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House of Representatives

The House met at 9 a.m.

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

We offer our thanks to You, gracious God, for the gifts that have touched our lives. With all the opportunities and responsibilities that life presents, we are eternally grateful that You have breathed into us the very breath of life and Your Spirit has nurtured us throughout the years. For better and worse and in all the seasons of life we have looked to You for strength and hope, for wisdom and forgiveness, and we earnestly pray that Your blessings will be with us wherever we are or whatever we do. May Your benediction of healing and hope, of assurance and faith continue in our lives now and evermore. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Arizona [Mr. HAYWORTH] come forward and lead the House in the Pledge of Allegiance.

Mr. HAYWORTH led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain 10 one-minutes on each side.

RESULTS ACT

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

Mr. ARMEY. Mr. Speaker, I am excited today to join with my good friend and colleague the gentleman from Texas [Mr. SESSIONS] in announcing the formation of the Results caucus. The Results caucus represents a bipartisan coalition of reform-minded Members who share the common goal of realizing a smaller, smarter, more commonsense government through the implementation of the Results Act.

Ask Americans what they want from the Federal Government and they emphasize four key points: Accountability, responsibility, simplicity, and common sense.

They want accountability. That means holding Federal agencies accountable for achieving their mission and holding Federal programs liable for what they promise.

They want responsibility. That means changing the current mindset of Federal bureaucrats to force them to operate more efficiently and to be more responsive to their customers and the taxpayers.

They want simplicity. That means eliminating wasteful and redundant Federal agencies and programs to prevent government from doing the same thing over and over again in a bureaucratic maze.

And they want common sense, which means ending one size fits all government functions.

Mr. Speaker, a growing number of Americans say Washington is an impediment to the achievement of the American dream. The Results caucus plans to work diligently to ensure that the American people have a Federal Government that is accountable, that is responsible, that is simple and that makes decisions based on common sense.

If you would like more information on the Results caucus, please visit my web site at armey.house.gov or feel free to contact my office.

TERRORISM STRIKES MIDDLE EAST

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

Mr. LANTOS. Mr. Speaker, it was just a few weeks ago that you joined me and every single colleague in this body but one in denouncing Arab terrorism in Jerusalem. Here we are again with the bodies of innocent children, women, and the elderly torn to bits by this most recent preposterous, unspeakable outrage.

Yasser Arafat cannot have it both ways. He cannot hug the leaders of the murderers and the assassins in the streets of Jerusalem and pretend to work for peace. The time has come for him to understand that this Nation, this Congress and the entire civilized world is expecting him to destroy the terrorist infrastructure of the various murderers groups living under his control. The upcoming visit of Secretary Albright might begin the process of peace at last. But terrorism and the pretense of peacemaking cannot coexist.

CAMPAIGN FINANCE REFORM

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

Mr. KINGSTON. Mr. Speaker, yesterday Democrat after Democrat cried for campaign finance reform. For Democrats to talk about campaign finance reform is a little like getting mad at the road for the transgressions of a drunk driver. Where have they been when it comes time to talk about Buddhist temple fundraising or selling the Lincoln bedroom or Pauline Kanchanalak or John Huang or Charlie Trie or Eric Hotung or any of the aforementioned people or subjects? But just in case those are not good enough,

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I have got some additional reading material for some of you. These are good. I think you may have heard of these papers, the Wall Street Journal yesterday, Reno Review, ''That could lead to GORE independent counsel.'' Washington Post, September 4, ''U.S. set to probe GORE calls.'' Washington Times, ''Justice looking anew at probe of GORE.'' Even the New York Times, that great conservative publication that it is, front page, ''Inquiry on GORE fundraising.'' Lots of good reading material in here. I am going to leave it in the House Chamber because I know some of you maybe do not read or have not had time to, but I am going to encourage you to do that because when it comes time to talk campaign finance reform, there is a lot of material right here, and I say let us start doing it on a bipartisan basis.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). Members should avoid such references to the Vice President.

CAMPAIGN FINANCE REFORM

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

Mr. DOGGETT. Mr. Speaker, I have some additional reading material for the gentleman from Georgia and for all of his colleagues. This is it. You can read this page and you can get the full story of what the Republican Party has done in order to accomplish reform of our campaign finance system right here. It is one big blank. To get up and suggest that there can be a bipartisan discussion of this matter, as the gentleman just disclosed, is truly outrageous, because we have been denied any opportunity, either the Republicans, many of whom as individuals have come forward with constructive ideas on this, or the Democratic colleagues that I have, have been denied any opportunity to come to this floor and debate legislative proposals to try to improve this system in time for 1998.

We have as I count it 13 days left in this month to pass any reform to address the problems that the gentleman just referred to and all of the other corrupting influences on congressional elections in this Nation. Yet the Speaker of the House refuses to schedule an opportunity for full debate on legislative proposals so that they can go through the morning newspaper instead of providing real reform in time for the 1998 elections.

CALL FOR GENUINE CAMPAIGN REFORM

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

Mr. HAYWORTH. Mr. Speaker, I listened with great interest to my friend from Texas and certainly I think we all share great concerns about campaign finance, especially great concerns about those who do not seem to be able to follow existing law. Mr. Speaker, as we talk about campaign finance, let us join together to acknowledge that one thing should be done at the outset, to have people of both parties obey existing law. But for some to come to this Chamber and call for campaign finance reform in the light of recent reports is akin to having John Dillinger back in his heyday call a press conference and say there ought to be tighter rules against bank robbery.

Mr. Speaker, the facts are clear. I ask my friends on the other side to join with me for genuine campaign reform, including the inclusion of the Paycheck Protection Act so that working people will not have their wages taken coercively to go to political causes with which they do not agree.

CAMPAIGN FINANCE REFORM

(Mrs. MALONEY of New York asked and was given permission to address the House for 1 minute.)

Mrs. MALONEY of New York. Mr. Speaker, we know the answer to the question that my colleague raised. Existing law is not enough. We need to pass real reform. We need to pass campaign finance reform. Members of the other side of the aisle, they talk about reforming the system.

Yet the real reform, campaign finance reform, there has not been one single hearing on it in this Congress. How can the leadership of this House in good conscience talk about packing up and going home in October when they have not looked at, held a hearing, or done anything about the most crucial problem confronting this country? I am talking about campaign finance reform.

It is rather typical. We talk about actually doing something and they pack their bags and head for the hills. Some of my colleagues find it easier to strike the gavel of adjournment rather than hammer out the tough decisions here in Washington. There must be a vote on campaign finance reform in this Congress before we go home to our districts. We must vote on this issue before we ask our constituents to vote for us.

WHOLE MEMORY LEARNING

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

Mr. CHABOT. Mr. Speaker, just when I thought it could not get any worse, I now know that liberalism is possibly incapable of hitting rock bottom. First, they give us whole language learning, which means that you never actually have to spell anything correctly, any guess will do, just make sure that you feel good about yourself when you do. Then just to push the envelope a little further, they give us whole math learning. You can imagine what that is. Just do not ask anyone who is educated in this manner, and I use the term loosely, to build a bridge for you or do your taxes for you. But now we have got the most incredible thing of all, I like to call it whole memory learning. Made fundraising calls from the White House, did not make the phone calls, DNC credit card, not really fundraisers, soft money, hard money, whatever. I think we ought to call it whole memory.

FUNDRAISING AND COMMUNITY OUTREACH

(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 White House said, ''We must stop campaign spending abuses. Our Government is not for sale.'' If that is not enough to cause you a hernia, check this out. Three Buddhist nuns who pledged a vow of poverty raised $100,000 at a fundraiser held at a temple no less, now being called by the White House a community outreach program. I ask, reaching out for what?

□ 0915

Souls? Or dollars?

The truth is, if it was not a fundraiser, why did the nuns shred all the evidence? The nun answered, ''Look, I don't know what made me do it. Perhaps fear made me do it.'' I would like to add that is about as good a cover-up answer as anybody could give; after all, she could have said, the devil made me do it.

Beam me up, Mr. Speaker, beam me up.

I guarantee one thing. They did not shred any cash over there at that temple, and I yield back the balance of all this innocence.

SUPPORT SCHOOL CHOICE AND EDUCATION SAVINGS ACCOUNTS

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

Mr. JONES. Mr. Speaker, children in America are not getting the education they deserve. In my opinion, and in the opinion of many Americans throughout this country, the situation has only gotten worse since the creation of the Federal Department of Education.

Washington bureaucrats are a major part of the education problem. Washington keeps spending money on the schools, but the money spent, based on results, is not improving education. Taxpayer money is being wasted.

The best way to support education in America is to give control to parents, not to Federal bureaucrats. With solutions like school choice and education savings accounts, parents will play a more active role in their children's education. The system, in turn, will be better.

I trust parents in eastern North Carolina to make decisions for their children more than I trust bureaucrats in Washington, DC. When it comes to America's public schools, control should be in the hands of parents.

Mr. Speaker, for the sake of the children, I hope my colleagues will support school choice and education savings accounts.

IT IS TIME FOR BOB DORNAN TO STOP WASTING THE TAXPAYERS' MONEY

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

Mr. MENENDEZ. Mr. Speaker, I rise about the House election contest in California.

First, Bob Dornan is given unprecedented subpoena power which he uses to harass and violate the privacy rights of law-abiding American citizens simply because they have a Spanish surname. Then those actions amount to nothing short of a witch-hunt.

Now I read in yesterday's Roll Call that Bob Dornan will use his special privileges as a former Member to take his witch-hunt to the House floor. Surely, this casts an appearance of impropriety upon the House.

