will be financed simply by charging for the parking space. In the matter of parking, this legislation is an appropriate companion to a bill that my colleague from Rhode Island, Senator Chafee, and I introduced earlier today, which will enable employers to provide employees with cash compensation in lieu of a parking space. This bill, which was also included in the Administration’s ISTEA reauthorization proposal, will expand employee options for commuting and reduce auto use.

By Mr. CHAFEE (for himself, Mr. ROCKEFELLER, Mr. JEFFORDS, Mr. DEWINE, Mr. DODD, Ms. MOSELEY-BRAUN, Mr. KERRY, Mr. MENNIE, and Mr. KENNEDY):

S. 511. A bill to require that the health and safety of a child be considered in any foster care or adoption placement, to eliminate barriers to the termination of parental rights in appropriate cases, to promote the adoption of children with special needs, and for other purposes; to the Committee on Finance.

The SAFE ADOPTIONS AND FAMILY ENVIRONMENTS ACT

Mr. CHAFEE. Mr. President, today I am pleased to introduce legislation to make some critical reforms to the child welfare system. The goals of the legislation are twofold: to ensure that abused and neglected children are in safe settings, and to move children more rapidly out of the foster care system and into permanent placements.

While the goal of reunifying children with their biological families is laudable, we should not be encouraging states to return abused or neglected children to homes that are clearly unsafe; regretfully, this is occurring under current law.

Our legislation would clarify the primacy of safety and health in decisions made about children who have been abused and neglected. The legislation would also push States to identify and enact State laws to address those circumstances in which the rights of the biological parent should be terminated expeditiously (for example, when the parent has been found guilty of child abuse, chronic sexual abuse, or the murder of a sibling).

The legislation also would provide incentives to move children into permanent placements, either by returning them home when reunification is the goal or by removing barriers to adoption.

I would like to thank those who have worked so hard to develop this legislation, including Mr. Rockefeller, the lead Democratic co-sponsor, with whom I have worked for many years on children’s issues. I also want to thank Senator DeWine, who, as a former prosecutor, brings a good deal of legal expertise and personal experience to this issue. We are also grateful for all Senator Jeffords has done in the past to lay the groundwork for this important legislation.

My sincere thanks go out to the many child advocacy organizations which were so helpful in the development of this legislation.

Finally, it is encouraging that similar legislation has been introduced in the House by Representatives Camp and Kennelly. While there are minor differences between our bills, the overall goals of both bills are the same. In that regard, I look forward to working with our House counterparts toward the enactment this year of child welfare reform legislation this year.

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. 511

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title—This Act may be cited as the “Safe Adoptions and Family Environments Act”.

(b) Table of Contents—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REQUIRING CONSIDERATION OF THE HEALTH AND SAFETY OF A CHILD IN FOSTER CARE AND ADOPTION PLACEMENTS

Sec. 101. Improving foster care protection requirements.
Sec. 102. Clarifying State plan requirements.
Sec. 103. Including safety in case plan and case review system requirements.
Sec. 104. Multidisciplinary/multiagency caseloads.

TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

Sec. 201. Knowledge development and collaboration to prevent and treat substance abuse problems among families known to child protective service agencies.
Sec. 203. Foster care payments for children with parents in residential facilities.
Sec. 204. Reimbursement for staff training.
Sec. 205. Criminal records checks for prospective foster and adoptive parents and group care staff.
Sec. 206. Development of State guidelines to ensure safe, quality care to children in out-of-home placements.

TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

Sec. 301. Reasonable efforts for adoption or placement of a permanent home.
Sec. 302. Permanency assessments.
Sec. 303. Promotion of adoption of children with special needs.
Sec. 304. One-year reimbursement for reunification services.
Sec. 305. Adoptions across State and county jurisdictions.
TITLE IV—PROMOTION OF INNOVATION IN ENSURING SAFE AND PERMANENT FAMILIES

Sec. 401. Innovation grants to reduce backlogs of children awaiting adoption and for other purposes.

Sec. 402. Expansion of child welfare demonstration projects.

TITLE V—MISCELLANEOUS

Sec. 501. Effective date.
TITLE II—ENHANCING PUBLIC AGENCY AND COMMUNITY ACCOUNTABILITY FOR THE HEALTH AND SAFETY OF CHILDREN

SEC. 201. KNOWLEDGE DEVELOPMENT AND COLLABORATION TO PREVENT AND TREAT SUBSTANCE ABUSE PROBLEMS AMONG FAMILIES KNOWN TO CHILD PROTECTIVE SERVICE AGENCIES.

(a) SOURCES OF FEDERAL SUPPORT FOR SUBSTANCE ABUSE PREVENTION AND TREATMENT FOR PARENTS AND CHILDREN.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, and the Director of the Center for Substance Abuse Treatment, shall prepare and provide to State child welfare and substance abuse prevention and treatment agencies an inventory of all Federal programs that may provide funds for substance abuse prevention and treatment services for families receiving services directly or through grants or contracts from public child welfare agencies. An inventory prepared under this subsection shall include with respect to each Federal program listed, the amount of Federal funds that are available for that program and the relevant eligibility requirements. The Secretary shall biennially update the inventory required by this subsection.

(b) COLLABORATION BETWEEN FEDERALLY SUPPORTED SUBSTANCE ABUSE AND CHILD PROTECTION AGENCIES.—

(1) SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT.—Section 1932(b) of the Public Health Service Act (42 U.S.C. 300x-23) is amended—

(A) in paragraph (6)(B), by striking “and” at the end;

(B) by redesignating paragraph (7) as paragraph (6); and

(C) by inserting after paragraph (6) the following:

“(7) the application contains an assurance described in subparagraph (B) on the joint prevention and treatment activities conducted by such agencies to jointly submit the report required to the Secretary of Health and Human Services who shall forward such report to the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment.”

(B) REQUIRED INFORMATION.—The information described in this subparagraph shall, to the maximum extent practicable, include—

(I) a description of the characteristics of the parents of children, including the aggregate numbers, who are referred for treatment by the State or local child welfare agencies because of allegations of child abuse or neglect and have substance abuse treatment needs, and the nature of those needs;

(ii) a description of the characteristics of the children who are receiving substance abuse treatment from services administered by the State substance abuse prevention and treatment and medical agencies, including available data on the number and whether they are in parents’ custody;

(iii) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(iv) a description of the manner in which the State child welfare and substance abuse prevention and treatment agencies are collaborating—

(I) to assess the substance abuse treatment needs of families who are known to child welfare agencies;

(ii) to remove barriers that prevent the State from meeting the needs of families with substance abuse problems;

(iii) to expand substance abuse prevention, including early intervention, and treatment for children and parents who are known to child welfare agencies; and

(iv) to provide for the joint funding of substance abuse treatment and prevention activities, the joint training of staff, and the joint consultations between staff of the State agencies;

(C) by inserting after paragraph (6) the following:

“(7) the application contains an assurance described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

SEC. 202. PRIORITY IN PROVIDING SUBSTANCE ABUSE TREATMENT.

Section 1357 of the Public Health Service Act (42 U.S.C. 300x-27) is amended—

(B) in paragraph (3), by striking “are” and inserting “are”.

(B) in paragraph (4)—

(i) by striking “are” and inserting “are”;

(ii) by striking “are” and inserting “are”;

(C) in paragraph (5), by striking “are” and inserting “are”;

(D) in paragraph (6), by striking “are” and inserting “are”;

(E) in paragraph (7), by striking “are” and inserting “are”;

(F) in paragraph (8), by striking “are” and inserting “are”;

(G) in paragraph (9), by striking “are” and inserting “are”; and

(H) in paragraph (10), by striking “are” and inserting “are”;

I. a description of the characteristics of the children who are receiving substance abuse treatment from services administered by the State substance abuse prevention and treatment and medical agencies, including available data on the number and whether they are in parents’ custody;

(ii) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(iii) a description of the manner in which the State child welfare and substance abuse prevention and treatment agencies are collaborating—

(I) to assess the substance abuse treatment needs of families who are known to child welfare agencies;

(ii) to remove barriers that prevent the State from meeting the needs of families with substance abuse problems;

(iii) to expand substance abuse prevention, including early intervention, and treatment for children and parents who are known to child welfare agencies; and

(iv) to provide for the joint funding of substance abuse treatment and prevention activities, the joint training of staff, and the joint consultations between staff of the State agencies;

(C) by inserting after paragraph (6) the following:

“(7) the application contains an assurance described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

SEC. 203. FOSTER CARE PAYMENTS FOR CHILDREN WITH PARENTS IN RESIDENTIAL FACILITIES.

Section 472(b) of the Social Security Act (42 U.S.C. 627(b)) is amended—

(i) in paragraph (1), by striking “or” at the end;

(ii) by striking the period and inserting a period;

(iii) by striking “and” and inserting “and”;

(iv) by adding at the end the following:

“(9) the application contains an assurance described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies and the number of the parents ordered by a court to seek such services; and

(v) any other information determined appropriate by the Secretary of Health and Human Services.

C. REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Administrator of the Administration for Children, Youth and Families, the Director of the Center for Substance Abuse Prevention, and the Director of the Center for Substance Abuse Treatment shall, using the information reported to the Secretary jointly by State child welfare agencies and substance abuse prevention and treatment agencies, prepare and submit to the appropriate committees of Congress a report containing—

(I) a description of the extent to which clients of child welfare agencies have substance abuse treatment needs, the nature of those needs, and the extent to which those needs are being met;

(ii) a description of the barriers that prevent the substance abuse treatment needs of clients of child welfare agencies from being treated appropriately;

(iii) a description of the collaborative activities of State child welfare and substance abuse prevention and treatment agencies to jointly assess clients’ needs, fund substance abuse prevention and treatment, train and consult with staff, and evaluate the effectiveness of programs serving clients in both agencies’ caseloads;

(iv) a summary of the available data on the treatment and cost-effectiveness of substance abuse prevention and treatment services for clients of child welfare agencies; and

(v) recommendations, including recommendations for Federal legislation, for addressing the needs and barriers, as described in paragraphs (1) and (2), and for promoting further collaboration of the State child welfare and substance abuse prevention and treatment agencies in meeting the substance abuse treatment needs of families.

SEC. 204. REIMBURSEMENT FOR STAFF TRAINING.

(a) TRAINING OF PERSONNEL.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended—

(I) in paragraph (3)(A)—
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(A) by striking "75" and inserting "subject to subsection (e), 75"; (B) by inserting "; and", and training directed at staff maintenance and retention after "enrolled"; and (C) by striking "of personnel" and all that follows and inserting the following: "of—(i) personnel employed or preparing for employment by the State agency, or by the local agency administering the State plan in the political subdivision; and (ii) personnel employed by courts and State or local law enforcement agencies, by State, local, or private nonprofit substance abuse prevention and treatment agencies, mental health providers, domestic violence, sexual violence, elder and family violence, treatment agencies, health agencies, child care agencies, schools, and child welfare, family service, and community service agencies that are collaborating with the State or local agency administering the State plan in the political subdivision to keep children safe, support families, and provide permanent families for children, including adoptive families;" (2) in paragraph (3)(B), by striking "75" and inserting "subject to subsection (e), 75"; and (3) by adding at the end, the following flush sentence: "Amounts under subparagraphs (A) and (B) of paragraph (3) shall be paid without regard to the proportion of children on whose behalf foster care maintenance payments or adoption assistance payments are being made under the State plan under this part." (b) REQUIREMENTS FOR RECEIPT OF TRAINING FUNDS.—Section 474 of the Social Security Act (42 U.S.C. 674) is amended by adding at the end, the following: "(c) DEPARTMENTAL REQUIREMENTS.—(1) The Department shall— (A) develop and implement State guidelines to ensure safe, quality care for children residing in out-of-home care settings, such as guidelines issued by a nationally recognized accrediting body, including the Council on Accreditation for Services for Families and Children and the Joint Commission on the Accreditation of Health Care Organizations; (B) assist public provider agencies and private provider agencies that contract and subcontract with public provider agencies for services to children; and (C) clearly articulate the guidelines against which an agency's performance will be judged and the conditions under which the guidelines established under subparagraph (A) shall be applied; (D) regularly monitor progress made by the public and private agencies located in the States in meeting the guidelines established under subparagraph (A); and (E) judge agency compliance with the guidelines established under subparagraph (A) through measuring improvement in child and family outcomes, and through such other measures as the State may determine appropriate to judge such compliance.

TITLE III—INCENTIVES FOR PROVIDING PERMANENT FAMILIES FOR CHILDREN

SEC. 301. PROMOTION OF ADOPTION OF CHILDREN WITH SPECIAL NEEDS.

(a) IN GENERAL.—Section 473(a) of the Social Security Act (42 U.S.C. 673(a)) is amended by striking paragraph (2) and inserting the following: "(2) For purposes of paragraph (1)(B)(i), a child meets the requirements of this paragraph if such child—(i) prior to termination of parental rights and the initiation of adoption proceedings for purposes of adoption of a public or licensed non-profit private child care agency or Indian tribal organization either pursuant to a voluntary placement agreement (provided the child was in care for not more than 180 days) or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child, or was residing in a foster family home or child care institution with the child's minor parent (either pursuant to such a voluntary placement agreement or as a result of such a judicial determination) and (ii) has been determined by the State pursuant to subsection (c) to be a child with special needs." (b) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AND EXCEPT AS PROVIDED IN PARAGRAPH (7), A CHILD WHO IS NOT A CITIZEN OR RESIDENT OF
the United States and who meets the re-quirements of subparagraph (A) and is other-wise determined to be eligible for the receipt of adoption assistance payments, shall be el-i-
gible for adoption assistance payments under this part.

(‘‘C‘‘) A child who meets the requirements of subparagraph (A) and who is otherwise deter-
ing from other States; and

(C) other State for whom foster and adoptive domestic adoption issues—

(i) would be considered a child with spe-
cially needs under subsection (c); and

(ii) is not a citizen or resident of the United States, and

(iii) the parents adopted outside of the United States or the parents brought into the United States for the purpose of adopting such child.

(‘‘D‘‘) Subparagraph (A) shall not be con-strued as prohibiting payments under this part for a child described in subparagraph (A) that is foster care subsequent to the failure, as determined by the State, of the initial adoption of such child by the par-ents described in such subparagraph.

SEC. 304. ONE-YEAR REIMBURSEMENT FOR RE-
 UNIFICATION SERVICES.

Section 475(a) of the Social Security Act (42 U.S.C. 675(a)) is amended by adding at the end the following:

‘‘(c)(i) In the case of a child that is re-
 moved from the child’s home and placed in a foster family home or a child care institu-
tion, the foster care maintenance payments made with respect to such child may include payments to the State for reimbursement of expenditures for reunification services, but only during the 1-year period that begins on the date that the child is removed from the child’s home.

(ii) For purposes of clause (i), the term ‘‘reunification services’’ includes services and activities provided to a child described in clause (i) and the parents or primary caregiver of such a child, in order to facili-
tate the return of the child to the home and appropriately within a timely fashion, and may only include individual, group, and fam-
ily counseling, inpatient, residential, or out-
patient substance abuse treatment services, mental health services, assistance to address domestic violence, and transportation to or from such services.’’

SEC. 305. ADoptions ACROSS STATE AND COUN-
 TYS JURISDICTIONS.

(a) STUdy of interjurisdictional adoption issues.—The Secretary of Health and Human Services shall, in this section referred to as the ‘‘Secretary’’) shall appoint an adivi-sory panel that shall—

(1) study and consider how to improve pro-cedures and policies to facilitate the timely and permanent adoptions of children across State and county jurisdictions;

(2) examine, at a minimum, interjurisdic-
tional adoption issues includes services and activities provided to a child described in clause (i) and the parents or primary caregiver of such a child, in order to facili-
tate the return of the child to the home and appropriately within a timely fashion, and may only include individual, group, and fam-
ily counseling, inpatient, residential, or out-
patient substance abuse treatment services, mental health services, assistance to address domestic violence, and transportation to or from such services.’’

(b) concerning the procedures to grant recip-
 rocity to prospective adoptive family home studies from other States and counties;

(b) concerning the procedures related to the administration and implementation of the Interstate Compact on the Placement of Children; and

(3) not later than 12 months after the final appointment to the advisory panel, submit to the Secretary the report described in sub-
section (c).

(c) Composition of Advisory Panel.—The advisory panel required under subsection (a) shall, at a minimum, be comprised of re-
 presentatives of—

(1) Adoptive parent organizations.

(2) Public and private child welfare agen-
cies that place children for adoption.

(3) Family service and adoption service organiza-
tions.

(4) Adoption attorneys.

(5) The Association of the Administrators of the Interstate Compact on the Placement of Children; and the Association of the Ad-

ministrators of the Interstate Compact on Ad-

option and Medical Assistance.

(6) Any other organizations that advocate for adopted children or children awaiting adoption.

(d) CONTENTS OF REPORT.—The report re-
quired under subsection (a)(3) shall include the results of the study conducted under paragraphs (1) and (2) of subsection (a) and recommendations on how to improve proce-
dures to facilitate the interjurisdictional transfers of children in foster care or adoption in interstate and intercounty adoptions, so that children will be assured timely and permanent place-
ments.

SEC. 306. INNOVATION GRANTS TO REDUCE BACKLOGS OF CHILDREN Awaiting ADOPTION AND FOR OTHER PUR-
POSES.

(a) IN GENERAL.—Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by adding after paragraph (4) the fol-
lowing:

‘‘(5) an amount equal to the State’s Inno-

vation grant award, if an award for the State has been approved by the Secretary pursuant to section 478.

(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

‘‘SEC. 478. INNOVATION GRANTS.

(a) PAYMENTS.—

‘‘(1) IN GENERAL.—A State that has an ap-
plied and approved under paragraphs (1), (2), (3), and (4) of section 478; and

(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

‘‘SEC. 478. INNOVATION GRANTS.

(a) PAYMENTS.—

‘‘(1) IN GENERAL.—A State that has an ap-
plied and approved under paragraphs (1), (2), (3), and (4) of section 478; and

(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

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(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:

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‘‘SEC. 478. INNOVATION GRANTS.

(a) PAYMENTS.—

‘‘(1) IN GENERAL.—A State that has an ap-
plied and approved under paragraphs (1), (2), (3), and (4) of section 478; and

(b) INNOVATION GRANTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670 et seq.) is amended by inserting after section 477, the following:
final report to Congress. A report submitted under this subparagraph shall contain an assessment of the effectiveness of the State projects administered under this section and any recommendations for legislative action that the Secretary considers appropriate.

"(8) REGULATIONS.—Not later than 60 days after the date of enactment of this section, the Secretary shall issue regulations for implementing this section.

SEC. 402. EXPANSION OF CHILD WELFARE DEMONSTRATION PROJECTS.

Section 1305(a) of the Social Security Act (42 U.S.C. 1302a-9(a)) is amended by striking "10" and inserting "15".

TITLE V—MISCELLANEOUS

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect on October 1, 1997.

Mr. ROCKEFELLER. Mr. President, children who are at risk of abuse and neglect are among the most vulnerable group in our society, and we have a compelling obligation to do a better job in protecting such children. I am proud to join Senator CHAFEE and others in a bipartisan effort to improve our federal child welfare programs.

Almost a decade ago, I had the opportunity and privilege to serve as the Chairman of the bipartisan National Commission on Children. Our group spent several years traveling the country to meet with families, officials and advocates to delve into the needs of children and families. We issued a unanimous report in 1991 with a comprehensive strategy to help children and strengthen families. One of the chapters of our report was directed toward helping children at risk of abuse and neglect. Since the Children's Commission, I have been working to convert our bipartisan recommendations into policy and programs.

The Children's Commission basic recommendations called for a more comprehensive strategy for child protective services. The panel noted the need for a system so that children and families could get what was needed on a case-by-case basis. Our report calls for intensive family preservation services when appropriate. If children must be removed from their homes, reunification services need to be available to prepare children and parents for a safe return. There should be better training for foster parents and child welfare staff. Adoption can be the best option for some children so adoption procedures should be streamlined.

The SAFE Act—Safe Adoptions and Family Environments—follows through on the Children's Commission recommendations. Our bill stresses that a child's safety and a child's health must be a primary concern by clarifying current law known as "reasonable efforts." It is designed to encourage states to move children into stable, permanent placements quickly. For some children, this will be adoption. For others, appropriate intervention and support services can enable children to return home safely. This bill will direct states to establish a permanency planning hearing for a child in foster care within 12 months, instead of the current 18 months which will cut by one-third the amount of time a child is without a plan for a stable home. Our bill also offers states incentives to reduce the backlog of children waiting for adoption.

I have worked on children and family programs throughout my career, and will continue to do so. Last Congress, I argued strongly that there is a fundamental difference between welfare reform and child welfare and foster care. I opposed a block grant approach to foster care because abused children should not be placed at further risk or face time-limits. Ultimately, I voted for the block grant of welfare reform. While I opposed attempts to convert child welfare and foster care into a block grant last year, I acknowledged the problems in the system and pledged to work on ways to strengthen and improve programs for abused and neglected children outside the context of welfare reform. Today, we are delivering on that commitment and working in a bipartisan manner to encourage reform.

Reform is desperately needed. Reports indicate that more than 1 million American children suffered some type of forced placement. Over 75,000 children are in foster care in our country. In my home state of West Virginia, referrals to Child Protective Services are expected to increase from 12,500 reports in 1991 to 17,000 this year. Foster care placements in West Virginia have jumped to 3,113 children in January 1997, up from 2,900 children in January 1996.

Clearly, we must work together with the states to address the complicated needs of abused and neglected children. While our legislation may seem technical in nature, its goals are focused on protecting children and ensuring that every child moves swiftly into a safe, permanent placement where they can grow up healthy and secure. To achieve such basic goals, we need to invest in a range of services—from prevention of abuse, family reunification, and adoptions.

Protecting children and helping families should be a bipartisan, community based effort. We must forge partnerships with states and advocates. This legislation reflects this spirit and commitment.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. ROBB, Ms. MOSLEY-BRAUN, Mr. LAUTENBERG, Mr. KERRY, Ms. SNOWE, Mrs. MURRAY, Mr. FEINGOLD, Mr. HARKIN, Mr. CHAFEE, Mr. EFFORDS, Mr. AKAKA, Mr. BINGAMAN, and Mrs. FEINSTEIN): S.J. Res. 24. A joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men; to the Committee on the Judiciary.

THE EQUAL RIGHTS AMENDMENT

Mr. KENNEDY. Mr. President, it is an honor to introduce the equal rights amendment on behalf of myself and 14 other Senators. Two days before the 25th anniversary of the first congressional approval of the equal rights amendment, we reaffirm our strong commitment to making the ERA part of the Constitution of the United States. We assure all we can to see that it becomes part of the Constitution, which is where it belongs.

In a sense, action now is more important than ever. Women have achieved a great deal during the last two decades. But the statutory route has not been as successful as we had hoped. Too many women and girls still face unfair and discriminatory barriers in their education, careers, sports, and other goals. The glass ceiling, the locked door, the sticky floor, the wage gap, and the occupation gap are very real problems.

Women still earn only 76 cents for each dollar earned by men. After a full day's work, no woman should be forced to take home only three-quarters of a pay-check.

The majority of women are still clustered in a narrow range of traditionally low-paying occupations. Too many women continue to be victims of sexual harassment.

We must do more, much more, to guarantee fair treatment in the workplace and in all aspects of society. Existing laws against sex discrimination in all its ugly forms can't get the job done. The need for a constitutional guarantee of equal rights for women is compelling.

Susie B. Anthony said it best over a century ago. When the Constitution says, "We the People," it should mean all the people. Those words speak to us across the years. And in 1997, we intend to see that "all" means "all"—and making ERA part of the Constitution is the right way to do it.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 24

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE—

"SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"SECTION 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"SECTION 3. This amendment shall take effect 3 years after the date of ratification."

ADDITIONAL COSPONSORS

S. 6

At the request of Mr. INHOFE, his name was added as a cosponsor of S. 6.
a bill to amend title 18, United States Code, to ban partial-birth abortions.
S. 75

At the request of Mr. Kyl, the name of the Senator from Florida [Mr. Mack] was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.
S. 127

At the request of Mr. Moynihan, the names of the Senator from Wyoming [Mr. Enzi], the Senator from Maryland [Ms. Mikulski], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 127, a bill to amend the Internal Revenue Code of 1986 to make permanent the exclusion for employer-provided educational assistance programs, and for other purposes.
S. 146

At the request of Mr. Rockefeller, the name of the Senator from Mississippi [Mr. Cochran] was added as a cosponsor of S. 146, a bill to permit medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, and for other purposes.
S. 149

At the request of Mr. Craig, the names of the Senator from Mississippi [Mr. Cochran], and the Senator from Washington [Mr. Gorton] were added as cosponsors of S. 149, a bill to amend the Immigration and Nationality Act with respect to the admission of temporary H-2A workers.
S. 185

At the request of Mr. Helms, the name of the Senator from Georgia [Mr. Coverdell] was added as a cosponsor of S. 185, a bill to prohibit the provision of Federal funds to any State or local educational agency that denies or prevents participation in constitutional prayer in schools.
S. 197

At the request of Mr. Roth, the name of the Senator from Indiana [Mr. Coats] was added as a cosponsor of S. 197, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.
S. 200

At the request of Mr. Grassley, the names of the Senator from Texas [Mrs. Hutchison] and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of S. 200, a bill to require the United States Trade Representative to determine whether the European Union has failed to implement satisfactorily its obligations under certain trade agreements relating to United States meat and pork exporting facilities, and for other purposes.
S. 286

At the request of Mr. Abraham, the name of the Senator from North Carolina [Mr. Helms] was added as a cosponsor of S. 286, a bill to provide for a reduction in regulatory costs by maintaining Federal average fuel economy standards applicable to automobiles in effect at current levels until changed by law, and for other purposes.
S. 317

At the request of Mr. Craig, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 317, a bill to reauthorize and amend the National Geologic Mapping Act of 1992.
S. 356

At the request of Mr. Graham, the names of the Senator from North Dakota [Mr. Dorgan] and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of S. 356, a bill to amend the Internal Revenue Code of 1986, the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the title XVII and XIX of the Social Security Act to assure access to emergency medical services under group health plans, health insurance coverage, and the medicare and medicaid programs.
S. 358

At the request of Mr. DeWine, the names of the Senator from South Dakota [Mr. Daschle], the Senator from Mississippi [Mr. Cochran], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.
S. 365

At the request of Mr. Coverdell, the names of the Senator from Nebraska [Mr. Hagel] and the Senator from Alabama [Mr. Shelby] were added as cosponsors of S. 365, a bill to amend the Internal Revenue Code of 1986 to provide for increased accountability by Internal Revenue Service agents and other Federal Government officials in tax collection practices and procedures, and for other purposes.
S. 366

At the request of Mr. Bond, the name of the Senator from Arkansas [Mr. Hutchinson] was added as a cosponsor of S. 369, a bill to prohibit the use of Federal funds for human cloning research.
S. 391

At the request of Mr. Rockefeller, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 391, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.
S. 383

At the request of Mr. D'Amato, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 381, a bill to require the Director of the Federal Emergency Management Agency to provide funds for compensation for expenses incurred by the State of New York, Nassau County and Suffolk County, New York, and New York City, New York, as a result of the crash of flight 800 of Trans World Airlines.
S. 399

At the request of Mr. Abraham, the names of the Senator from Idaho [Mr. Craig] and the Senator from Nebraska [Mr. Hagel] were added as cosponsors of S. 399, a bill to improve congressional deliberation on proposed Federal private sector mandates, and for other purposes.
S. 413

At the request of Mrs. Hutchinson, the names of the Senator from Alabama [Mr. Sessions] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.
S. 415

At the request of Mr. Baucus, the names of the Senator from North Dakota [Mr. Conrad] and the Senator from Michigan [Mr. Abraham] were added as cosponsors of S. 415, a bill to amend the medicare program under title XVIII of the Social Security Act to cover rural health services, and for other purposes.
S. 425

At the request of Mr. Roth, the names of the Senator from Indiana [Mr. Lugar] and the Senator from Nebraska [Mr. Kerrey] were added as cosponsors of S. 425, a bill to provide for an accurate determination of the cost of living.
S. 460

At the request of Mr. Bond, the names of the Senator from New Hampshire [Mr. Gregg], the Senator from Nebraska [Mr. Hagel], and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of S. 460, a bill to amend the Internal Revenue Code of 1986 to increase the deduction for health insurance costs of self-employed individuals, to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home, to clarify the standards used for determining that certain individuals are not employees, and for other purposes.
S. 479

At the request of Mr. Grassley, the names of the Senator from Washington [Mrs. Murray] and the Senator from Utah [Mr. Hatch] were added as cosponsors of S. 479, a bill to amend the Internal Revenue Code of 1986 to provide estate tax relief, and for other purposes.
S. 480

SENATE CONCURRENT RESOLUTION 7

At the request of Mr. Sarbanes, the names of the Senator from Iowa [Mr. Harkin], the Senator from Nevada [Mr. Reid], the Senator from Oregon [Mr. Wyden], the Senator from Arkansas [Mr. Hutchinson], and the Senator from Louisiana [Mr. Breaux] were added as cosponsors of Senate Concurrent Resolution 7, a concurrent resolution expressing the sense of Congress...
that Federal retirement cost-of-living adjustments should not be delayed.

SENATE CONCURRENT RESOLUTION 11

At the request of Mr. Gregg, the names of the Senator from Kentucky [Mr. Ford], the Senator from Washington [Mrs. Murray], the Senator from Montana [Mr. Burns], the Senator from Mississippi [Mr. Cochran], the Senator from Georgia [Mr. Cleland], the Senator from Arkansas [Mr. Hutchinson], the Senator from Ohio [Mr. DeWein], the Senator from Tennessee [Mr. Frist], and the Senator from Oregon [Mr. Smith] were added as cosponsors of Senate Concurrent Resolution 6, recognizing the 25th anniversary of the establishment of the first nutrition program for the elderly under the Older Americans Act of 1965.

SENATE RESOLUTION 63

At the request of Mr. Domenici, the names of the Senator from North Dakota [Mr. Conrad], the Senator from Nebraska [Mr. Hagel], the Senator from New York [Mr. D’Amato], the Senator from New Hampshire [Mr. Gregg], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Resolution 63, a resolution proclaiming the week of October 19 through October 25, 1997, as “National Character Counts Week.”

SENATE CONCURRENT RESOLUTION 14—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES

Mr. Lott submitted the following concurrent resolution, which was considered and agreed to:

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, March 20, 1997, Friday, March 21, 1997, Saturday, March 22, 1997, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 7, 1997, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, which ever occurs first; and that when the House adjourns on the legislative day of Thursday, March 20, 1997, Friday, March 21, 1997, or Saturday, March 22, 1997, it stand adjourned until 12:30 p.m. on Tuesday, April 8, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, which ever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in this opinion, the public interest shall warrant it.

SENATE CONCURRENT RESOLUTION 15—RELATIVE TO TAIWAN

Mr. Torricelli submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 15

Whereas the people of the United States and the people of Taiwan have long enjoyed extensive ties;

Whereas Taiwan, a democracy of 21,000,000 people, is currently the eighth largest trading partner of the United States, and United States and Taiwan exports to Taiwan total more than $12,000,000,000 annually, far exceeding the P.R.C.’s exports to the People’s Republic of China;

Whereas the current administration has committed publicly to support Taiwan’s bid to join the world Trade Organization (referred to in this resolution as the “WTO”) and has declared that the United States will not oppose that bid solely on the grounds that the People’s Republic of China, which also seeks WTO membership, is not yet eligible because of the People’s Republic of China’s unacceptable trade practices;

Whereas the United States and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan to be eligible to join the WTO;

Whereas reversion of control over Hong Kong to Beijing, scheduled to occur on July 1, 1997, will, in most respects afford the People’s Republic of China WTO treatment for Hong Kong, but despite the fact that the People’s Republic of China’s trade practices currently fall far short of qualifying for WTO membership;

Whereas it is in the economic interests of United States consumers and exporters for Taiwan to accede to the WTO at the earliest possible moment; Now, therefore, be it Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that negotiations between the United States and Taiwan be concluded promptly and that the United States Government publicly support the prompt accession of Taiwan to the WTO;

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that negotiations between the United States and Taiwan be concluded promptly and that the United States Government publicly support the prompt accession of Taiwan to the WTO;

Mr. Torricelli, Mr. President, the months ahead will require a number of important decisions regarding the continuing evolution of U.S. policy in the region of the Taiwan Straits.

Today, I am submitting a concurrent resolution to help clarify long-standing U.S. commitments in this regard.

While the Clinton Administration and Congress attempt to improve relations with the communist authorities in Beijing, it is important for Congress to make clear the bipartisan commitment to the burgeoning democratic forces on Taiwan. Any improvement in U.S. relations with Taiwan, does not and should not come at the expense of our ties with the people of Taiwan.

The U.S. must renew our past commitments to the people of Taiwan. For example, as a result of the Taiwan Policy Review throughout 1993 and 1994 and the balance of 1994, the Clinton Administration publicly pledged to support Taiwan’s bid to join an appropriate international organization.

In this regard, few are as important as the World Trade Organization.

Taiwan is currently the U.S.’s fifth largest trading partner and U.S. exports to Taiwan total more than $17 billion annually. This sum is almost twice as much as U.S. exports to the P.R.C. Our trade with the People’s Republic has produced a crushing $39 billion deficit last year.

The Clinton Administration is publicly committed to supporting Taiwan’s bid to join the World Trade Organization. It has already declared that the U.S. will not oppose the bid solely on the grounds that Taiwan, which is also seeking WTO membership, is not yet eligible because of its unacceptable trade practices.

The U.S. and Taiwan have concluded discussions on virtually all outstanding trade issues necessary for Taiwan’s WTO eligibility. All that is left is for the U.S. to make clear that it is prepared to support Taiwan’s membership and for Taiwan and the U.S. to work out the few remaining details governing trade in a few specific sectors.

Congress should reaffirm our support for Taiwan’s bid to join the WTO and make clear that our decision regarding Taiwan’s bid will not be held hostage to U.S. negotiations with Beijing.

Today, I am submitting a Sense of the Congress concurrent resolution which affirms our support for Taiwan’s membership in the WTO. I am pleased that a similar concurrent resolution is being submitted with bipartisan support in the other body.

SENATE CONCURRENT RESOLUTION 16—SETTING FORTH THE CONGRESSIONAL BUDGET FOR THE UNITED STATES

Mr. Domenici submitted the following concurrent resolution, which was referred to the Committee on the Budget:

S. Con. Res. 16

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1998.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1998, including the appropriate budgetary levels for fiscal years 1999, 2000, 2001, and 2002 as required by section 301 of the Congressional Budget Act of 1974.

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

Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.
Sec. 2. Recommended levels and amounts.
Sec. 3. Social Security.
Sec. 4. Major functional categories.
Sec. 2. Recommended levels and amounts.