If this election were being challenged by any American other than a defeated Member of the House, that American could not come to the House floor to lobby on behalf of their own interests. They would not get special subpoena powers, and neither should Bob Dornan.

Bob Dornan should not use the privileges as a former Member of this House to influence his case. Mr. Speaker, there should not be a case at all. The Republican California Secretary of State certified the election of the gentlewoman from California, and there is no sufficient credible evidence to challenge it.

It is time for Bob Dornan to stop wasting taxpayers' money, to end this witch-hunt and end the influence that he is trying to use in this House.

INTRODUCTION OF LEGISLATION TO FIX LOOPHOLE PREVENTING USE OF LINE-ITEM VETO

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

Mr. UPTON. Mr. Speaker, I spent most of my August break back in my district listening to my constituents, and many were pleased, in fact, when the President used for the first time the line-item veto. In fact, many wished that the President had had the authority for the disaster relief bill that we passed earlier this year, and so many other bills in recent years where so many things are tucked away in some of those bills that no one hears about them until after they are enacted.

I support budget reform, and in fact, as part of the Contract with America, we included the line-item veto, which passed this House by a very large margin, to allow the President to have the line-item veto, as well as the 43 other Governors across the country.

Lo and behold, we have discovered a loophole that causes the line-item veto to go away.

I am proud of the bipartisan legislation that we passed here in this House that puts us on a solid fiscal footing and, in fact, balances the budget by the year 2002. We even have a surplus. But, lo and behold, that loophole that we have discovered prevents us from using the line-item veto despite having a $5½ trillion national debt.

We are introducing legislation to fix this, and I would urge my colleagues to support it.

THE MEN AND WOMEN OF THE UNITED STATES BORDER PATROL DESERVE BETTER

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

Mr. REYES. Mr. Speaker, I rise today in support and defense of the hard-working men and women of the U.S. Border Patrol. Regrettably, last night on this floor the integrity, professionalism, dedication, and the ability of these fine men and women was attacked.

Mr. Speaker, it is unfortunate that some in this institution would resort to these kinds of tactics for the sole purpose of political agendas and ends-justify-the-means mentality that question the outstanding and dangerous work being done by our Border Patrol agents.

The men and women that comprise our Border Patrol represent the best that this country has to offer, men and women of every description and background, men and women that come from every State in this country and have dedicated themselves to the dangerous job of Federal law enforcement, and while some in this people's House may not appreciate this, I do, and, Mr. Speaker, I speak from personal experience that spans 26½ years. I know how tough their job is, I know how dangerous their job is, and I know how important their job is because I have been there, I have seen it and I have done it.

Those who attack their integrity, their dedication, and their commitment are not only wrong but undermine the morale of a fine agency. The men and women of the U.S. Border Patrol deserve better, the people of this country expect better, and, frankly, those in this institution that attack them know better.

Mr. Speaker, all of us need to support the U.S. Border Patrol.

THOMPSON COMMITTEE CONTINUING PROBE DESPITE HAVING SO MUCH TROUBLE GETTING PEOPLE TO COOPERATE

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

Mr. HEFLEY. Mr. Speaker, it is becoming clearer with every passing day that one would have to dig to China to get to the bottom of all the campaign finance scandals in this administration. Although, come to think of it, I guess one would actually have to go to China to find all the shady characters who fled the country to escape justice. But even all the tea in China cannot force foreign fundraisers to come to the United States Senate and tell the truth.

While some Democratic Senators are gleeful that the Thompson committee is having trouble getting people to cooperate, those responsible Senators who actually care about performing their constitutional duty to find out the truth about campaign finance crimes that may have been committed will continue to probe this sleazy affair.

Mr. Speaker, my constituents and yours have a right to know if their elected officials really do believe that they are above the law. It is time to get to the bottom of this; it is time to start digging.

IMPROVED ACADEMIC PERFORMANCE ACHIEVED AS A RESULT OF TESTS AND MORE RIGOROUS STANDARDS

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

Mr. PALLONE. Mr. Speaker, Democrats want to raise education standards across the country so that students in every State can master the basics of reading and math; and testing, I believe, is an important part of that effort to achieve national standards.

In my home State of New Jersey, we have seen improved academic performances as a result of more rigorous standards. Tests administered to all New Jersey students have been a significant ingredient in my State's efforts to improve student achievement. Education, I believe, and I will stress this, will always be primarily a State and local matter, but there needs to be a partnership with the Federal Government, and I believe the test national standards and Federal dollars made available to local school districts to rebuild crumbling and overcrowded schools should all be part of a national agenda to improve education.

We can work together on the Federal and the State and the local level to achieve excellence in education.

CHEATING IN THE WHITE HOUSE

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

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as America's schoolchildren go back to the schoolhouse, I wonder what they must think of their obligation to obey the rules, and when the occupants of the White House feel no obligation to obey the rules themselves. Let us consider the Presidential campaign of 1996. It, of course, would not be fair if some candidates had to obey it while others did not.

For example, it is very important that everybody play by the same campaign finance rules. Those who broke the rules would be considered to have cheated by those who honored the rules. Examples of cheating would be taking foreign money, which besides being illegal would compromise the foreign policy decisions of the American government.

Cheating would also include making fundraising phone calls from the White House. Cheating would also include making deals that require campaign contributions in exchange for a meeting or in exchange for inclusion in the trade mission or for sleeping in the Lincoln bedroom.

Now of course other people use a different word to describe this kind of cheating, it is called corruption, but every child in schools today understands cheating.

BAN SOFT MONEY

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

Ms. WOOLSEY. Mr. Speaker, the American people are tired. They are tired of special interests and big money wreaking havoc on our political system. And Mr. Speaker, they are tired of the Republican leadership's continued refusal to bring up campaign finance reform on our floor. We want to debate it, not stand here and complain about it. There are many proposals, Mr. Speaker, to clean up our political system, but at the very least we should agree on one small step and that is to ban soft money.

Mr. Speaker, when we ban soft money we will tell the American people that in our political system the almighty dollar is not all mighty any more, and at the same time, Mr. Speaker, we will tell the people of this country that the bucks have stopped coming here.

STRENGTHENING EXISTING CAMPAIGN FINANCE LAWS

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

Mr. BARR of Georgia. Mr. Speaker, as part of the latest effort by the Democrats to defend apparent illegal campaign activities by the President and Vice President, the gentlewoman from New York a few moments ago said existing law is not enough. Well, I think she is right, existing laws are not enough, and I would be glad to join her in cosponsoring legislation that strengthens our existing laws.

For example, what she might want to join me in doing is amending section 607(a), of title XVIII to read that no person including but not limited to the President and Vice President shall raise or solicit funds from any Federal facility including but not limited to the Old Executive Office Building or the White House.

Or maybe the gentlewoman from New York would like to join the legislation that strengthens our internal revenue codes, those provisions that relate to improper campaign activities by charitable institutions, to make explicit that among the prohibitions for 501(c)3 and (c)4 organizations from engaging in politics are included but not limited to Buddhist temples.

So, Mr. Speaker, I appreciate the thoughts of the gentlewoman from New York and her interest in joining with us in strengthening existing laws.

DEMOCRATS FIGHTING FOR AMERICA'S CHILDREN

(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, I rise today to remind my colleagues what we can accomplish when we stand up and fight for what we believe in.

In the last Congress, our Republican colleagues attempted to slash the school lunch program. They advocated the single biggest cuts in education in the history of the United States; they wanted to abolish the Department of Education. Democrats stood up, fought for these issues, fought for America's children and won.

Now our colleagues on the other side of the aisle are attempting a new assault, fighting against Democratic initiatives to improve America's schools to set national standards for our schools.

Democrats are fighting to rebuild our crumbling schools, to reduce overcrowding in our classrooms, and to establish those national standards in reading and mathematics. Let us make sure that students in Boston are held to the same high standards as students in Birmingham.

A word of warning to our friends on the other side of the aisle: Once again, Democrats are going to stand up and make the fight for America's kids, and I predict that we will win.

REJECT THE LIBERAL SOLUTION FOR OUR FAILING PUBLIC SCHOOL SYSTEM

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

Mr. GIBBONS. Mr. Speaker, the more things change, the more they seem to stay the same.

Our liberal colleagues, we just heard, have come up with a solution for a failing public school system. Well, they are going to pass a law that tells students what they must learn. It is that easy.

From Washington, DC, the liberals want to set the academic agenda for every school in the Nation. They believe that if Congress and not our schools or teachers tell our students what they must learn, the problem will disappear. The same one-size-fits-all, Washington knows best approach that did not work for welfare is the liberal savior for our public school system. And should this system fail, they have a back-up plan. They will spend billions of taxpayer dollars to create yet another bloated bureaucracy to find yet another way to tell us the system is not working.

I urge my colleagues to reject the liberal solution and to end this nonsense and support the Goodling amendment. Let us send the money to the school and the teachers and students where it will do some good and not to the Washington bureaucrats.

□ 0930

A SEASON FOR NONVIOLENCE

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

Mr. CLEMENT. Mr. Speaker, at a celebration of India's independence, I had the pleasure of meeting Mr. Arun Gandhi, the grandson of Mahatma Gandhi. In a conversation which followed, Mr. Gandhi and I discussed the planned Season for Nonviolence, which will create greater awareness of the principle of nonviolence for which we honor the lives of Mahatma Gandhi and Martin Luther King, Jr.

Coinciding with the 50th and 30th memorial anniversaries of Gandhi's and King's deaths, a Season for Nonviolence will begin on January 30, 1998, with activities planned through April 4, 1998. It is, of course, hoped that the seeds of nonviolence planted during this time will be nurtured and fruitful long after the official ending of a season.

A Season for Nonviolence is committed to such changes as truth, respect, acceptance of others, negotiation, appreciation of differences, and reconciliation.

I encourage all of my colleagues to participate in this great movement. It is my sincere hope that this will be one season without end.

MOTION TO ADJOURN

Mr. MILLER of California. Mr. Speaker, I offer a motion.

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

The Clerk read as follows:

Mr. MILLER of California moves that the House do now adjourn.

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

offered by the gentleman from California [Mr. MILLER].

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

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 44, nays 339, not voting 50, as follows:

[Roll No. 366]

YEAS—44

Andrews
Berry
Bishop
Boswell
Boyd
Clay
Clement
Conyers
Coyne
Davis (FL)
DeFazio
DeLauro
Deutsch
Dingell
Eshoo
Farr
Filner
Ford
Furse
Gejdenson
Gephardt
Gutierrez
Hastings (FL)
Jefferson
Johnson, E. B.
Kennedy (MA)
Klink
LaFalce
Lewis (GA)
Lowey
Markey
McDermott
McNulty
Meek
Millender-McDonald
Miller (CA)
Mink
Rangel
Reyes
Stark
Towns
Walsh
Waters
Woolsey

NAYS—339

Ackerman
Aderholt
Allen
Armey
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Becerra
Bentsen
Berman
Bilbray
Bilirakis
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Borski
Brady
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Costello
Cramer
Crapo
Cummings
Cunningham
Danner
Davis (IL)
Davis (VA)
DeGette
DeLay
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Flake
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klug
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
Meehan
Menendez
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Olver
Ortiz
Packard
Pallone
Pappas
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Porter
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Traficant
Turner
Upton
Velazquez
Vento
Visclosky
Wamp
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Wynn
Yates
Young (FL)

NOT VOTING—50

Abercrombie
Archer
Bachus
Barton
Bateman
Bereuter
Bono
Boucher
Brown (CA)
Brown (FL)
Cooksey
Cox
Crane
Cubin
Deal
Delahunt
Dellums
Dixon
Engel
Foglietta
Gonzalez
Hefner
Herger
Houghton
Kennedy (RI)
Kleczka
LaTourette
Martinez
McCrery
McDade
McGovern
Moakley
Moran (VA)
Oberstar
Owens
Oxley
Parker
Pelosi
Pombo
Pryce (OH)
Radanovich
Sanders
Schiff
Sessions
Shaw
Slaughter
Torres
Weldon (PA)
Weller
Young (AK)

□ 0954

Mr. HORN and Mr. PACKARD changed their vote from ''yea'' to ''nay.''

So the motion to adjourn was rejected.

The result of the vote was announced as above recorded.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 674

Mr. CAMP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 674.

The SPEAKER pro tempore (Mr. MILLER of Florida). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the further consideration of H.R. 2264, and that I may include tabular and extraneous material.

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

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

The SPEAKER pro tempore. Pursuant to the order of the House of Thursday, July 31, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2264.

□ 0957

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes, with Mr. GOODLATTE in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, September 4, 1997, the bill was open for amendment from page 11, line 1, through page 25, line 8.

Are there any amendments to this portion of the bill?

AMENDMENT OFFERED BY MR. MCINTOSH

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

The Clerk read as follows:

Amendment offered by Mr. MCINTOSH:

Page 13, line 8, after the first dollar amount, insert the following ''(reduced by $4,309,000)''.

Page 68, line 17, after the first dollar amount, insert the following: ''(increased by $4,309,000)''.

PARLIAMENTARY INQUIRY

Mr. RIGGS. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RIGGS. Mr. Chairman, I am simply trying to ascertain where we are now with respect to deliberations on the Labor-HHS-Education appropriations bill. It is my understanding that when the Committee rose last night, we were at the end of title I, and that title I could be reopened for the purposes of an amendment.

I have an amendment pending to title I, but want to give preference to the amendment of the gentleman from Indiana [Mr. MCINTOSH]. I would like to confirm my understanding.

The CHAIRMAN. The bill is open for amendment from page 11, line 1, through page 25, line 8, of title I.

Mr. RIGGS. Further parliamentary inquiry, Mr. Chairman.

Again, I am just trying to confirm, then, that my amendment which I intended to offer at the end of title I would be in order after that of the gentleman from Indiana [Mr. MCINTOSH].

The CHAIRMAN. The Chair will make that determination when the amendment is offered, but that portion of title I is still open.

□ 1000

Mr. OBEY. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

The CHAIRMAN (Mr. GOODLATTE). The gentleman from Wisconsin [Mr. OBEY] reserves a point of order against the amendment.

Mr. McINTOSH. Mr. Chairman, the purpose of this amendment is to make a transfer of funds from the wage and hour enforcement provisions in the bill and transfer those funds to fund the IDEA program, which is the Individuals With Disabilities Education Act.

This amendment would essentially level-fund the Wage and Hour Enforcement Bureau. As we talked about last night, there are many of us who have grave misgivings about the funding priorities in this bill. We understand that there is a budget agreement in which we have agreed with the President and Members of the other party. However, Mr. Chairman, we think it is very important to have this fundamental debate about these spending priorities within this bill, and we think that it is important that all of the Members of the House understand the decisions that are being made within the context of a balanced budget agreement.

This amendment will make a decision, if it is accepted, to level-fund the Wage and Hour Enforcement Division at the Department of Labor. Our view is that that entity at the Department has sufficient funding from last year's appropriation bill to carry out its mission, and does not need a $4.3 million increase.

Mr. Chairman, however, IDEA is a bill that we recently amended in this Congress that provides educational opportunities for those individuals who are disabled, but still may participate in educational programs in our school system. The Federal Government places enormous mandates on local school systems under this provision. It is noble in its cause in terms of creating opportunity for those who are less fortunate. But, unfortunately as so often happens in Washington, we passed the mandate, we passed the noble bill, we passed the strings, but we do not provide the funding.

My amendment, Mr. Chairman, would be a modest effort to redirect some additional funds to local schools so that they could fund programs such as inclusion of those students who do have mild learning disabilities into the mainstream classroom in our school systems. Oftentimes, this requires special personnel at the school to be able to help those students learn and have an opportunity to progress as far as they are able.

Mr. Chairman, this will also allow the schools to pay, frankly, for some of the costs of this program in terms of consultation with parents so that they can be included in the crafting of the educational program for their students and compliance with the paperwork which requires schools to document what their programs are for these students who are disabled.

Mr. Chairman, I visited several schools in my district at the end of August and repeatedly those school programs pointed out to me what they are trying to do to comply with this Individuals With Disabilities Education Act that we have promulgated here in Washington. They are struggling to do what is right by those people who are less fortunate. But time and time again, they pointed out how it was taking resources away from other students in their schools who desperately needed to be taught the basics: reading, writing, and arithmetic. Those schools needed that additional funding.

We have a program already authorized; it is terribly underfunded. If my memory serves me correctly, we only provide about a quarter of the funds that are needed to fulfill that. This amendment will not in any way fully fund those requirements, but it will provide $4.3 million additional for that purpose.

Mr. Chairman, I think this fits into the overall goal that we talked about last night of redirecting priorities within this bill, rather than funding an enforcement agency at the Department of Labor that is oftentimes perceived as being heavy-handed and arbitrary in our workplaces. We would take those funds and provide much critically needed assistance to local schools who are attempting to provide an educational opportunity for disabled Americans who are attending those schools.

Mr. Chairman, I submit this amendment and would urge my colleagues to vote ''yes'' in this redirection of funding.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. OBEY] insist on his point of order?

Mr. OBEY. Mr. Chairman, I withdraw my reservation of a point of order, and I rise in opposition to the amendment.

The CHAIRMAN. The reservation of a point of order is withdrawn.

Mr. OBEY. Mr. Chairman, I would point out that this is one of those amendments that will determine whether or not this Congress really cares about the conditions under which Americans are expected to work.

Mr. Chairman, the gentleman is asking us to add $4.3 million to an account that already has a $338 million increase. We already added $25 million to that account in the Goodling amendment last night. And the source that the gentleman chooses to target in order to move that money is, I think, especially outrageous.

Mr. Chairman, the gentleman from Indiana [Mr. MCINTOSH] would remove that money from the wage and hour enforcement division of the Department of Labor. That is the agency that is supposed to enforce the minimum wage. That is the agency that is supposed to enforce the Medical and Family Leave Act. That is the agency which is charged with seeing to it that workers are not asked to work under slave labor conditions.

We have just seen some of those stories in newspapers in disgraceful incidents around the country, and this amendment would further cripple the ability of the Department of Labor to deal with those issues.

The Wage and Hour Division is supposed to enforce the Migrant and Seasonal Agricultural Workers Act. It is supposed to enforce the immigration acts so that employers do not illegally employ noncitizens in this country. It is supposed to see to it that employers comply with employment eligibility verification requirements under the Immigration Act.

Now, Mr. Chairman, this program, it seems to me, is grossly underfunded as it is. Are we really about to say that this country does a good enough job in protecting workers on overtime issues, on minimum wage, or on slave labor conditions? I do not think we do.

We can look at every major urban newspaper in the country virtually every week and find another instance where we have had people employed in deplorable conditions, and yet the gentleman says that we ought to take $4 million away from the agency charged with seeing to it that we treat American workers like Americans.