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:
(1) **FEDERAL REVENUES.**—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>335,141</td>
</tr>
<tr>
<td>1999</td>
<td>343,624</td>
</tr>
<tr>
<td>2000</td>
<td>351,126</td>
</tr>
<tr>
<td>2001</td>
<td>358,690</td>
</tr>
<tr>
<td>2002</td>
<td>369,240</td>
</tr>
</tbody>
</table>

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>285,606</td>
</tr>
<tr>
<td>2002</td>
<td>296,240</td>
</tr>
</tbody>
</table>

(2) **NEW BUDGET AUTHORITY.**—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>281,305</td>
</tr>
<tr>
<td>1999</td>
<td>289,092</td>
</tr>
<tr>
<td>2000</td>
<td>265,579</td>
</tr>
<tr>
<td>2001</td>
<td>264,978</td>
</tr>
<tr>
<td>2002</td>
<td>268,974</td>
</tr>
</tbody>
</table>

(3) **BUDGET OUTLAYS.**—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>3,073,000</td>
</tr>
<tr>
<td>1999</td>
<td>2,909,000</td>
</tr>
<tr>
<td>2000</td>
<td>2,747,000</td>
</tr>
<tr>
<td>2001</td>
<td>2,430,000</td>
</tr>
<tr>
<td>2002</td>
<td>2,178,000</td>
</tr>
</tbody>
</table>

(4) **DIRECT LOAN OBLIGATIONS.**—The appropriate levels of total new direct loan obligations are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>28,992,000</td>
</tr>
<tr>
<td>1999</td>
<td>27,358,000</td>
</tr>
<tr>
<td>2000</td>
<td>26,762,000</td>
</tr>
<tr>
<td>2001</td>
<td>25,307,000</td>
</tr>
<tr>
<td>2002</td>
<td>23,751,000</td>
</tr>
</tbody>
</table>

(5) **GUARANTEE COMMITMENTS.**—The appropriate levels of new primary loan guarantee commitments are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>15,615,000</td>
</tr>
<tr>
<td>1999</td>
<td>15,676,000</td>
</tr>
<tr>
<td>2000</td>
<td>15,050,000</td>
</tr>
<tr>
<td>2001</td>
<td>14,615,000</td>
</tr>
<tr>
<td>2002</td>
<td>13,939,000</td>
</tr>
</tbody>
</table>

(6) **SOCIAL SECURITY.**

(A) **SOCIAL SECURITY REVENUES.**—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>3,073,000</td>
</tr>
<tr>
<td>1999</td>
<td>3,145,000</td>
</tr>
<tr>
<td>2000</td>
<td>3,217,000</td>
</tr>
</tbody>
</table>

(B) **SOCIAL SECURITY OUTLAYS.**—For purposes of the enforcement of this resolution, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>3,145,000</td>
</tr>
<tr>
<td>1999</td>
<td>3,217,000</td>
</tr>
<tr>
<td>2000</td>
<td>3,290,000</td>
</tr>
</tbody>
</table>

(C) **NEW primary loan guarantee commitments.**—For each major functional category are:

- **Social Security**
  - **Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:**
    | Fiscal Year | Amounts (in billions) |
    |-------------|----------------------|
    | 1998        | 335,141              |
    | 1999        | 343,624              |
    | 2000        | 351,126              |
    | 2001        | 358,690              |
    | 2002        | 369,240              |

- **New direct loan obligations.**—For purposes of the enforcement of this resolution, the appropriate levels of outlays are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>2,178,000</td>
</tr>
<tr>
<td>1999</td>
<td>2,372,000</td>
</tr>
<tr>
<td>2000</td>
<td>2,372,000</td>
</tr>
<tr>
<td>2001</td>
<td>2,430,000</td>
</tr>
<tr>
<td>2002</td>
<td>2,489,000</td>
</tr>
</tbody>
</table>

- **New primary loan guarantee commitments.**—For each major functional category are:

  - **Social Security**
    - **Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:**
      | Fiscal Year | Amounts (in billions) |
      |-------------|----------------------|
      | 1998        | 335,141              |
      | 1999        | 343,624              |
      | 2000        | 351,126              |
      | 2001        | 358,690              |
      | 2002        | 369,240              |

- **New direct loan obligations.**—For purposes of the enforcement of this resolution, the appropriate levels of outlays are as follows:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Amounts (in billions)</th>
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</thead>
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<td>2,372,000</td>
</tr>
<tr>
<td>2001</td>
<td>2,430,000</td>
</tr>
<tr>
<td>2002</td>
<td>2,489,000</td>
</tr>
</tbody>
</table>

- **New primary loan guarantee commitments.**—For each major functional category are:

  - **Social Security**
    - **Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:**
      | Fiscal Year | Amounts (in billions) |
      |-------------|----------------------|
      | 1998        | 335,141              |
      | 1999        | 343,624              |
      | 2000        | 351,126              |
      | 2001        | 358,690              |
      | 2002        | 369,240              |
Fiscal year 2001:
(A) New budget authority, $22,733,000,000.
(B) Outlays, $23,113,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $22,790,000,000.
(B) Outlays, $22,942,000,000.
(C) New direct loan obligations, $34,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1999:
(A) New budget authority, $12,847,000,000.
(B) Outlays, $11,347,000,000.
(C) New direct loan obligations, $11,047,000,000.
(D) New primary loan guarantee commitments, $6,365,000,000.
Fiscal year 1998:
(A) New budget authority, $13,225,000,000.
(B) Outlays, $13,189,000,000.
(C) New direct loan obligations, $9,620,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1997:
(A) New budget authority, $14,528,000,000.
(B) Outlays, $13,926,000,000.
(C) New direct loan obligations, $3,020,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 1996:
(A) New budget authority, $15,426,000,000.
(B) Outlays, $14,867,000,000.
(C) New direct loan obligations, $15,000,000.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2000:
(A) New budget authority, $270,654,000,000.
(B) Outlays, $271,973,000,000.
(C) New direct loan obligations, $13,000,000,000.
(D) New primary loan guarantee commitments, $37,000,000,000.

Fiscal year 2001:
(A) New budget authority, $277,036,000,000.
(B) Outlays, $276,619,000,000.
(C) New direct loan obligations, $145,000,000,000.
(D) New primary loan guarantee commitments, $37,000,000,000.

Fiscal year 2002:
(A) New budget authority, $290,634,000,000.
(B) Outlays, $289,068,000,000.
(C) New direct loan obligations, $170,000,000,000.
(D) New primary loan guarantee commitments, $37,000,000,000.

Fiscal year 2001:
(A) New budget authority, $11,482,000,000,000.
(B) Outlays, $11,557,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $11,482,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $12,121,000,000,000.
(B) Outlays, $12,241,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $10,718,000,000,000.
(B) Outlays, $10,689,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,429,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $9,718,000,000,000.
(B) Outlays, $9,701,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:
(A) New budget authority, $11,469,000,000,000.
(B) Outlays, $11,469,000,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

### Appropriations

**Fiscal Year 1998**:
- **Total New Budget Authority**: $1,360,500,000,000
- **Outlays**: $1,295,300,000,000

**Fiscal Year 1999**:
- **Total New Budget Authority**: $1,405,100,000,000
- **Outlays**: $1,340,800,000,000

**Fiscal Year 2000**:
- **Total New Budget Authority**: $6,089,400,000,000
- **Outlays**: $5,999,900,000,000

**Fiscal Year 2001**:
- **Total New Budget Authority**: $6,258,300,000,000
- **Outlays**: $6,168,900,000,000

**Fiscal Year 2002**:
- **Total New Budget Authority**: $6,404,100,000,000
- **Outlays**: $6,312,300,000,000

### Direct Loan Obligations
- **Fiscal Year 1998**: $33,039,000,000
- **Fiscal Year 1999**: $33,475,000,000
- **Fiscal Year 2000**: $37,096,000,000
- **Fiscal Year 2001**: $37,096,000,000
- **Fiscal Year 2002**: $37,096,000,000

### Primary Loan Guarantee Commitments
- **Fiscal Year 1998**: $315,472,000,000
- **Fiscal Year 1999**: $324,749,000,000
- **Fiscal Year 2000**: $326,124,000,000
- **Fiscal Year 2001**: $335,141,000,000
- **Fiscal Year 2002**: $335,141,000,000

### Title I—Levels and Amounts

#### SEC. 101. Recommended Levels and Amounts

The following budgetary levels are appropriate for the fiscal years 1998, 1999, 2000, 2001, and 2002:

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Total New Budget Authority</th>
<th>Outlays</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fiscal Year 1998</td>
<td>$1,360,500,000,000</td>
<td>$1,295,300,000,000</td>
</tr>
<tr>
<td>Fiscal Year 1999</td>
<td>$1,405,100,000,000</td>
<td>$1,340,800,000,000</td>
</tr>
<tr>
<td>Fiscal Year 2000</td>
<td>$6,089,400,000,000</td>
<td>$5,999,900,000,000</td>
</tr>
<tr>
<td>Fiscal Year 2001</td>
<td>$6,258,300,000,000</td>
<td>$6,168,900,000,000</td>
</tr>
<tr>
<td>Fiscal Year 2002</td>
<td>$6,404,100,000,000</td>
<td>$6,312,300,000,000</td>
</tr>
</tbody>
</table>

### Title II—Budgetary Restraints and Rulemaking

- **Sec. 201. Deficit and discretionary spending limits.**
- **Sec. 202. Adjustments to limits.**
- **Sec. 203. Tax reserve fund in the Senate.**
- **Sec. 204. Exercise of rulemaking powers.**

### Federal Revenues

- **Social Security Revenues**:
  - **Fiscal Year 1998**: $1,164,800,000,000
  - **Fiscal Year 1999**: $1,216,300,000,000
  - **Fiscal Year 2000**: $1,261,400,000,000
  - **Fiscal Year 2001**: $1,311,800,000,000
  - **Fiscal Year 2002**: $1,360,500,000,000

#### SEC. 102. Social Security

- **Social Security Trust Fund**:
  - **Fiscal Year 1998**: $1,213,000,000,000
  - **Fiscal Year 1999**: $1,267,600,000,000
  - **Fiscal Year 2000**: $1,327,900,000,000
  - **Fiscal Year 2001**: $1,389,300,000,000
  - **Fiscal Year 2002**: $1,452,900,000,000

- **Federal Old-Age and Survivors Insurance Trust Fund**:
  - **Fiscal Year 1998**: $1,482,825,000,000
  - **Fiscal Year 1999**: $1,536,800,000,000
  - **Fiscal Year 2000**: $1,591,400,000,000
  - **Fiscal Year 2001**: $1,647,500,000,000
  - **Fiscal Year 2002**: $1,705,600,000,000

### Major Functional Categories

- **Sec. 103. Major Functional Categories.
- **Sec. 104. Reconciliation.**
- **Sec. 105. Social Security.**
- **Sec. 204. Exercise of rulemaking powers.**

### Table of Contents

- **TABLE OF CONTENTS.** The table of contents for this concurrent resolution is as follows:
  - Sec. 1. Concurrent Resolution on the Budget for Fiscal Year 1998.
  - Sec. 101. Recommended Levels and Amounts.
  - Sec. 102. Social Security.
  - Sec. 103. Major Functional Categories.
  - Sec. 104. Reconciliation.

### Title III—Public Debt

- **Public Debt**:
  - **Fiscal Year 1998**: $1,200,000,000,000
  - **Fiscal Year 1999**: $1,260,000,000,000
  - **Fiscal Year 2000**: $1,320,000,000,000
  - **Fiscal Year 2001**: $1,380,000,000,000
  - **Fiscal Year 2002**: $1,440,000,000,000

### Title IV—Enforcement

- **Sec. 201. Deficit and discretionary spending limits.**
- **Sec. 202. Adjustments to limits.**
- **Sec. 203. Tax reserve fund in the Senate.**
- **Sec. 204. Exercise of rulemaking powers.**

### Title V—Budgetary Restraints and Rulemaking

- **Sec. 201. Deficit and discretionary spending limits.**
- **Sec. 202. Adjustments to limits.**
- **Sec. 203. Tax reserve fund in the Senate.**
- **Sec. 204. Exercise of rulemaking powers.**

### Title VI—Budgetary Restraints and Rulemaking

- **Sec. 201. Deficit and discretionary spending limits.**
- **Sec. 202. Adjustments to limits.**
- **Sec. 203. Tax reserve fund in the Senate.**
- **Sec. 204. Exercise of rulemaking powers.**

### Title VII—Budgetary Restraints and Rulemaking

- **Sec. 201. Deficit and discretionary spending limits.**
- **Sec. 202. Adjustments to limits.**
- **Sec. 203. Tax reserve fund in the Senate.**
- **Sec. 204. Exercise of rulemaking powers.**
### Fiscal year 1998:

- **(7) Commerce and Housing Credit (370):**
  - **(A) New budget authority:** $22,500,000,000.
  - **(B) Outlays:** $21,600,000,000.
  - **(C) New direct loan obligations:** $2,450,000,000.
  - **(D) New primary loan guarantee commitments:** $2,450,000,000.

### Fiscal year 1999:

- **(7) Commerce and Housing Credit (370):**
  - **(A) New budget authority:** $24,517,000,000.
  - **(B) Outlays:** $23,263,000,000.
  - **(C) New direct loan obligations:** $0.
  - **(D) New primary loan guarantee commitments:** $0.

### Fiscal year 2000:

- **(7) Commerce and Housing Credit (370):**
  - **(A) New budget authority:** $26,430,000,000.
  - **(B) Outlays:** $25,780,000,000.
  - **(C) New direct loan obligations:** $0.
  - **(D) New primary loan guarantee commitments:** $0.

### Fiscal year 2001:

- **(7) Commerce and Housing Credit (370):**
  - **(A) New budget authority:** $29,426,000,000.
  - **(B) Outlays:** $28,560,000,000.
  - **(C) New direct loan obligations:** $0.
  - **(D) New primary loan guarantee commitments:** $0.

### Fiscal year 2002:

- **(7) Commerce and Housing Credit (370):**
  - **(A) New budget authority:** $31,300,000,000.
  - **(B) Outlays:** $30,450,000,000.
  - **(C) New direct loan obligations:** $0.
  - **(D) New primary loan guarantee commitments:** $0.
(D) New primary loan guarantee commitments, $0.
Fiscal year 2002:
(A) New budget authority, $13,900,000,000.
(B) Outlays, $13,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1999:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1998:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1997:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1996:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1995:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1994:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1993:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1992:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1991:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1990:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1989:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1988:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1987:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1986:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1985:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1984:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1983:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1982:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1981:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1980:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.

 Fiscal year 1979:
(A) New budget authority, $11,900,000,000.
(B) Outlays, $11,900,000,000.
(C) New direct loan obligations, $0.
(D) New primary loan guarantee commitments, $0.
SEC. 104. RECONCILIATION.
(a) SENATE COMMITTEES.—Not later than June 13, 1996, the committee chairs in the Senate shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(1) COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that reduce the deficit $541,000,000 in fiscal year 1998 and $4,551,000,000 for the period of fiscal years 1998 through 2002.

(2) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that reduce the deficit $39,100,000,000 in fiscal year 1998 and $40,900,000,000 for the period of fiscal years 1998 through 2002.

(3) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that reduce the deficit $247,000,000 in fiscal year 1998 and $1,693,000,000 for the period of fiscal years 1998 through 2002.

(4) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $78,300,000,000 in fiscal year 1998 and $118,800,000,000 for the period of fiscal years 1998 through 2002.

(5) COMMITTEE ON GOVERNMENTAL AFFAIRS.—The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $39,100,000,000 in fiscal year 1998 and $78,300,000,000 for the period of fiscal years 1998 through 2002.

(6) COMMITTEE ON THE JUDICIARY.—The Senate Committee on the Judiciary shall report changes in laws within its jurisdiction that provide new budget authority, $0, and new direct loan obligations, $0, in fiscal year 1998 and $111,100,000,000 for the period of fiscal years 1998 through 2002.

(7) COMMITTEE ON VETERANS’ AFFAIRS.—The Senate Committee on Veterans’ Affairs shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $0 in fiscal year 1998 and $4,951,000,000 for the period of fiscal years 1998 through 2002.

(8) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that reduce the deficit $1,188,000,000 in fiscal year 1998 and $4,951,000,000 for the period of fiscal years 1998 through 2002.

(9) COMMITTEE ON VETERANS’ AFFAIRS.—The Senate Committee on Veterans’ Affairs shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $0 in fiscal year 1998 and $4,951,000,000 for the period of fiscal years 1998 through 2002.
the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this revised allocations to functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this resolution.

(c) REPORTING REvised AlLoCATions.—

The appropriate committee shall report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

SEC. 204. EXERCISE OF RULEMAKING POWERS.

The Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Represent- atives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitu- tional limitations applicable to rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

Mr. DOMENICI. Mr. President, as my friends on the other side of the aisle like to point out, the Congressional Budget Act includes a timetable for Congress to adopt a budget resolution that includes having the Senate Budget Committee report a budget resolution by April 1—it used to be May but it was moved back to April 1—and the conference with the House is supposed to be completed by April 15. What, of course, is not being said is the simple fact that since 1987, when we moved the completion date from May 15 to April 15—only once in those 11 years has the Congress ever met the April 15 deadline. Only three times has the Senate Budget Committee itself met the April 1 deadline. Obviously, we have not been in charge of that committee most of those years that the Democrat majority on the other side was in charge. Nonetheless, this year the Senate Budget Committee received the President’s budget on February 6. Incidentally, the President’s budget was delayed a few days this year also. Nevertheless, the committee has engaged in many hearings and meetings on the President’s budget. And only 17 days ago, on March 3, did the Congress receive the Congressional Budget Office’s preliminary analysis of the President’s budget. The final analysis is yet to be completed. And we all know that the Congressional Budget Office analysis of the President’s budget is based on our efforts to get this job done quickly. The President’s plan did not achieve balance according to this preliminary report in the year 2002 without relying on some awkward triggering mechanisms.

Yesterday, I, along with my fellow House Budget Committee Chairman and two ranking members, met with the President to discuss the budget before he left for Helsinki. We agreed that over the upcoming recess and early when we return we would work to identify and clarify our differences and attempt to seek some settlement of issues so that we might return together a bipartisan budget blueprint that will get us on track for 2002 and keep us on a path to balance well into the next century.

Our hope is that these meetings which will take place in the next 2 weeks will be followed by an intensive week of work on our return will yield a bipartisan budget blueprint with the President working with the Congress. I am not saying to the Senate that I am certain that will work, but I truly believe there is a probability that this could work. There has been a lot of behind-the-scenes work, and I think the issues are pretty well defined. Everybody wants to be rather specific in the solutions and that will take a little bit of time. As an exercise with the President yesterday, it is my fervent hope and I am committed to finding that common ground that will achieve the goal of not for anybody’s political gain but for the country’s economic future.

For those, however, it is obvious that the statutory deadline in the Senate will come while we are out on Easter recess and while staff is working on this budget process during the recess. As an exercise in the work of the Senate and the House, regardless of the outcome of these discussions, I am introducing two fully drafted budget resolutions that will be referred to the Budget Committee but will be automatically discharged from the committee on April 1 and placed back on the Senate Calendar. All of this occurs by statute which dictates that procedure. This is not unprecedented and certainly not unreasonable. My former Democratic chairman, Senator Majority Leader and the full Senate would be able to work our will even if the committee failed to report a resolution.

So I want to make it clear that I do not intend that the Budget Committee not report a budget resolution. That is clearly not my intention. I would not want to be vested with that result because we have always been able to report a budget resolution of the Budget Committee for better or for worse. It has always met its responsibilities, and I am certain we are going to do that again this year. But in the event we could not, either of these resolutions which I introduced today could be called off the calendar by the leader and the full Senate would then work its will on either of those as they are called up and made part of the Senate’s ordinary business.

This is a resolution that I am submitting today is simply the President’s budget submitted back in February and reestimated by the Congressional Budget Office which we now know did not reach balance in the year 2002 but resulted in a deficit of nearly $70 billion in that year. Obviously, I do not support this resolution. I am doubtful whether it would have much support of the Senate. And if it were called up by the Budget Committee, it must work to modify it significantly so that it did achieve balance and make these fundamental changes required to truly address the fiscal concerns that lie beyond 2002.

For those, however, I am introducing, I must say that I do not support it either and I do not think there would be a lot of Senators who would like the medicine provided in that budget resolution but, reluctantly, would be forced to vote for this if progress is not made in the next few weeks to modify the President’s proposal, and that might be the case.

This is my own resolution. It is not necessarily a Republican resolution. It is simply my effort to point out to all that the President’s budget resolution assumes the President’s limited entitlement savings. This second resolution, based on the Congressional Budget Office benchmark used to analyze the President’s budget, assumes a relativ- ely low stated savings over the next 5 years in Medicare of $100 billion and Medicaid of $9 billion.

This resolution assumes essentially the same defense spending pattern as the President had. The budget makes no assumptions about any changes to the Consumer Price Index and no changes to the Congressional Budget Office assumptions. This alternative budget resolution assumes net tax reductions over the next 5 years.

This resolution includes what might be thought of as a reverse trigger. It is based on the Congressional Budget Office economic forecast which is more conservative than the administra- tion’s forecast. It would allow for an adjustment to domestic spending and permit tax cuts, if the administration’s more optimistic economic assump- tions turn out to be right, more right than the Congressional Budget Office, and the targets toward a balanced budget are being met on a specified timetable. Then there would be a trigger in instead of a trigger out as the President proposed to make up for an unbalanced budget.

Finally, to achieve balance in 2002 with these assumptions, that portion of the Federal Government that represents annually appropriated accounts for most domestic agencies will be re- duced by $183 billion over the next 5 years—nearly three times the level that the President assumes in his budget. I estimate that these domestic spending programs would see nearly a 20 percent reduction in the level of spending over the next 5 years. And, of course, they all take the same cut. To the extent that you cause some to increase others would have to be reduced even more. There would be absolutely no room for
any new initiatives and many existing programs would obviously have to be terminated.

The message from this second resolution, if the goal is still to reach balance by 2002 using the conservative Congressional Budget Office forecasts, and unless the President is willing to do more than his budget now envisions in mandatory programs or entitlement programs, not only would we not be able to fund any new initiatives, there would be significant reductions in programs for crime fighting, transportation, housing and others and neither would tax cuts in the President’s budget or the congressional budget be possible.

Again, this is not a preferred option on my part. I certainly am not recommending this to anyone. I think we can do much better, and I think we will. I think we can achieve balance and provide some relief, tax relief, to hard-working American families. I believe we need to devote to devasting Government programs in the manner that I have just described.

But it will require courage in dealing with entitlement spending, and I am asking that the President join with us in a way to exhibit that courage. I am dedicated to making sure neither of these resolutions I have introduced today will ever need to be considered when we return from this recess, for they will not be considered if we introduce a balanced budget in the committee and report it to the Senate, for that will be the subject matter before the Senate at that time.

I believe that is entirely possible. If we cannot work something out with the President, which I am still hoping and indicating today there is a probability that we could, then we will work it out in the committee. One way or another it will come out of there, in my opinion perhaps bipartisan. Work is underway in that hopeful that a solid budget will be prepared that will enjoy the support of the President and the vast majority here in the Congress. I think we all understand the significance of these events this year, and I must say that I believe the President understands the significance.

I mean, it seems to me that if, in fact, we do not reach some accord with the President, he can look forward to a very frustrating couple of years, achieving little or nothing, not moving toward a balanced budget with any dispatch and any earnestness. And I am not sure that is good for him.

For Republicans, I am quite positive that we do not want 2 or 4 years of just constant turmoil, working by ourselves, assuming ourselves as Republicans, but rather should look forward to working this very important set of circumstances out in a bipartisan manner for the benefit of everyone.

Mr. President, my good friend, the distinguished chairman of the Budget Committee and the Senator from New Mexico, Senator Domenici, has just introduced and explained to the Senate two alternative budget resolutions.

He has, as a matter of courtesy, introduced the President’s budget without change, but with the analysis and economic impacts that it will cost money made by the Congressional Budget Office.

The Senator from New Mexico has also introduced a budget, a sparse and bare-bones budget, that he feels will be required to be responsible for the answer to the refusal of the President of the United States seriously to consider entitlement reform in his budget.

In order to bring the budget of the United States budget by the year 2002, in order to get the huge fiscal dividend of more than $75 billion that economists tell us will result from a balanced budget, in order to provide the economic opportunities and the increased income to Americans across the country that a balanced budget will provide, in order to end the practice of spending money today and sending the bills to our children and grandchildren, the Senator from New Mexico has introduced what does no more and no less in the way of entitlement reform than the inadequate proposals of the President of the United States, accepts the conservative projections of our economy made by our own Congressional Budget Office and, therefore, includes no room—and I emphasize no room, Mr. President—for overdue and deserved tax relief for the American people.

Even without any tax relief for the American people, this set of decisions requires reductions in domestic discretionary spending that are extremely drastic, more than twice those that either the President or most of us, as Republicans on the Budget Committee, feel to be appropriate. In addition to leaving no room for any tax relief, this budget has no room for any of the new initiatives proposed by the President himself.

The Senator from New Mexico has introduced this budget in this form to indicate precisely what the real world consequences of a failure to reform entitlement spending will be.

In addition, in order to end or to mute the debate with the President over whether the President’s far more rosy projections of our economy are correct as against those of the Congressional Budget Office, the proposal of the Senator from New Mexico says if, in fact, people behave in a better fashion than is projected by the Congressional Budget Office, half of those additional revenues will be devoted to tax relief and half to reducing the cuts in discretionary spending and only then will the other half of the policies proposed by the President, which is “spend now and then cut everything to ribbons if my projections don’t work out,” this proposal says, include even the more conservative projections now and spend and provide tax relief in the future if the President’s projections show themselves to be correct in whole or in part.”

The chairman of the Budget Committee did not present this proposal as his preferred budget, nor is it mine, nor is it, I am sure, that of the distinguished Presiding Officer at this point. It is simply what we are likely to be forced to do, I believe, in order to get significant reform in the entitlement programs which are growing both so rapidly as to crowd out all other spending and all tax relief, but also so rapidly as to threaten their own unsustainability.

What the Senator from New Mexico would prefer, what this Senator would prefer, would be an engagement, a budget resolution reflecting a strong bipartisan consensus in this body and the strong entitlement existence, the recommendations of the President of the United States himself that will require us to deal with entitlements. It will require us to look into the accuracy, or lack of accuracy, in the projections now and spend and provide tax relief, but also so rapidly as to threaten their own unsustainability.

As I began these remarks, there was on the floor the distinguished Senator from Rhode Island, Mr. Chafee, and there is now my friend from North Dakota, Senator Conrad. Each of them was a leader, one a Republican and one a Democrat, in a bipartisan budget proposal which was presented to this body almost a year ago on this floor. It courageously dealt with each one of these issues, dealt with them in a balanced fashion and dealt with them in a way that required us to deal with entitlements. It is only if we have a more equitably distributed budget that we can provide for tax relief and for necessary discretionary spending programs. Only then can we have a conversation with the President and with the Congress, and we can debate on exactly what tax relief should be granted to the American people and where additional discretionary funds may be spent.

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reached, but will reform them so that they are themselves secure and financially sound for the future, and so that what we do reflects the real world and not an artificial set of statistics.

So I came to the floor this evening, Mr. President, to thank the Senate for its thoughtful and his tremendous amount of work for the two resolutions that he has submitted, and to simply try to emphasize that with him I hope not that either of these proposals passes and becomes a guideline for the U.S. Senate and the Congress, but that they help us reach a goal that is not a Republican goal, not a Democratic goal, but a goal for all Americans.

Mr. DOMENICI. Would the Senator yield?

Mr. GORTON. The Senator would.

Mr. DOMENICI. First, let me note the presence of Senator CONRAD on the floor.

Might I just say, I do not think you heard any of my remarks since I returned from a couple of hours at the White House yesterday. And I have not had a chance to speak with the distinguished Senator. But we are busy, as of today, working on trying to reach our differences. There will be a lot of work the next 2 weeks. We are very hopeful 1 week after we return, with that week being spent by some of us getting down to the final stages of negotiations, that we will have something very constructive.

It is hard to say where it will all end up, but I can say the President approached it with a degree of not only earnestness, but a sense that we ought to go ahead and move and we ought to resolve some differences and get going. And I have expressed that here today, indicating that as these two budgets are only there in the event we cannot get a budget out of the Budget Committee, then we have to get something to work off of, and this is a rather normal way of doing it; but a budget resolution. Then the leader can call it up if we were to fail, and we have something to work on.

I simply think everybody knows there are a lot of possibilities of working a budget together this year because there are many Republicans and Democrats working seriously on ways to put something together that does some difficult things, that is not just a skirting over the difficulties, and is saying, let us do some things that have real long-term impact and as you, I say to the Senator, have so eloquently said, something we can all be proud of that really does the job.

That is my goal. I will try as best I can in the next few weeks. And, again, subject to the frailties of partisanship and things that can happen that you know nothing about, I said I thought there was a probability we could reach an agreement with the President, bipartisan, that many Senators would like.

SENATE CONCURRENT RESOLUTION 18—RELATIVE TO BELARUS

Mr. LAUTENBERG (for himself and Mr. D'AMATO) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 18

Whereas the seedlings of an independent and democratic Belarus which the efforts of Belarusian patriots have fought and died, are in danger of being swept away as a result of the policies of Belarus President Alaksandr Lukashenka and the efforts of Russian nationalist leaders to recreate the Soviet empire;

Whereas March 25th is the date that Belarusians throughout the world salute the sacrifices and bravery of the members of the Council of the Belarusian Democratic Republic, who in 1918 liberated their country from czarist rule;

Whereas the Russian Duma in March 1996 voted to declare the 1991 agreement dissolving the Soviet Union;

Whereas the referendum adopted in November 1996 expanded President Lukashenka's already considerable powers in violation of the Constitution of Belarus and basic democratic principles;

Whereas on January 16, 1996, the Chairman-in-Office of the Organization for the Security and Cooperation in Europe urged the government to enter into dialogue with the opposition and to ensure freedom of media and not restrict access to the media for members of the opposition;

Whereas on March 14, 1997, the United States Department of State issued a statement that calls on President Lukashenka's Government to exercise restraint and to observe the international obligations agreed to by it as a party to the Helsinki Final Act and other OSCE agreements which guarantee respect for human rights and fundamental freedoms.

The resolution recognizes March 25, 1917, as the anniversary of the proclamation of Belarusian independence. It calls on President Lukashenka and the Government to abide by the provisions of the Helsinki Final Act and other agreements of the Organization for the Security and Cooperation in Europe; to guarantee human rights and fundamental freedoms, including freedom of the press, assembly, and expression; and to guarantee separation of powers. The resolution states that it is the policy of the United States to support the people of Belarus in achieving independent statehood, promoting the rule of law, human rights, and fundamental freedoms, and assuring that Belarus has the opportunity to survive as an equal and full-fledged member-state among sovereign nations of the world.

As we approach the anniversary of Belarus' 1918 declaration of independence, we are reminded that Belarus is a nation with a proud history and traditions. It is appropriate that we remember the brave struggle of Belarusan patriots in 1918. At the same time, we must recognize that the struggle for national sovereignty and democratic freedoms continues today and is greatly threatened by the actions of the Lukashenka regime.

I urge my colleagues to approve this resolution.
WHEREAS the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fightin’ Gator football team;

WHEREAS in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy, was named to the head football coach to lead the team to the ever elusive “Year of the Gator”;

WHEREAS in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team;

WHEREAS the 1996 Fightin’ Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fightin’ Gator football team was recognized by the Associated Press and the Division I college football coaches as college football’s 1996 Division I national champions;

WHEREAS the 1996 Fightin’ Gators football team and coaches are to be commended for winning the school’s first Division I collegiate football national championship;

WHEREAS the 1996 Fightin’ Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 season;

WHEREAS the 1996 senior class of Fightin’ Gator football team should be commended for their leadership and their “team first” approach to win the 1996 Division I Collegiate football national championship, 4 consecutive Southeastern Conference football championships, and the most victories for a senior class in school history;

WHEREAS Danny Wuerffel, the team’s quarterback, field leader, and spiritual leader should be commended for winning numerous awards for his performance during the 1996 football season including the Heisman Trophy, which is presented yearly to college football’s most outstanding player, and the Draddy Scholarship Trophy, which is presented annually to the Nation’s premier football scholar athlete;

WHEREAS Lawrence Wright, the team’s strong safety, should be commended for winning the prestigious Jim Thorpe Award, which is presented yearly to college football’s best defensive back;

WHEREAS Reidel Anthony, one of the team’s clutch wide receivers, should be commended for being selected by both the Football Writers Association of America and the Associated Press to their respective college football All-American teams;

WHEREAS Ike Hilliard, another of the team’s deep threats at wide receiver, should be commended for being selected by the Walter Camp Football Foundation as a member of its college football All-American team;

WHEREAS the sons and daughters of the University of Florida join together in honoring Coach Spurrier and the 1996 Florida Fightin’ Gators for winning the 1996 NCAA Division I collegiate football championship; and

WHEREAS the 1996 season will be known for the realization of America’s former prisoners of war; and

WHEREAS thousands of members of the Armed Forces of the United States who served in such wars were captured andheld as prisoners of war; and

WHEREAS many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war, and those who were disabled, as a result of the treatment; and

WHEREAS the great sacrifices of the prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as “National Former Prisoner of War Recognition Day” in honor of the members of the Armed Forces of the United States who have been held as prisoners of war; and

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

Mr. SPECTER. Mr. President, I am pleased to submit a resolution which would recognize the service and dedication of America’s former prisoners of war (POW’s). The resolution would designate April 9, 1997, and April 9, 1998, as National Former Prisoner of War Recognition Day. April 9 is the anniversary of the fall of Bataan in 1942. On that day more Americans became POW’s than any other day in our history.

Every American who wears the uniform of our country makes a unique commitment of service and duty to our country and to our fellow citizens. Perhaps no American veterans have been called upon to honor their commitment to our country under circumstances more difficult than those endured by our former POW’s. For many, their experience was one of malnutrition, torture, and nonexistent medical care, combined with the burden of watching comrades die under terrible conditions.

Even under the best possible conditions, the POW experience places American service members in the position of being experiencing our Nation’s enemies for every scrap of food, every bandage, every human need. In such circumstances, the reward for treason, or even cooperation, is high. The penalty for resistance and loyalty is immediate, frequently painful and sometimes fatal. This resolution recognizes the sacrifice and loyalty of the POW’s who maintained their commitment of service to our country. In so doing, it helps fulfill the duty we have to former POW’s, derived from their faithful discharge of duty to our nation.