Mr. Chairman, I think that there is something fundamentally wrong with that approach. I cannot believe that this Congress would support that, and I would respectfully urge the rejection of the amendment.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want the gentleman from Indiana [Mr. MCINTOSH] to understand what we have done in the bill with respect to the salary and expense accounts. That is, generally, we have provided about a 2-percent increase in S&E accounts, and this account is 2.8 percent, both figures are below the rate of increase in the spending in the bill overall.

The President has announced that salary increases will be 3.8 percent for 1998. That increase means that in all of the salary and expense accounts in the bill there will be a need to either cut expenses or have fewer employees, probably mostly through attrition, to meet those requirements.

In other words, the level of increase that we have given in this account is below the rate of increase in salaries in the Federal Government generally, and

that will mean fewer workers will remain in the Federal work force. That would apply in this account as well.

Now, Mr. Chairman, what the gentleman from Indiana is offering is an amendment that would raise the spending for the special ed. account by $4 million on a base of $4.3 billion, or about one-tenth of 1 percent. Let me suggest to the gentleman that last year we raised spending in this account by $790 million and this year we raised it in the bill by an additional $312 million, and last night we raised it by an additional $25 million as a result of the Goodling amendment. So, we now have raised spending in this account, just in the last 2 fiscal years, to this point at least by over $1 billion.

The gentleman's amendment would be an increase from the present level of spending by an insignificantly small amount, $4 million. Now, every amount is important. I certainly agree with that. But given the overall funding, it is not as if we are not paying attention to our responsibilities to increase spending for IDEA. We very much are. We put it at a very, very high priority.

And while it makes for a good amendment, I suppose, in terms of appeal to cut Wage and Hour Enforcement and put the money in special ed., I think Members should know that we have done a yeoman's job of putting resources into special ed. and taking the burden off of local school districts' tax revenues in a major way and that this amendment is going to make virtually no difference in that effort. It will make substantial cuts in the wage and hour enforcement.

Mr. Chairman, I think the Members ought to be able to see in perspective that this does very little for the matter where the gentleman moves the money, but would cut even below what we have provided, which is already in the nature of a cut, in the Wage and Hour Enforcement Division.

□ 1015

Mr. MCINTOSH. Mr. Chairman, I ask unanimous consent to strike the last word.

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

There was no objection.

Mr. MCINTOSH. Mr. Chairman, let me address some of the points that have been raised about this amendment. First, let me say very clearly that the philosophy behind this amendment is to take funds away from the Washington bureaucracy and make them available to our local schools so that they can implement a program that we all think is a noble and worthy cause of helping to provide education for disadvantaged, disabled American students.

There are three examples of the type of regulatory oversight that are being funded currently in the wage and hour administration that my colleague, the gentleman from Wisconsin [Mr. OBEY], has mentioned. One was the employment eligibility standards by the INS. This is essentially a lot of paperwork where they require Americans to produce an ID or indication that they are a U.S. citizen before they can obtain a job.

My view is that ultimately most employers will comply with that, but that there are some actual abuses of that program itself that are occurring where people are being discriminated against because of their background as a Latino-American or other ethnic heritage, they are seeing this provision used against them to harass them as they seek job opportunities. So I do not think we should increase funding to support that type of harassment in the work force.

The second one was the Family Leave Act. As I talked to employers all over the country and particularly in my district in Indiana in August, they have told me they have enormous problems complying with this, but are making a very good-faith effort to provide the new Federal job benefit of family leave for those employees who need to be with a family member because of an illness, because of a death, because of a birth of a child.

The complications arise from the need to provide a constant work force in a very competitive marketplace or, in some cases, a fluctuating work force. When they have a new order that is received, they have to be able to count on their employees coming in and filling that order or they see that it is lost to competitors in Japan, China, Europe, and other countries.

I do not think those employers need an additional burden of a bureaucratic oversight of their efforts to comply with this act.

The third area was the minimum wage. We had a debate in the last Congress about whether to raise the minimum wage. I thought it was a mistake because it would harm people who were not able to get jobs that frankly would not be available at that higher rate. They are what I call the victims of the minimum wage.

Let me mention one, Don Baisch, who is a manager at a Burger King out in California. He came and testified at my subcommittee hearing on the question of minimum wage. He told me about how he had been on welfare a few years ago and until he had an opportunity to sign up for a job at Burger King, he did not have hope in his life. He had one daughter, the mother of that daughter was not there to help raise the child, and he made a choice to get that job at the then minimum wage.

He worked his way up. He is now a manager at one of the restaurants, and he told us how he wanted to be able to say, yes, raise the minimum wage for American workers, but he begged us not to forget people like him who may not have an opportunity as those jobs are no longer available.

Congress passed that increase. Frankly, the adverse effects that we anticipated were avoided because of the strong economy. What we now see in the workplace is that the market has in fact raised the minimum wage for most employees above the statutory minimum wage. And so those opportunities are there.

But that same effect means that we do not have to increase spending here in Washington on a bureaucracy to oversee the implementation of that regulatory program, one which I do believe continues in some areas of the country to harm people like Don Baisch who need an opportunity as we are moving away from welfare and back to work.

For that reason, I am very comfortable with saying, let us just fund it at last year's level. Some Members will say that is a cut, but I refer to that as a Washington cut and would urge my colleagues to reject that notion.

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

I want to stand in support of this amendment, but more importantly, I want to ask about the premises, the premise under which we are going to decide that we cannot become more efficient in Washington. The fact is with the wage increase that President Clinton has put through that the Wage and Hour Division of the Department of Labor, the assumption is that they will have to lay off people rather than to achieve an efficiency to become more proficient or to figure out a way to get the same job done with less dollars or more dollars that would go to employees with less dollars in other areas.

Having spent about 3 weeks this past year in different Government offices and Government agencies, and looking at how those problems are broached, I find two very different areas. I went through the VA regional office in Muskogee, OK, which has led the Nation multiple times now in terms of efficiency because they team-work, they have gone to innovative structures. Their costs are down. Their costs per claim are down. Their costs for handling the case are down.

They have led because they decided that they were not going to be behind and just do what Congress said. They were going to try to be more efficient with the American dollar.

Then I have gone to the VA hospital and had my staff study the VA hospital and the opposite thing has happened. In fact, we spend more money because more money was made available, not because we were efficient.

So the question I would ask is, Is it wrong to try to send money to the local school districts to handle a program that we have mandated on them; and if, in fact, we are spending $1 billion to support the IDEA program, my question is, that is not near enough to the mandates that we are putting out there. And Chairman GOODLING said last night on this floor that that was not enough money. He was disappointed that he could only ask for $25 million more.

That is not enough money to care for this. We are mandating things must be done even though, in a reform fashion on IDEA, but we are still not sending the dollars there to accomplish it.

So, yes, this is a small amount. It does accomplish two things that I would like to see: It drives efficiency and the bureaucracy in Washington and mandates it. There is less money for you to get the job done. Think about innovation, do it in a different way.

And second, it does send money to the local school district so that they can meet the mandate that we have placed on them even though, well-intentioned, that costs them far more than we ever send; that would come close to providing for the cost associated even with a revised IDEA.

I would support this amendment. I would ask the gentleman about his points of order.

Can I ask the gentleman from Wisconsin [Mr. OBEY] what the point of order that he would raise on this amendment would be, so that I might know.

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

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

Mr. OBEY. Mr. Chairman, I did not raise it.

Mr. COBURN. Mr. Chairman, I thought that the gentleman might have one.

The CHAIRMAN. The gentleman has withdrawn his point of order.

Mr. COBURN. I stand corrected.

Mr. PORTER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

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

There was no objection.

Mr. PORTER. Mr. Chairman, I want to make one further point when we talk about bureaucracies. The gentleman from Indiana has made a point about taking money from Washington bureaucracies and giving it to local school districts. There are bureaucracies in Washington, and there are bureaucracies also in many of our local school systems. I need only to point out that before the Illinois General Assembly gave Mayor Daley of Chicago control over the Chicago schools, 1½ years ago, one of the biggest bureaucracies anywhere in existence was the Chicago School Board. It was packed with patronage workers and certainly did not need any more relief when compared with the Wage and Hour Enforcement Division.

In other words, there are bureaucracies, if they exist, not only in Washington but out in local school districts in many of our big cities; there is not any doubt about that. To say that we are simply going to punish bureaucrats and give this money for the education of handicapped kids is not quite accurate in many instances.

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

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

Mr. COBURN. Mr. Chairman, the implication is not punishment. The implication is how do we drive efficiency within the bureaucracy of our Government.

Necessity is the mother of invention, and if in fact there is less money, we will drive invention to get the job done in a more efficient way. We have done that throughout our entire history as a country. I agree with the gentleman, there are a lot of bureaucracies in the State of Oklahoma within the Education Department of the State of Oklahoma. But where do we start drawing that line? Oklahoma should clean up its bureaucracies. But we should not clean up bureaucracies in Washington because Oklahoma has failed to do it? I am not saying they have, but should they have failed to do it, that should not limit what we do.

Mr. PORTER. Reclaiming my time, Mr. Chairman, as I explained earlier, we have made a very direct assault on that by providing a lower rate of increase in all the salary and expense accounts in the bill than will be granted in salary increases. This funding level brings very strong downward pressure on the number of employees and therefore creates, in your mind at least and maybe mine, also greater efficiencies.

Mr. COBURN. Mr. Chairman, if the gentleman will continue to yield, I would concur with that, but remember, not all the cost of the Department of Labor is salary and benefits, although that is a large portion of it. There is a large area that is not. So when we say we increase a total number, it is not all going for salaries and benefits. In fact, they could hold their other costs even and meet those equally well, meet the demands of a salary increase.

Mr. PORTER. Reclaiming my time, Mr. Chairman, this is an S&E account, and they could not do that as a matter of fact.