Mr. President, this resolution commemorates the service of former POW’s who sustained their commitment to our country under circumstances that few of us can imagine, and none would willingly endure. I ask this body to honor the memory of those who have already died and express our gratitude to those still alive.
COVERDELL (AND OTHERS) AMENDMENT NO. 25
Mr. COVERDELL (Mrs. Feinstein, Mr. Helms, Mrs. Hutchison, Mr. McCain, Mr. Domenici, Mr. Kerry, Mr. Dodd, Ms. Moseley-Braun, and Ms. Landrieu) proposed an amendment to the joint resolution (H.J. Res. 58) disapproving the certification of the President under section 490(b) of the Foreign Assistance Act of 1961 regarding foreign assistance for Mexico during fiscal year 1997; as follows:

Strike all after the resolving clause and insert the following:

SECTION 1. REPORT REQUIREMENT.
(a) Findings.—Congress makes the following findings:
(1) The abuse of illicit drugs in the United States results in 14,000 deaths per year, has inordinate social consequences for the United States, and exacts economic costs in excess of $67,000,000,000 per year to the American people.
(2) An estimated 12,800,000 Americans, representing all ethnic and socioeconomic groups, use illegal drugs, including 1,500,000 users of cocaine. Further, 10.9 percent of Americans between 12 and 17 years of age use illegal drugs, and one in American four children claim to have been offered illegal drugs in the last year. Americans spend approximately $49,000,000,000 per year on illegal drugs.
(3) There is a need to continue and intensify antidrug education efforts in the United States, particularly education directed at the young.
(4) Significant quantities of heroin, methamphetamine, and marijuana used in the United States are produced in Mexico, and a major portion of the cocaine used in the United States is imported into the United States.
(5) These drugs are moved illegally across the border between Mexico and the United States by major criminal organizations, which operate on both sides of that border and maintain the illegal flow of drugs into Mexico and the United States.
(6) There is evidence of significant corruption among officials of the Government of Mexico (including the police and military), including the arrest in February 1997 of General Jesus Gutierrez Rebollo, the head of the drug law enforcement agency of Mexico, for accepting bribes from senior leaders of the Mexican drug cartels. In 1996, the Attorney General of Mexico dismissed the case against General Gutierrez Rebollo, although some were rehired and some have been successfully prosecuted for corruption. In the United States, some law enforcement officials may also be affected by corruption.
(7) The success of efforts to control illicit drug trafficking depends on improved coordination and cooperation between Mexico and the United States, drug law enforcement agencies and other institutions responsible for activities affecting illicit drug production, traffic and abuse of drugs, particularly in the common border region.
(8) The Government of Mexico recognizes that it needs to develop the national financial regulatory and enforcement capabilities necessary to prevent money laundering in the banking and financial sectors of Mexico and has sought United States assistance in these areas.
(9) The Government of Mexico has recently approved, but has not implemented fully, new and more effective legislation against organized crime and money laundering.
(10) The Government of the United States and the Government of Mexico engaged in bilateral consideration of the problems of illicit drug production, trafficking, and abuse through the High Level Contact Group on Drug Control established in 1996.
(11) The President of Mexico has declared that drug trafficking is the number one threat to the national security of Mexico.
(12) In December 1996, the Government of the United States and the Government of Mexico joined with the governments of other countries in the Western Hemisphere to seek to eliminate all production, trafficking, and abuse of drugs and to prevent money laundering.
(13) Section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208) requires the Attorney General to increase the number of positions for full-time, active-duty patrol agents with the Immigration and Naturalization Service by 1,000 per year through the year 2001.
(14) The proposed budget of the President for fiscal year 1998 includes a request for 500 such agents.
(15) Drug cartels continue to operate with impunity in Mexico, and effective action needs to be taken against Mexican drug trafficking organizations, particularly the Juarez and Tijuana cartels.
(16) While Mexico has begun to extradite its citizens for the first time and has cooperated in arresting major international drug criminals, United States requests for extradition of Mexican nationals indicted in United States courts on drug-related charges have not been granted by the Government of Mexico.
(17) Cocaine seizures and arrests of drug traffickers in Mexico have dropped since 1992.
(18) United States law enforcement agents operating in Mexico along the United States border with Mexico must be allowed adequate protection.
(b) Sense of Congress.—It is the sense of Congress that
(A) the investigation and dismantlement of major drug trafficking organizations operating in Mexico along the United States border with Mexico must be allowed adequate protection;
(B) the development and strengthening of national drug interdiction and enforcement strategy; and
(C) deploying 1,000 additional active-duty, full-time patrol agents within the Immigration and Naturalization Service in fiscal year 1997 as required by section 101 of division C of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

MR. LOTT. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, March 20, 1997, at 9 a.m., in Senate chamber 328A to receive the testimony regarding agriculture research reauthorization.

THE PRESIDENT. Without objection, it is so ordered.
Mr. LOTT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet on Thursday, March 20, 1997, at 9:30 a.m., in room 345 Dirksen, to receive testimony from the President's Task Force on Ocean Shipping Reform.

Mr. LOTT. The Committee on Labor and Human Resources be authorized to hold an executive business meeting on Thursday, March 20, 1997, at 10:30 a.m., in room 226 of the Senate Dirksen Office Building.

Mr. LOTT. The Committee on Veterans' Affairs be authorized to meet on Thursday, March 20, 1997, at 10 a.m.

Mr. LOTT. The Committee on Labor and Human Resources be authorized to meet on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "fire-walls" that separate commercial banks and their securities affiliates.

Mr. LOTT. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive the legislative presentation of AMVETS, American Ex-Prisoners of War, Veterans of World War I, and the Vietnam Veterans of America. The hearing will be held on March 20, 1997, at 9:30 a.m., in room 345 of the Cannon House Office Building.

Mr. LOTT. The Committee on Labor and Human Resources be authorized to meet on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "fire-walls" that separate commercial banks and their securities affiliates.

Mr. LOTT. The Committee on Federal Relations of the Committee on Banking, Housing, and Urban Affairs be authorized to meet on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "fire-walls" that separate commercial banks and their securities affiliates.

Mr. LOTT. The Committee on Veterans' Affairs be authorized to meet on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "fire-walls" that separate commercial banks and their securities affiliates.

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Mr. LOTT. The Committee on Labor and Human Resources be authorized to meet on Thursday, March 20, 1997, to conduct a hearing to examine the Federal Reserve's proposal to modify the "fire-walls" that separate commercial banks and their securities affiliates.
As the only member of the European Union from the region, Greece has played a stabilizing role in the area and helped advance its neighbors' progress toward political and economic security. Greece's own efforts to continue the tradition of its early and its steadfast defense of democratic governance are critical to the promotion of democracy and stability in neighboring lands.

On March 25, Greece will commemorate the beginning of its quest for independence from centuries of Ottoman rule. After nearly 10 years of struggle against tremendous odds, the Greek people secured liberty for their homeland and reaffirmed the individual freedoms that are at the heart of their tradition.

From the beginning of their revolution, the Greeks had the support—both material and emotional—from a people who had only recently gained freedom for themselves, the Americans. And since then, our two nations have remained firmly united by shared beliefs in democratic principles and mutual understanding of the sacrifices entailed in establishing a republic.

As nations of cultured peoples were ardently interested in the ancients, America has drawn its political convictions from the ancient Greek ideals of liberty and citizenship. And just as we looked to the Greeks for inspiration, Greek patriots looked to the American Revolution for strength in the face of their own adversity.

Since their liberation, the Greek people have never taken their liberty for granted. In both World Wars, Greece never wavered from its commitment to the United States and the other allied nations to resist the forces of totalitarianism. Faced with a Communist uprising after World War II, Greece received support from President Truman and the American people, who helped the Greeks rebuild their war-ravaged nation.

Along with our shared values and traditions, Greece and America share a bond by virtue of those individuals who have remained devoted to the ideals of both countries. The Greek-American community, which maintains an especially close relationship with Greece, also consistently makes significant contributions to American culture, business, and history. Truly, it is a community that enriches our life at home while strengthening our ties abroad.

At this time last year, First Lady Hillary Clinton was in Greece. Her visit was followed by a meeting here in Washington between Greek Prime Minister Kostandinos Simitis and President Clinton, which laid the foundation for even stronger Greek-American relations in the future, and the broadening of existing ties into new arenas.

This year, I am proud to cosponsor Senate Resolution 56, designating March 25, 1997, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," and

I was gratified to see it approved by the Senate last week. Emotionally and philosophically, Greece has remained near the hearts and minds of Americans since this Nation was founded.

President James Monroe aptly summarized these feelings in 1822, observing: "Nothing fills the mind with the most exalted sentiments and arouses in us the best feelings of which our nature is susceptible." Mr. President, more than inspiration, Greece today has a very important role to play in the democratic progress of its own region. I have no doubt that Greece is up to the task.

THE 25TH ANNIVERSARY OF THE ESTABLISHMENT OF THE FIRST NUTRITION PROGRAM UNDER THE OLDER AMERICANS ACT

Mr. JEFFORDS. Mr. President, on Saturday, March 22, our Nation will commemorate the 25th anniversary of the establishment of the national nutrition programs under the Older Americans Act. Since their inception, these programs have benefited hundreds of thousands of our Nation's elderly by providing home-delivered and collective meals to those elderly facing serious challenges and limitations, including lack of access to food, physical and health limitations, and rural isolation.

The elderly's ability to obtain meals under the Older Americans Act was originally limited to meal sites, where groups of elderly can congregate for a meal during the day. Following several successful years of service, nutrition programs expanded to serve the home-bound elderly. Also, the parameters of the Older Americans Act were extended to allow Area Agencies on Aging to inform the elderly on how to obtain nutrition education, counseling, and screening. Nutritional services have proven to be critical for a significant population of the elderly who can continue to maintain a healthy, independent lifestyle.

Through this program, Vermont's five Area Agencies on Aging contract with various local nutrition service providers to expedite the delivery of meals to people's homes and continue to coordinate meals provided in congregate settings. Federal grants provided for our country's nutrition programs fill resource gaps where nonprofit and State organizations cannot.

Twenty-five years following the first meal served in the early 1970s, 242 million meals have been provided to 3.5 million of our Nation's elderly. Since taking office in the House of Representatives in 1975, I am proud to have been a steadfast supporter of these nutrition programs. They are a wonderful example of the Federal Government's successful contribution to improving the lives of our Nation's senior citizens.

Mr. FEINGOLD. Mr. President, I rise today to speak about the escalating costs of the United States involvement in Bosnia.

Recently, I asked the administration representatives to provide me an estimate of the expected cost to the United States taxpayer of the American operation in Bosnia.

Six-point-five billion dollars. To put that in perspective, we were originally told that the Bosnia mission would cost the United States taxpayer some $2 billion. Later, the estimate was revised to $3 billion. Now, it has risen to a staggering $6.5 billion.

Mr. President, the cost has now risen more than threefold since the original estimates we were given. That is equal to just over half of the entire foreign operations budget for fiscal 1997 which is about $12.2 billion.

Let me review what has happened here. In late 1995, when the administration negotiated the United States troop commitment, pursuant to the Dayton accords, the administration came to the Congress with an estimate for United States troop participation in the NATO Peace Implementation Force in Bosnia, commonly referred to as IFOR. According to information provided to my office by the Director of the Secretary of Defense (OSD), this initial estimate of $2 billion was generated using a force deployment model based on experience in Desert Storm and Somalia. Although the types of forces, deployment schedules, field conditions, and security situation had not been determined. Once troops were deployed to Bosnia, new information about the field conditions became available and pushed the original estimate up by about 50 percent.

I understand it, unexpected and adverse weather conditions, including major floods, further complicated the operation—delaying the establishment of land routes and altering placement of planned camp sites. According to the Defense Department, additional reserves were also required to back fill for troops that had been deployed to the region.

Further refinements of the cost estimates were again made in July 1996, when the Defense Department recognized the need for additional monies—to the tune of almost $310 million—for pulling out heavy armored forces and replacing them with military police, as well as additional communications requirements. A new total estimate of $3.2 billion for operations through the end of 1996—that is, for approximately one full year—was provided to congressional staff in July.

The cost of these refinements also helped throw the time line for the 1-year mission out of whack. So, no one could have really been surprised by the announcement
last October—just as the Congress was preparing to take its long recess—that the United States had decided to dispatch additional troops to Bosnia. The new deployment of an additional 5,000 troops was to be part of a new mission—now called SFOR, or NATO stabilization force—and would last 18 months, through June 1998.

The extension of the U.S. mission in the region, of course, required a new cost estimate. Using actual costs to date, projected force levels for fiscal year 1996, and expected operating costs, the Defense Department now says that total costs for the operation are expected to be $6,512,000,000.

Mr. President, when Congress was first consulted about the Bosnia operation back in 1995, I asked whether or not the United States would be able to withdraw troops from IFOR in December 1996, as the administration said then, even if the mission clearly had not been successful. I had misgivings at that time that the stated goal—ending the fighting and raising an infrastructure capable of supporting a durable peace—would be achievable in 12 months’ time. I foresaw a danger that conditions might remain so unsettled that we would then be argued that it would be folly—and waste—to withdraw on schedule.

My concerns and hesitations of October 1995 were only compounded by the October 1996 announcement that additional troops were being deployed to Bosnia, and compounded further in November 1996 when it became clear that the mission was being extended for an additional 18 months.

In my view, the handwriting has been on the wall for some time now. As many in this Chamber will recall, I was one of the few Members of Congress, and the only Democrat, to vote against the initial deployment of troops in 1996. At that time, I questioned the projections regarding the duration and cost of the mission.

What I feared then has happened. The United States continues to be drawn deeper into a situation from which we appear unable to extricate ourselves. The war in Vietnam was called a quagmire. We referred to continued United States troop deployment in Somalia as mission creep. I fear that the Bosnia operation presents the same dilemma. The need to have continued U.S. military presence on the ground. Despite an original estimate of $2 billion, that position is now moving closer and closer to $7 billion.

I recognize that the Bosnia mission has not been without some positive results. We can all be grateful that people are no longer dying en masse in Bosnia and that United States and troops from other nations are to be applauded for having largely succeeded in enforcing the military aspects of the Dayton accords. But successive delays in holding municipal elections and the lasting, and at-large, presence of indicted war criminals are continuing signs that the progress of American troop presence is transitory at best.

At the heart of the conflict is that the strategic political goals of the warring factions remain unchanged. Peace in that region appears to be achievable, unfortunately, only at the point of NATO arms.

Mr. President, I now fear that, come next June, when the SFOR mission is expected to end, and after we will have invested $6.5 billion, there is a real danger that we will be back at square one.

I hope that the lesson learned from Bosnia is that we should not make commitments of United States resources, be they military, humanitarian, or otherwise, without a candid assessment of the likely level and duration of the commitment. While it is clear that there were sound, military reasons for upp'ing the financial projections for U.S. participation in both IFOR and SFOR, I cannot believe that the original estimate was as candid of an assessment as we could have had, even that early in the process.

We are told that U.S. troops will finish their mission next June. But that the goals, including the warning tags in the SFOR area, are there that even this promise will be kept? I fear, as I did when the United States first committed 20,000 ground troops, that there is no easy way out of this situation. The cost of U.S. involvement continues to rise. And troops from my State and from throughout the Nation, continue to be deployed.

When will it end, Mr. President. When will it end?

At the very time we are straining hard to eliminate the Federal deficit, the dollars continue to pour out of our Treasury. The cost of this excursion goes on and on.

HATTIE H. HARRIS, A CREDIT TO OUR COUNTRY AND OUR FLAG

Mr. D’AMATO. Mr. President, one of our Nation’s most outstanding citizens Mayor Hattie H. Harris will celebrate her 100th birthday April 25, 1997, God willing. For nearly one century Hattie’s unimpeachable integrity, brilliant mind, and inconquerable spirit have dominated the scene in Rochester, NY. She courageously faces each challenge and perpetually accomplishes her tasks. Hattie consistently demonstrates that eternal youth rules father time. Mayor Hattie’s grueling schedule puts to shame some persons half her age.

Mayor Hattie’s unwavering devotion to assisting mankind is a tribute to democracy’s dream. She embraces every request to inspire mankind: whether it be delivering meals herself as chairperson of the 1995-6 Meals on Wheels Program, or awarding scholarships from the George Seibert Fund in her name, Hattie is an exemplary humanitarian. She has received accolades and honors too numerous to list here. Suffice it to say that Hattie has done many good things for good people and has been recognized for many of her efforts with awards, titles, honors, and tributes.

Hattie was born on April 25, 1897 in Rochester and has lived there all of her life. She had to leave school at the tender age of 11 and become a buttonhole maker to earn money and help support the family. As a child she never had a birthday party, her toys and clothes were second-hand. All her life she has done all she can so other children will get the chances she never did. She has endowed awards bearing her name at Monroe Community College, St. John Fisher College, Mary Cariola Children’s Center, and Camper Ship Fund for Needy Children.

Hattie is a wonderful human being whose outstanding lifelong humanitarian achievements deserve special recognition from each of us. Happy birthday Hattie Harris.

TRIBUTE TO JUDGE CHARLES R. RICHIE

Mr. HOLLINGS. Mr. President, I respectfully rise today and ask that we pay tribute to Judge Charles R. Richie.

Today the flags in front of the Thurgood Marshall Judicial Building fly at half-mast in mourning for Judge Richie. Charles Richie was a great man and a superlative judge. We join in the loss with his wife, Mardelle, and his sons, Charles and William. Judge Richie, despite his lofty status in the courts, always considered himself a man of the people and he consistently defied the labels of conservative and liberal. His public career began when he came to Washington as a legislative counsel to Representative Frances Payne Bolton from Ohio. Later he was appointed general counsel for the Maryland Public Service Commission during Spiro Agnew’s last years as Governor. He was appointed to the Federal bench by President Nixon in 1971.

In 1979, the American Trial Lawyers Association voted Judge Richie Outstanding Federal Trial Judge. He was one of the busiest judges in the Washington U.S. District Court and ran a tight ship in the courtroom. He was a firm believer in swift justice and had the most up-to-date docket on the circuit.

Over the course of his career, Richie handed down many landmark decisions, including one he loved to recount—his 1976 ruling that called in the California tuna ships for violation of the Marine Mammal Protection Act. In that same year he also became the first judge to hold that employees who are sexually harassed by their superiors can file under title VII of the Civil Rights Act of 1964.

Ever willing to take on the Government on behalf of the little man, in 1961, Richie awarded a million dollars for $324 women in the sex discrimination suit against the Government Printing Office, then the largest amount ever.
awarded in a sex discrimination case. Perhaps the case most indicative of his feeling for the citizens though was his dismissal of charges against people camped in protest in Lafayette “Protest” Park. He said they were exercising their rights under the First Amendment.

Judge Richey’s courtesy in the court was legendary. He used gender-neutral terms when discussing certain statutes mentioning only men. Despite his own strict Methodist upbringing, he gave witnesses options on oaths containing no religious references and dispensing with the Gideon Bible. One said of him, “I judge Richey is tough as shoe leather, but fair minded almost to a fault.”

We shall all miss this man. He leaves behind an unparalleled judicial legacy and record of public service.

**INTERNAL REVENUE SERVICE ACCOUNTABILITY ACT**

Mr. HAGEL. Mr. President, the American people are fed up with the IRS and its tactics. They are calling for change. Today I have taken a first step to help. I am joining as a cosponsor again to reintroduce the Internal Revenue Service Accountability Act, which was introduced by my distinguished colleague from Georgia, Senator COVERDELL.

The IRS is in disarray from its top management all the way down to its field offices, and American taxpayers are paying the price for that disarray—a price in inefficiency, in inconvenience, in intrusiveness, and even in harassment. It is not fair for American taxpayers to fund an agency that is wasting their money and time. It is time to clean up the IRS. It is time for a change.

The IRS Accountability Act puts a tight rein on the IRS and its agents. It makes IRS agents personally accountable for actions and subjects them to criminal prosecution if they abuse their authority by harassing taxpayers. The bill makes it a crime to release information from tax returns without proper authority. It restricts the ability of the IRS to conduct audits. It ensures that the IRS will abide by court decisions against it. And it ensures that taxpayers have a chance to correct any honest mistakes on their tax forms without incurring a penalty.

American taxpayers are honest, hard workers. They do not deserve an overzealous agency with its agents tormenting and harassing them. It is time to make the IRS more accountable for its actions. S. 365, the Internal Revenue Service Accountability Act, is an important first step in that direction.

This bill is an important first step toward protecting Americans from a Tax Code that is unfair, restrictive, punitive, and complicated. We need to do more. We need to completely overhaul our Tax Code and make it flatter, fairer, and simpler. We need to look at all options as we tackle this issue, but we must make sure that a new Tax Code eases the burden for families and businesses and encourages, rather than inhibits, growth, investment, and savings. That should be our top priority.

That is our task for the coming months and years. But until we can successfully meet that greater challenge, the very least we can do for the American taxpayer is to get the IRS cleaned up and off the taxpayers’ backs.

The time has come for tax relief. The people of the United States have had enough. The government has raised less regulation, and less taxes. And they want less hassle and harassment from their Government. The IRS Accountability Act is a good start. As we approach tax day, April 15, it is only appropriate that we take a bold step toward fixing the IRS.

The time for change is now.

THE 50TH ANNIVERSARY OF CENTRALIA, IL, MINING DISASTER

Mr. DURBIN. Mr. President, I rise today to memorialize 111 miners from the town of Centralia, IL, who died nearly 50 years ago on March 25, 1947, in one of the worst coal mining disasters in U.S. history.

On that day, 142 men were working in mine No. 5 of the Centralia Coal Co. Only a few minutes remained before the end of their shift when there was an explosion in the mine. The blast occurred at 3:20 p.m. below the town of Wamac on the southern edge of Centralia, leaving debris and poisonous fumes in its wake.

Thirty-one men managed to escape, but 111 of their coworkers were trapped 540 feet underground. For 4 days, rescuers worked to save them, but they could not reach the miners in time. In a tragic discovery, the searchers found notes next to some of the miners' bodies that they had written on scraps of paper and cardboard as they lay dying. "Tell baby and my loving boy good-bye and I am feeling weak. Lots of love." Together, the men left behind 99 widows and 76 children under the age of 18.

But the real tragedy for Centralia was that the disaster could have been prevented. As early as 1942—and continuing right up to the time of the explosion—State and Federal inspectors warned about dangerous conditions at the mine. In fact, when the blast occurred, the latest State and Federal reports were thumbtacked to a bulletin board outside the mine's wash house.

While the inspectors found numerous safety violations, they were particularly concerned about the bumpy coal dust which was so thick that it would collect in the miners' shoes as they worked. The miners themselves knew how dangerous the dust could be, and more than a year before the disaster, four of them sent a letter to Illinois Gov. Dwight H. Green warning that it might explode one day. "This is a plea to you," they wrote, "to please save our lives, to please make the Department of Mines and Minerals enforce the laws at the No. 5 mine, before we have a dust explosion."

But neither the governor nor Federal officials nor the Centralia Coal Co. took any significant action. Investigators later determined that one of the main causes of the explosion was the dust the miners had feared.

Three days after the disaster, Governor Green ordered State inspectors to close all unsafe coal mines. In Washington, Congress held hearings and finally launched an investigation. But for Centralia, IL, it was too late.

As we near the 50th anniversary of this disaster, our thoughts are with the people of Centralia and the families of those who lost their lives. We are reminded that too often, we react to disasters rather than taking steps to prevent them.

The greatest tribute we can give to the Centralia mine explosion victims is to ensure that critical worker safety protections are not weakened or destroyed. We must be diligent in our efforts to make sure workers don’t risk their lives simply by going to work.

JUNETEENTH INDEPENDENCE DAY

Mr. ABRAHAM. Mr. President, I rise today to pledge my support for the commemoration of June 19 as "Juneteenth Independence Day." This day marks a significant occurrence in American history, a day every American should reflect upon and remember.

Mr. President, June 19 is a day when all African-Americans were finally liberated from the bondage of slave-owners. Although President Lincoln signed the revolutionary Emancipation Proclamation on January 1, 1863, many slaves were still denied their lawful freedom. It was not until June 19, 1865, that all slaveowners officially recognized and abided by the dictates of the Emancipation Proclamation.

For too many years, African-Americans were denied basic rights and liberties that today all Americans enjoy. I stand here today, 132 years later, to express my view that this shameful aspect of American history should never be forgotten. For these reasons, I proudly endorse Senate Resolution 11. This significant legislative endeavor reminds every citizen of the unspeakable horrors to which many of our fellow Americans were subjected. It is my hope that every June 19 from this year forward will be celebrated as "Juneteenth Independence Day." It is also my hope that this day will serve as a reminder, of our past and a bridge all of us can use to overcome our differences and unite as Americans.

Mr. President, I believe commemoration of "Juneteenth Independence Day" warrants support from all members of the U.S. Senate. As a cosponsor of Senate Resolution 11, I urge my colleagues to join me in officially recognizing this important day.
LET’S DEBATE THE CHEMICAL WEAPONS CONVENTION

Mr. FEINGOLD. Mr. President, I rise today to add my voice to those who have spoken about the need to bring the Chemical Weapons Convention [CWC] to the Senate floor for debate at the earliest possible date. As everyone in this body knows, the U.S. Senate must ratify the CWC by April 29, 1997, in order for the United States to become an original party to the convention.

To date, 70 countries have ratified the CWC, and another 161 countries are signatories. The United States has taken a leadership role throughout the negotiations surrounding this treaty, and yet, with time running out, the Senate has not voted on the document that so many Americans have helped to craft.

Time is of the essence in this debate for several reasons. One reason is, of course, the April 29 deadline by when the U.S. Senate must ratify this treaty so that the United States may be a full participant in the Organization for the Prohibition of Chemical Weapons (OPCW), the governing body that will have the responsibility for deciding the terms for the implementation of the CWC.

A second reason is the constitutional responsibility of the Senate to provide its advice and consent on all treaties signed by the President. This treaty was signed by President Bush in January 1993, and was submitted to the Senate by President Clinton in November of this year. Unfortunately, the Senate has not yet fulfilled its responsibility with respect to this treaty.

A third reason, and what I believe is one of the most important, is the need for adequate time for debate of this treaty and its implications for the United States prior to the April 29 deadline for ratification. Many have expressed concern over various provisions in the CWC. Senators should have the opportunity to debate these concerns and how they can impact the lives of Americans.

As a member of the Senate Committee on Foreign Relations, I have had the opportunity to participate in hearings on this issue. In all of the hearings and discussions over the effects of this treaty, two things have been made crystal clear: First, the CWC is not perfect, and second, the CWC is the best avenue available for beginning down the road to the eventual elimination of chemical weapons.

There are real flaws, as we all recognize, with the verifiability of the CWC. There will be cheating and evasions and attempts to obey the letter but not the spirit of the treaty. But most of the responsible players on the international stage will recognize that through the CWC the world has spoken, and firmly rejected chemical weapons.

The CWC was laboriously crafted over three decades to meet the security and economic interests of states parties. The United States was at the forefront of that effort; the treaty reflects U.S. needs and has the blessing and enthusiastic support of our defense and business communities.

Can the treaty be improved? Of course. But the CWC has a provision for amendment after it comes into force. I would hope that the United States would be at the head of efforts to make the treaty more effective after a period to test its utility. We have the technological means and economic weight to make it so. But only if we are a party to the treaty. And to become a party to the treaty, the U.S. Senate must perform its constitutionally mandated function of debate and ratification before April 29.

Mr. President, it is unfortunate that the Chemical Weapons Convention is being held hostage to other, unrelated matters. Time is of the essence, Mr. President, and ratification before April 29 is critically mandated function of debate and ratification before April 29.

In closing, this treaty should be fully and carefully debated by the U.S. Senate at the earliest possible date, not at the 11th hour when the clock is ticking on our ability to ensure that the United States is an active participant in future revisions to the CWC. The American people deserve no less.

Another Bad One

Mr. LEAHY. Mr. President, I ask unanimous consent that a copy of the attached editorial from the Vermont newspaper The Time Argus, titled “Another Bad One,” and dated March 19, 1997, be printed in the RECORD.

The editorial follows:

“ANOTHER BAD ONE”

The arguments against amending the U.S. Constitution over campaign financing are the same as the arguments against a balanced budget amendment or a prohibition amendment. It is a movement to target specific evils by way of the Constitution.

The U.S. Senate wisely rejected a campaign finance amendment by a wide margin on Tuesday. States which have encumbered their constitutions with numerous amendments have found their documents have become just that: encumbrances.

A constitutional amendment will not stop candidates from getting money, and it will not stop people who want to influence candidates by promoting, supporting, or opposing that influence. You might as well have an amendment that said: “Candidates for public office shall not spend money in their quest for the office.”

Then there would be a court case to argue whether a candidate who filled his automobile gas tank while on the way to a campaign forum had “spent money in his quest” for the office.

A constitutional amendment against bank robbery would not stop the number of bank robberies. There is a law against bank robbery, and in fact Congress finally got the federal government into the investigations by making it possible for the FBI to enter banks immediately. And something similar relating to campaign financing would be the proper course of action, instead of an amendment to the Constitution. A congressional statute putting greater controls over campaigns would have the same effect as an amendment without the permanent encumbrance of the amendment on matters unforeseen.

In some cases the courts have ruled that specific laws limiting contribution limits in interstate campaign financing are permissible, even though a congressional statute to impose some sort of constraint on money without interfering with speech.

The huge sums spent on campaigns may very well be considered immoral, but history has given ample illustrations of the futility of trying to legislate morality. Prohibition is the only recently tried thing that stopped people from consuming alcohol? No. In fact, it helped increase the power of law-breaking organizations geared to providing illicit substances, a baneful influence that is still with us.

The present spotlight in Washington on campaign contributions and the methods of solicitation for such funds makes it easy for people to think an amendment to the Constitution would be an appropriate response. But however laudatory such actions have been, they certainly have not changed anything. Yet, there will be no change merely by passing an amendment that says, in effect: “Thou shalt not give money. Thou shalt not borrow. Thou shalt not lend money.”

The existing amendments to the U.S. Constitution that come closest to addressing a specific subject are the 13th and 14th, which abolished slavery and codified equal protection under the law. But even they were not so specific that they can’t be applied to races other than African-Americans, and questions of equal protection arise even today.

Efforts for a balanced budget amendment are an abdication of congressional responsibility. Efforts for an amendment on campaign financing constitute a similar abdication.

EXPRESSING CONCERNS ABOUT AIRPORT IMPROVEMENT BUDGET

Mr. HOLLINGS. Mr. President, I want to express my concern with the President’s proposal for the budget of the Federal Aviation Administration. We all know how important aviation is to our economy, contributing more than $770 billion in direct and indirect benefits. In South Carolina, travel and tourism is the No. 1 industry, accounting for almost 100,000 jobs. The industry is fueled by the aviation industry.

The President has talked a lot about a bridge to the 21st century. Bridges and highway projects are critical parts of our Nation’s infrastructure. But so are airports. I have an airport in almost every county of my State. We have a strong airport system, but one that needs money to rebuild and expand. The $1 billion proposal falls far short of what is needed. It is a shortsighted approach to meeting our country’s needs. It also undoes a deal that we had last year with the administration. I am certain that the new Secretary wants to make sure that our Nation’s infrastructure needs are addressed, and I want to work with him on our regional airports.

The President has proposed a $1 billion airport improvement program. The airport community claims that nationwide it needs almost $10 billion per
year. In my State alone, money for airports is critically needed for small and large projects. Without adequate funding, these airports cannot expand and cannot begin to attract new businesses. I can cite many examples of this, but one that comes to mind is the Greenville-Spartanburg Airport project. Without an AIP grant, the runway would not have been lengthened. It helped BMW decide to locate in South Carolina. Airport grants mean business opportunities.

YALE PUBLIC SERVICE AWARDS

- Mr. MOYNIHAN. Mr. President, I rise today to salute five extraordinary New Yorkers who, on Monday April 7, 1997, will receive the Public Service Award of the Yale Alumni Association of Metropolitan New York (YAMMY). These individuals have demonstrated both extraordinary leadership and a deep commitment to public service. Each honoree brilliantly exemplifies the motto of the Empire State: Excelsior.

I thank you, Mr. President, and I ask that the text of YAMMY’s citation of the achievements of the respective honorees be printed in the RECORD.

The Text Follows:

THE YALE ALUMNI ASSOCIATION OF METROPOLITAN NEW YORK 1997 PUBLIC SERVICE AWARDS, APRIL 7, 1997

THE HONOREES

Peter Rosen, M.F.A., 1968, has produced an directed over 50 full-length films and television programs. His subjects range from student action at Yale in 1970 (his first film, titled Bright College Years) to I.M. Pei to Carnegie Hall’s 100th anniversary, all of which have aired on PBS.

Kimberly Nelson, B.A., 1988, is Team Program Director at Creative Arts Workshop, which provides job and leadership training for at-risk teens. She served as a coordinator in the college. Sarah Pettit, B.A., 1988, is Editor of OUT, America’s largest circulation gay and lesbian magazine. At Yale, she ran the lesbian and gay Co-op. She also helped amend the University’s non-discrimination policy to include gender as a protected category. She makes frequent television appearances.

Jenifer Hadiyia, B.A., 1995, is currently enrolled in a Masters of Public Policy and Administration program at Columbia University. She is also an intern at Planned Parenthood. A coordinator for the Women’s Center while at Yale, she helped organize the 25th anniversary celebration of coeducation.

TAX CUTS

Mr. FEINGOLD. Mr. President, the Speaker of the other body made a remarkable statement earlier this week. He argued that Congress should wait on cutting taxes, and instead make balancing the budget our highest priority. This is a significant and extremely positive development in the fight for a balanced Federal budget, and I congratulate the Speaker for making that statement in the face of significant opposition within his own party.

Mr. President, Speaker’s comments are indeed welcome. They follow the comments made this week by the chairman of the Senate Budget Committee (Mr. DOMENICI), who informally told the press to try new budget programs outline of a possible budget agreement. Mr. President, I cannot emphasize enough how important the comments of the chairman were. They came after several days of highly partisan comments on the budget, from both parties and in both houses. Often, without leadership, it is the nature of some to retreat to the security of partisan politics—an easy path that leads us further and further apart. To his great credit, Chairman DOMENICI recognized the forces of partisanship, and offered an alternative path. Mr. President, his path offers us a real chance for a bipartisan budget agreement, and I want to take this occasion to commend my chairman for his courage. I am pleased to stand with the Budget Committee, and deeply honored to serve with the senior Senator from New Mexico.

Mr. President, the Speaker is of course absolutely right on the mark. As dearly as many of us would like to support tax cuts, our first priority must be to balance the budget. This is a position I took when I first ran for the Senate, and one I hold today.

Major tax cuts undercut our ability to craft a politically sustainable balanced budget plan, as was so clearly demonstrated during the 104th Congress. As I have noted before, both parties are at fault. We cannot afford either the President’s tax cuts or the Congress’s deficit cuts.

In November of 1994, I faulted the so-called Contract With America tax cuts—called the crown jewel of the Contract With America at the time. A month later, the day after the President proposed his own set of tax cuts, I took his proposal to task as well.

Mr. President, we dodged a bullet during the 104th Congress. Despite formal support for a tax cut in some form from both the White House and the majority party, we escaped without doing serious damage to the progress we made in reducing the deficit. Regrettably, we did not build significantly on the work accomplished in the 103d Congress to reduce the deficit. Though we made some modest strides, the bulk of the budget that remained at the end of 1994 must still be done.

Mr. President, major tax cuts make the difficult task of enacting a balanced budget impossible. Most obviously, major tax cuts dig the hole even deeper and, as a result, the major tax cuts also pose a significant and very real political problem, and the Speaker’s comments about how including tax cuts leaves a balanced budget plan open to criticism are absolutely correct. There is no painless solution to the deficit.

The fundamental premise of any plan to balance the budget rests on the will of the Nation, but we cannot expect the Nation to embrace a plan which calls for some to sacrifice while providing tax cuts for others. Such a plan would not be sustainable, as was demonstrated so clearly during the 104th Congress. I cannot even enact a balance budget plan if that plan is seen broadly as spreading sacrifice fairly. Mr. President, no partisan plan has any hope of rallying broad-based public support.

The only way we will enact a balanced budget plan, and sustain it through the several years it will take to achieve balance, is through a truly bipartisan effort. Thanks to the leadership of Chairman DOMENICI, and with the support of the Speaker, we have a chance to build such a plan. I hope my colleagues will not squander the opportunity they have given us at some personal political cost to themselves.

I look forward to working with Chairman DOMENICI on the Budget Committee to fashion the beginning of a budget agreement. As I have indicated to him in the committee, there are several budget issues that are especially important to me, but I remain flexible on all aspects of the budget in trying to reach a bipartisan agreement. Mr. President, I applaud the Speaker for change of heart, and especially commend Chairman DOMENICI for his courage and leadership.

TRIBUTE TO JACK G. JUSTUS

- Mr. BUMPERS. Mr. President, I rise today to pay tribute to a fellow Arkansan who is soon to retire after a long and distinguished career in Arkansas agriculture.

Jack G. Justus has devoted 44 years of service to Arkansas agriculture as a county agricultural agent and as a staff member of the Arkansas Farm Bureau. Under Jack’s leadership as executive vice president for the past 15 years, the Arkansas Farm Bureau has nearly doubled in size to more than 200,000 members.

“Progressive Farmer” honored Jack Justus as its 1996 Man of the Year in Service to Agriculture. Throughout his career, Jack has served on numerous boards and commissions, including the Future Farmers of America Foundation, the 4-H Club Foundation, Arkansas State Fair, and other groups committed to the improvement of life for farm youth and the rural community.

As vice president, on March 7, 1997, Jack Justus will retire from his administrative duties at the Farm Bureau. This native Arkansan, life-long resident, product of our State’s educational system, and dedicated public servant is certainly deserving of a long and satisfying retirement.

Our State has benefited greatly from Jack Justus’ stewardship and I know I
join literally thousands from all across our State who join me in saying thank you.

CITY OF HACKENSACK

Mr. TORRICELLI. Mr. President, I rise today to inform the Senate that Americans are still committed to economic progress and that local government is not powerless in the face of economic challenges. In my home State of New Jersey, the city of Hackensack has shown that dedication to solving long-term economic problems can be accomplished with practical leadership utilizing innovative solutions.

Over the past few years, the city of Hackensack had seen its downtown population decrease and its economic stability put at risk. The people of Hackensack were not to be deterred from making their city the best it could be. So, instead of accepting an unsatisfying economic fate, Hackensack’s mayor and city council called together local business leaders to establish the Hackensack Economic Development Commission. This pioneering commission set out to study the city’s economic climate and propose steps toward its continuing development.

This study, conducted by the Eagleton Institute’s Center for Public Interest Polling at Rutgers University, is the first of its kind by a municipality in our State. The city’s initiative and creativity in utilizing these research tools should be commended. Hackensack’s climate study is unique in that it reached a broad range of people, over 5,000 residents and workers of the Hackensack area. The wide scope and depth of the study is a model for similarly situated cities in New Jersey.

Yet, more than a model for New Jersey, the efforts of the commission serve as a model for the entire country to prove that with solid community commitment, ongoing economic growth can be a reality. Thus, I ask that you join me in recognizing the city of Hackensack in its devotion to an improved economic development and commend its foresight and planning to other cities across the Nation.

NATIONAL AGRICULTURE DAY—MARCH 20, 1997

Mr. DURBIN. Mr. President, I arise today to pay tribute to America’s farm families and those involved, both directly and indirectly, in production agriculture.

Today, is National Agriculture Day. It is an opportunity for all of America to pause, reflect, and be thankful that we enjoy the safest and most abundant food supply in the world. But, this doesn’t happen by accident.

Every farm family in Illinois and across the Nation go about the business of producing the food and fiber that our State and our Nation needs to survive. To them I say, thank you.

Mr. President, I am honored to represent the State of Illinois. It is the home of some of the most productive farmland in the world. Illinois farms produce corn, soybeans, pork, beef, wheat, dairy products, and many specialty crops. Our agribusiness community is doing a great job. The problem is how to help provide answers to some of the most common as well as the most complex agricultural questions we know.

Over the last few months, I’ve traveled my home State and talked to farmers and others involved in production agriculture. The message from my fellow Illinoisans has been clear—health insurance affordability and economic opportunity are priority issues.

I believe that a 100-percent tax deduction for health insurance premiums is one of the most basic issues to farm families across this country. Because of the high cost of health insurance, especially individually purchased insurance, lack of affordability is a growing concern. Health insurance is particularly important to those involved in production agriculture because farming is one of the more dangerous occupations. Therefore, it is essential that farmers have access to quality health care and that they be covered by health insurance.

To help with affordability of health insurance, I plan to introduce legislation that would allow farmers and other self-employed individuals to pay for their health insurance premiums with pretax dollars. When it comes to health insurance, farmers and small business owners deserve to be treated the same as corporations. Corporations are allowed to take an income tax deduction for the full cost of the health insurance premiums that they pay.

The self-employed, including farmers, can only deduct 40 percent of their premiums this year. My bill would allow farmers to deduct 100 percent of their health insurance premiums from their taxable income this year and every year thereafter. A 100-percent deduction for health insurance premiums can reduce the net cost of health insurance for a farm family by as much as $500 to $1,000 annually. This savings can make the difference between whether health insurance is affordable or price-prohibitive. The affordability of quality health insurance is vitally important to Illinois’ and America’s farm families.

Mr. President, another important issue for rural America is finding new or alternative uses for our agricultural products to help ensure economic opportunity for farm families. Ethanol, a renewable fuel made from corn, is one of the best alternative use opportunities that exists today.

Last week the Government Accounting Office released a report, Alcohol Fuels: Tax Incentives Have Had Little Impact on ‘Ethanol and Energy Security.’ Unfortunately, this report misses the point. That point is simple: Ethanol has a significant economic, environmental, and energy security impact in this country; one that past GAO reports have clearly recognized. The effect on air quality and energy security would be larger if more of our Nation’s gasoline contained ethanol.

Ethanol should not be a poster child for Government handouts or corporate profits. The government’s 5.4 cents-per-gallon reduction in the gasolin e excise tax for 10 percent ethanol blends—is not claimed by major ethanol-producing corporations. The incentive is claimed by thousands of gasoline marketers—mostly independent small businesses—that sell ethanol blends all across the country. In other words, the incentive is claimed at corner gas stations, not in corporate boardrooms.

On a day like today, it is important to point out the benefits of ethanol. The industry is responsible, both directly and indirectly, for more than 40,000 American jobs. Ethanol contributes more than $5.6 billion annually to our economy. Five percent of our Nation’s corn crop goes to ethanol production. Corn growers whose incomes increased by more than $1.2 billion because of ethanol. This year over 1.4 billion gallons of ethanol will be produced. Thanks to the reformulated gasoline program, toxic air pollutants like benzene and carbon monoxide have fallen substantially. And, ethanol contributes over $2 billion annually to the U.S. trade balance.

Finally, Mr. President, in order for our country to continue to have a safe and abundant food supply we must support agricultural research. This year, we have an opportunity to reauthorize the research title of the farm bill. Congressional reauthorization will establish national policy for important agricultural research into the 21st century. In these times of constrained Federal budgets, it is vitally important to maintain an effective system for agricultural research.

Agriculture-related research in this country is currently conducted at over 100 ARS labs, including Peoria, IL, and 100 land grant institutions, including the University of Illinois. Unfortunately, the United State ranks behind Japan, the United Kingdom, France, and Germany in the percentage of total research and development funding that is dedicated to agriculture. From soybean diseases to water quality to biotechnology, agricultural research plays an important part in the safety and quality of our food and fiber system.

Mr. President, last year Congress passed a comprehensive reauthorization of most farm programs. This year we need to continue that commitment by ensuring affordable health care and deductibility of premiums for farmers and the self-employed, promoting the use of alternative agricultural products like ethanol, and supporting the American agriculture system by continuing a strong and active investment in research.

I look forward to working with my colleagues on both sides of the aisle.

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and from rural and urban areas to ensure that American agriculture remains a model of quality and efficiency for all nations.

Nomination of Merrick Garland

- Mr. FAIRCLOTH. Mr. President, yesterday I voted “no” on the nomination of Merrick Garland to the U.S. Court of Appeals for the District of Columbia Circuit.

In so voting, I take no position on the personal qualifications of Mr. Garland to be a Federal appeals court judge. What I do take a position on is that the vacant 12th seat on the U.S. Court of Appeals for the District of Columbia Circuit does not need to be filled. Senator Chuck Grassley, chairman of the Senate Judiciary Committee’s Subcommittee on Administrative Oversight and the Courts, has examined this issue thoroughly, and has determined that the court’s workload does not justify the existence of the 12th seat. Last Congress, Senator Grassley introduced legislation to abolish this unneeded seat. By proceeding to renominate Mr. Garland, President Clinton has flatly ignored this uncontradicted factual record.

I commend Senator Grassley for his important work on this matter, as well as Senator Jeff Sessions, who has also emphasized the importance of this matter. With the Federal deficit at an all time high, we should always be vigilant in looking for all opportunities to cut wasteful government spending. Other than one is such opportunity. After all, each unnecessary circuit judge and his or her staff cost the taxpayer at least $1 million a year.

Lastly, our vote yesterday is an important vote on a matter, since it marks the beginning of the Senate’s new commitment to hold rollcall votes on all judicial nominees. This is a policy change which I had urged on my Republican colleagues by letter of January 8, 1997, to the Senate. Voting on Federal judges, who serve for life and who exert dramatic—mostly unchecked—influence over society, should be one of the most important aspects of serving as a U.S. Senator. Rollcall votes will, I believe, impress upon the individual judge, the individual Senator, and the public the importance of just what we are voting on. I hope that my colleagues will regard this vote, and every vote they take on a Federal judge, as being among the most important votes they will ever take.

Tribute to Prof. Robert J. Lampman

- Mr. FEINGOLD. Mr. President, I rise to offer tribute to Dr. Robert J. Lampman, economist, University of Wisconsin-Madison professor and noted researcher on poverty, who passed away March 4 at his home in Madison.

Mr. President, Dr. Lampman spent much of his distinguished professional career studying and writing about poverty and working to develop strategies to achieve its end. In 1966, he became the founding director of the Institute for Research on Poverty, a nonpartisan center for research into the causes and consequences of poverty and social inequality in the UW-Madison campus, which established the university as a leader of research in that field. A colleague at the University of Wisconsin, Dr. Lee Hansen, called Dr. Lampman “a true scholar in that he always wanted to get a better understanding of the issues.”

Despite his standing in his profession, Dr. Lampman was known as a professor who regarded his students as colleagues. One news report describing his career included a recollection by Dr. Thomas Corbett, once a graduate student studying with Dr. Lampman and now a University of Wisconsin professor of social work and acting director of the IRP. Dr. Corbett recalled Dr. Lampman’s remarks in his office away in saying he wanted “to pick my brain.”

“In a world where egos can become overwhelming, he was a guy who never lost his perspective,” Dr. Corbett said.

In 1962, he joined the staff of President John Kennedy’s Council of Economic Advisors, where he prophetically warned that economic growth, alone, would not eliminate poverty. He was later a key author of the historic chapter on poverty contained in Lyndon Johnson’s “Report of the President” in 1964 that helped call America’s attention to poverty.

Dr. Lampman became, in the words of Nobel laureate economist James Tobin, “the intellectual architect of the War on Poverty,” and he emphasized the importance of economic growth, income maintenance, and opportunities for education and jobs for those mired in poverty.

In 1964, as the War on Poverty was getting underway, he predicted to a group of University of Wisconsin-Madison graduate students that, within 20 years, “by present standards, no one will be poor.”

Mr. President, it turned out that Professor Lampman was overly optimistic. Poverty was not eliminated in 20 years, but the War on Poverty had an impact. In 1964, before the War on Poverty was up and running, 19 percent of Americans were poor. Within 5 years, programs created by the Federal Government and the broadly expanding economy had combined to bring that number down to 12.1 percent. By 1973, the poverty rate was down to 11.1 percent.

That progress stalled, for many reasons. Census Bureau estimates for 1985, the most recent year for which data are available, tell us 13.8 percent of our Nation’s population was poor, and, in the wealthiest nation in history, one American child in five lived in poverty.

Mr. President, Dr. Lampman’s dedication, his intellectual energy, and his commitment to solving one of the most difficult, complex, and persistent social challenges we face should inform and inspire us. We should apply, as Dr. Lampman did, our best efforts to rid our world of the plague of poverty and finally establishing social justice. That would be the most fitting tribute we could pay to this man.

Rural Health

- Mr. ABRAHAM. Mr. President, I rise today to pledge my support to the Health Improvement Act of 1997. In my home State of Michigan and across the Nation, this legislation would improve the standard of health care for millions of Americans who live in rural areas.

Mr. President, I am very aware of the problems inherent in caring for citizens who live far away from major cities. Too often, these hardworking taxpayers and their children are not given easy access to the quality emergency care. In fact, one found the reserve. There have, however, been two recent events that have been extremely successful in providing such care while also controlling costs — the Montana Medical Assistance Facility demonstration project and the Essential Access Community Hospital and Rural Primary Care Hospital demonstration program.

Mr. President, the bill I am endorsing today would extend these successful initiatives to all 50 States. It would also ease Federal regulations for small hospitals that wish to be designated as “critical access” institutions. The aim of the bill is to allow them to increase flexibility in tailoring their services to the needs of patients in their particular communities. In short, I believe this law would improve care and save lives. A study of these programs by the General Accounting Office, in fact, has found the reserve. I believe this legislation is an important step in that direction. For these reasons, I am proud to cosponsor this legislation and urge my colleagues to do the same.

Safe Adoptions and Families Environments Act

- Mr. DODD. Mr. President, I rise today to voice my support for the Chafee-Rockefeller Safe Adoptions and Families Environments Act [SAFE]. What’s more, I commend each of them for their tireless and bipartisan efforts on behalf of this issue.

As I see it, this is difficult for me to imagine a more outrageous and disgraceful form of violence than child abuse.

However, while national attention to the problems of abuse is increasing regrettably, so too are the incidents of child abuse and neglect.

In fact, the number of abused and neglected children nearly doubled from...
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1.4 million in 1986 to over 2.8 million in 1993. During that period the number of children who were seriously injured quadrupled—from about 143,000 to nearly 570,000.

In my own State of Connecticut incidents of child abuse and neglect increased 118 percent from 1994 to 1994. In fact, between 1993 and 1994 alone there was a 43-percent increase.

Unfortunately, many child welfare agencies lack the resources to effectively deal with the increase in child abuse and neglect. We must place children in safe, permanent, and loving homes.

Legislation introduced today by Senators CHAFEE and ROCKEFELLER, of which I am an original cosponsor, would do more to not only protect these abused children but also ensure that they are not returned to environments where they will be abused or neglected.

First, it would work to ensure that abused and neglected children are placed in safe and protected settings. Second, it would more rapidly move children out of the foster system and into permanent homes.

If there is one thing that all of us can agree on in our current debate it is the importance of assuring the safety and well-being of our Nation’s children. This bill would improve our child welfare system and help ensure that every child is given the opportunity to grow up in a safe and healthy home.

I urge all my colleagues to join me in a bipartisan manner, and support this critically important legislation for our children’s future.

THE NATIONAL ENTERPRISE
• Mr. Frist. Mr. President, the extraordinary lifestyle, security and standard of living of Americans have enjoyed since the end of the Second World War is one of our most notable achievements in recent history. We are wealthier, healthier, and safer than any people before us. We have built an economy whose resilience, ingenuity, and potential are truly the envy of the world. We have become the standard by which all other nations are measured. The century in which we have survived economic collapse and two world wars only to become stronger bears our name, the “American Century.”

First, it is the fact that innovation has been the single greatest motive driving the American economy. The Internet, computer chips, satellites, super-sonic aircraft, higher education and research universities, and strong civilian and defense-related basic research are a few compelling examples.

Second, the end of the cold war era has left America with what some might call a diluted sense of mission or common interest. The National Enterprise cannot be defined in a single dimension, but for better or for worse, the cold war drove everything else. To the birth of America as a superpower was the single greatest motive driving the Enterprise and the yardstick of its success.

With the launch of Sputnik in 1957, we witnessed a technologically-advanced, symbolic challenge from our would-be enemy. It was the crack of the starter pistol in a race that would bear both frightening military capabilities and extraordinary peaceful benefits. With the birth of America as a superpower was the single greatest motive driving the Enterprise and the yardstick of its success.

First, growing Federal entitlements have created a fiscal crisis in the Federal Government, with 28 consecutive years of deficit spending, a $5.3 trillion debt, and shrinking discretionary spending. The money we allocate to education, national parks, infrastructure, and defense. All are competing for a smaller and smaller slice of the Federal spending pie.

Second, the end of the cold war era has left America with what some might call a diluted sense of mission or common interest. The National Enterprise cannot be defined in a single dimension, but for better or for worse, the cold war drove everything else. To the birth of America as a superpower was the single greatest motive driving the Enterprise and the yardstick of its success.

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advancements? And how do we make them as strong and as sharp as possible?

We have some initial ideas here in Congress, but I do not believe this body as a whole is prepared to answer those questions. Time is important, and we have begun this necessary dialogue.

In our pursuit of these answers, we have a simple, yet profound, justification: research and development spending and the strengthening science and technology are the essential base elements of our competitive edge, our standard of living, and our defense. To hone and preserve that edge, Congress must work closely with the traditional partners in this effort: universities, government agencies and their labs, and private industry. These partnerships have been a key to America’s strength and their whole is seemingly greater than the sum of its respective parts.

Along with several representatives of the national research, development and education effort in government, universities, and industry, several Senators of both parties have begun to explore the issues and open a dialogue addressing the questions of great importance. As illustrated by the formation of the Senate’s bipartisan Science and Technology Caucus. The full Senate understands the challenges of maintaining a vibrant National Enterprise, but the gravity of the challenge has not been fully articulated, even as we face greater competition from other countries and ever greater pressure on federal and private funding of all research and development.

This venture will require understanding, sympathetic discipline and dedication. Already, the initial dialogue has realized some immediate success: it exposed common ground and initiated the critical dialogue. We have begun to identify issues and areas on which Congress can begin to pursue an agenda and strategy:

- Partnerships among industry, government, and universities are the strong basis of our preeminence in science and technology and in research and development, and are the essential whetstone of our competitive edge. We must find the best ways to shorten the time it takes to bring basic research to the marketplace, to define priorities and goals in the interests of the American people—very a tall order.

We must begin to study these issues and join the effort, beginning with the appreciation that this dialogue is the extraordinary luxury of an accomplished, enterprising and open-minded people. As Chairman of the Science, Technology and Space Subcommittee, and as a member of the Science and Technology Caucus, and as a medical scientist and physician, I will actively pursue this dialogue and seek answers to these critical questions.

The Nation’s approach to these challenges must be broadened in scope and increased in level of participation. It must move away from an annual piecemeal approach, confined to specific programs and agencies’ funding within our own Appropriations process. It must also gain the level of honesty and earnestness realized during the Cold War Era and in the wake of Sputnik. This nascent dialogue and recent legislative initiatives are encouraging first steps, but the challenge must expand to include more of the Congress, the Administration, and the public.

Congress must answer the critical questions to determine the role of the federal government, and then see that our laws and spending reflect the correct priorities and clear our national interests. We must set out to understand our mission and to define our goals.

America cannot afford to wait for another Sputnik to shake us from our complacency and to define our interests for us. Congress has a great challenge ahead, and we must act now to restore and preserve our competitive edge and standard of living—so much depends on the decisions Congress makes and on the sincerity, depth, and sobriety of the dialogue.

THIRTIETH ANNIVERSARY OF THE REUNIFICATION OF JERUSALEM

Mr. MOYNIHAN. I rise today to speak about the city of Jerusalem, a subject I have spoken about at some length and on numerous occasions during my tenure in the United States Senate. In the not too distant future, the people of Israel will celebrate the thirtieth anniversary of the reunification of their Capital. It is altogether fitting and proper that the United States Congress should mark this anniversary with an appropriate resolution.

Jerusalem has been the focal point of Jewish religious devotion. Although there had been a continuous Jewish presence in Jerusalem for three millennia—and a Jewish majority in the city since the 1840’s—the area had thrived as a parking lot of the historic Old City of Jerusalem was driven out by force during the 1948 Arab-Israeli War. From 1948 to 1967 Jerusalem was divided by convention, barber wire, and cinder block. Israelis and Jews of all faiths and of all nationalities were denied access to holy sites in the area controlled by Jordan. Jerusalem was finally reunited by Israel in 1967 during the conflict known
as the Six Day War. Since then, Jerusalem has been a united city in which the rights of all faiths have been respected and protected, and persons of all religious faiths have been guaranteed full access to holy sites within the city.

In 1990, I sponsored Senate Concurrent Resolution 106, which was overwhelmingly adopted by the United States Senate, while a similar resolution (H. Con. Res. 250) was adopted by the House of Representatives. These resolutions declared that Jerusalem, the capital of Israel, "must remain an undivided city" and called on the Israelis and the Palestinians to undertake negotiations to resolve their differences. The late Prime Minister Yitzhak Rabin credited S. Con. Res. 106 with "helping our neighbors reach the negotiating table" to produce the historic Declaration of Principles signed in Washington on September 13, 1993.

In the fall of 1995, I joined with Senator Dole to introduce "The Jerusalem Embassy Act of 1995" (Public Law 104-45) which states as a matter of United States policy that Jerusalem should remain the undivided capital of Israel. I firmly believe that Jerusalem must remain an undivided city in which the rights of every ethnic and religious group are protected, as they have been by Israel during the past thirty years. I congratulate the people of Israel on the approaching thirtieth anniversary of the reunification of their historic capital. When the Senate reconvenes next month, I will introduce a resolution to commemorate this event, as I have done on previous anniversaries.

THE NUCLEAR WASTE POLICY ACT OF 1997

Mr. MURkowski. Mr. President, high-level nuclear waste and highly radioactive used nuclear fuel is piling up at 80 sites in 41 States. It is stored in populated areas, near neighborhoods and schools, in the backyards of people across the nation.

An example is the Palisades Plant in Michigan, which is within 100 feet of Lake Michigan. Another is the Haddam Neck Plant, in Connecticut. A U.S. Senator has observed that he can see it from his house.

Without objection, I would like to place in the Record an editorial from today's Hartford Courant that expresses the location of high-level nuclear waste and has moved from the theoretical to the here and now. . . . Experts say Connecticut Yankee's spent fuel could be stored at the remote desert site in Nevada is the lesser of two evils.

The waste was supposed to be taken by the Federal Government for safer, central storage by 1998. Will that happen? The answer is "no." Even though $12 billion has been collected from Americans to pay for storage—and even though a Federal court reaffirmed the Government's legal obligation to take the waste by 1998—there is no plan for action.

By 1998, 23 reactors in 14 States will be fully. By 2010, 65 reactors in 29 States will be fully.

A conservative estimate is that 25 percent of our nuclear plants will not be able to build onsite storage and will be forced to shut down. That would mean the loss of over 5 percent of our Nation's total electricity generating capacity.

But Yucca Mountain won't be ready until at least 2015. Therefore, the Nation needs a temporary solution.

That solution—S. 104—passed the Energy and Natural Resources Committee with a solid, bipartisan vote (15-5). Almost half the minority members and all majority members voted in favor of the bill.

Americans have waited too long for a solution to this environmental and public safety challenge—we must not wait any longer. There is a critical need to construct a safe, central storage facility to eliminate the growing threat to the environment and to the American people.

I have worked with Members on both sides of the aisle to solve any problems they have with this bill. We accepted several amendments from the Democratic side.

We continue to meet with Democrat Members and the administration to resolve remaining concerns. We will continue to work with new Secretary Pena and his staff at the Energy Department, now that the Secretary has the portfolio to resolve this pressing problem.

Over the recess, committee staff will be available to work on proposed compromises which can be considered in April. Senator Bingaman has been very constructive in this regard.

Much of what he is proposing appears acceptable. However, the bottom line is the need for a predictable path to interim and permanent waste storage. We simply cannot leave trap doors that allow central storage to be delayed for decades.

We now have an opportunity for bipartisan action. Let's seize that opportunity.

It is no secret both Nevada Senators will do what they feel they need to do until this important bill. They consider it a political necessity to oppose it.

There will be allegations that the science is bad and try to scare us with terror. They will imply that if this bill doesn't pass, nuclear waste will not be transported through this country. That is not true. The fact is that there have been 2,500 shipments of used fuel across this country in the last 20 years.

This is not just history—it is happening today. DOE is transporting spent fuel from nuclear reactors all over the world into the United States, virtually as we speak—by truck, by train, by barge, by boat.

If the Nevada Senators do not tell you about this, there's a reason. Its because these shipments have been, and will continue to be, completely uneventful. In short, these spent fuel shipments are safe, and they aren't news.

At our hearing in February, all four members of the Nevada delegation admitted there was no process and no level of scientific proof that would decrease their opposition. This is about politics, and little about science.

Senator Bryan was once in favor of sending high-level materials to the Nevada test site. As a State legislator, he voted for A.J. R. 15, which was signed by the Nevada Governor in May 1975, which asked the Federal Government to simply ignore the problem and disregard the Governments contractual obligation to take this waste. The American people deserve better.

Safe nuclear storage should not be a political issue. It is a scientific and an environmental issue. It is a scientific and an environmental issue. It is a scientific and an environmental issue. It is a scientific and an environmental issue. It is a scientific and an environmental issue.

It is irresponsible to let this situation continue. It is unsafe to let dangerous radioactive materials pile up at 80 sites in 41 States. It is unsafe to block safe storage in a remote area when the alternative is to leave it in 41 States. This is a national problem that requires a national solution. We need to pass S. 104.

So far, the administration's attitude toward nuclear waste storage has been to simply ignore the problem and disregard the Governments contractual obligation to take this waste. The American people deserve better.

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Congress clarifies its intentions for the disposal of spent nuclear fuel and nuclear waste. It is for this reason that I introduced the Nuclear Waste Policy Act of 1996, which passed successfully in this body last year, and it is why I am a sponsor of S. 104 this year. We know that this Nation faces with disposing of nuclear material. Congress must recognize its responsibility to set a clear and definitive nuclear disposal policy. With the passage of this legislation in the last Congress, Congress set the date that Government fulfill its responsibilities.

One major provision of this legislation directs that an interim storage facility be constructed at Area 25 at the Nevada Test Site and that the interim facility be prepared to accept materials by November 30, 1999. The first phase of this two-phase facility will be of a sufficient size to accept spent fuel from commercial reactors, shut down reactors, and the Department of Energy. As reported out of Committee, S. 104 includes a provision which I introduced. This provision clarifies Congress' intent to provide for the timely removal of spent nuclear fuel and high-level waste from the nation's commercial reactors and the Department of Energy. Under this provision, the Department of Energy is required to remove Government nuclear waste and spent nuclear fuel from our nation's commercial reactors and high-level waste production sites, in an amount equal to at least 5 percent of the total waste DOE accepts into the interim storage facility every year.

In addition to the billions of dollars that utility ratepayers have contributed to the disposal program, taxpayers have contributed hundreds of millions of dollars to the disposal program for the removal of spent fuel and nuclear waste from the Nation's national laboratory sites. The provision I have sponsored is directed to assure the Government's commitment to clean up these sites and shows a return on the taxpayer money committed to this disposal program.

This provision assures that the spent fuel from the U.S. Navy reactors currently stored at the Idaho National Engineering and Environmental Laboratory will begin to be sent to the interim storage facility beginning in 1999. This is good news for both the Department of Energy and the Department of Defense because the nuclear fuel will be moved out of Idaho well before the agreed date of 2035 called for in the agreement between Idaho Governor Batt, the DOE and the Navy. The fuel that is now temporarily stored in Idaho will be the designated facility designed for long-term storage.

In my opinion, this legislation is important because it closes off the "escape routes" that exist in past legislation on this issue and have stymied the opening of a facility that actually accepts spent nuclear fuel and stores or disposes of it at a permanent facility. S. 104 closes these escape routes by specifying an interim facility location and date for the opening of that facility.

Congress must own up to its responsibilities for the disposal of nuclear materials that it assumed through statute in 1982; a responsibility that 40 utility ratepayers and other financiers from 23 States are suing the Federal Government right now in the U.S. Court of Appeals to fulfill. The passage of S. 104 will take a major step in that direction and stem the Government's potential liability for failure to fulfill its contractual commitment. State and local government hemorrhage of billions of dollars in judgments against the Department of Energy. By this action, spent nuclear fuel that is currently stored at nearly 100 different sites around the country—sites that were never designed for long-term storage—will be moved to one central location: A location that is especially designed for such storage.

In the course of this debate, we will hear a lot of discussion from those on both sides of this issue about transportation. Those who don't want to address the nuclear waste issue are likely to raise the specter of a "mobile Chernobyl." This scaremongering is simply not supported by the facts. The fact is that there have been over 2,500 commercial shipments of spent fuel in the United States, and that there has not been a single death or injury from the radioactive nature of the cargo. Let me add to these statistics by noting that in my State there have been over 600 shipments of Navy fuel and over 4,000 other shipments of radioactive material. Again, there have been no injuries related to the radioactive nature of these shipments. This is an exemplary safety record—a product of the care and rigorous attention with which these materials are transported.

I know that many people would prefer not to address the problem of spent nuclear fuel disposal. But for Congress to fail to address the problem would be irresponsible. As the legislative body that sets policy for the Nation, Congress cannot sit by and watch while a key component of the energy security of this Nation, and the source of 20 percent of our country's electricity, nuclear power, drowns in its own waste.

The Nuclear Waste Policy Act of 1997 will do what neither the 1982 nor the 1987 act accomplished, and that is to definitively resolve the question of what to do with the nuclear fuel in a timely manner. I look forward to its successful passage.
Coach Steve Spurrier and Danny Wuerffel should be commended for this high honor. It is also important to note that for the first time since the NCAA has been keeping records, two division I college football teams from the same state have played each other for college football's national championship.

I also want to take this moment to honor Coach Bobby Bowden and the Florida State University football team for their outstanding season and for reaching the national championship game. While they didn't win the game, the Seminoles and their fans should be proud of their achievements and commended for an outstanding season.

The State of Florida is indeed fortunate to be home to three of the finest college football teams in the Nation: The University of Florida, Florida State University, and the University of Miami. Together these three teams have won six college football national championships.

But in 1996, the national football championship was won by the University of Florida. Not only is this a special accomplishment that will long be remembered by the coaches and players, but it is also a moment to savor for Gator fans. After 90 years of ups and downs, great victories and frustration, the Fighting Gators are finally the national champions of college football. All the loyal sons and daughters of the University of Florida—whenever they may be—join me today in congratulating Coach Steve Spurrier, his staff, and the 1996 Fighting Gator football team on winning the 1996 college football's national championship.

Mr. President, I ask unanimous consent to print in the RECORD the names of the Gator players, coaches, and staff along with their season record and the final polls with the Florida Gators in the top position as the national champions.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF FLORIDA 1996 NATIONAL FOOTBALL CHAMPIONS

Players

Tremayne Allen
Reid Anthony
Ernie Badeaux
Tyrone Baker
James Bates
Ronnie Battle
Trevor Battle
Tim Beauchamp
Chesney Blackshear
Noah Brindise
Teako Brown
Pat Browning
Scott Bryan
Zuri Buchanan
Jaye Campbell
Cooper Carlisle
Derrick Chambers
Ed Chester
Willie Coheens
Mo Collins
Collins Cooper
Keth Council
Cameron Davis
Reggie Davis
Jason Dean
Ernie Dubose
Craig Dudley
Dwight Edge
Bart Edmiston
Jerome Evans
McDonald F. Ferguson
Rod Frazier
Tony George
Rod Graddy
Jacquie Green
Buck Gurley
Fred Hagberg
Mike Harris
Thomas Hewitt
Ike Hilliard
Todd Holland
Ali Jackson
Denise Stevens
Tom Williams
Demetrius Jackson
Terry Jackson
Doug Johnson
Ryan Kalich
Nafis Karim
Jevon Kearse
Trey Killingsworth
Er Hon Kinney
Sean Ladd
Demetrius Lewis
Anthone Lott
Eugene McCaslin
Xavier McCray
Reggie McGrew
Travis McGriff
Anthony Mitchell
Jeff Mitchell
Dwayne Mobley
Mike Moten
David Nabavi
Shawn Nunn
Daryl Owens
Alonzo Pendergrass
Jason Perry
Mike Peterson
Zach Piller
Dock Pollard
Alan Rhine
Jamie Richardson
Larry Richart
Wyley Ritch
Willie Rodgers
Taras Ross
Johnny Rutledge
Brian Schottenheimer
Nick Schiralli
Shea Showers
Teddy Sims
Ian Skinner
Robby Stevenson
Dean Story
Fred Taylor
Matt Teague
Dwayne Thomas
Kavin Walton
Cedric Warren
Fred Weary
Elijah Williams
Scott Wise
Lawrence Wright
Dwayne Wuerffel
J. Xynidis
Correy Yarbrough
Billy Young
Donnie Young
Michael Yeark
Zac Zedalis
President: J. John Lombardi
J. J. Ball
Director of Athletics: J. Jermy Foley
Coaching Staff
Head Coach Steve Spurrier
Rod Broadway
Jim Collins
Dwayne Dixon
Carl Franks
Lawson Holland
Bob Sanders
Jimmy Ray Stephens
Bob Stoops
Coach Spurrier's Gators have won at least nine games in each season since his arrival. The 1996 Florida Gators have the distinct honor of winning an unprecedented fourth consecutive Southeastern Conference championship and their fifth since Coach Spurrier's arrival. Over the past seven seasons, Coach Spurrier and his talented staff of assistants have posted a remarkable record of 73 wins on the football field, and in the always tough, Southeastern Conference, the Gators have achieved a remarkable record of 53 wins. During his tenure, the Gators have lost exactly two games at Ben Hill Griffin Stadium, an 80,000 seat fortress that Spurrier has dubbed "the swamp." It is clear that the University of Florida Gators have been winners on the football field, but their winning doesn't stop there. Academically, the Gators have excelled equally as well. They have achieved a tremendous graduation rate for an NCAA Division I football program, and 16 members of their team this year's team were named to the Southeastern Conference's Academic Honor Roll. In addition to their awards for athletic achievement, Lawrence Wright and Danny Wuerffel both received Scholar-Athlete Awards from the College Football Association. Their achievements don't stop on the football field, however. The Gators have been major contributors to the greater Gainesville community where they volunteer countless hours in support of worthy causes like a literacy program, an international youth education program and support students with disabilities. As a Gator and a graduate of the University of Florida, I am extremely proud of the 1996 Florida Gators and Head Coach Steve Spurrier for their outstanding achievements both on and off the football field. Mr. SANTORUM. Mr. President, I take some pride in that my brother graduated from the University of Florida. So I will join in those congratulations. 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 that any statements relating to the resolution appear at this point in the RECORD. The PRESIDING OFFICER. Without objection, it is so ordered. The resolution (S. Res. 66) was agreed to. The preamble was agreed to. The resolution, with its preamble, is as follows: S. RES. 66 Whereas the University of Florida can trace its beginnings to 1853 but was formally established by the State of Florida when Florida Agricultural College merged with East Florida Seminary, South Florida Military College, and St. Petersburg Normal & Industrial School in 1905. Whereas the University of Florida adopted the colors of orange and blue for its athletic team in 1905 and the alligator as the school's mascot in 1908. Whereas the origins of intercollegiate football at the University of Florida can be traced back to 1869. Whereupon, be it resolved That the Senate of the United States of America do hereby commending the University of Florida's excellence in athletics and academics, and recognizing the leadership of Head Coach Steve Spurrier, by offering its congratulations and its profound respect for the Florida Gators as they continue their historic run to the national championship.