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

Mr. Chairman, I rise in support of the McIntosh amendment. It is amazing, just absolutely astounding, that here the U.S. Congress proposes in this Labor, Education and Health and Human Services bill to increase the bureaucratic account of another one of the 10,000 agencies and programs that we have here in Washington, and really it is at the expense of local school boards that have to bear more and more of the burden under IDEA.

It really strikes me that this is the complaint about Washington, this is the complaint about big government when 435 Members here assembled in the House of Representatives can take a document and increase the amount of money to run a particular agency or bureaucracy, and yet, when a movement comes, when an amendment comes to take the money that would go from the Washington, DC, bureaucrats and to send it home not to local school board bureaucrats, because every dollar that would be sent back home to fund IDEA is not going to more bureaucrats, it is going to the children, the children that are the beneficiaries of IDEA, the children that suffer with these incredible handicaps, the children whose handicaps and disabilities are so overwhelming that this House voted 432 to 3 in order to pass a program like that, it is the children.

And the services that are given to the children at the local level, they are the ones to whom we must look and say and ask this question on the McIntosh amendment: Who is more worthy of receiving Federal dollars, the children with the disabilities or increasing the bureaucratic account to which the gentleman from Indiana [Mr. MCINTOSH] has addressed his amendment? That is the issue.

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

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

Mr. PORTER. Mr. Chairman, I would again suggest to the gentleman that the assumption behind his statement is simply not accurate. For years, a portion of this money went to support bureaucrats in local school districts that were part of a political patronage machine. Our own city of Chicago is an example and everyone knows that.

Mr. MANZULLO. Mr. Chairman, I do not come from the city of Chicago, and I do not claim any of the Illinois politics. All I know is that every additional dollar that goes back to the school district in my school district, not one more cent goes to a bureaucrat. They do not hire more bureaucrats. They may hire more staff to deal with those disabled children, but that is the purpose for which IDEA is intended.

□ 1030

Mr. PORTER. If the gentleman will yield further, I am certain that is true in his school district. I am simply saying that is not true in every school district, and particularly history tells us in many of the big city school districts across America this money does not get to the kids.

Mr. MANZULLO. Is the gentleman saying that money is spent more wisely in Washington than locally back home?

Mr. PORTER. No, sir, I am simply saying there are bureaucracies at both ends of the funding streams to classrooms and often the money that is intended to go to classrooms does not actually get there. That should concern us just as much as money spent here in Washington.

Mr. MANZULLO. I understand, but it is our job to stop bureaucracies from being wasteful here in Washington. It is the jobs of the folks back home to stop bureaucracies there. But it is also our job to make sure we do not have any more of these unfunded mandates. That is the purpose of the McIntosh amendment. IDEA should have been

fully funded a long time ago. And how we do it, we take the money out of these bureaucratic accounts and send it to the kids.

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

Mr. Chairman, I rise to support the amendment of the gentleman from Indiana. It seems to me that this amendment really goes right to the heart of everything that we as Republicans stand for in the Congress, the idea being that we support the 10th amendment, leaving those things to the States that the Founders have set forth for them to be responsible for, that we support the idea that the Federal Government should not be making mandates on States and localities that it does not fund. I was a State Senator for a number of years and we always had a problem with this huge Federal mandate that imposed the requirement that moneys be spent, but we had to live up to whatever the Federal Government told us that we had to do, and the Federal Government does not keep its word very often and has not kept its word in this area.

In 1975, when this program was authorized, it was set forthright in the legislation that the Federal Government would pay 40 percent of the cost of this program. At no time has it ever lived up to the law in that regard. In fact, the most it ever got to, the gentleman from California [Mr. RIGGS], our chairman, has informed me, was 10 percent. It is not even that this year.

This is an opportunity to take some money and move it over to fund what is a very worthwhile program but a very expensive program. It is a start in the right direction. I think, Mr. Chairman, that it is important that we at least start moving in the right direction even if at first we cannot put all the dollars into it that we would like.

The McIntosh amendment tries to scrape up a few more dollars that can go into this program. That is very consistent with the Republican philosophy of not having mandates and where we do have mandates, of moving to fully fund those mandates, to pay for the things that we the Federal Government are imposing on the States and the localities, not just to pass the mandate and let them foot the bill. That is not our philosophy. I think it is very important to support this amendment of the gentleman from Indiana [Mr. MCINTOSH] because it moves us in the right direction, and it will help pick up a little more of the cost that we the Federal Government are imposing on the States and the localities for what is a very worthwhile program.

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

Mr. Chairman, I rise in strong support of the amendment from the gentleman from Indiana [Mr. MCINTOSH]. I hope my colleagues are paying attention to this debate because it is critically important that we understand what is going on here. This is a simple proposal which says are we going to put more money behind Washington, DC, bureaucrats? Or are we going to put money behind disabled children who need education? That is the issue raised by the McIntosh amendment, and I think it is a simple one and a straightforward one and one on which I urge my colleagues to pay attention and to support the McIntosh amendment.

It is clear-cut. We can spend more money; indeed this bill does spend more money. It increases spending for wage and hour law enforcement. Wage and hour law enforcement is important. But I think the spending level we set last year was more than adequate. I do not know of grave abuses in that area crying out for a need. But on the other side, we can do as the gentleman from Indiana [Mr. MCINTOSH] suggests in this amendment, we can move these dollars, an increase in wage and hour enforcement is not really needed, over to take care of the education of disabled children.

It is a fundamental obligation of this Nation to take care of our disabled children. We wrote the IDEA program to ensure that States provide adequate education for those children who are disabled and who need it, but having written it, we have never funded it.

We have heard that discussion here on the floor. It is not like wage and hour law enforcement. We are funding that now. But we are not funding the education of the disabled children across America. We are indeed demanding that States provide that education, but we provide less than one-quarter of the funding that should be there for the education of those children.

That is the debate. Are we in favor of providing adequate education for disabled children across America or do we want more money to go into an already existing bureaucracy here in Washington and expand that bureaucracy by raising their budget? But it is an issue which reaches beyond the issue of the education of disabled children. It is a question of the education of all children. Because when we mandate that the States, as we do under the law, provide education for the disabled and we spell out exactly what they must learn and what they must teach and how much services must be provided, but then we do not provide adequate funding, that forces the States and the schools and the school districts across America to reach into the funding that should be there for other children, the not disabled children, and take money away from their education to provide education to the disabled children.

So because we are not doing our job, we are not fulfilling our responsibility to provide the funding to educate America's disabled children as we have mandated, we are harming the education of all children. All Americans ought to be concerned about this. It is important that we both educate the disabled, but that we not do it by stealing money from the education for the not disabled, for the standard students, for the rest of the children in our schools. Yet by failing today, as we are, to provide adequate funding for IDEA, that is exactly what we are doing. We are stealing funding from the children's education of all, not just the disabled but the not so disabled as well. That is wrong.

The McIntosh amendment moves $4.3 million, which right now would increase the enforcement of wage and hour standards into IDEA. It is simple, it is straightforward, and I urge my colleagues to support it. Do you stand in favor of expanding the wage and hour bureaucracy at the Department of Labor? Do you think we need to raise their budget over last year? Do you think we need $4.3 million additional in wage and hour enforcement or do you understand that we have an obligation to educate both the disabled children in this country and not to force States and local school districts to steal money from the education of non-disabled students in order to fulfill our Federal mandate. I urge my colleagues to support the McIntosh amendment. I think it is critically important to change this legislation.

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

Mr. Chairman, last year our Senator DIRK KEMPTHORNE from Idaho wrote and passed and had signed into law Senate bill 1 prohibiting unfunded Federal mandates. Unfunded Federal mandates have been a bane to local units of government and our States. We heard the statement just recently in the debate, if there are bureaucracies. Let me tell my colleagues, there are bureaucracies. In the Reagan legacy, Ronald Reagan knew what he believed in. He was very centered on the fact that power should go to the individuals and to the States. He is honored by people across this Nation because he was so focused and he never deviated.

This issue that the gentleman from Indiana [Mr. MCINTOSH] brought up is very special to me. Putting more money in funding for IDEA is a very important thing to me. I have a grandson who is disabled. I have six little grandchildren and one of them is disabled. I can tell Members, he is a beautiful child. He has unspeakable joy in his spirit. But he is disabled. As such, he pulls a kind of love and emotion from us that is unlike anything I have ever experienced. Hence, when I see the children who are under the IDEA program and the fact that their little lives are lived out in bodies that are disabled, my heart goes out to them. I am no different than any other American. Yes, we are a rich country and we can certainly afford to be able to help these helpless little children.

My children, my son and daughter, do all they can to help their children in their own way. But there are many, many, many parents who are not able to help as much as my children are, to

be able to help little Timothy, my grandson. And so when the gentleman from Indiana [Mr. MCINTOSH] brought this amendment up, it really struck home to me. $4.3 million from a broken bureaucracy to the Individuals with Disabilities Education Act, it is a very worthy transfer of money.

Mr. Chairman, the question should never be, or the statement should never be, if there are bureaucracies. Indeed, there are bureaucracies. There are bureaucracies on the Federal level that are very broken. That is what the mandate was in terms of why we were sent back here to Congress, to carry out the Reagan legacy to not just fix a very big and broken bureaucracy but to fix it by streamlining it and making it very much smaller. To that end, that is what the gentleman from Indiana [Mr. MCINTOSH] is attempting to do in this amendment. I commend him for his forethought.

Yes, the McIntosh amendment takes money from a bureaucracy that would fund an unfunded mandate and gives it to children who really, really need it. This is a sound concept, Mr. Chairman. This is in line with the 10th amendment concepts and it is compassionate. We really need to be able to reach out for those little children who cannot help themselves. This is a good Republican idea. This is an idea that Ronald Reagan would be very, very proud of.

I ask myself again and again, as I have over the last few days, what are our priorities in this Nation? Our charge as lawmakers is to make sure that we understand the people's priorities and to be able to put them forth. As such, without the McIntosh amendment this bill does not do that. With the McIntosh amendment, it will begin to do that.

Mr. OBEY. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

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

There was no objection.

Mr. OBEY. Mr. Chairman, I take a back seat to no one in my concern for disabled children. There is not anybody on this floor who does not have someone in their family who is disabled or someone close to them. I have a nephew who is disabled. I have another child in my family who was born with so many problems that by the time they left the hospital, his parents had almost $400,000 in unpaid medical bills. So there is not anybody who does not understand that.

But the fact is that $4 million added to this account will do virtually nothing to improve the situation that has been talked about because this account is already so large. But cutting $4.3 million out of the agency that is charged with the responsibility to protect workers against slave labor conditions, to guarantee that workers are paid what they are entitled to be paid, to guarantee that they are not forced into working hours that are against the law, that will indeed have a deep effect on the agency because the agency already has a much smaller budget.

I would make a larger point. It is true that the account into which the gentleman wants to put money is underfunded. Virtually every account in this bill is underfunded. The fact is that the budget agreement which has been imposed on us leaves this bill at least $5 billion short of where it ought to be. There ought to be at least $2 billion more in this bill for Pell grants. There ought to be more money in this bill for the National Institutes of Health. There ought to be more money in this bill for worker protection. There ought to be less money in the budget, in my view, for B–2 bombers.

□ 1045

If we want to correct the problem as large as the problem described, we are not going to do it with $4 million transfers that weaken the Government's ability to meet its obligations to protect workers and see to it they work in decent working conditions. The only way we are going to get that is if we take money out of the areas of the budget that clearly do not deserve it.

For the cost of one of those B–2 bombers, we could pay the cost of tuition for every single kid at the University of Wisconsin for the next 11 years; we could pay the cost of hundreds of thousands of families in dealing with disabilities. This amendment does not do that.

This amendment is a token transfer that will have virtually no effect on the people we are trying to help, but it will very deeply cut a much smaller agency which is supposed to protect every worker in America so that their employers pay them what they are entitled to, so that their employers do not have them working in slave conditions, so that employers do not illegally hire aliens.

Mr. Chairman, I suggest to my colleagues, if they want to correct the problem, go back and correct the budget deal; quit giving billions of dollars in tax relief to the wealthiest people in this country who do not need it while the families we are talking about are getting table scraps. If we want to correct the problem, give this bill a larger budget allocation. Otherwise, they are cutting one deserving account in order to try to fund another account.

So I would urge the House respectfully to recognize that this House has no business weakening protections on minimum wage or weakening protections on the employment of immigrants. Some of the speakers who have addressed this amendment have made clear they do not believe in the Family Leave Act, they did not believe in raising the minimum wage, and so what they are trying to do is to eliminate funding that is enforcing legislation that they voted against in the first place.

I do not happen to agree with that; I do not think the House will, either. I think there are a large number of Members in both parties who recognize their responsibility to see to it that working people work under conditions that are lawful and equitable. The amendment helps to weaken that guarantee, and I do not believe that people in either party in substantial numbers support it.

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

Mr. Chairman, I yield briefly to the gentleman from Oklahoma [Mr. COBURN], my colleague.

Mr. COBURN. Mr. Chairman, I would just like to answer that as somebody who voted against the B–2 bomber, who voted against the budget, who voted for minimum wage, as my colleagues know, I think $4.3 million does a whole lot in Oklahoma, Wisconsin, Texas, and all the other States, and I think a whole lot less is accomplished with $4.3 million run out of Washington, DC.

And to say that $4.3 million does nothing is an example of what the problem is in Washington. It is because we perceive that $4.3 million is a small amount. And when that amount of money goes to any school district, and I want to finish my point, and it is not my time I say to the gentleman from Wisconsin [Mr. OBEY], when that amount of money leaves Washington, two things happen: No. 1 is it is not wasted in Washington, and No. 2 is it has an opportunity to be put to excellent use in the various States.

And IDEA is a program that we have mandated that is underfunded, without a doubt, across this country, and just the other point that I was going to mention to the gentleman from Wisconsin [Mr. OBEY] is we have several other amendments to try to increase IDEA to make that impact much greater.

Mr. NORWOOD. Mr. Chairman, I say to the gentleman from Wisconsin [Mr. OBEY] let me make my statement, and if there is time left, I will be glad to yield.

Mr. Chairman, I rise to support the McIntosh amendment for, I think, some very clear reasons. IDEA is good. We have had it in this country for 22 years now. The idea here is to educate our disabled children and make them useful members of society. Who could disagree with that?

But in addition to that, the law also says that the Federal Government will fund their portion of that at 40 percent. Well, we are up to 12 percent now after 22 years, and my friend from the other side of the aisle implied that why do we not go ahead and fund it? We are in charge; why has it been just 12 percent? Why do we take it away from something else in the Education or Labor Department and fund IDEA? My question is, why have the Democrats not funded it over the last 20 years? Why have we forced this unfunded mandate down on the States and, in effect, have raised taxes on the people in the States without them really realizing it?

I think $4.3 million is a large amount of money. I hope people watching this debate understand some of us realize it has six zeros on it. We think that at $10,000 per district it is at least a step in the right direction.

Though we are only funding what the law calls for, 40 percent at 12 percent, we are trying to correct that situation, and I encourage all of my colleagues to support this amendment, support the gentleman from Indiana [Mr. MCINTOSH], and maybe we will have some more amendments before the day is out to continue to try to fund what is a good program and what does help our children.

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

Mr. NORWOOD. Mr. Chairman, I now yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, my point was not that this money is a small amount of money. My point was simply that a $4.3 million impact on a $600 million budget is infinitesimal in comparison to its effect on a budget which is only one-sixth that size.

I would make the point that the amendment would provide less than $1 in additional help to every child my colleague is talking about, but it would provide a devastating cut in the ability to enforce protection for workers not in Washington, but in sweatshops in Los Angeles, in New York, and Chicago, in Wisconsin or any other State in the Union where workers are being taken advantage of every day.

Mr. NORWOOD. Reclaiming my time, I simply say that this is a step in many steps for which we can finally get the Federal Government to do what it said it wanted to do, fund IDEA at 40 percent levels. It is not comprehensible to me that we have simply passed that law and simply not done what we said we will do. We very seldom pass a law and allow people at home not to follow that law. Why can we not fund it? And if we can only get $10,000 per district in this amendment, then we can keep trying until we get up to the correct funding level.

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

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

Mr. PORTER. Mr. Chairman, by my calculations we are going to need $11 billion of new spending in this one line item alone. Is the gentleman telling me he favors doing that?

Mr. NORWOOD. No. What I favor is repealing the law and not having us fund it at 40 percent or change the law or either fund it.

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

I rise in opposition to the McIntosh amendment. Mr. Chairman, this amendment does not reduce total spending. It just shifts $4.3 million into the IDEA program which is already a $4.3 billion program.

There are two issues here we are debating basically. One is a philosophical issue, which is what my colleagues on my side of the aisle are talking about, and I agree with them on this philosophic issue.

The IDEA program is a good program, and I would like to have money shifted out of Wage and Hour. But that is the one issue that I agree with my colleague on. The other issue that we do not agree on necessarily, apparently, and I agree with the gentleman on the other side of the aisle, is we have to govern here; we have to govern, we are the majority party.

Last November the American people elected a Democrat to the White House, not the gentleman that I voted for, but there is a Democrat in the White House, and they elected us with a small majority in the House of Representatives. As a member of this subcommittee, it is difficult to make some compromises, but compromise is the way to run as a majority.

The issue they talk about, the IDEA program, everybody supports the IDEA program here. I, last week I had the pleasure of visiting a program, the Easter Seal facility in Sarasota, Bradenton, in my area, and they just started a charter school, which is really fascinating to see a charter school started for IDEA students in my area. I have a niece who is a teacher of special ed., I have a nephew that is a special ed. student. So we all have a personal impact on that, and we have a reason to support that.

But IDEA program is something Republicans should be proud of. We have increased the spending on IDEA in the past 2 years from $3.3 billion to $4.3 billion. That is a 30-percent increase in the past 2 years. So we have a lot to be proud about in that area, and increasing another one-tenth of 1 percent, $4.3 million, I agree with.

I voted against the minimum wage increase. I do not think we are philosophic; I mean, sure we need that whole agency, but the problem is and the question we are debating here is should and can we govern? And I think at this stage we need to say, hey, this is the best we can do, let us move forward based on the real dollars involved because of inflation. We are not getting that much of a change because of the wage increases that are mandated by the President.

So, as much as I support the IDEA program, I like to see more money poured into that, and we are moving in the right direction on that and we have made a lot of accomplishments. I think from a governing standpoint we should vote down this amendment and move forward.

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

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

Over 20 years ago we passed IDEA, the Individuals with Disabilities Education Act. I was one of the authors of that legislation. And one of the reasons we passed that act, the compelling reason we passed that act, because these very same school districts and administrators and so forth that so many are now championing, saying they could use this money better than the Wage and Hour Division, were the same people who denied disabled children access to the schools. They denied it as a matter of their school policy. And the reason we have a Federal mandate is because we had to mandate under Federal law that these children be allowed to cross the threshold of the school doors.