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. University of North Carolina
11. University of Alabama
12. Virginia Tech University
13. Louisiana State University
14. University of Miami (Fla)
15. University of Washington
16. Northwestern University
17. Kansas State University
18. University of Iowa
19. Syracuse University
20. University of Michigan
21. University of Notre Dame
22. University of Wyoming
23. University of Texas
24. U.S. Military Academy (Army)
25. Auburn University

1996 SCHEDULE

August 31st. Florida 55 SW Louisiana 21
September 7th Florida 62 Georgia Southern 14
September 14th Florida 79 Tennessee 29
September 21st. Florida 65 Kentucky 0
October 5th. Florida 42 Arkansas 7
October 12th Florida 56 Louisiana State 13
October 19th Florida 51 Auburn 10
November 2nd Florida 52 Auburn 12
November 9th Florida 28 Vanderbilt 21
November 23rd Florida 52 South Carolina 29
December 6th Florida 21 Florida State 24

1996 FINAL DIVISION 1 RANKINGS

ASSOCIATED PRESS POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. University of North Carolina
11. University of Alabama
12. Virginia Tech University
13. Louisiana State University
14. University of Miami (Fla)
15. University of Washington
16. Northwestern University
17. Kansas State University
18. University of Iowa
19. Syracuse University
20. University of Michigan
21. University of Notre Dame
22. University of Wyoming
23. University of Texas
24. U.S. Military Academy (Army)
25. Auburn University

USA TODAY/CNN COACHES POLL

1. University of Florida
2. Ohio State University
3. Florida State University
4. Arizona State University
5. Brigham Young University
6. University of Nebraska
7. Penn State University
8. University of Colorado
9. University of Tennessee
10. University of North Carolina
11. University of Alabama
12. Virginia Tech University
13. Louisiana State University
14. University of Miami (Fla)
15. University of Washington
16. Northwestern University
17. Kansas State University
18. University of Iowa
19. Syracuse University
20. University of Michigan
21. University of Notre Dame
22. University of Wyoming
23. University of Texas
24. U.S. Military Academy (Army)
25. Auburn University
traced back to 1901, when Dr. T.H. Taliaferro, president of the Florida State Agricultural College, enthusiastically endorsed the new sport of football and by that deed ensured the survival of the University of Florida Fighting Gator football team exists today; Whereas the University of Florida is a founding member of the Southeastern Conference, considered by many to be the toughest conference in college football; Whereas the students, alumni, and friends of the University of Florida are to be commended for the dedication, enthusiasm, and admiration they share for the Fighting Gator football team; and Whereas in 1990, Stephen Orr Spurrier, the most fabled football player in the history of the University of Florida and winner of the Heisman Trophy in 1966, was hired to be the head football coach to lead the team to the ever elusive “Year of the Gator”; Whereas in 1992, Coach Spurrier and his assistant coaches recruited a group of talented athletes who went on to form the nucleus of the 1996 football team; Whereas the 1996 Fighting Gator football team compiled a record of 12 wins and 1 loss and outscored their opponents by a margin of 611 points to 221 points, and for this achievement the Fighting Gator football team was recognized by the Associated Press and the Division I college football coaches as college football’s 1996 Division I national champion; Whereas the 1996 Fighting Gator football team and coaches are to be commended for winning the 1996 Division I collegiate football national championship; Whereas the 1996 Fighting Gator football team broke several school, Southeastern Conference, and Division I football records during the 1996 football season; Whereas the 1996 senior class of the Fighting Gator football team should be commended for their leadership and their “team first” approach that helped win the 1996 Division I collegiate football national championship; Whereas the University of Florida is a founding member of the Southeastern Conference, and Division I football records; and Whereas the University of Florida win the 1996 Division I collegiate football national championship; (2) recognizes the achievements of all the players, coaches, and support staff who were instrumental in helping the University of Florida win the 1996 Division I collegiate football championship and invites them to the Capitol to be honored in an appropriate manner to be determined; (3) requests that the President recognize the accomplishments of the 1996 University of Florida Fighting Gator football team and invite the team to Washington, D.C. for the traditional White House ceremony held for national championship teams; and (4) directs the Secretary of the Senate to make available enrolled copies of this resolution for the appropriate display and to transmit an enrolled copy to each member of the 1996 University of Florida Division I collegiate national championship football team. AUTHORIZING THE PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN AND DEMOCRATIC POLICY COMMITTEES

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 67 submitted earlier today by Senators CRAIG and REID.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 67) authorizing the printing of the history manuscript of the Republican and Democratic Policy Committees in commemoration of their 50th Anniversaries.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CRAIG. Mr. President, I rise to speak on "A History of the Senate Republican Policy Committee, 1947-1997."

Fifty years ago, the Senate established the Republican and Democratic Policy Committees at the end of the Second World War and at the beginning of the cold war, U.S. Senators had concluded that this venerable old institution needed modernization to enable it to handle the increasingly complex foreign and domestic issues on its agenda, and to hold its own against an expanding presidential influence.

From 1945 to 1946, a joint committee chaired by Senator Robert M. La Follette, J.r., a Republican from Wisconsin, and Representative Mike Monroney, an Oklahoma Democrat, investigated ways to reform the legislative branch. The joint committee proposed creation of professional staffs for each standing committee and allowing Senators and Representatives to appoint administrative assistants. It also recommended expansion of the Legislative Reference Service, now known as the Congressional Research Service. Those reforms were incorporated into the Legislative Reorganization Act of 1946.

One proposal that was not included in the act was the joint committee's recommendation that the Senate and House establish policy committees to assist the parties in promoting their legislative agenda. House Speaker Sam Rayburn feared that such policy committees might threaten his authority and refused to support them. Although the idea was dropped from the Legislative Reorganization Act of 1946, it was kept alive with the expectation that the House would incorporate it in an appropriations bill but authorized policy committees for the Senate alone. Some time later the House also established policy committees.

The credit for the policy committees belongs to Ohio Republican Senator Robert A. Taft. As chairman of the Republican Steering Committee, from 1944 to 1946, Taft firmly believed in thorough preparation and expertise. Although Republicans were then in the minority, Taft used the Steering Committee to plan and coordinate the party's legislative program, rather than wait to react defensively against the initiatives of the President and the majority party. Under Taft the Steering Committee became the party's thinking center. When the policy committees were written into law, the Republican Conference simply redesignated its Steering Committee as the Republican Policy Committee. Chairman Taft and all other members of the Steering Committee became the first members of the Policy Committee.

The Republican Policy Committee came into existence at the beginning of the 80th Congress, just as Republicans resumed the majority in the Senate and House. The 50th anniversary finds Republicans back in the majority in both Houses of Congress. Over the years the Policy Committee's services and functions have expanded considerably, and since 1947, it has produced and published the very useful Record Vote Analyses. Since 1956, it has hosted working lunches each week for Republican Senators. Since 1987, it has operated an in-house bulletin-board cable information channel to keep Senators and their staffs apprised of Senate floor activities and the upcoming agenda. In 1995, the Policy Committee stood among the first Senate offices to develop a home page on the Internet's World Wide Web, to provide information inside and outside the Senate chamber, and to share information on key Republican policies.

The Policy Committee staff prepares both brief and in-depth reports on the major issues facing the Senate. The Policy Committee conducts seminars for new legislative staff members, and holds issue forums and roundtable discussions for Senators. It also hosts regular meetings for staff directors, legislative directors, and press secretaries. During its first 50 years, the Republican Policy Committee grew into a thriving operation staffed by a variety of experts. Working directly with the
Senators, and educating the journalists who report on them, the Policy Committee has assisted Republican Senators in setting policy, enacting legislation, and getting their message out. That is an accomplishment entirely consistent with the goals that Robert Taft set in founding the Republican Policy Committee. The story of how those goals were achieved is contained in the history of the Policy Committee that was prepared by the Senate Historical Office, and will now be available to senators, staff, students, and the general public.

I understand that the Democratic Policy Committee is considering a companion publication, and I would like to take this opportunity to congratulate its chairman, Senator Tom Daschle, and cochairman, Senator Harry Reid, on our mutual 50th anniversary.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 67) was agreed to.

The resolution is as follows:

SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE REPUBLICAN POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, “A History of the Senate Republican Policy Committee, 1947-1997,” prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Republican Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

SEC. 2. PRINTING OF THE HISTORY MANUSCRIPT OF THE DEMOCRATIC POLICY COMMITTEE IN COMMEMORATION OF ITS 50TH ANNIVERSARY.

(a) In General.—There shall be printed as a Senate document the book entitled, “A History of the Senate Democratic Policy Committee, 1947-1997,” prepared by the Senate Historical Office under the supervision of the Secretary of the Senate, with the concurrence of the U.S. Senate Democratic Policy Committee.

(b) Specifications.—The Senate document described in subsection (a) shall include illustrations and shall be in the style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

(c) Number of Copies.—In addition to the usual number of copies, there shall be printed with suitable binding the lesser of—

(1) 1,000 copies for use of the Senate, to be allocated as determined by the Secretary of the Senate; or

(2) a number of copies that does not have a total production and printing cost of more than $1,200.

NATIONAL FORMER PRISONER OF WAR RECOGNITION DAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 68 submitted earlier today by Senators DASCHLE and AKAKA. The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 68) designating April 9, 1997 and April 9, 1998 as “National Former Prisoner of War Recognition Day.”

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. 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 that any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 68) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 68

Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;

Whereas many prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war who were disabled, as a result of the treatment; and

Whereas the great sacrifices of the prisoners of war and their families deserve national recognition;

In honor of the members of the Armed Forces of the United States who have been held as prisoners of war;

Resolved, That the Senate—

(1) designates April 9, 1997, and April 9, 1998, as “National Former Prisoner of War Recognition Day” in honor of the members of the Armed Forces of the United States who have been held as prisoners of war;

(2) requests that the President issue a proclamation calling on the people of the United States to commemorate this day with appropriate ceremonies and activities.

WAIVER OF D.C. RESIDENCY REQUIREMENTS

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 514, which was received from the House.

The PRESIDING OFFICER. The bill will report.

The legislative clerk read as follows:

A bill (H. R. 514) to permit the waiver of D.C. residency requirements for certain employees of the Office of Inspector General of the District of Columbia.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 514) was passed.

ESTATE TAX RELIEF FOR THE AMERICAN FAMILY ACT OF 1997

Mr. SANTORUM. Mr. President, I ask unanimous consent that the text of S. 479, the Estate Tax Relief for the American Family Act of 1997, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 479

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

SECTION 1. SHORT TITLE: AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the “Estate Tax Relief for the American Family Act of 1997.”

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INCREASE IN UNIFIED ESTATE AND GIFT TAX CREDIT.

(a) Estate Tax Credit.—

(1) In General.—Section 2010(a) (relating to unified credit against estate tax) is amended by striking “$192,800” and inserting “the applicable credit amount”.

(2) Applicable Credit Amount.—Section 2010 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(f) applicable credit amount.—In this section the term "applicable credit amount" means the amount of the applicable credit amount described in subsection (c) that is applied to the tentative tax determined under subsection (a).”


The legislative clerk read as follows:

A bill (H. R. 514) to permit the waiver of D.C. residency requirements for certain employees of the Office of Inspector General of the District of Columbia. The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 514) was passed.

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

SECTION 1. SHORT TITLE: AMENDMENT OF 1986 CODE.

(a) Short Title.—This Act may be cited as the “Estate Tax Relief for the American Family Act of 1997.”

(b) Amendment of 1986 Code.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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“(f) applicable credit amount.—In this section the term "applicable credit amount" means the amount of the applicable credit amount described in subsection (c) that is applied to the tentative tax determined under subsection (a).”


The legislative clerk read as follows:

A bill (H. R. 514) to permit the waiver of D.C. residency requirements for certain employees of the Office of Inspector General of the District of Columbia. The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the bill be considered read a third time, passed, and the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 514) was passed.
(C) Section 2102(c)(3)(A) is amended by striking `$192,800' and inserting "the applicable credit amount in effect under section 2032(c) for the calendar year which includes the date established which was the decedent's tax year to which such credit applies."  

(b) UNIFIED GIFT TAX CREDIT.—Section 2503(a)(1) (relating to unified credit against gift tax) is amended by striking `$192,800' and inserting "the applicable credit amount in effect under section 2032(c) for such calendar year.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers made, and gifts made, after the date of the enactment of this Act.

SEC. 3. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by inserting after section 2033 the following new section:

SEC. 2033A. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—In the case of an estate of a decedent to which this section applies, the value of the gross estate shall not include the lesser of—

(1) the adjusted value of the qualified family-owned business interests of the decedent other than business interests of a qualified family-owned business of which the principal place of business is not located in the United States, or

(2) the sum of—

(A) $1,500,000, plus

(B) 50 percent of the excess (if any) of the adjusted value of such interests over $1,500,000, but not over $10,000,000.

(b) ESTATES TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to an estate—

(A) the decedent was (at the date of the decedent’s death) a citizen or resident of the United States, or

(B) the executor elects the application of this section and files the agreement referred to in subsection (h).

(2) RULES REGARDING OWNERSHIP.—

(A) OWNERSHIP OF ENTITIES.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section).

(B) OWNERSHIP OF ENTITIES.—For purposes of this section, an interest owned, directly or indirectly, by or for the account of any qualified heir, or any member of any qualified heir’s family or through a qualified conservation contribution under section 170(h),

(C) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, an interest owned, directly or indirectly, by or for the account of any qualified heir, or any member of any qualified heir’s family or through a qualified conservation contribution under section 170(h),

SEC. 4. RULINGS AND REGULATIONS.

GENERAL RULINGS.—The IRS is directed to make such rules and regulations as may be necessary to carry out the purposes of this Act.

THE CONGRESSional RECORD

S7237

March 20, 1997

CONGRESSIONAL RECORD — SENATE
"(C) the qualified heir loses United States citizenship (within the meaning of section 877) or with respect to whom an event described in subparagraph (A) or (B) of section 877(e)(2) occurs, such heir does not comply with the requirements of subsection (g), or

(D) the principal place of business of a trade or business of a qualified family-owned business interest ceases to be located in the United States.

(2) ADDITIONAL ESTATE TAX AMENDMENTS

(A) IN GENERAL. The amount of the additional estate tax imposed by paragraph (1) shall be equal to—

(i) the applicable percentage of the adjusted value attributable to the qualified family-owned business interest (as determined under rules similar to the rules of section 2032A(c)(2)(B)), plus

(ii) interest on the amount determined under clause (i) at the underpayment rate established under section 6621 for the period beginning on the date the estate tax liability was due under this chapter and ending on the date such additional estate tax is due.

(B) APPLICABLE PERCENTAGE. For purposes of this paragraph, the applicable percentage shall be determined under the following table:


<table>
<thead>
<tr>
<th>Material Participation Percentage</th>
<th>1 through 6</th>
<th>7</th>
<th>8</th>
<th>9</th>
<th>10</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage</td>
<td>100</td>
<td>80</td>
<td>60</td>
<td>40</td>
<td>20</td>
</tr>
</tbody>
</table>

(c) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS

(I) IN GENERAL. Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States or a domestic corporation or a trust instrument requiring that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation, the applicable material participation percentage is:

(A) which is organized under, and governed by, the laws of the United States or a State, and

(B) except as otherwise provided in regulations, 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.

(H) AGREEMENT. The agreement referred to in subsection (d) is a written agreement signed by each person in being who has an interest (whether or not in possession) in any property designated in such agreement, in substantially the same form as the agreement described in subsection (g).

(I) EFFECTIVE DATE. The amendment made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 6. OPPORTUNITY TO CORRECT CERTAIN TREATMENTS CONCERNING ESTATE TAXES ON近距离 HELD BUSINESS

(a) IN GENERAL. The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

(b) CONFORMING AMENDMENTS. (1) Subsection (b)(2)(A) is amended by inserting after the item designated as subparagraph (A) the following subparagraph:

(III) no-interest portion not to apply.

(2) Section 6166(b)(B)(iii) is amended by strikingIndiana but in the following new subparagraph:

(E) CERTAIN RENTS TREATED AS QUALIFIED USE.

For purposes of this subsection, a qualified use with respect to which the decedent shall not be treated as failing to use qualified real property in a qualified use solely because such spouse or descendant is not a member of the family of such spouse or descendant on a cash basis. For purposes of the preceding sentence, a legally adopted child of an individual shall be treated as the child of such individual by blood.

(b) CONFORMING AMENDMENT. Section 2032A(b)(4)(A) is amended by inserting "as amended by section 6166(b)(B)(iii)" after "the agreement described in section 2032A(d) be paid.''

(c) EFFECTIVE DATE. The amendments made by this section shall apply to estates of decedents dying after December 31, 1997.

SEC. 7. 20-YEAR INSTALLMENT PAYMENT WHERE ESTATE CONSISTS LARGELY OF INTEREST IN CLOSELY HELD BUSINESS

(a) IN GENERAL. Section 6166(a) (relating to extension of time for payment of estate tax where estate consists largely of interest in closely held business) is amended by striking "10" in paragraph (1) and the heading thereof and inserting "20".

(b) EFFECTIVE DATE. The amendments made by this section shall apply to estates of decedents dying after December 31, 1996.

SEC. 8. NO INTEREST ON CERTAIN PORTION OF ESTATE TAX EXTENDED UNDER 6166

(a) IN GENERAL. Section 6166(a) (relating to 4-percent rate on certain portion of estate tax extended under section 6166) is amended by striking "4-Percent rate of interest" and inserting "no-interest".

(b) CONFORMING AMENDMENTS. (1) Section 6166(b)(B)(ii) is amended by striking "4-Percent rate of interest" and inserting "no-interest portion".

(2) Section 6166(b)(B)(iii) is amended by striking the following new subparagraph:

(II) NO-INTEREST PORTION NOT TO APPLY.

SEC. 9. GIFTS MAY NOT BE REVALUED FOR ESTATE TAX PURPOSES AFTER EXPIRATION OF STATUTE OF LIMITATIONS

(a) IN GENERAL. Section 2502(b) (relating to imposition and rate of estate tax) is amended by striking at the end the following new subsection:

(II) VALUATION OF GIFTS. If—

(1) the time has expired within which a tax may be assessed under chapter 21 (or under corresponding provisions of prior laws) on the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)(2)(A)), and

(2) the value of such gift is shown on the return for such preceding calendar period or
is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such gift. The value of such gift shall, for purposes of computing the tax under this chapter, be the value of such gift as finally determined for purposes of chapter 12 on such gift may be begun without assessment, at any time. The preceding sentence shall not apply to any item which is disclosed in such return, in a manner adequate to apprise the Secretary of the nature of such item. The value of any item which is so disclosed may not be redetermined by the Secretary after the expiration of the period under subsection (a).

(c) DECLARATORY JUDGMENT PROCEDURE FOR DETERMINING VALUE OF GIFT.—
(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by inserting after section 7476 the following new section:

"SEC. 7477. DECLARATORY JUDGMENTS RELATING TO VALUE OF CERTAIN GIFTS.

"(a) Creation of Remedy.—In a case of an actual controversy involving a determination by the Secretary of the value of any gift shown on the return of tax imposed by chapter 12 on such return or in any statement attached to such return, upon the filing of an appropriate pleading, the Tax Court may make a declaration of the value of such gift. Any proceeding under this section may not be commenced by the Secretary after the expiration of the period under subsection (a).

(b) Limitations.—

"(1) Petitioner.—A pleading may be filed under this section only by the donor.

"(2) Exhaustion of Administrative Remedies.—The court shall not issue a declaratory judgment under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service.

"(3) Time for Bringing Action.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing.

"(c) Effective Date.—The amendments made by this section shall apply to terminations, distributions, and transfers occurring after December 31, 1997.

BILL READ FOR THE FIRST TIME—H.R. 1122

Mr. SANTORUM. Mr. President, I understand that H.R. 1122 has arrived from the House, and I would now ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. SANTORUM. I now ask for its second reading, and I will object to my own request on behalf of the other side of the aisle.

The PRESIDING OFFICER. Objection is heard.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 20, 1997:

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION


THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO QUESTIONS TO APPEAR AND TESTIFY BEFORE ANY DUTY CONSTITUTED COMMITTEE OF THE SENATE AND THE JUDICIARY

COLLEEN KOLLAR-KOTELO, OF THE DISTRICT OF COLUMBIA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

ROSE OCHI, OF CALIFORNIA, TO BE DIRECTOR, COMMUNITY RELATIONS SERVICE, FOR A TERM OF 4 YEARS.
Mr. SKAGGS. Mr. Speaker, today I am again introducing a bill to continue the protection of wilderness values in the Spanish Peaks area in Colorado.

The bill is cosponsored by my colleagues from Colorado, Mr. McNnnis and Ms. DeGETTE. I greatly appreciate their assistance and support.

The mountains now usually known as the Spanish Peaks are two volcanic peaks in Las Animas and Huerfano Counties whose Native American name is Wayatoya. The eastern peak rises to 12,683 feet above sea level, while the summit of the western peak reaches 13,626 feet. The two served as landmarks not only for Hispanic Americans but also for some of Colorado’s other early settlers and for travelers along the trail between Bent’s Old Fort on the Arkansas River and Taos, NM. With this history, it’s not surprising that the Spanish Peaks portion of the San Isabel National Forest was included in 1977 on the National Registry of Natural Landmarks.

The Spanish Peaks area has outstanding scenic, geologic, and wilderness values, including a spectacular system of over 250 free-standing dikes and ramps of volcanic materials radiating from the peaks. The State of Colorado has designated the Spanish Peaks as a Natural Area, and they are a popular destination for hikers seeking an opportunity to enjoy an unmatched vista of southeastern Colorado’s mountains and plains.

The Spanish Peaks area was considered for possible wilderness designation in the 1970’s, but the Colorado Wilderness Act of 1980 provided instead for its continued management as a wilderness study area. A decade later, the Colorado Wilderness Act of 1993 included provisions for long-term management of all the other wilderness study areas in our State’s national forests, but questions about the landownership pattern in the Spanish Peaks Area led to a decision to require continued management of that area as a wilderness study area for three years—until August 13, 1996. The 1993 Act also required the Forest Service to report to Congress concerning the extent of non-Federal holdings in the area and the likelihood of acquisition of those holdings by the United States with the owners’ consent.

The required report was submitted in 1995. It indicated that within the approximately 20,825 acres being managed as a wilderness study area, there were about 825 acres where the United States owned neither the surface nor the mineral rights, and about 440 acres more where the United States owned the surface but not the minerals.

To date, through voluntary sales, the United States has acquired some of the non-Federal holdings in the Spanish Peaks area, and there are indications that others will or can be acquired in the same way.

I think there is every reason to believe that it will soon be possible to designate lands within the Spanish Peaks area as part of the National Wilderness Preservation System. However, last year it became clear that it wouldn’t be possible to do this before the end of the 3-year period specified in the 1993 Act, so I introduced a bill to simply provide that the Forest Service will continue to manage the Spanish Peaks as a wilderness study area until Congress determines otherwise.

Because that bill was not acted on before the adjournment of the 104th Congress, I am reintroducing it today. It will remove an artificial, arbitrary deadline and will ensure that decisions about the future management of this very special area will made deliberately, through legislation, rather than by default.

HONORING DR. RUBEN ZACARIAS FOR 31 YEARS OF DEDICATION TO THE EDUCATIONAL NEEDS OF THE STUDENT’S OF THE LOS ANGELES UNIFIED SCHOOL DISTRICT

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to recognize a good friend, Dr. Ruben Zacarias, deputy superintendent of schools, Los Angeles Unified School District. Dr. Zacarias has demonstrated a life long commitment to the education of our children and will be recognized at a special ceremony sponsored by the California Legislative Latino Caucus and the Mexican American Opportunity Foundation on Friday, March 21, 1997.

Dr. Zacarias began his service in education in 1966 in the elementary classroom of Bred Street School. Since 1966, he has held every major post in the Los Angeles Unified School District, including deputy superintendent of human resources and of parent and community services, associate superintendent of school operations, assistant superintendent of administrative region G, assistant superintendent of overcrowded schools, deputy area administrator, and school principal.

Dr. Zacarias also has been instrumental in promoting key educational goals, such as the superintendent’s call to action and the LEARN restructuring programs. He has led the district in parent empowerment and involvement, appointed as deputy superintendent of parent and community services. During his tenure as deputy superintendent responsible for race relation and as associate coordinator of multicultural education, he demonstrated his leadership in bridging race relations.

While maintaining an active role in the district he has been an outstanding leader in the community, dedicating many hours to civic and community organizations. In 1995, Dr. Zacarias was appointed U.S. Commissioner to President Clinton’s Advisory Commission on Educational Excellence for Hispanic Americans, serving as chairman of the K-12 Committee. He was appointed in 1996, by Mayor Richard Riordon, Los Angeles city commissioner to the Commission on Children, Youth and Their Families. He also has been a tireless advocate for our children’s education on the boards and committees of numerous organizations addressing issues ranging from drug and gang prevention to bilingual and adult education.

For his unparalleled commitment to educational excellence in the Los Angeles Unified School District, Dr. Zacarias has received numerous awards and recognitions. In addition to honors from the California PTA, UTLA, Unit- ed Way, California Association for the Gifted, and California State University, Los Angeles, he has received formal resolutions from President Clinton, Secretary of Education Richard Riley, Governor Pete Wilson, the mayor and council of the city of Los Angeles, Los Angeles County Board of Supervisors, and the California State Legislature for outstanding service to education and the community.

Dr. Zacarias received his bachelor of arts degree from the University of Southern California, master of arts degree from the University of California, Los Angeles, and a doctorate of education degree from the University of San Francisco.

Mr. Speaker, I ask my colleagues assembled here to join me in recognizing my good friend, Dr. Ruben Zacarias, for his outstanding and invaluable service to the educational needs of all the children of the Los Angeles Unified School District and throughout the Nation.

INTRODUCTION OF LEGISLATION

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, today I am introducing a bill that will allow mutual funds to invest in Publicly Traded Partnerships [PTP’s].

PTP’s are limited partnerships and PTP shares are traded on regulated, public securities exchanges. Because interests in PTP’s are liquid and can be purchased in small increments, they can be bought today by small investors. An anomaly in the Internal Revenue Code prevents mutual funds representing many small investors from making such investments.

As safe, liquid securities which generally provide a steady income, PTP’s could be excellent investments for mutual funds. However, the Tax Code discourages fund managers from investing in PTP’s because our tax laws require that mutual funds get 90 percent of their gross income from specific sources in
order to retain their special tax treatment. Distributions from a partnership do not qualify nor do most types of partnership income which flow through to the fund. The only way a mutual fund can invest in a PTP is to be certain that the income fund will never receive more than 10 percent of its income from the partnership and that the income will not be characterized as retail income. Faced with the consequences of failing to qualify—loss of their special tax status—most mutual funds avoid PTP investments.

The 90 percent rule makes no sense with regard to publicly traded partnerships. Traditional, small partnership interests are often illiquid and not always well regulated. PTP's are different: the companies have to file information with the Securities and Exchange Commission and the partnership interests are traded on major public exchanges just like stocks.

Mutual funds are an increasingly important part of the capital markets, and it does not make sense to deny mutual fund investors an opportunity to earn money through PTP investments. My bill would correct this situation by enabling PTP's to dispose of income received by or allocated to a mutual fund by a PTP, as defined in the Internal Revenue Code, would count toward the income from specified sources which mutual funds must have.

I hope my colleagues will join me in supporting this legislation.

TRIBUTE TO THE PARK MISSIONARY BAPTIST CHURCH OF BEECH ISLAND, SC

HON. LINDSEY O. GRAHAM
OF SOUTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. GRAHAM. Mr. Speaker, the members of the Park Missionary Baptist Church of Bees Island, SC, are planning a 125th anniversary celebration to commemorate the founding of the church on Sunday, April 14, 1872. The original location of the church was near Myers Mill on the east side of Pen Branch which is now part of the Savannah River site.

The church remained on the east side of Pen Branch until 1899. At that time it was moved and rebuilt on the west side of Pen Branch. The church thrived at that location until 1938, when it moved near Highway 28 northwest of Pen Branch.

In 1950, the U.S. Atomic Energy Commission announced that its new production plants were to be designed, built, and operated by the E.I. Dupont de Nemours Co. near the Savannah River. About 250,000 acres were re-purchased for the site, and the Park Missionary Baptist Church was located within the designated area. Consequently, it was necessary for the church to move again.

Subsequent to the announcement of the Federal Government, the church family selected a search committee to find a new location for the church. Land was purchased—23.2 acres for $1,392—on January 6, 1952, from Mr. James McElmurray, and the church was moved near Bees Island.

The church entered a new phase of its dream in 1951, 1977, when ground was again broken for a new place of worship. On September 17, 1978, the congregation marched from the old site to the new sanctuary which was then dedicated in special services on Sunday, October 1, 1978.

The collective prayers of Park Church members were answered when on Sunday, October 20, 1990, the Reverend Alex E. Williams was called as the church's eighth pastor. Reverend Williams continued to serve Park Church today. Throughout its 125-year history, Park Missionary Baptist Church has ordained six men as ministers and has licensed two others as ministers.

On January 21, 1991, the church held its first Martin Luther King celebration. This has become an annual event, and it is a part of the Youth Crusade which was initially a project of the young adult department. Along with these two annual events, the church established a board of trustees, organized an adult choir, and has a full-time program with services each Sunday. The members have enjoyed the completion of a fellowship hall and continue to grow in faith and move toward their motto, "Where All Hands Join Together."

HONORING HOPE LUTHERAN CHURCH AND COMMUNITY CHRISTIAN SCHOOL

HON. CHARLES T. CANADY
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. CANADY of Florida. Mr. Speaker, I rise today to ask my colleagues to join me in commending Hope Lutheran Church on the occasion of its 40th anniversary, and Community Christian School on its first 20th anniversary.

Located in Plant City, FL, Hope Lutheran Church and Community Christian School celebrated their anniversaries on February 23, as members and friends gathered to give thanks to God for His many blessings over the years.

As five families met together in February 1957, little did they know that their small congregation would one day grow to become Hope Lutheran Church. Forty years later, this church body is a thriving force in the community and a model for God's gracious leading along the way.

Community Christian School, celebrating its first 20 years, is the only Christian day school in Plant City. With its excellent programs and opportunities, students are receiving a solid education as well as a moral foundation for their lives. Community Christian School is preparing our young people well for the challenges they will face in the future.

As we commemorate the anniversaries of Hope Lutheran Church and Community Christian School, we recognize God's blessings on these two institutions. King David reminded us in the Psalms, "Unless the Lord build the house, they labor in vain who build it." Likewise, we understand that it is God who has made this church and school flourish. He is the reason for this celebration, and we look forward to seeing the wonderful things that He will continue to do in the future.

I want to take a few moments to recognize some of the servants of Hope Lutheran Church. Rev. Gerald Renken, who served as Hope Lutheran's first pastor back in 1962, received the church's 40th anniversary celebration. After Reverend Renken, Rev. James Peter, and Rev. Donald Little served as the next two pastors of the church, today Rev. Dean Pfeffer is the pastor. All of these gentlemen have served the people of Hope Lutheran in a powerful way through their instruction, encouragement, and faithful leadership.

In addition to the pastoral staff, I would like to recognize several individuals who have dedicated their lives in service to the people of Hope Lutheran Church and Community Christian School. Mrs. Christine Mansell, the church organist, has played beautiful melodies for Hope Lutheran for 25 years. Mrs. Libby Warren has taught pre-school for 18 years. Mrs. Lana Baldwin, a kindergarten teacher, and Mrs. Sandy Howell, a first grade teacher and the former principal of Community Christian School, have both worked for 15 years. Finally, Mrs. Sue Griffin has taught pre-school for 14 years. It is my pleasure to commend these individuals for their tireless dedication and excellent service.

As we remember these faithful servants and the many others who have contributed so much to Hope Lutheran Church and Community Christian School, we are filled with thanks and gratitude. We now look ahead with faithful expectancy to see how God will continue to use this church and school in Plant City in the coming years.

HONORING MAYOR PAUL J. MURPHY
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. WELLER. Mr. Speaker, I rise today to honor the work, and dedication of a great community leader, Mayor Paul J. Murphy who has served the community of La Salle for more than 40 years.

Mayor Murphy began his long and distinguished record of service at the age of 17 by enlisting in the U.S. Navy and serving our country from 1945 to 1949. He continued to defend America through service in the U.S. Air Force from 1950 to 1952.

Paul Murphy joined the La Salle-Peuri Civil Defense in 1958 and began his political career with an appointment as a Democratic precinct committeeman in La Salle's first ward in 1959.

Mayor Murphy continued to build his record of community service as a member of the La Salle County Zoning Commission from 1967 to 1971. He won his first public elected office in 1973 as La Salle township assessor in 1973— a position he held until 1981. During this time, beginning in 1979, Mayor Murphy became an auditor for the State of Illinois Board of Education.

As the La Salle community became increasingly aware of Paul Murphy's ability, his career as a local elected official flourished with his election as La Salle township supervisor in 1981; his reelection as supervisor in 1985; and, finally, his election as mayor of the city of La Salle in 1989; and his resounding re-election as mayor in 1993.

During his two terms as mayor, Paul Mur- phy has compiled an enviable record of accomplishment and achievement. Foremost among his accomplishments is his successful effort to extend the city of La Salle's boundaries dramatically to the east—thus opening the door of major economic opportunity and
new jobs for the citizens of La Salle and the surrounding area. Mayor Murphy’s innovative efforts to address the critical infrastructure problems of the city of La Salle and his vision in seeing the potential of the UnLock 14 project to rejuvenate downtown La Salle will also be long remembered and appreciated.

Mayor Paul Murphy has been a tireless public servant and community supporter. His many years of service leave a proud legacy of accomplishment and a strong foundation of achievement on which the city of La Salle can build a better future for its citizens. Given the high regard in which Paul Murphy’s integrity and common sense are held by his peers and fellow citizens, I have no doubts that even after retirement, he will remain an influential and respected leader in the community he so proudly served.

Mayor Paul Murphy will preside over his last city council meeting on Monday, March 24, 1997, before retiring from local government service.

HONORING BETTY WILSON OF SANTA FE SPRINGS FOR HER LIFETIME OF PUBLIC SERVICE

HON. ESTEBAN EDWARD TORRES
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. TORRES. Mr. Speaker, I rise today to honor Santa Fe Springs City Councilwoman Betty Wilson for her lifetime of public service. On March 21, 1997, Betty’s colleagues on the Santa Fe Springs City Council, family, and friends will gather to pay tribute to her on the occasion of her retirement from the city council.

Betty has devoted her entire life to public service, and her record of accomplishments is exemplary, extensive, and impressive. She was first elected to the Santa Fe Springs City Council at the city’s incorporation in May 1957. She served as the city’s first mayor, becoming the first woman to hold that office in any city in Los Angeles County. She went on to serve 10 more terms as mayor, completing her 11th term in 1996.

In addition to her service on the city council, Betty has been a member of several professional and community service organizations. She served as chairperson of the Santa Fe Springs Business and Professional Women’s Club, as a member of the Santa Fe Springs Women’s Club, and as past president of the Los Angeles County Division of the League of California Cities, where she served on the Revenue and Taxation Committee, chairperson of the Human Resources Committee, and member of the Action Plan for Local Government Task Force. She also served as a member of the Los Angeles County Children’s Services Task Force, and was instrumental in the establishment of a separate Children’s Services Department within the County of Los Angeles.

Betty has been involved in the Santa Fe Springs Sister City Program for many years, serving three terms as president. She is currently president of the Town Association of the United States—Sister Cities International, and serves as council liaison to the Santa Fe Springs Sister City Committee, Community Program Committee, and Beautification Committee. She is also a member of the advisory council for the Salvation Army’s Transitional Living Center in Whittier, CA.

Betty has received numerous awards for her service, including recognition in Who’s Who in American Women, and in Outstanding Civic Leaders of America. She has received the U.S. Air Force’s Award for Advancement of Peace Through Air Power, the Women’s Club Civic Award, the California Federation of Business & Professional Women’s Club Citation for outstanding service, the National Civic Committee’s People to People Award, and the Boy Scouts of America Good Scout Award.

Mr. Speaker, it is with great pride that I ask my colleagues to join me in paying tribute to my friend and colleague, a distinguished woman and public servant, the Honorable Betty Wilson, on the occasion of her retirement from public office.

CONGRATULATING DAILY CITY POLICE OFFICERS ON RECEIVING THE 10851 AWARD IN COMBATING AUTO THEFT

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in commending five outstanding officers of the Daly City Police Department, in the 12th Congressional District of California, on their receiving today the prestigious 10851 Award for their efforts in combating auto theft. The 10851 Award is named after the California Vehicle Code section relating to auto theft and is presented to those law enforcement officers who meet the rigid criteria for vehicle theft recoveries and arrests of suspects. Officers Chris Myhra, Lee Horton, Joe Bocci, Thomas Prudden, and Gregg Oglesby are being presented the award by the California Highway Patrol and the California State Automobile Association Inter-Insurance Bureau.

While those of us who live in San Mateo County have long felt a debt of gratitude to the Daly City Police Department for exceptional work in protecting the lives and property of our friends and neighbors, we take special pride today in witnessing the presentation of this well-deserved award. Auto theft in San Mateo County is a particularly serious problem. In 1996 alone over 2,500 vehicles were stolen, costing insurance companies and policy-holders nearly $13 million.

It is highly appropriate, therefore, that we recognize those police officers who, through their diligent efforts, have set the highest example. As citizens of San Mateo County, we can feel the improvement in our daily lives provided by the Daly City Police Department. This award serves to highlight their achievements and reminds us that our law enforcement officers provide us with unparalleled public service.

I invite my colleagues to join me in commending and thanking Officers Myhra, Horton, Bocci, Prudden, and Oglesby for their service and dedication to the citizens of Daly City and San Mateo County.

IN HONOR OF THE OFFICERS AND GRADUATES OF THE UNION CITY POLICE DEPARTMENT D.A.R.E. PROGRAM

HON. ROBERT MENENDEZ
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to a special group of people, the officers and graduates of the Union City Police Department Drug Abuse Resistance Education [D.A.R.E.] Program, who have chosen a path which will provide a positive alternative to one of the greatest ills of today’s society, drug abuse. These selfless individuals have distinguished themselves through their commitment to the future of our young people of Union City. A commencement ceremony for this year’s graduates will be held at the Park Theater in Union City on March 25 and 26 for the public schools and March 27, 1997, for the parochial schools.

This joyous occasion will be the culmination of an informative 17-week training program during which these outstanding fifth grade students will be placed on the road to becoming vital members of their communities. When they first entered the D.A.R.E. Program as fourth graders, these exceptional young people had acquired the majority of their knowledge about the dangers of alcohol and drugs from either their parents or their peers. Subsequently, the educational experience they have gained has increased their personal determination to handle any obstacle they may face.

The Union City Police Department’s D.A.R.E. unit conducts a comprehensive program which reinforces the importance of self-worth and the refusal to use drugs. The program teaches children to just say no to peer pressure when confronted with the temptation to use drugs. My hometown of Union City, located in Hudson County, NJ, has been recognized as the most densely populated city in our great Nation. The Union City D.A.R.E. Program is proud to instruct over 1,800 eager children per school year. These young people will undoubtedly become respected leaders of their community.

An undertaking as meaningful as the Union City D.A.R.E. Program is never accomplished through the efforts of one individual. This particular endeavor has been the result of the unwavering dedication of the officers in charge of administering the program. Sergeant Alfonso Mendez, and Detectives Mike Ortega, Octavio Orozco, and Mike Garcia. These exceptional gentlemen have greatly contributed to the well-being of Union City’s young people and their families. Their unique contributions will long be remembered by generations of residents who will take part in this highly successful program.

It is an honor to recognize the officers of the Union City Police Department’s D.A.R.E. Program for 6 triumphant years of providing assistance to the children in my district. Their exceptional efforts will serve as a beacon of hope for countless young people faced with the temptation of drugs.
HON. RICK HILL
OF MONTANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. HILL. Mr. Speaker, I am increasingly concerned about the timing of USDA's signup putting cropland into the national Conservation Reserve Program. From the information I receive, Montana farmers and ranchers would like to postpone the CRP signup for 1 year. Language in the farm bill directed USDA to issue CRP rules 3 months after enactment. The deadline was missed by several months and the lateness of the current signup has led to much uncertainty in Montana. Montana growers who want to bid land into CRP are told by USDA they will not know whether they're accepted until June or July.

Farmers need certainty. They need to know: should they prepare land for planting wheat or for establishing a cover suitable for long-term enrollment in the program. If they aren't CRP-accepted, they're caught between nature's seasons and USDA's process. We can't change nature, but we can change the rules to help farmers and ranchers.

My friends and neighbors are not the only ones confused about this delayed signup. I am informed that even local officials running the program are unclear about some of the new rules. None of this bodes well for farmers who need to make decisions about the future use of their land.

Worse still, under the new CRP rules some of the most environmentally sensitive land for CRP is likely to receive a bid so low that farmers may decide to put these lands into crops, turning the program and its purpose upside down.

Mr. Speaker, I support the CRP program and do not want Montanaans who currently have over 2.85 million acres in CRP. It's voluntary and incentive-based. It's a good program for keeping marginal crop land in grass to prevent soil erosion and provide wildlife habitat.

However, I do not want my farmers to agonize over doing the right thing. I applaud USDA for their hard work, but the framework for decision is too short and it occurs too late in the farm calendar. It is also not well understood and has led to much uncertainty.

Mr. Speaker, I call on USDA to work with Congress. Take the time and energy required to look at this situation and do the right thing.

Postpone the new CRP 1 year, so farmers can make plans for next spring. We can do better and we should.

HON. ERNEST S. GRIFFITH
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, I rise today to pay tribute to the late Dr. Ernest S. Griffith, who passed away at the age of 100 on January 17, 1997. Dr. Griffith served the Congress faithfully for 18 years as Director of the Legislative Reference Service, now the Congressional Research Service.

Considered by many to be the father of the Legislative Reference Service, Dr. Griffith transformed a fledgling agency into a vital source of expert information and analysis for Members of Congress and their staffs. When he came to the LRS in 1940, Dr. Griffith had a staff of 40 to handle some 25,000 requests per year. Resources within the legislative branch were scarce, and the Congress depended largely on the executive branch and special interests for its information.

By the time Dr. Griffith left the LRS in 1958, his staff had grown to 200, and the number of congressional requests received per year had tripled. The Legislative Reorganization Act of 1946 had expanded the LRS's mission and given it a permanent statutory basis for the first time in its history. Experts had been recruited from all manner of disciplines to provide the legislative branch with its own pool of knowledge and information. For the first time, the Congress had available to it a select group of experts who were both knowledgeable and nonpartisan, and who could be trusted and called on at any time for help. If ever a man left his mark, Ernest Griffith left his indelibly on the Legislative Reference Service.

Prior to 1940, Dr. Griffith's career was largely in university teaching and administration. After receiving his A.B. degree from Hamilton College, he was appointed a Rhodes scholar and received a Ph.D. from Oxford University. While at Oxford, he was the warden of Liver- more College and taught economics at Princeton and government at Harvard, and was the undergraduate dean at Syracuse University before moving to Washington in 1935.

In 1935, Dr. Griffith served as dean of American University's graduate school, where he also taught political science. He returned to American University in 1958 as the founding dean of the School of International Service. Dr. Griffith was a Fulbright visiting professor at Oxford and a lecturer at New York, Birmingham, and Manchester Universities, Swarthmore College, the University of Oslo, and the University College of Swansea.

After retiring from American University in 1965, Dr. Griffith was visiting professor at the International Christian University and Rikkyo University in Japan, and lectured on American government in Turkey and Brazil. He was professor of American government at Alice Lloyd College in Kentucky in his middle eighties.

A prolific writer, Dr. Griffith authored numerous articles and books about the Congress, the Presidency, and the history of American city government. His book, "The American System of Government," was translated into more than 25 languages.

Between lectures and his duties as Director of the Legislative Reference Service, Dr. Griffi th devoted himself to serving and improving the world around him. He founded the Pioneers, a forerunner of the Cub Scouts, and the Youth Union, a forerunner of the Boy Scouts, and served as a director of both organizations.

He was a founding member of the American Political Science Association and president of the National Academy of Sciences and political science.

Mr. Speaker, Ernest Griffith was a man of intense passion and boundless energy, who dedicated his life to serving the public good. This is his legacy to us, and this is the legacy we honor here today. To his children, his grandchildren, and great-grandchildren, I extend our deepest sympathies.

HON. GERALD D. KLEczKA
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. KLECZKA. Mr. Speaker, I rise today in tribute to the men and women of St. Francis Hospital, which this year proudly celebrates 40 years of dedicated service to the residents of Milwaukee's south side.

Nestled into a residential neighborhood, St. Francis Hospital for decades has realized that health care means more than the latest advances in medical technology. In fact, health care is about people, the people who come to the hospital for care and the professionals who provide it. Even during this day and age, a time of great change in health care, St. Francis Hospital remains committed to its founding vision: reaching out to care for those in need. And, the hospital remains true to the philosophy of their founding Felician Sisters, whose focus is a dedication to care and compassion for the whole person—body, mind, and spirit.

Residents of Milwaukee and the surrounding communities are truly fortunate that they can seek care and comfort at a leading institution such as St. Francis Hospital. Excellence shows through in the hospital's comprehensive specialty programs: orthopedics, advanced surgery, obstetrics, and cardiac care, to name a few. In addition, the Wisconsin Laser Center, the Center of Neurological Disorders and the Center for Children's Orthopedics, all located at St. Francis Hospital, are recognized as leaders in their fields, both in Wisconsin and the Midwest.

My colleagues certainly realize that fine facilities and modern equipment are essential in providing health care services today, but I truly believe it is the people of St. Francis Hospital, the Sisters, employees, medical staff, board of directors, volunteers, school friends, and patients who have been the major force in continuing the hospital's fine tradition of Christian caring for the sick and injured over the last 40 years.

Congratulations, St. Francis Hospital on 40 outstanding years of care and compassion for Milwaukeeans, and best wishes for continuing success in the next 40 and well beyond.

HON. LARRY COMBEST
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. COMBEST. Mr. Speaker, in the history of this great Nation, when threatened by foreign powers, the people of the United States rally, we fight and we win. However, once we have secured the blessings of liberty—or...
when they are secured for us by previous gener-
erations—we are in danger of forgetting to re-
main vigilant against those very threats to our
liberty. Often, when blessed with peace, mem-
ories fade. Sometimes forgotten are those who
sacrifice to fight against the tyranny of oppor-
tunity.

In Odessa, TX, the Desert Squadron of the
Confederate Air Force takes to the air in the
surviving military aircraft that helped win the
peace in World War II. They fly in honor of
those who piloted those aircraft, and in honor
of those who were supported by the mighty
American air cover. The fact that these airplane
can fly at all is at the heart of the mis-
sion and the message of the Confederate Air
Force Desert Squadron: preparedness and
vigilance.

For our military veterans, our men and
women in uniform today, and the generations
who will be entrusted to keep our country
strong, keeping these aircraft flying becomes a
lesson in history and a means of teaching
strength, preparedness, and vigilance in the
name of liberty.

IN HONOR OF EL NUEVO HUDSON:
CELEBRATING 2 YEARS OF
SERVICE TO HUDSON COUNTY’S
HISPANIC COMMUNITY

HON. ROBERT MENENDEZ
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. MENENDEZ. Mr. Speaker, I rise today
to pay tribute to the El Nuevo Hudson edition
of the Jersey Journal, a local Spanish lan-
guage publication in my district, on its second
anniversary of outstanding service to Hudson
County’s Hispanic community. This newspaper
and its distinguished publisher, Mr. Scott Ring,
will be honored during a scholarship fund ben-
et dinner on March 26, 1997, at Jersey City
State College in Jersey City, NJ.

In the early 1960’s, large numbers of His-
panic immigrants began moving into the north
Hudson area. Few sources of daily news were
available in the native language of these new
and valued members of the area. Today,
Spanish news organizations, magazines, and
publications such as El Nuevo Hudson have
become the backbone of the Hispanic commu-
nity, addressing important informational
needs and concerns as well as deepening the un-
derstanding among Hispanic-Americans from var-
ious parts of the world.

In a relatively short time frame, El Nuevo
Hudson has established itself as a social, cul-
tural, and political watchdog for the growing
Hispanic-American population in Hudson
County. Ethnically focused newspapers such
as El Nuevo Hudson have helped minority
communities flourish in this Nation.

Since its launching, El Nuevo Hudson has
proven to be a reliable and valuable medium
to Hispanics throughout Hudson County. By
keeping people in touch with news and serv-
ces that affect them, it has contributed to the
heightened awareness of the diverse Hispanic
community. For this reason alone, I commend
the publisher, editor-in-chief, Anselmo
Bermudez, and the talented and hard-working
staff for providing a much needed service. I
encourage them to maintain their exceptional
work for many years to come.

I ask that my colleagues join me today in
recognizing the El Nuevo Hudson edition of
the Jersey Journal, a publication that provides
a new voice for the Hispanic community.
Through the journalistic expertise of its pub-
lisher, Scott Ring, it has won acclaim through-
out the news gathering sector of our area.
You look towards the continued participation of
El Nuevo Hudson as New Jersey approaches
a new century.

THE INTRODUCTION OF THE
CENSUS ACCURACY ACT OF 1997

HON. CAROLYN B. MALONEY
OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mrs. MALONEY of New York. Mr. Speaker,
I rise to introduce the Census Accuracy Act
of 1997. The Census Accuracy Act requires
that 3 years prior to the census, the Census Bu-
reau must submit to Congress its plans for
making the census. It must report what
methods will be used to take the census, in-
cluding direct counting methods, sampling,
statistical techniques, and any other methods
to ensure that the census is as accurate as
possible. The Accuracy Act also specifies that
when Congress requires the al-
location of funds based on population or hous-
ing characteristics, unless otherwise specified,
that data should be collected on the census at
the same time as the information for ap-
portionment is collected.

Some critics of the Census Bureau’s current
plans for the 2000 census argue that title 13,
U.F.C, prohibits the use of sampling to derive
the population counts used for apportionment.
In fact, the record is clear and overwhelming
that just the opposite is true. The Department
of Justice under Presidents Carter, Bush, and
Clinton has concluded that the use of sam-
pling is both legal and constitutional. Similarly,
when asked to rule, the courts have consist-
ently upheld the use of sampling. Neverthe-
less, some observers continue to question
whether section 195 of title 13, U.F.C, permits
the use of sampling to derive the population
counts used for apportionment, even when
read in conjunction with section 141 of the
same title. Therefore, the purpose of this bill is
to reaffirm the interpretation of the courts and
the Justice Department that the use of sam-
pling is both appropriate and desirable in order
to make the census more accurate, and en-
sure that sections 195 and 141 of title 13,
U.F.C, are in harmony as originally intended.

In just 3 years, the 2000 census will be
under way. This is an important time for this
body because it will determine how the seats
of this House are apportioned among the
States. That census is important because over
the decade it will be used to allocate hundreds
of billions of dollars to State and local govern-
ments. It will be used to enforce the Voting
Rights Act to assure equal representation. It
will be used by businesses to locate manufac-
turing plants where there is an adequate work
force, and to provide services that are valued
by the communities of which they are a part.
It will be used by State governments to plan
how to best allocate public funds to assure
adequate sewer and water facilities. We can-
not afford an inaccurate census. The bill I am
introducing today will assure all of us that the
next census is as fair and accurate as pos-
sible.

Our understanding of the accuracy of the
census increases each decade. Both Thomas
Jefferson, the first census taker, and George
Washington knew there were errors in the
1790 census. But it was the census designers
who started to make errors that would be
measured with sound scientific tools. Between
1940 and 1980 the net undercount decreased from
5.4 to 1.2 percent, but the differential undercount,
the difference between black and nonblack
undercount, went from 5.7 percent in 1940 to
4.3 percent in 1970 to 3.7 percent in 1980. In
1990, both the total net undercount and the
differential went up. In fact, the differential of
4.4 percent between blacks and nonblacks in
1990 was the largest ever. In addition to in-
creasing error in 1990, the cost per house-
hold, in constant dollars, went up. The 1990
cost was 25 percent higher than 1980 and 150
percent higher than 1970.

Because of the errors in the 1990 census,
California was denied a congressional seat
that rightfully theirs. The 1990 census missed
over 10 million Americans. Six million
were counted more than once. It is not fair
that those 10 million Americans were left out
of the census, and it is not fair that those 6
million were counted twice. We would not
stand for those kinds of errors in our election
results, and we should not tolerate them in the
census.

Is there anything that can be done about it?
Absolutely. The Census Bureau has proposed
a variety of changes in the 2000 census that
will produce a more accurate census at a
lower cost. The Census Bureau believes it
will make a greater effort to count everyone than ever
before, and people will have more opportunities
to respond than ever before.

Before the census form is mailed, everyone
will receive a letter telling them that the cen-
sus is coming. Then each household in the
United States will receive a form. About
a week later, they will receive a letter thanking
them for returning the form, and reminding
them to mail it if they have not. About a week
after the reminder letter, the Census Bureau
will send out a second form so that those who
misplaced it will have a replacement.

In addition to the mail, the Census Bureau
will use a variety of methods to make it easier
for the public to be counted. Forms will be
placed in super markets and community cen-
ers, post offices and government buildings,
convenient stores and retail stores. Forms
will be available in foreign languages, and there
will be a toll-free number where people can
call for help. There will also be a toll-free num-
ber where people can fill out their form over
the phone. And, if privacy concerns can be
addressed, it may be possible to return your
form through the internet. There will be an ad-
vertising campaign to inform the public that
the census is coming, and to explain why the
Government is collecting this information.

There will be programs for schools and civic
organizations, as well as Census employees
whose job it is to work with community organi-
zations to get out the count.

Even with all of these efforts we know that
not everyone will send back their form. For
every 1 percent of the population that does
not fill out their form, it costs an additional $25 million to
count them. The best estimate of the experts
is that even with all of these efforts, nearly 35
percent will not be counted by mail or phone. At $25 million for each 1 percent, that’s $875 million to follow up with nonresponding households. And even after hiring a half a million temporary employees, and spending weeks going door to door, not everyone will be counted. No census has ever counted everyone. The difference is that we now have the technology and scientific tools to estimate how many people were missed, and to correct the census so that it is as inclusive as possible.

The 1990 census missed almost 2 percent of the population. If that were spread evenly across groups of people and across the country, not too many stakeholders would care. But the undercount is not random. Less than 1 percent of whites were missed, but over 5 percent of African-Americans were missed. On Indian reservation the census missed 12 percent.

In 1990 the census included an experimental method to correct these mistakes—to account for those who are missed and to correct for those who are counted twice. In the end, the Secretary of Commerce chose not to use those adjustments, and we have lived with those inequities for the past 7 years. Every year millions of dollars are lost by States whose population was undercounted.

The vast body of scientific evidence shows that these errors can be corrected in a way that is fair to all. Three separate panels of experts at the National Academy of Sciences have recommended that these errors be corrected. The techniques for correcting the census have been endorsed by professional organizations like the American Statistical Association and by groups like the National Association of Counties. The inspector general at the Commerce Department has endorsed correcting these errors, as has the General Accounting Office.

Well, you must be asking yourself by now, just who opposes a more accurate census. Unfortunately, some Members of this body will pay any price to get the wrong answer. They argue that we should throw more money at the old methods of doing the census, even though they will produce a count that is less accurate. Of course, the Members making this argument are not on the Appropriations Committee. The members of the Appropriations Committee have yet to fund the census at the requested level, much less, give the Census Bureau more money.

One of the objections they raise to the methods proposed for the 2000 census is that they are not allowed under current law. I disagree with their interpretation of the law. This bill makes it clear that once the Census Bureau makes a good faith effort at an enumeration, the count can be supplemented by other methods to achieve a more accurate count.

Mr. Speaker, we must all work for the most accurate census possible in 2000. If we do not, it will be the American public who loses. My bill will make a more accurate census possible, and ensure that any confusion over current law is eliminated. I urge that it be passed quickly.

TRIBUTE TO SHEILA MONTEIRO
HON. WILLIAM D. DELAHUNT
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. DELAHUNT. Mr. Speaker, I would like to draw my colleagues’ attention to a constituent of mine who has worked tirelessly to serve her community. Sheila Monterio’s work at the Community Action Committee of Cape Cod and the islands has assisted many elderly and low-income families throughout the years.

My predecessor, Congressman Gerry Studds, has the honor of representing the 10th District, working hand in hand with committed people like Sheila Monterio to make life better for her fellow residents of southeastern Massachusetts.

At the request of Mr. Studds, I would like to submit a statement he made last fall on behalf of Ms. Monterio, recognizing her work in such to these worthy endeavors.

Over the past 24 years, I have had the honor of serving the residents of Cape Cod and islands in the U.S. Congress, and throughout that period you have committed yourself to the efforts of the Community Action Committee.

Much of our efforts over these years has been inspired by the work you have done, day in and day out, under some of the most challenging circumstances. And while you have done a great deal to make visits to Community Action productive and enjoyable, I want you to know just how much I appreciate all you have done to dramatically help improve the lives of so many others.

Simply put: you have made enormous contributions to improve the quality of life on Cape Cod and the islands. So tonight, it is a pleasure for me to join with all your many friends in extending to you my deepest thanks and congratulations for you all your kindness and friendship.

Finally, I want you to know that when I arrive home to stay in the near future, my first request of Congressman DELAHUNT will be to ask that he place this letter into the Congressional Record.

HONORING THE NATIONAL EXCHANGE CLUB AND THE EXCHANGE CLUB OF COPPERAS COVE, TX
HON. CHET EDWARDS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. EDWARDS. Mr. Speaker, today I rise to thank and congratulate the National Exchange Club and their local chapters. The Exchange Club of Copperas Cove, TX, is celebrating its 25th anniversary.

The National Exchange Club is the largest and oldest exclusively American civic organization, as well as the first civic organization to allow women membership. It is dedicated to serving and protecting the Nation’s communities through such programs as the National Exchange Foundation for the Prevention of Child Abuse.

The Copperas Cove Exchange Club distinguished itself by winning several awards at the State and national level for their superior community service. Over the past 25 years, Cove Exchangites promoted a “city built for family living” by promoting patriotism through their “givewaveflagtowave” and “Proudly We Hail” programs and by sponsoring the Exchange Sunshine Home for senior citizens. They also recognize excellence in education by honoring teachers and providing academic scholarships to outstanding students.
As the dawning of the next millennium approaches, all regions of the world are shifting ever closer toward globalization. The role of news sources like the Asia Observer will assume a greater importance in the affairs of the United States and our neighbors both home and abroad. It is through the efforts of news journals such as the Asia Observer that our lines of communication with other countries in the South Asia region, including India, Sri Lanka, Nepal, Bangladesh, and Pakistan continue to expand and grow. In just 1 year, this publication has managed to strengthen the sense of cooperation in this important region of the world by providing a useful vehicle for the exchange of information and ideas.

I ask that my colleagues join me today in acknowledging the contributions of the Asia Observer, a publication that has provided a welcome voice to the Asian-American community in issues of international and domestic importance. I firmly believe that by keeping people in touch with the issues that affect their daily lives, the Asia Observer will contribute to the growth of the South Asian region for many years to come. For this reason, I commend Mr. Surinder Zutshi and his entire staff for their efforts in providing the world a window through which it can observe the achievements of the Asian community.

NEW RETIREMENT OPTION FOR SENIORS

HON. WILLIAM M. THOMAS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. THOMAS. Mr. Speaker, I am introducing legislation today that will allow older Americans to stay in their homes while taking advantage of the exclusion of up to $125,000 in gains on sale of a principal residence. This is a badly needed option for those who wish to use the equity in their home for retirement needs without having to leave the family home.

An AARP survey shows that 86 percent of seniors prefer to stay in the family home, yet for a great number of older Americans, home equity is a major component of their savings. Seniors who need additional income in their retirement can face a troubling dilemma: they may have to give up the house to meet their needs.

The bill will aid seniors by altering our approach to the $125,000 exclusion. As currently interpreted by the IRS, the exclusion of $125,000 in gain is only available to seniors when they sell their homes and move away, literally forcing people to move to get the tax break. Their other alternatives—both of which allow them to claim the exclusion—are taking out a reverse mortgage or selling their home and leasing it back. Not all seniors will find these devices helpful. Reverse mortgages leave homeowners with the burden of maintaining the home. Sales-leaseback transactions may not provide seniors with the certainty that they will be able to continue occupying their homes.

The bill’s new alternative will permit seniors to sell the “remainder interest”—the right to fully occupy their homes and keep the “life estate”—the right to use the house for the rest of their lives. Such an option does not qualify for the exclusion today.

With all the concern about retirement savings, taxpayers can only benefit through the provision of additional options. I hope my colleagues will join me in making this option available as soon as possible.

IN TRIBUTE TO THE LADY BUFFS

HON. LARRY COMBEST
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. COMBEST. Mr. Speaker, I rise today with great honor to give tribute to the West Texas A&M Lady Buffs basketball team. The Lady Buffs’ historic winning season ended with an unfortunate, but hard-fought loss in the quarterfinals of the Elite Eight Tournament to California-Davis.

The Lady Buffs, who are led by their coach Bob Schneider, finished the season with 29 victories and only 2 losses. This is the best season that the Lady Buffs have had since the 1990–91 team, and the first time that the Lady Buffs have been in the Elite Eight since the 1987–88 season. As an alumnus of West Texas A&M, I am very proud of the Lady Buffs and their achievement this season.

Mr. Speaker, I congratulate the Lady Buffs on their winning season. They have brought pride and respect to not only their team and coaches, but also to West Texas and the hometowns of all of the players.

EXEMPT SCHOOL BOARDS FROM LIABILITY FOR THE GENERATION AND TRANSPORTATION OF MUNICIPAL WASTE

HON. RODNEY P. FRELINGHUYSEN
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to introduce two bills to make important changes to the Comprehensive Environmental Response, Compensation, and Liability Act. The first of these bills will address a problem that confronts school districts across the nation. This legislation would amend the Comprehensive Environmental Response, Compensation and Liability Act to exempt school boards from liability for the generation and transportation of municipal waste.

Under current law, a number of school boards in New Jersey are involved in legal action as polluters under existing Superfund law. These school districts did nothing more than legally transport their solid waste—remains of school lunches, broken pencils, or students’ crumpled homework pages—to municipal landfills. Under the system of joint and several liability, school boards are now being mandated to pay a substantial amount of cleanup costs or defend themselves in costly lawsuits. The cost of these formal penalties have far exceeded any contributions that they have made to toxic waste problems. Furthermore, this present situation indirectly shifts money and local tax dollars away from educating our children and into the coffers of industrial polluters or the Superfund trust fund.

Unfortunately, a legislative solution to the larger issue of Superfund reform has prevented action on an explicit exemption for
HAPPY 100TH BIRTHDAY SIMONE M. STEINBRONER

HON. JANE HARMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Ms. HARMAN. Mr. Speaker, I rise to pay tribute to Simone M. Steinbroner of Manhattan Beach, CA, who will be celebrating her 100th birthday on April 1.

Simone was born in the tiny village of Coignac, France, on April 1, 1897, the oldest of five children of Paul Jean Mounier and Jeanne Praud Mounier. She moved with her family several times as a young girl, first to Paris and then, with the outbreak of World War I to La Rochelle where her father was employed as an interpreter. At the age of 16, Simone became the youngest entrant to teachers college, graduating in 1917.

It was on her summer vacation from teaching on the small coastal island of St. Pierre d'Oleron that her mother invited two American soldiers to dinner. There Simone met her future husband, Arthur Steinbroner, a sergeant in the American Expeditionary Force, and fell in love. Arthur and Simone set their wedding for August 1, but on July 5 received the upsetting news that Arthur was to be sent back to the United States the next day. It would be 18 months before enough money could be saved for Simone’s passage to America.

Simone left France on January 9, 1921, arriving in Los Angeles, then a sleepy town with fewer than 200,000 residents, on January 24. She and Arthur married on February 3, 1921, and had seven children in 9 years. Arthur passed away suddenly in 1948.

Simone has lived in Los Angeles County for 76 years and has a total of 78 living descendents; 8 children, 28 grandchildren, 38 great-grandchildren, and 4 great-great-grandchildren, with 2 more expected this year. She still maintains an active pace, teaching French to private students, playing the piano, dancing, reading, and corresponding to her numerous friends and progeny. As a member of the Legion of Mary, she regularly visits local nursing homes to comfort the sick and elderly. She is an inspiration to them all, all of whom are younger than her, and, in hearing her story, she is an inspiration to me as well.

Mr. Speaker, I ask that my colleagues join me in congratulating Simone and in wishing her a happy 100th birthday.

IN HONOR OF DAVID L. COHEN,
CHIEF OF STAFF TO MAYOR EDWARD G. RENDELL OF PHILADELPHIA

HON. ROBERT A. BORSKI
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. BORSKI. Mr. Speaker, I rise today to commend a good friend and servant to the city of Philadelphia, David L. Cohen.

By now almost everyone across the county knows the Philadelphia story and the accomplishments of the 104th Congress and am reintroducing today, H.R. 2043, to shift contract oversight from the EPA to the Army Corps. Currently, the EPA has the option of using the Army Corps for contract oversight and does so in approximately 40 percent of its cleanups. My bill would mandate that all contract oversight be completed by the Army Corps.

I propose this shift because I believe that the Army Corps is better qualified for oversight of technical cleanups and management of contract oversight than is EPA. Furthermore, let me clarify that this legislation would in no way take any authority away from the EPA to design the cleanup and remedy for Superfund sites using the highest environmental standards.

Mr. Speaker, I urge passage of both these important and commonsense bills.

IN HONOR OF VIRGIL GLADIEUX

HON. MARCY KAPTOR
OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Ms. KAPTOR. Mr. Speaker, I rise today to honor the passing of an outstanding citizen.
optimist, business leader, and family man from Toledo, OH. Virgil Gladieux died on February 27, 1997.

Beginning with a small business selling boxed lunches out of the trunk of his car, Mr. Gladieux developed a food service empire, with operations in 35 States, in airports and on airlines, in colleges, factories, hotels, and turnpike restaurants nationwide. He also founded and developed the Toledo Sports Arena and the Toledo Beach Marina and North Cape Yacht Club. With a keen eye for opportunity, Virgil Gladieux came to symbolize a man with boundless goals who chose to become a civic-minded entrepreneur.

Ever mindful of his responsibilities to others, Virgil Gladieux was very active in civic affairs and philanthropic efforts. Throughout his lifetime, he served in various capacities on over 70 area boards, committees, and clubs. Extensively honored for his service, his most recent recognition came last fall, when he was given the annual volunteer award from the Alexis de Tocqueville Society, an organization he helped to inspire in 1984 for those who have made significant contributions to the United Way.

Virgil Gladieux, a devoted family man, leaves behind a legacy of dynamism, unparalleled entrepreneurial spirit, and community service. With gratitude and admiration for his efforts, we extend our deepest sympathy to his wife of 67 years, Beatrice, his children, Therese and Timothy, his sister and sister-in-law, his nieces, nephews, grandchildren, and great-grandchildren. Our entire community shall miss his effervescence and spirited presence that made us all better for knowing him.

INTRODUCTION OF THE METHAMPHETAMINE ELIMINATION ACT OF 1997

HON. JERRY LEWIS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. LEWIS of California, Mr. Speaker, I rise today to introduce an important piece of legislation, the Methamphetamine Elimination Act. This bill will take great strides in ridding our Nation of the dangerous drug, methamphetamine.

Methamphetamine, or “meth,” is truly a terrifying drug. It is highly addictive and, with repeated use, can cause extreme nervousness, paranoia, and dramatic mood swings. Unfortunately, meth use goes hand in hand with brutal child abuse and domestic violence. Often, children, the innocent bystanders, are neglected or abused by parents who are involved with meth production or use.

Methamphetamine is fast becoming the crack epidemic of the 1990’s. Meth production and use is a nationwide problem, cutting across all income and racial divisions; the impact, however, is disproportionally felt in California. The Drug Enforcement Agency (DEA) has identified California as a “source country” of methamphetamine with literally hundreds of clandestine laboratories, or “clan labs,” located throughout the State.

Clan labs have proliferated at such a pace that California officials now consider them major threats to the public, law enforcement and public communities, even the environment. In just 1996, the Bureau of Narcotics Enforcement [BNE] raided 835 clan labs in California, up from 465 in 1995. Just think of that 835 labs seized in California in 1 year—almost one every 10 hours. Clearly, California is on the front line in the war on methamphetamine.

As a result, California is in desperate need to help to fight this wicked drug. The Methamphetamine Elimination Act would provide $18 million to the Bureau of Narcotics Enforcement to fight meth through a 5-point strategy. Specifically, funds from this legislation will be used to hire, train, and equip 126 sworn and non-sworn law enforcement staff to do the following:

First, establish enforcement teams to target chemical sources and major traffickers/organizations.

Second, establish an intelligence component to provide strategic and tactical support to meth enforcement teams.

Third, establish a forensics component within the BNE to provide on-site laboratory services. Lab site analysis—in addition to providing for the immediate safety of law enforcement personnel—will allow BNE to bring federal bear law enforcement services not currently available.