In States all over this country, but for this law millions of children would not get an education, simply would not be allowed in schools because they were on crutches, they were in a wheelchair, because they suffered from Down's syndrome or cerebral palsy. They would not be allowed because that is what school administrators all over this country decided. Oh, they can be educated in basements, they could be educated off-site, but they could not come to school with the regular students. If we never put a dime into this mandate, this mandate should stand.

But through the efforts of the gentleman from Illinois [Mr. PORTER], the efforts of the gentleman from Wisconsin [Mr. OBEY], the efforts of the gentleman from Pennsylvania [Mr. GOODLING], many people preceded them, we put a substantial amount of money into this effort.

And where are we today? We are almost a billion new dollars in this effort after the reauthorization on the unanimous bipartisan basis, on the unanimous bipartisan basis. And today what do we see? We see a group of Members on the other side seeking to use these children as a weapon, as a weapon against the rights of working men and women to have the laws enforced, to guarantee them the minimum wage that they are entitled to under the law, to guarantee them the overtime pay that they are entitled to under the law, to guarantee them the comptime that they are entitled to, to guarantee the maternity leave policy that they are entitled to under the law, because know what? Know what? Unfortunately, out there in the private sector among those noble employers there are thousands of them on a daily basis that tell their employees: ''When you come to work, don't clock in until after the first hour; when you stay late, go off the clock early,'' so they do not have to pay them the full minimum wage or they do not have to pay them the overtime.

This is not a matter of conjecture, this is a matter of record that hundreds of thousands of workers on a regular basis are denied their overtime pay. That overtime pay is the difference of whether or not they can provide for their family or not provide for their family. That minimum wage pays the difference of whether or not they need public assistance or they do not need public assistance, whether they can provide child care or they cannot provide child care for their children as they work.

This is about the enforcement of people in the garment industry that we have found chained to their sewing machines. This is about the enforcement against people who we found chained to the machines and doors locked and working in oppressive situations. This is about whether or not Mexican citizens are brought here who are deaf and forced to work against all of the labor laws in this country.

□ 1100

This is about Vietnamese women, Laotian women in Los Angeles. So now do we want to use the handicapped children, the disabled children and their families of this Nation as a weapon against these policies that we do not happen to agree with? The author of this amendment does not happen to agree with the minimum wage.

The author of this amendment opposes the Family and Medical Leave Act. So he has decided, he has decided that he will conjure up a transfer amendment that will tug at our heart strings about disabled children, and hopefully will disguise, will disguise the effort here to deny the enforcement of the basic laws of American workers, and in most instances, the basic rights and the basic laws of American workers who are at the lowest edge of the wage scales in this country, people who work in hot, heavy, and dangerous industries, people who toil in jobs that most Americans are not interested in having.

Go to the migrant fields, see the conditions under which they work, and then say we are going to deny them the enforcement. If you do not like those laws, why do you not just stand up and try to repeal them?

Some, I believe, voted against the minimum wage because they do not believe in it. But do not use this way, do not use these disabled children, do not use their families to suggest that somehow we can provide a dramatic difference.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, do not use this amendment to suggest that we can dramatically change their educational experience. Do not do that. Stand up and say what it is really about. It is about the undermining of the wage enforcement, hours enforcement, of hard-working Americans. It is about those field officers in L.A., in Tucson, in New York, in Miami, who are out there trying to enforce the wage and hour laws of this country. We ought to understand that, and this Congress ought to be committed for its reauthorization.

I see the chairman of my subcommittee sitting there, the reauthorization on a unanimous basis. Why did you not strip the mandate out of 40 percent then? Why did you not increase it then? Because you know what? You know the Federal Government is trying to do the best we can under the budget we have been given.

But the answer is not to strip American workers of their protections. It simply cannot be. We cannot use these children for that effort.

This is thinly veiled, if veiled at all, because when the gentleman got up to speak the second time on his amendment, he made it very clear that this is about provisions of the wage and hour laws that he disagrees with. This is about provisions that he wishes this Congress had not passed, but this Congress did pass; and those are the laws of the land and the people of this Nation, the workers in this Nation, are entitled to have those laws enforced.

It is very clever to suggest that we are pitting some faceless bureaucrat in some pejorative sense against a child with disabilities. But what we are really pitting against here is the ability of those children to have their parents' wages enforced by hard-working officials in the Labor Department, in the regional and local offices, against employers that make a conscious decision, a conscious decision to deny people overtime, to deny people minimum wage, to deny the rights of workers in the fields, in the sweatshops of this country. They make a conscious decision.

And how do those people fight back? How do they fight back without a Labor Department that can enforce their rights?

But, of course, many of the supporters of this amendment do not much give a damn about those workers' rights, do not much give a damn about whether they get the minimum wage or not.

But that is unacceptable. It is going to be unacceptable to the people when we vote on this amendment, and it is clearly unacceptable to the American people that support overtime pay, that support a 40-hour workweek, that support a minimum wage. And this amendment will not disguise that agenda.

I would hope my colleagues, when they come to the floor, will understand that they need to strip the camouflage off this amendment, they need to look at the intent of this amendment and understand that this is just more of a consistent attack, a consistent attack against the rights of working men and women in this country, and a specifically consistent attack against those who are the lowest paid and the least protected of the American work force.

I would hope they would vote ''no'' on this amendment.

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

First, I would like to begin by saying that I find that entire conversation that was just had here on the floor to be offensive.

Second, I would add that any time that I have found that a person has to resort to the language that most people would find unacceptable in this country, that generally they are trying to make a point that does not hold water.

Third, I would point out that if this amendment passes, the account he is talking about is fully funded to last year's level and, in fact, is not being cut back but rather frozen to last year's level.

Fourth, and the most offensive of all is to suggest that somehow we do not care about these children.

Mr. Chairman, I would like to yield to the gentlewoman from Idaho [Mrs. CHENOWETH], who has a disabled granddaughter, and just grant her some time to talk about the disabled granddaughter that he just said we do not care about, because I think we care an awful lot about these disabled children.

I would be happy to yield to my good friend, the gentlewoman from Idaho [Mrs. CHENOWETH].

Mrs. CHENOWETH. Mr. Chairman, I thank the gentleman from Wisconsin for yielding.

Yes, I guess we are supposed to not feel very much in this body. We are just supposed to talk. But I can say that I felt a great deal of personal umbrage when we were accused of using these children for our own political ends.

I can confirm the depth of feeling and emotion, as a grandmother, that many Americans must feel when they meet these children, when they hold them on their lap, when they hold them in their arms, when they rock them to sleep, when they sit and work with them and try to read stories to them, and when they delight in the fact that they realize the child has comprehended, because suddenly their face lights up and they laugh and they squeal.

No, these are very personal things to us. And the fact is that the gentleman from California not only accused us of using these children, but he also said that everything had been adequately cared for because we have mandated it.

Well, that is just the point. This body for years and years and years, Mr. Chairman, has been mandating unfunded mandates, mandating on the States and local units of government.

Now, if we really want to take care of the disabled children under IDEA, if we really want them to be able to have the very best of the creative abilities that their Creator gave them, find that level of accommodation in society through education, then we will provide them with the very best educational opportunities that we can, not out of using one another for political gain, but out of pure, plain compassion, out of caring for those people, those young little children, those little lives caught in a body and in a mind that is disabled.

No, I sometimes think that they do not understand, and so it is very easy to use political rhetoric. But again I invite them to hold these little children on their laps, rock them to sleep, read them a story, work with them as their little minds develop.

Mr. NEUMANN. Mr. Chairman, reclaiming my time, I thank the gentlewoman from Idaho.

Mr. Chairman, it is a very serious issue we are debating here today. Really, this issue, and I have heard what other people are saying this is about, this is really about priorities in spending.

The people have elected us to make decisions on what it is that is most important in this Nation for us to spend our money on. What we are being asked to decide here in this amendment today is, are we better off increasing an account, and remember, it is already at last year's level even if this amendment passes, are we better off increasing the amount of dollars spent on bureaucrats in Washington, DC, or would we be better off sending that money off to the States and letting that money get through to help children like the gentlewoman from Idaho's granddaughter and other kids like her all across this great Nation?

That is what this debate is about. It is about priorities and where the tax dollars that are collected from the people get spent.

I would like to go a step further, because I think that eventually we want to get to a different point altogether and a different level of discussion altogether.

Eventually those tax dollars that are being collected and brought out here to Washington and then being redistributed to the States after the bureaucrats in Washington siphon off a good portion of the amount of tax dollars collected, eventually would it not be nice to get to the point where we simply lowered the taxes on the people to a point where Washington did not have to collect that money first and then Washington decided on where and how that money is redistributed?

Why not leave it out there in the States, in the hands of the people, like our Constitution says we are supposed to do in the first place?

There are so many other points I would like to get back to. I have heard during this debate that $4 million will do nothing, $4 million will do nothing. I remember during the first time I campaigned, and I lost two elections before I was elected, I remember thinking as I listened to people in Washington talk, that they had lost total touch with people in the real world.

$4.3 million is a lot of money. $10,000 in every congressional district means a lot to people out there in the real world. Have we really been out here in Washington so long that we think $4.3 million is irrelevant?

It is not irrelevant. It is very meaningful to the people in Wisconsin and Oklahoma and Indiana, and all across this great Nation of ours.

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

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

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

Mr. Chairman, I would like to yield to the gentleman from Wisconsin [Mr. OBEY.]