Fourth, develop clan lab training for law enforcement officers. Training involves basic classes covering the danger of the labs and the chemical agents used in the manufacture of meth.

Fifth, establish a community outreach program to promote public awareness, the primary focus of which will be young people.

This strategy is designed to coincide with the National Methamphetamine Strategy, which was based upon work by Federal, State and local law enforcement officials during the National Methamphetamine Conference held in Washington, DC last year. There is widespread support for the implementation of this strategy, including the support of the California Sheriff’s Association, the California Chiefs of Police Association and the District Attorneys Association.

The time has come to devote significant Federal resources to this nationwide problem. In the last Congress, we passed comprehensive legislation over the meth problems. Now, we need to assist States like California that are on the front lines of this battle. Therefore, I strongly urge support for the Methamphetamine Elimination Act.

STOP FORCE-FEEDING THE PENTAGON

HON. ELIZABETH FURSE
OF OREGON
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Ms. FURSE, Mr. Speaker, it is a new era and there is now wide agreement that we must achieve a balanced budget. That means that all spending must be scrutinized and we must not be afraid to include military spending in that scrutiny.

I commend to my colleagues the following editorial from the March 24 issue of The Nation. It refers to comments by my colleague, Congressman Frank, in which he points out that any legislator who votes for the Pentagon’s budget is voting to cut domestic spending.

We are not in a zero-sum game. We no longer have the luxury of simply adding funding. We must make choices. We should not provide the Pentagon more than it asks for.

The editorial follows:

[From The Nation, Mar. 24, 1997]

PENTAGON OR BUST

There are many reasons to cut Pentagon spending. The United States already spends about one-third of the global military budget, spending more than five times as much as any other country. The Pentagon remains the largest source of drug abuse in the federal government. While it issues about two-thirds of all federal paychecks and makes about two-thirds of all federal purchases of goods and services, it is so haphazard it can’t be audited. The General Accounting Office just reported that the Pentagon was storing $41 billion in excess inventory. Billions more are lost in undocumented payments, misplaced funds, mismanaged programs. Yet the Pentagon remains immune from both Republican efforts to dismantle government and Democratic attempts to reinvent it.

Not even our nation’s security is well served by current policy. The Administration is extending military commitments while closing embassies, slashing aid budgets, stifling international institutions, thus crippling the U.S. ability to lead in addressing international deterioration in economic and social conditions. At home, the military remains our primary industrial policy and public works program, while investments devoted to our economic education and training, infrastructure, nonmilitary research and development—are starved.

The United States may be rich enough to afford this folly; the military does consume a smaller portion of our gross national product than at any time since before World War II. But as Representative Barney Frank observes on page 25, the bipartisan budget agreement this year will balance the budget in five years while cutting taxes and protecting Social Security and Medicare will force brutal cuts in discretionary spending (everything other than entitlements and interest on the national debt). Choices must therefore be made.

The military, which already captures more than one-third of all discretionary spending, has exacted a pledge for a 40 percent increase in procurement over the Defense Department’s quadrennial defense review report, due in May, is timed perfectly to reinforce its claim to the money: The brass hope to lock in their budgets and build walls around them in the bipartisan budget agreement widely expected this year.

But going soft on the military will require drastic cuts of 25 to 30 percent or more from domestic programs. The argument is no longer about cutting the military to invest at home but how much will be cut from poor schools, toxic waste cleanup, Head Start, roads and mass transit and how much from the Pentagon.

The argument for new priorities must begin with a renewed commitment to investment—children, cities, mass transit, health care and education, in clean water and clean air. As Republicans found in the last election, Americans do not favor deep cuts in education, environmental safeguards or health care.

As we make the case for reinvestment, the Pentagon can be brought down to size. In the debate, the military-based definition of U.S. security challenged, the costs of its misplaced priorities detailed. Frank suggests a peculiar way to start the uphill process: every group working to preserve a domestic program to educate its members about the stark
Let me go into some detail why the recognition process is broken and why it needs to be fixed. First, it is too expensive for Indian tribes. Experts estimate that the cost of producing an average petition ranges from $300,000 to $500,000. Over the past 16 years, the BIA has spent more than $6 million to evaluate petitions.

Second, it takes too long. Since 1978, when the BIA recognition regulations were put into place, only 14 tribes have been acknowledged, and 15 have been denied. During the same period, the BIA has received over 160 petitions or letters of intent to petition. In 1978, there were already 40 petitions pending. Bud Shapard, the former head of the Bureau of Acknowledgment and Research and primary author of the existing regulations testified before this Committee that “the current process is impossibly slow. [The BIA’s acknowledgment rate] works out statistically to be 1.3 cases a year. At that rate, it will take 110 years to complete the process.”

Third, it is subjective, flawed, and has been applied in an uneven manner. The BIA’s handling of the Samish case demonstrates the lack of fairness in the process. The Federal court and the Interior Department’s own board of appeals found that the BIA’s recognition process “did not give [the tribe] due process” and rejected the BIA’s position “as not being supported by the evidence.” This was compounded by the fact that the Solicitor’s Office and the BIA attempted to hide from the public the judge’s findings that the BIA’s tribal purity test was flawed, that the BIA’s research and methods were “sloppy and unprofessional”, and that the BIA had “prejudged” the Samish case in violation of due process.

Furthermore, Bud Shapard testified before Congress that, “[b]ecause there is no clear definition of what the petitioners are attempting to prove and what the BIA is attempting to verify, the regulations require nonsensical levels of research and documentation. This results in full of vague phrases requiring subjective interpretations. By my count the 1978 original regulations contained 35 phrases that required a subjective determination. The streamlined regulations not only doubled the length of the regulations, they more than doubled the areas that required a subjective determination.”

Fourth, it is a closed or hidden process, The current process does not allow a petitioning tribe to cross-examine evidence or the researchers, and does not allow the tribe to even review the evidence on which the determination was made until the end of the process.

Fifth, it is biased. The same Department responsible for deciding whether a tribe is also institutionally biased against recognition. An earlier House report recognized that the BIA has an “internal disincentive to recognize new tribes when it has difficulty serving existing tribes and mores new tribes would increase the BIA workload.”

My bill addresses these problems.

First, to eliminate any conflict of interest and institutional bias, my bill establishes an independent presidentially appointed three-member commission outside of the Department of the Interior to review tribal recognition petitions. The bill also allows the new independent commission to give research advice to petitioners, and provide financial assistance to petitioners. Tribes currently receive little, if any assistance with their applications.

Second, my bill gives petitioning tribes the opportunity for formal, on-the-record hearings. Such hearings will open the decisionmaking process giving petitioners a much better idea of their obligations and more confidence in the ultimate decision. Such hearings will also focus the examination of the Commission and the staff in a manner that is completely lacking in the present process. Furthermore, my bill also makes clear that the Commission itself will preside at both the preliminary and adjudicatory hearings.

Third, my bill makes clear that records relied upon by the Commission will be made available in a timely manner to petitioners. In order to facilitate proper and accurate recognition decisions, it is important that the Commission and its staff provide petitioners with the documents and other records relied upon in making preliminary decisions.

Fourth, my bill explains the precedential value of BIA recognition decisions and to make the records of those decisions readily available to petitioners. The BIA has stated that it views its prior decisions as providing guidance to petitioners. Tribes, however, have found it very difficult to gain access to copies of the records relating to those decisions. If the BIA later changes its position, the records, the records of those decisions should be made available to petitioners.

Fifth, my bill would make several changes to the Federal recognition criteria. The bill would eliminate the requirement of proof of tribal purity. Congress has already determined that descendence from a historic tribe violates policy established by Congress—section 5(b) of the act of May 31, 1994, Public Law 103–263. In that statute, Congress acted to remove any distinction that the Department might make between historic and nonhistoric tribes. In addition, the genealogical requirements inherent in showing descendence from a historical tribe seem to emphasize race over the political relationship that really should be at issue in deciding whether to recognize a tribe.

In addition, the bill would reconfigure the present recognition criteria to more closely follow the so-called Cohen criteria. Before 1978, the Department of the Interior made acknowledgment decisions on an ad hoc basis using the criteria roughly summarized by Assistant Solicitor Felix S. Cohen in his “Handbook of Federal Indian Law” (1942 edition) at pages 268–72. In 1978, the Department issued acknowledgment regulations in an attempt to standardize the process. The process and the criteria were established after 1978 were different than those used before 1978. Under the Cohen criteria, a tribe needed to show at least one of the following: it had treaty relations with the United States; it had been called a tribe by Congress or Executive Order; it had communal rights in lands or resources; it had been treated as a tribe by other Indian tribes; or it had exercised political authority over its members.

My bill would require a petitioning tribe to prove: that it and its members have been identified as Indians since 1934; that it has exercised political leadership over its members since 1934; that it has a membership roll; and that it exists as a community by showing at least one of the following: first, distinct social
be assured that the Palestinian Authority
If random acts of violence occur, they must
malls, and sending their children to schools.
must feel safe riding buses, shopping in
Israelis, the key element is security. Israelis
ments can succeed. For the majority of Is-
it affects the daily lives of Israelis and Pal-
common market.
will contain a modern commercial center to
and later operation of this hotel will provide
Middle East peace process might, finally,
peace process by Ralph Nurnberger, a fair-
Wednesday, March 6, 1997
ONHE, THOMAS E. PETRI
OF WISCONSIN
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. PETRI. Mr. Speaker, on March 6, the
Christian Science Monitor reported a very per-
area, especially through direct involve-
mission to hold the trial-type hearing within 180
days of the preliminary hearing and make a
decision will need to be delayed another two
These are all important measures and I
hope that my colleagues will support me in my
to set right much of the injustices
that the United States has visited upon the

NOT A HEARTBREAK HOTEL
by Ralph Nurnberger
The day before he left for his official visit to
the United States, Yasser Arafat presided
over the groundbreaking ceremony for a
Marriott Hotel to be built on the beachfront
in Gaza.
This project says, symbolically, that the
Middle East peace process might, finally,
produce some benefits for the people in the
area, especially through direct involve-
ment of the private sector. The construction
and later operation of this hotel will provide
employment opportunities for Palestinians.

Mr. PAYNE. Mr. Speaker, on Friday, March
14, 1997, the New Jersey Association of
Women Business owners held A Salute to
Women Leaders Luncheon.

HON. DONALD M. PAYNE
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. PAYNE. Mr. Speaker, on Friday, March
14, 1997, the New Jersey Association of
Women Business owners held A Salute to
Women Leaders Luncheon.

This chapter's membership has successfully
encompassed the entire State of New Jersey.
The statewide group of women business
owners is 1,000 members strong, making it the
largest chapter of the National Association
of Women Business Owners in the United
States. The New Jersey chapter has become
a strong economic and political force at both
the State and national levels.

National statistics state that woman-owned
businesses are the fastest growing segment
of the U.S. economy. Currently, women own
more than 6 million businesses, which is one-
third of all U.S. companies.

Mr. Speaker, I am sure my colleagues will
join me in saluting women leaders as well as
the New Jersey Association of Women Busi-
ess Owners. I want to congratulate the chap-
ter on a successful event and wish the mem-
ers many more years of growth and prosper-

OHSA: THE TIME IS NOW
HON. JOEL HEFLEY
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. HEFLEY. Mr. Speaker, today I am intro-
ducing legislation to reform the Occupational
Safety and Health Administration (OSHA).
This legislation is exactly the same as H.R. 707,
which I introduced during the 104th Congress.
H.R. 707 had 19 cosponsors, including 2 full
committee chairman.

I, representing legislation to reform the Occupational
Safety and Health Administration (OSHA). This
legislation is exactly the same as H.R. 707,
which I introduced during the 104th Congress.
H.R. 707 had 19 cosponsors, including 2 full
committee chairman.

Since 1970 OSHA has been tasked with the
duty of maintaining safe and healthy work-
places. I intensely support them in this effort
and I think you would be hard pressed to find
a Member of Congress who didn’t. However,
OSHA’s ability to carry out this task through
mandatory standards enforced by surprise in-
spections and fines need to be rethought. My
bill will move OSHA from a heavily enforced
bureaucracy to a compliance based cooperative
agency. By relieving OSHA from its “gotcha” mentality, I believe we can create
even safer workplaces.

Every Member of Congress has heard about
some of OSHA’s ridiculous regulations and
tactics from their constituents. It’s time to send

March 20, 1997
CONGRESSIONAL RECORD — Extensions of Remarks
E537
boundaries; second, exercise of communal
rights with respect to resources or subsistence
activities; third, retention of a native language
or other customs; or fourth, that it is state-re-
ognized.

Finally, my bill sets strict time limits for the
Commission to act, thus eliminating delay. It
requires the new Commission to publish peti-
tion in Federal Register within 30 days of re-
cipt. It requires the Commission, within 60
days of receipt, to set a date for a preliminary
hearing. If a preliminary hearing is granted, it
must be held no later than sixty days after the
hearing.

OPIC made a major effort to seek private
sector projects to assist or insure. But most
private investors have avoided Gaza, so OPIC
funds committed to date have been modest.
Mr. Arafat would be wise to stress the solv-
ing of such economic problems as a prime
way to reduce tensions, improve the quality
of life, and enhance opportunities for peace.
Hes. should build on momentum from the
hotel project and stress the need for private
sector involvement in the Palestinian econ-
omy.
a message to the agency and to employers that OSHA’s sole purpose is ensuring that safety of employees through common sense regulation. What better way to do that than to bring the two sides together. The “us against them” mentality doesn’t do anyone any good. My legislation puts both the enforcers and the stakeholders on an even playing field in order to protect our most valuable resource: our work force.

Please join me in this effort by cosponsoring my OSHA Reform Act of 1997.

RENEWAL ALLIANCE
HON. RON PACKARD
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. PACKARD. Mr. Speaker, I rise today to discuss my recent participation in the renewal alliance—a unique bicameral Republican group committed to promoting the work of charities, churches, small businesses, and community organizations in helping to solve some of our Nation’s most intractable problems. Our renewal alliance believes that we must focus not just on the failures of Government, but also on the hope of rebuilding strong communities.

In the months ahead, our alliance will promote the many solutions already at work across the Nation, powered by nothing more than a compassionate dedication to lending a hand, spending a few hours a week, or giving charitably to efforts which help improve the lives of those around us. We will highlight legislation to create enterprise zones, tax incentives for charitable giving, educational reform, and removing bureaucratic barriers to problem solving with simple, people-based solutions.

Most importantly, we will ask our colleagues and our community leaders to look not to the Halls of Congress for innovative ideas, but to our marketplace, to our charities, churches, and community organizations to see how they have made more money in the process. How- ever, I think it’s clear that what motivates Al is not the trappings of political power, but the earnest desire to serve. I am certain that Al’s wife, Lolly, would have preferred to see more of him over the years as she and her husband raised their five children. But Al recognized his wife’s heart was also with the people of his community and his State. That shouldn’t surprise anyone. Lolly served her community as well and developed a distinguished career herself as an administrator at the University of Wisconsin-Stout.

I thank my friend Al Baldus for a lifetime of contributions to Wisconsin and the Nation. And I hope you’ll join me in congratulating Al and wishing him the best in his well-deserved retirement.

DEMOCRACY—ABOVE AND BEYOND
HON. CURT WELDON
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. WELDON of Pennsylvania. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its Ladies Auxiliary conduct the Voice of Democracy broadcast scriptwriting contest. This year more than 109,000 secondary school students participated in the contest competing for the 54 national scholarships distributed among the 54 national winners. The contest theme this year was “Democracy-Above and Beyond.”

I am proud to announce that Ms. Natalie Bucciarelli from my congressional district in Pennsylvania won the 1997 Voice of Democracy broadcast scriptwriting contest for Pennsylvania. Natalie, a resident of Broomall, is a senior at the Academy of Notre Dame de Manur in Villanova, PA. I extend to her my warmest wishes for success as she continues her education in college next year.

Natalie’s script is filled with enthusiasm for the spirit and promise that democracy holds for each individual. It is encouraging to see that our young people continue to cherish the gift of democracy. That is because once we take democracy for granted—or begin referring to it as simply a “slogan”—then democracy will truly be endangered.

Mr. Speaker, I would like to share Natalie’s award winning script with my colleagues in Congress.

“DEMOCRACY—ABOVE AND BEYOND”—1996-97 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM
(By Natalie Bucciarelli)

Mikhail Gorbachev, former General Secretary of the Soviet Union, not too long ago proclaimed that democracy is not a slogan—only a slogan. And he believed then that democracy, like other slogans, was empty and worthless. But he believed that communist leaders before him, believed that our American democracy would eventually and inevitably fall; it would succumb to tensions with our country—tensions: white against black, women against men, rich against poor.

But Mikhail Gorbachev misread the real meaning of democracy—the meaning above and beyond. He only looked at the imperfections of democracy—and it is true that democracy, like all political systems, is less than perfect. But Mr. Gorbachev wrongly believed that our democracy would become thin and faded and soon crack and crumble like a rotting wall. But democracy is not a wall. Walls, by their nature, keep people out. As Mikhail Gorbachev learned, such walls do come down.

The spirit of our democracy is not about walls, but about barriers. Artificial barriers do from time to time appear—Rosa Parks being forced to the back of a Birmingham bus and bus windows reading “No Irish or Italian need apply.” But such events have been only temporary obstacles to the real positive force and direction of our democracy. Our system of government has, above and beyond all others, served to include all people without regard to race, creed, gender, or ethnic background. Democracy has no equal in promoting the free exchange of ideas and in safeguarding the civil liberties of minorities. Democracy is, above and beyond all else, about “all men (and women) are created equal” and about those inalienable rights granted to each of us by our creator.

This is the spirit—this is the promise and the hope of democracy. Democracy promises to provide hope and opportunity. Democracy does not exclude, it includes. Democracy does not seek to destroy, it seeks to build. Our system of government recognizes and respects the free exchange of ideas. You can dare to dream in a democracy and if you believe in your dreams and work hard to achieve them you will receive them. Democracy is not me against you and you against me but each of us in support of the other. There is room for everybody. No one is any more valuable than any other—male against female, black against white, young against old, female against male. Democracy is about the promise it
holds for everybody—all of us—one to another working and learning and building and helping each other. This is the fundamental hope of democracy—perhaps the only true flicker of hope in a world too full of brutal despotism and senseless terrorism and violence.

No, democracy is not just a slogan. Mikhail Gorbachev may have been sincere when he said it, but he was dead wrong. You know that brave men and women have fought and died for the spirit and the hope and the promise of democracy. They did not sacrifice for some hollow, empty slogan. They sacrificed for you and for me—people like us—and all the generations that will come after us. For we are the keepers of the hope and the promise of democracy. Within our democratic spirit can be found the true meaning of their sacrifices. And so we owe them something—something above and beyond a debt of gratitude. We owe it to them to keep the promise and the flame of democracy alive. And so, in the end, where democracy is concerned, let us remember not the words of Abraham Lincoln, but rather the words of Mikhail Gorbachev, but rather the words of Mikhail Gorbachev.

Mrs. FLAHERTY GOES TO WASHINGTON

HON. HENRY J. HYDE
OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. HYDE. Mr. Speaker, I would like to bring to the House’s attention a stirring anec-
dote about the triumph of the little gal, and of Congress’ ability to improve substanti-
ally the lives of constituents. This story should be characterized as Mrs. Fla-
herthy goes to Washington. Mrs. Flahtery discovered a flaw in the law governing VA employees’ ability to earn money at a second job, and with the help of Representative Jim SENSENBRENNER, this little lady made a difference.

CIVICS 101: MAKING A DIFFERENCE

(By Mary Flaherty, RN)

During last year’s presidential campaign, much was focused on the idea that the federal government should play in the lives of the average citizen. Many believe there is nothing we can do individually to change things. I confess once shared that view, but something happened to me that disabused me of that notion. Indeed, it has convinced me that one truly can make a difference.

Several years ago, as a senior professional nurse at the VA Hospital in Milwaukee County, I sought permission from my superi-
ors to work after hours in a private nursing facility for the better welfare of the patients. I learned this same statute allowed professional nurses to “moonlight,” but not in their chosen profes-

sion. I was told the merits of my case were insurmountable. The les-
son here is: Don’t get mad or give up, but invest time and effort, and pursue your objective with bul-
dogish tenacity. My own experience graphically il-

The IMPORTANCE OF MUSIC EDUCATION

HON. BOB CLEMENT
OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Mr. CLEMENT. Mr. Speaker, I rise today to bring attention to the Members of the House the significant study that was published in the February 1997 issue of Neu-
rological Research. The study explored the link between music education and intelligence in children. The results of the study demon-
strated that music training—specifically piano/keyboard instruction—is far superior to computer instruction in enhancing children’s abstract reasoning skills necessary for learn-
ing math and science.

The experiment, a follow-up to the groundbreaking studies indicating how music can improve spatial-reasoning ability, set out to compare the effects of musical and non-mu-

sical training on intellectual development.

The experiment included three groups of preschoolers: one group received private piano/keyboard lessons; a second group re-
ceived private computer lessons; and a third group received piano/keyboard lessons. Those children who received piano/keyboard training per-
fomed 34 percent higher on tests measuring spatial-temporal ability than the others. These find-

ings indicate that music uniquely enhances higher brain functions required for mathe-

matics, science and engineering.

What does this mean to Members of the House? It means that in this year’s sweeping delibera-
tions on education reform and appropri-
ations bills, we should maintain music as a core academic subject and recognize, wherever possible, its dramatic and positive impact on cognitive development. The importance of school-based music training as a basic tool for maximizing our children’s educational aptitude and opportunities cannot be overemphasized.

It was widely accepted that music education provides our youth with one of the few educational benefits that have not only been scientifically documented, but in which a large number of children clearly benefited. Sequential music training also provides significant benefits and advantages in the skill areas of mathematics and science.

I urge my colleagues on the authorizing and appropriations committees to give the results of this study serious thought in their deliberations as Congress determines the scope, char-
acter, and priorities of Federal support of our education system.

TWIN LAKES OUTSTANDING WOMEN

HON. KAY GRANGER
OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997

Ms. GRANGER. It is with great pleasure, and even greater pride that I rise today to honor 12 outstanding women from the 12th District of Texas. On behalf of Fort Worth women, will be recognized by the Fort Worth Commission on the Status of Women with the 1997 Outstanding Women awards. These awards are given annually to women who have strengthened the Fort Worth community through their local involvement and leadership.

As a lifelong resident, former mayor and now Congresswoman from Fort Worth, I have wit-
essed firsthand the breadth of their activities and the inspiration of their example.

The backgrounds and activities of these women are varied and well representative of our community.

Rachel DeRusse Newman, recipient of the Commissioners’ Award for Advocacy for Chil-
dren, has worked hard to become a corporate officer. Her career path has been difficult but her commitment and persistence have been unmatched. Knowing her path would have been easier with a college degree, Rachel Newman is working to ensure that Forth Worth children get the best education pos-
sible. While serving as a Forth Worth Inde-
pendent School Board trustee, she has worked to restructure the bilingual program, broaden a multicultural curriculum, and establish a Hispanic Scholarship Campaign Drive.

Elaine Yoko Yamagita, recipient of the Commissioners’ Award in the Arts, has been a strong leader for the arts in our community. She was responsible for bringing 80 Nagaoka citizens to participate in Sun & Star 1996, as well as coordinating meetings in Fort Worth for the Japanese American National Museum, lo-
cated in Los Angeles. Yamagata is also active in Fort Worth Sister Cities International, the Van Cliburn Foundation, Fort Worth Sym-
phony, and Fort Worth Opera and was a great help to me during my time as mayor.

Opal Roland Lee will receive the Commis-
sioner’s Pioneer Award. While working as a home-school counselor, Opal has made time to chair many organizations and a vol-
unteer with the Historical Society, Genealogical Society, Evans Avenue Business Association, Metroplex Food Bank, Habitat for Humanity,
and Citizens Concerned with Human Dignity. For years, she organized Dr. Martin Luther King, Jr. day events and continues participating on the Juneteenth Committee. Opal is also very active in her church and devoted to her family.

Betty Randels, recipient of the Commissioners' Pioneer Award, first demonstrated her pioneering spirit in the late sixties when she fought to change the local jail system which housed juvenile offenders in the same cells with hardened criminals. In 1976, Betty chartered the Uncontested Divorce Clinic in Fort Worth. More recently, she has helped charter the Tarrant County Child Welfare Board and been very active in numerous volunteer organizations, including the Fort Worth Girls Club.

Dr. Jennifer Giddings-Brooks, principal of the Edward J. Brisco Elementary School and education advocate, will be recognized as co-winner of the education award. She uses her personal motto, “All Children Can Learn,” to inspire excellence in teaching, creative problem solving, and social intervention. Dr. Brooks served as a Fort Worth delegate to the President’s Summit on America’s Future and participated in the Carnegie Foundation Task Force on Learning.

Dr. Delores Simpson will be the other recipient of the education award. Dr. Simpson who maintains that you can do whatever you set your mind to, was honored by Texas Christian University as Outstanding Educator from the School of Education. She is an inspiration to her students, her grown children, and the numerous organizations in which she volunteers, such as the Presbyterian Night Shelter Board, Metropolitan YMCA of Fort Worth Board, and the FWISD Stay in School Task Force.

As Director of the legal department for the Tarrant County Domestic Relations Office, Pamela Dunlop-Gates has argued on behalf of hundreds of children and is well deserving of the law award. She is very active among community organizations such as the Metroplex Black Chamber of Commerce and the United Negro College Fund. She is also cofounded the Tarrant County Black Women Lawyers Association’s Uncontested Divorce Clinic. She has been a strong voice for our community.

Una Bailey and Rosemary Hayes will be recognized in the volunteer category. Ms. Bailey is active in the Parent-Teacher Association, Fort Worth Independent School District, Tarrant Area Food Bank, and numerous other organizations. Ms. Hayes volunteered more than 500 hours at St. Joseph Hospital, was treasurer of Patrons for the East Regional Library and is active in numerous other civic organizations. Both Una and Rosemary contribute daily to the quality of life in Fort Worth.

The award winners for outstanding women in the workplace are Donna R. Parker and Carrie Jean Tunson. Donna is executive vice president of urban development for the Fort Worth Chamber of Commerce where she manages aviation, transportation, environmental, and quality work force development. Donna has been very important to the economic development of Fort Worth. She is active in Citizens Crime Commission of Tarrant County, United Way, Metropolitan Fort Worth, United Negro College Fund, and many other groups associated with the growth and development of local and national organizations.

HONOR RABBI ADAM D. FISHER
HON. MICHAEL P. FORBES
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. FORBES. Mr. Speaker, I rise today to pay tribute to Rabbi Adam D. Fisher, a devoted man of God and community who is celebrating his 25th year of service to the Temple Isaiah in Stony Brook, NY. The entire Three Village community, indeed all of Long Island, has been enriched by Rabbi Fisher’s lifelong service to the spiritual growth and human needs of his fellow man. A widely renowned theologian, an accomplished poet and writer, and a tireless community activist, Rabbi Adam Fisher has earned the love and respect of all who know him and his good work.

The 375 families who comprise Temple Isaiah’s reform congregation are indeed blessed to have Adam Fisher as their rabbi. During his tenure, the congregation has tripled in size, and the Temple has added a school of religion, a sanctuary, and a social hall. With Rabbi Fisher’s leadership, and the faith and good work of his congregation, Temple Isaiah has grown to become the spiritual heart of the Three Village community.

Among the many good men and women of God, few enjoy Rabbi Fisher’s renown as a Biblical scholar. His stellar reputation as a servant of God and man is demonstrated by the multitude of local, regional, and national organizations that he devotes himself to. The Union of American Hebrew Congregations, the Central Conference of American Rabbis, the Suffolk Board of Rabbis, and the Three Village Interfaith Association.

So devoted is Rabbi Fisher to spreading God’s word, he has worked to develop his skills as a writer and poet, authoring two books of liturgy and publishing numerous short stories and articles in a variety of Jewish and literary journals. His Biblically-based children’s stories, which he often weaves into his family services, inspire the youngest among us to seek God’s presence in life. Rabbi Fisher’s heartrending, sensitive and insightful poems have been collected in two books: “Rooms, Airy Rooms” and “Dancing Alone.”

His work has also been published in the Manhattan Poetry Review, Long Island Quarterly. In 1990, Rabbi Fisher garnered the Jeanne Voegel Poetry Prize at the Westminster Writers Festival.

As someone who is truly blessed to call Rabbi Adam Fisher a personal friend, I ask my colleagues in the U.S. House of Representatives to join me in honoring Rabbi Adam D. Fisher for his 25 years of devoted service to God and the Temple Isaiah. Congratulations, Rabbi Fisher. Mazel tov.

THE CHEYENNE-ARAPAHO INCIDENT

HON. TOM CAMPBELL
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 20, 1997
Mr. CAMPBELL. Mr. Speaker, this past week, I was saddened and angry to read of the White House’s and Democratic National Committee’s further crass attempts to sell Presidential access and perks for political gain. In this case, the administration reached a new low: pressuring political contributions from native American tribes. Specifically, it has been revealed that the Cheyenne-Arapaho Tribes of Oklahoma gave $107,000 to the Democratic National Committee in the expectation of receiving favorable treatment by the White House in a land transaction.

No one needs to be reminded of the sad and tragic history of U.S.-native American relations. The history of the Cheyenne-Arapaho Tribes is an especially tragic one, which makes the latest revelation seem all the more insensitive.

The Cheyenne people are originally from the Great Lakes area, while the Arapaho originated in present day Minnesota. By the mid-1800’s, a portion of the two tribes had migrated to southern Colorado. It was there in 1864, at a place called Sand Creek, that the First Colorado Cavalry under the command of Col. John M. Chivington, slaughtered about 150 peaceful Indians, killing men, women, and children indiscriminately. Today, the massacre at Sand Creek stands as one of the most shameful acts perpetrated by the U.S. Government against its own indigenous peoples.

It’s also shameful that today, tribes feel that the only way they can be heard in Washington, DC is to buy access. In addition to the $107,000 contribution, the Cheyenne and Arapaho Tribes were also allegedly told by Vice President Gore’s fundraiser, Nathan Landow, that they needed to hire him to lobby their cause successfully. It’s an outrage that the White House political operation thinks nothing of focusing their money-raising apparatus upon one of the most historically vulnerable minorities in our society. One hundred thousand dollars may not seem like a lot of money to big-time contributors, but for tribal leaders who are trying to seek economic and cultural self-determination, the sum could always be better spent on economic development and job training to fight unemployment which hovers around 50 percent on many Indian reservations. On the Cheyenne-Arapaho reservation, unemployment stands at 62 percent.

I don’t blame the tribes for their actions. I blame the White House and Democratic National Committee for fostering a culture of
Mr. FRANK of Massachusetts. Mr. Speaker, while I was pleased to vote for the minimum wage increase, I regretted that in effect this minimal act of social justice had to be purchased by tax reductions, some of which were unjustified from the standpoint of the maximum efficiency of the tax code. In the accompanying article, Jerome Grossman, a prime example of a businessman who has been both successful in private enterprise while being an active crusader for social justice, notes that the corporate sector benefited significantly more than the person earning poor from this legislation. I think the central point is relevant whether one supported the legislation or not because it is an example of how efforts to aid poor people are often exaggerated in their impact, while far more valuable benefits conferred on wealthier members of our society are often ignored. Mr. Grossman’s article from the Wellesley Townsman is very relevant in this regard.

[From the Wellesley Townsman, Jan. 23, 1997]

WHO WILL REALLY PAY FOR MINIMUM WAGE INCREASE? (By Jerome Grossman)

Democrats claimed their biggest victory of 1996 with the passage of a 90-cents-an-hour increase in the minimum wage. President Clinton cited this accomplishment in virtually every speech he made during his campaign for reelection. So did almost every other Democrat running for federal office seeking re-election. Even though the Democratic party is in the minority, it can force passage through legislation. The raise, which affected about 30 million workers, was the first increase in five years. It attained a unique moral status. Sen. Edward M. Kennedy wrote, “Because of those increases, we can be thankful today that the wolf is now farther from the door for millions of deserving American families...to do.”

Initially, there had been fierce Republican opposition to the measure. House Majority leader Dick Armey of Texas had called the raise “a folly” and said he would “fight the minimum wage increase with every fibre of my being.” Representative Bill Goodling, R-Pa., chairman of the Economic and Educational Opportunities Committee, said, “For two years, this minority (the Democrats) has been the majority and they had the White House and not one word was ever mentioned about the minimum wage.” In fact, while the Clinton administration eventually backtracked on the increase, it was virtually ignored from the time Clinton first moved into the White House in 1993 until the election year loomed in late 1995. The AP-CIO claims that their incessant advertising scared Republican members of Congress in working-class districts and indeed a large group of Republicans broke with the party line on the issue. Majority Leader Robert Dole fought the measure vigorously until we left the Senate, but, surprisingly, his successor, Trent Lott of Mississippi, lifted the GOP siege and let the increase pass. Kennedy gives Lott full credit.

The key to passage was the transformation of the bill from being primarily a worker’s bill to primarily a business tax-break bill. As Goodling said, “We knew that just raising the minimum wage was not going to motivate workers, unless we did the other things in this package, the tax changes.”

Most of the tax breaks, which were originally designed to help small business, had bipartisan support. I suppose it could be argued that small business needed special help. Moralists could just as compellingly point out the responsibility of all businesses to pay their workers a living wage, for the health of the workers and for their greater efficiency.

But in the deep recesses of congressional committees, without public attention, tax cuts were added that will benefit some of the largest companies in the United States, including Hewlett-Packard Co., Johnson & Johnson, Microsoft Corp., and Domino’s Pizza Inc.

As usual, the numbers clearly show who are the primary beneficiaries of the minimum wage bill. Ten million workers will gain 90 cents per hour; total increased wages for five years equal $6.8 billion. The breaks for employers in this bill will total $10.1 billion over five years. That makes a net profit to business of $3.3 billion. As recently as December, the New York Times described the minimum wage as a Republican “surrender.” A rather profitable “surrender”;

the business lobbyists crying all the way to the bank.

Business cannot even take the high road and say to their workers, “We gave you a raise, we are paying you more, we did the right thing.” Only we taxpayers can say that—because it is our money.

Mr. Speaker, I recently had the opportunity to host in my office eight true American heroes. They are the recipients of the Achievement Against the Odds Award and were recognized at a dinner in their honor this March 10. The awards program, developed by Robert Woodson’s National Center for Neighborhood Enterprise, seeks to identify everyday citizens who have overcome significant personal, physical, and or economic challenges to improve their lives and the communities in which they reside. Among this year’s winners are a former youth gang leader now dedicated to stopping violence and a man and wife who have overcome long-time substance addiction and gone on to revitalize their crime-ridden neighborhood.

It is vitally important that we recognize the everyday heroes all around us and shine the light on them for all to see. What a benefit to all of society to see how individuals can truly transform their own lives and that of their communities.

I enter into the CONGRESSIONAL RECORD the inspiring life stories of these courageous individuals.

ACHIEVEMENT AGAINST THE ODDS AWARD RECIPIENTS

HON. NEWT GINGRICH
OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 20, 1997

Mr. GINGRICH. Mr. Speaker, I recently had the opportunity to host in my office eight true American heroes. They are the recipients of the Achievement Against the Odds Award and were recognized at a dinner in their honor this March 10. The awards program, developed by Robert Woodson’s National Center for Neighborhood Enterprise, seeks to identify everyday citizens who have overcome significant personal, physical, and or economic challenges to improve their lives and the communities in which they reside. Among this year’s winners are a former youth gang leader now dedicated to stopping violence and a man and wife who have overcome long-time substance addiction and gone on to revitalize their crime-ridden neighborhood.

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ACHIEVEMENT AGAINST THE ODDS AWARD RECIPIENTS

(Perry Brawley, Chicago, IL)

At the age of six, living in the notorious Cabrini Green public housing project of Chicago, Perry Brawley had been accustomed to an environment permeated with violence, drug trafficking and gang shoot-outs. But he had been excited about the prospect of joining the Jesse White Tumblers, an athletic performing group founded by a committed
legislator to help at-risk youths resist the lures of gangs and drugs. Hope of one day be-
coming a Tumbler helped Perry resist the temptations that surrounded him. He fol-
lowed that role model and became one of the many young children in Cabrini who spent their
days practicing flips and jumps off discarded mattresses that littered the project’s yard.
Perry’s younger brothers and sisters had been tumbler, channeling his youthful energy
into constructive activity. 34 and a responsible
husband, father, and community leader, he
trained his younger brothers to become
Tumblers, his coach and relatives who
provided consistent examples and firm guide-
lines.

Today, Perry recounts that saying “no” to
gang membership was not a simple decision
but a continual process that demanded per-
sonal strength and external support.

“Tumblers fill a desire to belong and to
have a ‘family.’ And the kids are willing to
toe the line to have that.”

The father of a ten-year-old son, Perry
continued to live a work in the Cabrini
neighborhood overcoming out of youth in the
community and providing the opportunities,
counseling, and mentorship they need if they are to make wise life choices. Perry’s
service includes countless volunteer hours in
the church, school and the Tumblers which
has proved itself to be a life-salvaging oasis in
the Cabrini neighborhood. Perry now
serves as the assistant coach and his son,
Dejon, is also a Tumbler.

The young athletes have performed during
half-time shows at NBA and NFL games and
recently appeared in the presidential in-
augural parade. Yet, in spite of the celebrity
the group has achieved, Perry continually
reminds his young proteges that “Tumbling
is a phase, but education is the key to your
future.” All of the youths are required to
present their report cards to the coaches, and
all Tumblers are required to maintain
passing grades, and to stay out of gangs and
away from drugs and alcohol. Perry explains,
“For many of these kids, this is the first in-
centive they have ever had to follow the
rules and to accomplish goals. Before the
Tumblers, many of the kids felt that they had
nothing to lose so they would try any-
thing. They had no respect. It was something
they wanted. They wanted to travel and be
with their friends, to feel that they are valuable.
The Tumblers fill a desire to belong and to
have a family.”

LUCY ESBIEUEL, LOS ANGELES, CA

Lucy Esmieuel grew up in the William
Mead public housing development and was
influenced by the drug trafficing, gang ac-
tivity and crime she saw everyday. As a
teenager she became heavily involved with a
gang and rose quickly as a leader.

But before Lucy ever came to under-
stand that gang activity would ultimately be
a destructive force in her life. Eventually,
she became the mother of eight children and,
more than a sense of personal accountability
and a desire to provide her children a
stable, secure environment and prospects
for the future. Rather than planning an es-
cape from the housing development, Lucy
committed herself to transforming William
Mead to the kind of environment she wanted
for her children and her neighbor’s children.

For nearly five years, Lucy worked on
leadership skills, which were once used to pro-
mulgate gang activity, have been used to
stimulate revitalization and development in
her community. Lucy’s personal experience,
Lucy knows that it is not enough to tell
young people to say no to gangs and drugs,
Tampa, a nonprofit organization dedicated to bettering the lives of East Tampa residents. She also began 500 hours of sweat equity service with Habitat for Humanity, helping with construction on various homes every Saturday for a year as a “down payment” on a new four-bedroom home for her family.

Jamie is now enrolled as half-time student at a local community college and works full-time at the CDC as a Data Specialist in the organization’s Job & Education Placement Center. Many of the individuals served through this center have been referred by the local drug rehab facility, the Department of Corrections and public housing, and with a firsthand knowledge of the challenges they face, Jamie has been exceptionally successful in inspiring them to pursue the path to self-sufficiency and employment.

FLORENCE PONZIANO, AUSTIN, TX

When Florence Ponziano first moved to the Montopolis area three years ago, she decided to help beautify the community and began single-handedly cleaning the local graveyard. Her loving personality began attracting children who would help her and come visit her house after school and on weekends, where they would read together, she would cook them meals, and give them guidance. One day she and the children decided to name her home the Comfort House, as it served as a safe “home away from home.” Many of the children who frequent the Comfort House come from crack houses, families with a parent who is not involved or at home due to drugs or alcohol abuse, single parent families where a parent has to work numerous jobs to make ends meet, and families where a parent has AIDS and is physically unable to handle constant care of the children. Florence cooks for the children after school and on weekends—a time when many of them would otherwise not eat. She washes their clothes so they are not traumatized by going to school dirty, reads with them, helps them with their homework, and serves as a positive role model. She uses a large portion of the $430 a month she receives on food and laundry detergent for the children’s needs. Due to her financial situation, Florence does not have a washer and dryer in her home and does not own a car, so she puts all their clothes in the back of a little red wagon and off they go to the laundromat.

One thing about Florence’s work with the children which especially touched me, besides her unconditional love for them, is her goal to teach them to give back to the community and instill in them a sense of responsibility for bettering themselves and improving the lives of others in the community. She and the children help paint houses, clean yards, and even cook for the elderly and disabled in the area, all free of charge. Many times she takes them on an outing to pick up trash on the neighborhood lots. This spreads her volunteerism and impacts and improves the entire Montopolis community.

Florence also allows children to stay at her home anytime they need to. She often watches children for teen mothers who are attending school or work and will not ask them for or accept money from them. Florence’s goal is to give the children, youth and teen mothers a chance at a better life. She emphasizes the importance of education, telling the children “reading and school are a joy.” She also dedicates her time and works with students at Allison Elementary School.

In the three short years she has lived in the community, Florence through her determination and dedication has developed a network of businesses who often donate items to help her. She touches the lives of those she meets so much, they are inspired to act. They can visibly see how she is making a positive difference in the lives of the children, youth, elderly, and the community in general. Within the last year, many private individuals and businesses have donated playground equipment, toys, food and money to help her with the Comfort House.

In addition to businesses and individuals, Florence also works with the city and county officials to help elderly and disabled community members get necessary repairs to their homes completed. She even works with them to get the paint donated which she and the children use to paint their homes.
Thursday, March 20, 1997

Daily Digest

HIGHLIGHTS
The House passed H.R. 1122 to ban partial-birth abortions

Senate

Chamber Action
Routine Proceedings, pages S2575-S2739

Measures Introduced: Thirty bills and nine resolutions, were introduced, as follows: S. 482-511, S.J. Res. 24, S. Con. Res. 14-18, and S. Res. 66-68.

Measures Reported: Reports were made as follows:
  S. 270, to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.
  Report on the Legislative Activities of the Committee on Foreign Relations for the 104th Congress. (S. Rept. No. 105-8)
  Report to accompany S. Res. 54, authorizing biennial expenditures by the committees of the Senate, which was agreed to on February 13, 1997. (S. Rept. No. 105-9)

Measures Passed:
  Mexico Decertification: Senate passed H.J. Res. 58, requiring the President to submit to Congress a report on the efforts of the United States and Mexico to achieve results in combating the production of and trafficking in illicit drugs, after taking action on the following amendment proposed thereto:

Adopted:
  By 94 yeas to 5 nays (Vote No. 35), Coverdell/Feinstein Amendment No. 25, in the nature of a substitute.

Congressional Adjournment: Senate agreed to S. Con. Res. 14, providing for a conditional adjournment or recess of the Senate and the House of Representatives.

Commending the University of Florida: Senate agreed to S. Res. 66, commending the University of Florida football team for winning the 1996 Division I collegiate football national championship.

Commemorating Republican/Democratic Policy Committees: Senate agreed to S. Res. 67, authorize the printing of the History Manuscript of the Republican and Democratic Policy Committees in Commemoration of their 50th Anniversaries.


Nuclear Waste Policy Act—Cloture Motion Filed: A motion was entered to close further debate on the motion to proceed to consideration of S. 104, to amend the Nuclear Waste Policy Act of 1982 and, by unanimous-consent agreement, a vote on the cloture motion will occur on Tuesday, April 8, 1997, at 2:30 p.m.

Appointments:
  Institute of American Indian and Alaska Native Culture and Arts Development: The Chair, on behalf of the President pro tempore, in accordance with Public Law 99-498, Section 1505(a)(1)(B)(ii), appointed Senator Campbell to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development.

Authority for Committees: All committees were authorized to file executive and legislative reports.
during the adjournment of the Senate on Wednesday, April 2, 1997, from 10 a.m. until 2 p.m.  Page S2733

Nominations Confirmed: Senate confirmed the following nominations:

Colleen Kollar-Kotelly, of the District of Columbia, to be United States District Judge for the District of Columbia.

Rose Ochi, of California, to be Director, Community Relations Service, for a term of four years.

Mary Lucille Jordan, of Maryland, to be a Member of the Federal Mine Safety and Health Review Commission for a term of six years expiring August 30, 2002.

Theodore Francis Verheggen, of the District of Columbia, to be a Member of the Federal Mine Safety and Health Review Commission for a term expiring August 30, 2002.  Pages S2632, S2739

Messages From the House:  Page S2645

Measures Referred:  Page S2645

Measures Read First Time:  Page S2645

Communications:  Page S2645

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Record Votes: One record vote was taken today. (Total—35)  Page S2605

Adjournment: Senate convened at 9:30 a.m. and adjourned at 7:28 p.m., until 12 noon, on Friday, March 21, 1997. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S2739.)

Committee Meetings

(Committees not listed did not meet)

AUTHORIZATION—AGRICULTURAL RESEARCH

Committee on Agriculture, Nutrition, and Forestry: Committee concluded hearings on proposed legislation authorizing funds for agricultural research programs of the 1996 Farm Bill, after receiving testimony from Senator Burns; W. Bruce Crain, Executive Director, Alternative Agricultural Research and Commercialization Corporation, Department of Agriculture; Robert L. Thompson, Winrock International Institute for Agricultural Development, Morrilton, Arkansas; Joseph D. Coffey, Southern States Coopera-

tive, Richmond, Virginia, on behalf of the Council for Agricultural Research, Extension, and Teaching; Charles C. Brosius, Pennsylvania Department of Agriculture, Harrisburg, on behalf of the National Association of State Departments of Agriculture; Gregory N. Brown, Virginia Polytechnic Institute and State University, Blacksburg, on behalf of the National Association of Professional Forestry Schools and Colleges; and William Guyton, Idaho National Engineering and Environmental Laboratory/Lockheed Martin Idaho Technologies Co., Idaho Falls.

APPROPRIATIONS—UNITED NATIONS

Committee on Appropriations: Subcommittee on Commerce, Justice, State, and the Judiciary and Related Agencies held hearings on proposed budget estimates for fiscal year 1998 for the United Nations, receiving testimony from Bill Richardson, United States Ambassador to the United Nations; and Princeton N. Lyman, Assistant Secretary of State for International Organization Affairs.

Subcommittee will meet again on Tuesday, April 8.

APPROPRIATIONS—ENERGY AND WATER DEVELOPMENT

Committee on Appropriations: Subcommittee on Energy and Water Development held hearings on proposed budget estimates for fiscal year 1998 for energy and water development programs, receiving testimony in behalf of funds for their activities from Victor H. Reis, Assistant Secretary for Defense Programs, and Kenneth E. Baker, Acting Director, Office of Nonproliferation and National Security, both of the Department of Energy; and Harold P. Smith, Assistant to the Secretary of Defense for Nuclear, Chemical and Biological Programs.

Subcommittee recessed subject to call.

APPROPRIATIONS—FOREIGN ASSISTANCE

Committee on Appropriations: Subcommittee on Foreign Operations held hearings on proposed budget estimates for fiscal year 1998 for foreign assistance programs, focusing on international narcotics, crime and law enforcement activities, receiving testimony from Louis J. Freeh, Director, Federal Bureau of Investigation, Department of Justice; and Robert S. Gelbard, Assistant Secretary, Bureau of International Narcotics and Law Enforcement, Department of State.

Subcommittee recessed subject to call.

CONRAIL MERGER

Committee on Appropriations: Subcommittee on Transportation and Related Agencies held hearings to examine the impact of the sale of Conrail to CSX Corporation and Norfolk Southern on the United States
transportation system, rail service, and employees, receiving testimony from Senator Warner; George D. Warrington, President/Northeast Corridor, National Railroad Passenger Corporation (Amtrak); Linda J. Morgan, Chairman, Surface Transportation Board; Maryland Governor Parris N. Glendening, Annapolis; Mayor Ed Rendell, Philadelphia, Pennsylvania; Bradley L. Mallory, Pennsylvania Department of Transportation, Harrisburg; John J. Haley, Jr., New Jersey Department of Transportation, Trenton; John W. Snow, CSX Corporation, Richmond, Virginia; John W. Snow, CSX Corporation, Richmond, Virginia; David R. Goode, Norfolk Southern Corporation, Norfolk, Virginia; Tim O'Toole, Consolidated Rail Corporation (Conrail), Washington, D.C.; Hugh Welsh, Port Authority of New York/New Jersey, New York, New York; Robert A. Scardelletti, Transportation-Communications International Union, Rockville, Maryland, on behalf of the Transportation Trades Department/AFL-CIO; Robert L. Evans, Occidental Chemical Corporation, Dallas, Texas, on behalf of the National Industrial Transportation League; and Michael Hawbaker, Glenn O. Hawbaker, Inc., State College, Pennsylvania.

Hearings were recessed subject to call.

AUTHORIZATION—DOE NATIONAL SECURITY PROGRAMS
Committee on Armed Services: Committee held hearings on proposed legislation authorizing funds for fiscal year 1998 for the Department of Energy national security programs and to review environmental management activities, receiving testimony from Federico Peña, Secretary, Charles B. Curtis, Deputy Secretary, and Alvin L. Alm, Assistant Secretary for Environmental Management, all of the Department of Energy.

Committee recessed subject to call.

COMMERCIAL AND INVESTMENT BANKING
Committee on Banking, Housing, and Urban Affairs: Subcommittee on Financial Institutions and Regulatory Relief concluded hearings to examine the Federal Reserve System's proposal to modify the restrictions imposed on bank holding companies engaged in underwriting and dealing in securities, after receiving testimony from Susan M. Phillips, Member, Board of Governors of the Federal Reserve System; Victor A. Warnement, NationsBank Capital Markets, Inc., Charlotte, North Carolina; Richard B. Roberts, Wachovia Bank, Winston-Salem, North Carolina, on behalf of the ABA Securities Association and the American Bankers Association; and Charles W. Calomiris, Columbia University School of Business, New York, New York.

OCEAN SHIPPING REFORM
Committee on Commerce, Science, and Transportation: Subcommittee on Surface Transportation and Merchant Marine concluded hearings on S. 414, to encourage competition in international shipping and growth of United States imports and exports, after receiving testimony from Harold J. Creed, Jr., Chairman, Federal Maritime Commission; Linda J. Morgan, Chairman, Surface Transportation Board; Michael M. Murphy, APL Limited, J.M. Graham, Council of European and Japanese National Shipowners' Associations, Edward Wytkind, Transportation Trades Department/AFL-CIO, and Peter Powell, Sr., National Customs Brokers and Forwarders Association, all of Washington, D.C.; Christopher Koch, Sea-Land Service, Inc., Charlotte, North Carolina; William P. Verdon, Crowley Maritime Corporation, Oakland, California; Donald Cameron, Bose Corporation, Framingham, Massachusetts; and Tom Kornegay, Port of Houston, Houston, Texas.

ELECTRIC UTILITIES DEREGULATION
Committee on Energy and Natural Resources: Committee resumed oversight hearings to discuss proposals to advance the goals of deregulation and competition in the electric power industry, receiving testimony from Elizabeth A. Moler, Chair, Federal Energy Regulatory Commission, Department of Energy; Bruce B. Ellsworth, New Hampshire Public Utilities Commission, Concord, and Robert W. Gee, Public Utility Commission of Texas, Austin, both on behalf of the National Association of Regulatory Utility Commissioners; Richard H. Cowart, Vermont Public Service Board, Montpelier; P. Gregory Conlon, California Public Utilities Commission, San Francisco; Curt Hebert, Mississippi Public Service Commission, Jackson; John M. Quain, Pennsylvania Public Utility Commission, Harrisburg; Linda Breathitt, Kentucky Public Service Commission, Frankfurt; and Marsha H. Smith, Idaho Public Utilities Commission, Boise.

Committee recessed subject to call.

NATIONAL PARK SYSTEM
Committee on Energy and Natural Resources: Subcommittee on National Parks, Historic Preservation and Recreation concluded hearings to examine the future of the National Park System and to identify the needs, requirements, and innovative programs that will improve and enhance the operations of the Park Service, after receiving testimony from Roger G. Kennedy, Director, National Park Service, Department of the Interior.

NOMINATIONS
Committee on Environment and Public Works: Committee ordered favorably reported the nominations of
Johnny H. Hayes, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority, and Judith M. Espinosa, of New Mexico, and D. Michael Rappoport, of Arizona, each to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

MEDICARE
Committee on Finance: Committee held hearings to examine proposals to improve choices under the Medicare program, including S. 146, to permit Medicare beneficiaries to enroll with qualified provider-sponsored organizations under title XVIII of the Social Security Act, receiving testimony from Senator Frist; Glenn A. Pomeroy, North Dakota Department of Insurance, Bismarck, on behalf of the National Association of Insurance Commissioners; Karen Ignagni, American Association of Health Plans, Washington, D.C.; Donald T. Lewers, Easton, Maryland, on behalf of the American Medical Association; John T. Nielsen, Intermountain Health Care, Inc., Salt Lake City, Utah, on behalf of the Coalition for Fairness in Medicare; and Richard K. Reiner, Florida Hospital Healthcare System, Orlando.

Hearings were recessed subject to call.

DEPARTMENT OF COMMERCE TRADE POLICY
Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia concluded hearings to examine the role of the Department of Commerce in United States trade policy, promotion, and regulation, and opportunities for reform and consolidation, after receiving testimony from Representatives Mica and White; Timothy J. Hauser, Deputy Under Secretary of Commerce for International Trade; William H. Lash III, George Mason University School of Law, Arlington, Virginia; and Ed Hudgins, CATO Institute, and Edward J. Black, Computer and Communications Industry Association, both of Washington, D.C.

BUSINESS MEETING
Committee on the Judiciary: Committee ordered favorably reported S. 270, to grant the consent of Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

AUTHORIZATION—HIGHER EDUCATION
Committee on Labor and Human Resources: Committee concluded hearings on proposed legislation authorizing funds for programs of the Higher Education Act, focusing on the role of higher education institutions in preparing teachers for the 21st century, after receiving testimony from Susan Brady, University of Rhode Island, Kingston; Jill Mattuck Tarule, University of Vermont, Burlington; Charles R. Coble, University of North Carolina, Chapel Hill, on behalf of the University-School Teacher Education Partnerships in North Carolina; and Richard Wormeli, Herndon Middle School, Herndon, Virginia.

CRS/LOC
Committee on Rules and Administration: Committee concluded oversight hearings to review the operations and budget of the Congressional Research Service and the Library of Congress, after receiving testimony from Daniel Mulholland, Director, Congressional Research Service, James H. Billington, Librarian, and Donald L. Scott, Deputy Librarian, both of the Library of Congress.
H. R. 400, to amend title 35, United States Code, with respect to patents, amended (H. Rept. 105–39); H. R. 240, to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, amended (H. Rept. 105–40 Part I); and H. Res. 105, providing for consideration of H. Res. 91, providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress.

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Barton of Texas to act as Speaker pro tempore for today.

Motion To Adjourn: Rejected the Obey motion to adjourn by a yea-and-nay vote of 183 yeas to 221 nays, Roll No. 60.

Partial-Birth Abortion Ban: By a recorded vote of 295 ayes to 136 noes, the House passed H. R. 1122, to amend title 18, United States Code, to ban partial-birth abortions. Rejected the Frank of Massachusetts motion to recommit the bill to the Committee on the Judiciary, with instructions to report it back to the House forthwith, with amendments that include exceptions to the partial-birth abortion prohibition for a life endangering physical condition caused by the pregnancy or to avert adverse longterm physical health consequences to the mother (rejected by a recorded vote of 149 ayes to 282 noes, Roll No. 64).

Sustained the Canady point of order against the Hoyer motion to recommit the bill to the Committee on the Judiciary, with instructions to report it back to the House forthwith, with amendments prohibiting an abortion after the fetus has become viable except when it is necessary to preserve the life of the woman or avert adverse health consequences (agreed to table the appeal of the ruling of the Chair by a yea-and-nay vote of 265 yeas to 165 nays, Roll No. 63).

H. Res. 100, the rule under which the bill was considered, was agreed to by a recorded vote of 247 ayes to 175 noes, Roll No. 62. Earlier, agreed to order the previous question by a yea-and-nay vote of 243 yeas to 184 nays, Roll No. 61.

Committee Funding: By a yea-and-nay vote of 210 yeas to 213 nays, the House failed to agree to H. Res. 101, the rule providing for consideration of H. Res. 91, providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress.

Recess: The House recessed at 6:28 p.m. and reconvened at 11:45 p.m.

Senate Messages: Message received from the Senate today appears on page H1202.


Adjournment: Met at 10 a.m. and adjourned at 11:49 p.m.

Committee Meetings

AGRICULTURE, RURAL DEVELOPMENT, FDA, AND RELATED AGENCIES APPROPRIATIONS
Committee on Appropriations: Subcommittee on Agriculture, Rural Development, Federal Drug Administration, and Related Agencies continued appropriation hearings. Testimony was heard from public witnesses.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS
Committee on Appropriations: Subcommittee on Commerce, Justice, State and Judiciary held a hearing on the Department of Commerce, Science and Technology Programs and on the Department of State Administration of Foreign Affairs. Testimony was heard from the following officials of the Department of Commerce: Mary L. Good, Under Secretary, Technology, and Bruce A. Lehman, Assistant Secretary and Commissioner of Patents and Trademarks; and Patrick F. Kennedy, Acting Under Secretary, Management, Department of State.

INTERIOR APPROPRIATIONS
Committee on Appropriations: Subcommittee on Interior held a hearing on the Secretary of Agriculture and on the Forest Service Chief. Testimony was heard from the following officials of the USDA: Dan Glickman, Secretary; and Michael Dombeck, Chief, Forest Service.

LABOR-HHS-EDUCATION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Labor, Health and Human Services, and Education held a hearing on the Office of AIDS Research, Office of
the Director, and Building and Facilities; the National Commission on Libraries; the National Council on Disability; the Physician Payment Review Commission; and on the Prospective Payment Assessment Commission. Testimony was heard from the following officials of the Department of Health and Human Services: William E. Paul, M.D., Director, Office of AIDS Research, Harold Varmus, M.D., Director, and Ruth L. Kirschstein, M.D., Deputy Director, all with NIH; Dennis P. Williams, Deputy Assistant Secretary, Budget; Jeanne Hurley Simon, Chairperson, U.S. National Commission on Libraries and Information Science; Marca Bristo, Chairperson, National Council on Disability; Gail R. Wilensky, Chair, Physician Payment Review Commission; and Joseph Newhouse, Chairman, Prospective Payment Assessment Commission.

NATIONAL SECURITY APPROPRIATIONS
Committee on Appropriations: Subcommittee on National Security met in executive session to hold a hearing on readiness. Testimony was heard from the following officials of the Department of Defense: Gen. Ronald H. Griffith, USA, Vice Chief of Staff, Army; Adm. Harold W. Gehman, Jr., USN, Vice Chief of Naval Operations; Gen. Richard I. Neal, USMC, Assistant Commandant, Marine Corps; and Gen. Thomas S. Moorman, USAF, Vice Chief of Staff, Air Force.

TRANSPORTATION APPROPRIATIONS
Committee on Appropriations: Subcommittee on Transportation held a hearing on the Federal Railroad Administration and on the National Railroad Passenger Corporation. Testimony was heard from Jolene M. Molitoris, Administrator, Federal Railroad Administration, Department of Transportation; and Thomas M. Downs, Chairman and President, National Railroad Passenger Corporation (AMTRAK).

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS
Committee on Appropriations: Subcommittee on Treasury, Postal Service, and General Government held a hearing on the GSA. Testimony was heard from the following officials of GSA: David J. Barram, Acting Administrator, Robert A. Peck, Commissioner, Public Building Service, and Robert J. Woods, Commissioner, Federal Telecommunications Service.

HOMEOWNERS INSURANCE PROTECTION ACT
Committee on Banking and Financial Services: Ordered reported amended H.R. 607, Homeowners Insurance Protection Act; The Committee also approved Budget Views and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget.

INTERNATIONAL MONETARY FUND
Committee on Banking and Financial Services: Subcommittee on Domestic and International Monetary Policy held a hearing on International Monetary Fund. Testimony was heard from Timothy F. Geithner, Senior Deputy Assistant Secretary, International Monetary and Financial Policy, Department of the Treasury.

ASSISTED SUICIDE FUNDING RESTRICTION ACT OF 1997
Committee on Commerce Ordered reported amended H.R. 1003, Assisted Suicide Funding Restriction Act of 1997.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND AMENDMENTS ACT

Prior to this action, the Subcommittee held a hearing on this measure. Testimony was heard from Michael Shapiro, Acting Deputy Assistant Administrator, Office of Solid Waste and Emergency Response, EPA; and public witnesses.

OVERSIGHT—DEPARTMENT OF EDUCATION; MISSION MANAGEMENT AND PERFORMANCE
Committee on Government Reform and Oversight: Subcommittee on Human Resources and Intergovernmental Relations concluded oversight hearings on the Department of Education: Mission, Management, and Performance. Testimony was heard from Thomas R. Bloom, Inspector General, Department of Education; Cornelia M. Blanchette, Associate Director, Education and Employment Issues, GAO; Beverly Sgdro, Secretary of Education, State of Virginia; and a public witness.

DEFENSE INVENTORY MANAGEMENT
Committee on Government Reform and Oversight: Subcommittee on National Security, International Affairs, and Criminal Justice held a hearing on Improving Defense Inventory Management. Testimony was heard from the following officials of the Department of Defense: James B. Emahiser, Assistant Deputy Under Secretary, Materiel and Distribution Management; and Jeffrey A. Jones, Executive Director, Logistics Management, Defense Logistics Agency; the following officials of the GAO: Henry L. Hinton, Jr., Assistant Comptroller General; Kenneth R.
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Knouse, Jr., Assistant Director; and Robert L. Repasky, Senior Evaluator; Jacques Gansler, Vice Chairman, Defense Science Board; and a public witness.

BUDGET VIEWS AND ESTIMATES; ADMINISTRATION'S SECURITY ASSISTANCE REQUEST

Committee on International Relations: Approved Committee Budget and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget.

The Committee also held a hearing on the Administration's Security Assistance Request for fiscal year 1998. Testimony was heard from William S. Cohen, Secretary of Defense.

SECURITY AND FREEDOM THROUGH ENCRYPTION ACT

Committee on the Judiciary: Subcommittee on Courts and Intellectual Property held a hearing on H.R. 695, Security and Freedom Through Encryption (SAFE) Act. Testimony was heard from William Reinsch, Under Secretary, Bureau of Export Administration, Department of Commerce; William Crowell, Deputy Director, NSA, Department of Defense; Robert Litt, Deputy Assistant Attorney General, Criminal Division, Department of Justice; and public witnesses.

REFORMING JUVENILE JUSTICE

Committee on the Judiciary: Subcommittee on Crime held a hearing on reforming juvenile justice in America and related legislative proposals. Testimony was heard from Barbara O'Connor, Special Counsel, U.S. Sentencing Commission; Patricia West, Secretary of Public Safety, State of Virginia; and public witnesses.

MILITARY RESALE SYSTEM

Committee on National Security: Morale Welfare and Recreation Panel held a hearing on military resale system. Testimony was heard from the following officials of the Department of Defense: Frederick F.Y. Pang, Assistant Secretary (Force Management Policy); Maj. Gen. Richard Beale, Jr., USA, Director, Defense Commissary Agency; Maj. Gen. Doug Bunger, USAF, Commander, Army and Air Force Exchange Service; Rear Adm. Paul Soderberg, USN, Commander, Navy Exchange Service Command; and Michael Tharrington, Acting Director, MWR Support Activity, U.S. Marine Corps.

DOD AUTHORIZATION—INFORMATION WARFARE


OVERSIGHT—BUREAU OF LAND MANAGEMENT RULEMAKING: HARDROCK MINING OPERATIONS

Committee on Resources: Subcommittee on Energy and Mineral Resources held an oversight hearing on Bureau of Land Management final rulemaking on bonding of hardrock mining operations: Why was there no meaningful public comment solicited? Testimony was heard from John Leshy, Solicitor, Department of the Interior; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Resources: Subcommittee on Forests and Forest Health held a hearing on the following bills: H.R. 799, to require the Secretary of Agriculture to make a minor adjustment in the exterior boundary of the Hells Canyon Wilderness in the States of Oregon and Idaho to exclude an established Forest Service road inadvertently included in the wilderness, and H.R. 838, to require adoption of a management plan for Hells Canyon National Recreation Area that allows appropriate use of motorized and
nonmotorized river craft in the recreation area. Testimony was heard from the following officials of the National Forest System, USDA: Lyle Laverty, Acting Associate Deputy Chief; and Robert Richmond, Forest Supervisor, Wallowa-Whitman National Forest; and public witnesses.

CENTRAL VALLEY PROJECT
Committee on Resources: Subcommittee on Water and Power held an oversight hearing on Central Valley Project Operations and Administration Reform Process. Testimony was heard from John Garamendi, Deputy Secretary, Department of the Interior.

COMMITTEE FUNDING
Committee on Rules: Granted, by a recorded vote of 9 to 2, a closed rule on H. Res. 91, providing amounts for the expenses of certain committees of the House of Representatives in the One Hundred Fifth Congress, without the intervention of any point of order. The rule provides that the Committee on House Oversight amendment in the nature of a substitute consisting of the text of H. Res. 102 printed in the resolution shall be considered as adopted. The rule provides for one hour of debate divided equally and controlled by the Chairman and ranking minority member of the Committee on House Oversight. Finally, the rule provides one motion to recommit. Testimony was heard from Representative Thomas.

BUDGET REQUEST
Committee on Science: Subcommittee on Energy and Environment held a hearing on the fiscal year 1998 Budget Authorization Request: Department of Energy, Nuclear Energy; Environment, Safety and Health; and Environmental Restoration and Waste Management (Non-Defense).

FAA—FINANCIAL ASSESSMENT
Committee on Transportation and Infrastructure: Subcommittee on Aviation held a hearing on review of Coopers and Lybrand Independent Financial Assessment of the FAA. Testimony was heard from Senator Lautenberg; Representative Lobiondo; Monte Belger, Acting Deputy Administrator, FAA, Department of Transportation; and public witnesses.

VETERAN'S LEGISLATION; BUDGET VIEWS AND ESTIMATES
Committee on Veterans' Affairs: Ordered reported the following bills: H.R. 1090, to amend title 38, United States Code, to allow revision of veterans' benefits decisions based on clear and unmistakable error; and H.R. 1092, to amend title 38, United States Code, to extend the authority of the Secretary of Veterans' Affairs to enter into enhanced-use leases for Department of Veterans' Affairs property, to rename the U.S. Court of Veterans' Appeals and the National Cemetery System.

The Committee also approved Budget Views and Estimates for Fiscal Year 1998 for transmission to the Committee on the Budget.

MEDICARE HOSPITAL AND PHYSICIAN PAYMENT POLICIES
Committee on Ways and Means: Subcommittee on Health held a hearing on recommendations regarding Medicare Hospital and Physician Payment Policies. Testimony was heard from Joseph Newhouse, Chairman, Prospective Payment Assessment Commission; Gail R. Wilensky, Chair, Physician Payment Review Commission; and public witnesses.

CHILD SUPPORT ENFORCEMENT
Committee on Ways and Means: Subcommittee on Human Resources held a hearing on the Administration's Child Support Enforcement Incentive Payment Proposal. Testimony was heard from David Gray Ross, Deputy Director, Office of Child Support Enforcement, Department of Health and Human Services; Carmen Solomon-Fears, Education and Public Welfare Division, Congressional Research Service, Library of Congress; Leslie Frye, Chief, Office of Child Support, Department of Social Services, State of California; and public witnesses.

YEAR 2000: IMPLICATIONS FOR THE COMMERCIAL SECTOR
Committee on Science: Subcommittee on Technology and the Subcommittee on Government Management, Information, and Technology of the Committee on Government Reform and Oversight held a joint hearing on Year 2000: Implications for the Commercial Sector. Testimony was heard from public witnesses.

Joint Meetings
ECONOMIC OUTLOOK
Joint Economic Committee: Committee concluded hearings to examine the economic outlook, focusing on the role of monetary policy, price stability, and the Consumer Price Index, after receiving testimony from Alan Greenspan, Chair, Board of Governors of the Federal Reserve System.
VETERANS' PROGRAMS
Joint Hearing: Senate Committee on Veterans' Affairs concluded joint hearings with the House Committee on Veterans' Affairs to examine the legislative recommendations of certain veterans organizations, after receiving testimony from David E. Ovesen, AMVETS, Lanham, Maryland; and Joseph H. Schwartz, Veterans of WWI, William E. Mottern, American Ex-Prisoners of War, and George C. Duggins, Vietnam Veterans of America, all of Washington, D.C.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST p. D263)
H.R. 924, to amend title 18, United States Code, to give further assurance to the right of victims of crime to attend and observe the trials of those accused of the crime. Signed March 19, 1997. (P.L. 105-6)

COMMITTEE MEETINGS FOR FRIDAY, MARCH 21, 1997

Senate
No meetings are scheduled.

House
Committee on Banking and Financial Services, Subcommittee on General Oversight and Investigations, hearing on Regulatory Efforts by the Financial Crimes Enforcement Network (“FinCEN”), 9:30 A.M., 2128 Rayburn.

Joint Meetings
Commission on Security and Cooperation in Europe, to hold a briefing on prospects for elections, reintegration, and democratization in Croatia, 11 a.m., 2200 Rayburn Building.
Next Meeting of the SENATE
12 noon, Friday, March 21

Senate Chamber
Program for Friday: No legislative business.

Next Meeting of the HOUSE OF REPRESENTATIVES
10 a.m., Friday, March 21

House Chamber
Program for Friday: Consideration of H. Res. 91, providing amounts for expenses of certain committees (closed rule, 1 hour of debate)

Extensions of Remarks, as inserted in this issue

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