Mr. OBEY. Let me simply say, Mr. Chairman, these are not Washington bureaucrats who enforce the laws to protect workers' rights in this country. These are Federal workers who died in the Oklahoma City Murrah Building. Those people are not Washington bureaucrats, they are people who lost their lives because they were enforcing the law to protect American citizens.

I get tired of people who get paid $135,000 a year on this floor attacking other people in the Government, who work just as hard as we do, who care about this country just as much as we do, and who are given a very difficult job by us to enforce the laws that we pass that are sometimes confusing and sometimes conflicting.

So with all due respect to politicians who take cheap shots every other day at a lot of other people who work in this Government to create a better life for Americans all across the country, I want to point out, the money we are trying to keep in this budget does not stay in Washington, it goes out to every community in the country to protect every worker in the country so that their basic rights are protected under laws which many voted against.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

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

Mr. MILLER of California. Mr. Chairman, I would just reassert my charge. If we are into bona fides on disabled children, I would invite you to look at my history, and I would also invite you to come to the George Miller Centers for Severely Disabled Children. At any time, you are all welcome.

But the fact of the matter is, those children should not be used to devastate the wage and hour enforcement for the working Americans in this country.

Mr. Chairman, I thank the gentleman for yielding.

Mr. TIERNEY. Mr. Chairman, reclaiming my time, I just want to start by saying when I listen to Members rise and talk about their personal experiences with members in their family who might be disabled or handicapped, if we took a survey of the 435 Members here, I would think we would be hard-pressed to find anyone who does not have some experience, either in their family or someone very close to them, in that situation.

Maybe that is why, because all of America feels that passion and compassion, that we have an IDEA Program. I think that we ought to stop and move away from that for a second and look at this bill and stop accusing one another, and say that if IDEA is in fact supported by all of us, then the opportunity to put more money into that program was there in the committee and the majority did not take it.

It was there in the subcommittee and the majority did not take it. It was here on the floor, and rather than taking it on a clear vote of just going and putting more money into IDEA, we get to the root of what I suspect is really at heart here, and that is something that they oppose very much, the enforcement of wages and working conditions in America.

If that is the case, do not connect them. If you do not want to be in a position of trying to say that you do not care about disabled and handicapped children or people, then do not connect the two issues and do not cynically use one and pit it against the other.

Come clean. You have a problem. You lost on that policy issue, obviously, when it was up for a clear vote. The majority, comprised of people on your side of the aisle and this side of the aisle, support enforcement of wage provisions.

If you want to cut that, go directly at it and let us have a vote straight up. Do not do what I think is a very cynical effort, contrast it against IDEA and programs like that, when you had the chance to pump up those programs and you walked away.

I think we ought to just be more cautious about the way we move in this area and not have stories about people's hardships. We all have them. Deal with it directly. If you want to vote on IDEA, put it up and vote one way or the other. If you want to vote on the policy of wage enforcement, do that and that is the way we go.

I think now we are into this philosophical realm. For the next day or so we are going to hear about everybody trying to retract where their philosophy is and try to do it through the back door by pitting programs against one another and try to get back ground that your segment of the party over there apparently has already lost and is trying to reclaim.

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

Mr. TIERNEY. I yield to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, let me point out that what is happening here is that my opponents on the other side are resorting to impugning other people's motives, including the grandmother of a disabled child, who supports this bill, because they have been caught, figuratively, with their pants down. They have to choose between funding bureaucrats in Washington and around this country and/or actually funding children that will benefit from this.

Mr. TIERNEY. Mr. Chairman, reclaiming my time, that is totally inappropriate and far from the situation.

As I said, your grandmother over here is not unlike a number of other Members here, and we are not impugning her integrity or her compassion for that person. We are saying, why was she not there in the subcommittee and the committee looking for more money?

Where were you? Where were you when you dealt with IDEA? Where are

you when it comes to the point in time when you want to attack working people in this country, some of whom have disabled children, some of whom cannot get things enforced so they can bring home a decent paycheck, some of those people who work every day and should have an enforcement mechanism there to make sure that their conditions are better?

We have a country that is divided by huge gaps in wages, in wealth, and you want to attack them and you use this cynical method to do it.

□ 1115

Mr. McINTOSH. Mr. Chairman, I ask unanimous consent to strike the last word.

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

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

Mr. McINTOSH. Mr. Chairman, let me answer that specific question, where have I been on IDEA. I have been working with the gentleman from California [Mr. RIGGS], the chairman of the subcommittee, to ensure that that program will work. We passed an amendment over the summer that preserved the core of IDEA against attacks, against attacks that it was abusive and being abused, and therefore should be thrown out. And we said no, there are fundamental principles here that we are going to make education available for disabled children.

We labored hours and hours and hours to come up with a compromise that the disabled groups, the parents, the teachers could all agree to to preserve that bill. I believe in it passionately. I believe this funding is necessary in order to stand up for those children, and to have anybody say that we are being cynical about that is outrageous. We want to get $4.3 million to those children, and that is what this amendment is all about.

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

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

Mr. RIGGS. Mr. Chairman, I appreciate the gentleman yielding to me, and would like to weigh in on the debate at this point in time before the debate becomes more heat than light.

Mr. Chairman, let me see if I can provide some perspective. Mr. Chairman, what we are talking about here is a matter of priorities. I want to remind my colleagues, we are talking about a $4.3 million increase for enforcement and administration at the Department of Labor or a further $4.3 million increase for special education, that is what the McIntosh amendment is all about.

Giving credit where credit is due, I want to point out that the appropriators did increase in their bill funding for IDEA, Individuals with Disabilities Education Act, programs by $275 million. However, that is substantially below the Senate funding level of $830 million. I think what we ought to be striving for here, and again as a matter of bipartisan priority, is to try to reach that target in the IDEA amendments, in the special education reauthorization, of $1 billion more in new Federal taxpayer funding.

Even if we reach that target of $1 billion, this will still remain an underfunded Federal taxpayer mandate imposed on State and local school districts. But if we do reach that $1 billion trigger, because of the legislation that passed this House overwhelmingly and was signed into law by the President, if we reach that trigger, that threshold amount of $1 billion in new Federal taxpayer funding for IDEA and special education, local school districts will be able to reduce the amount of money they spend on special education.

That is a first, as far as I know. It is unprecedented in Federal education policy. In other words, they will be able to redirect those State and local dollars into other important educational programs and activities, if we reach that $1 billion increase in Federal taxpayer funding for special education.

The Senate is at $830 million, the House is at $275 million. With passage of the McIntosh amendment, the House will be at $279.3 million, and if we want it to get even closer to the Senate figure, I have a great idea, Mr. Chairman. Let us take the $200 million for something called Whole School Reform sloshing around through this bill, and let us apply it, as I suggested on this floor last night, to special education.

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

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

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

Mr. Chairman, I just want to point out to the gentleman from California that his figures understate where we were. The overall account has increased by $312 million from the previous year, and we added $25 million more to that last night, for $337 million, and this amendment would add $4 million more, for $341 million, rather than the $279 million that the gentleman from California [Mr. RIGGS] referred to.

I have to say, if I may, that I have already met with the chairman of the full committee on this subject, which is a very high priority with both the gentleman from California and his full committee chairman, and we are committed to working as closely as we can to the highest number we can reach in terms of this account in the final bill. No one can say that this account has not been served well.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. MCINTOSH] has expired.

Mr. MCINTOSH. Mr. Chairman, I ask unanimous consent to proceed for an additional 4 minutes.

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

Mr. OBEY. Mr. Chairman, reserving the right to object, let me simply say that, as we know, the normal procedure is for Members to get one kick at the cat. The gentleman has had three occasions on which he has spoken on his own time. I have not objected.

We have had a number of Members last night who asked unanimous consent to speak a second time. I did not object, and because they had done it on numerous occasions, I have done it once myself. But I simply want to say that I think Members need to be aware of the fact that the normal course around here is to speak once.

I understand that there is a filibuster by amendment going on. I would simply ask, and I am not going to object at this point, but I would ask Members to show restraint in the number of times that they make that request, or I think Members will feel constrained to object.

Mr. McINTOSH. Mr. Chairman, I withdraw my unanimous-consent request, and will reserve it to the end of the debate, as the author of the amendment.

Mr. OBEY. Mr. Chairman, again, if I could speak under my reservation of objection, I think there has been a misunderstanding of how debate works. There is not assigned time. Members are generally allowed to strike the last word once. We do not have assigned blocks of time when we are operating under the 5-minute rule. The 5-minute rule is different than debating under conditions when we have time assigned to each amendment.

The CHAIRMAN. The gentleman from Indiana [Mr. MCINTOSH] has withdrawn his unanimous-consent request.

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

Mr. Chairman, as a member of the subcommittee, I want to assure Members that our chairman, the gentleman from Illinois [Mr. PORTER], as well as our ranking minority member, the gentleman from Wisconsin [Mr. OBEY], and the members of our committee worked incredibly hard to strike some kind of balance in the bill.

This is a bill that addresses so many of the critical needs in our country, whether it is breast cancer research, ovarian cancer research, diabetes research. I cannot explain to the Members the difficult, difficult time we had trying to establish the priorities. Our chairman cares deeply about the NIH, about education, about all the issues that we concern ourselves with on this bill.

I can assure the Members that there are dozens of areas in this bill where I personally and many of my colleagues would have liked to see additional funds. In fact, just today I have been talking to my colleagues about community schools, after-school programs. We would like to increase the numbers

in all these programs so we can get more money down to the local level and raise standards for our youngsters.

This balance was achieved with a great deal of effort and a great deal of compromise. We were happy to come to the floor with a bipartisan bill. Unfortunately, some Members, for their own political purposes, want to address this balance that was carefully worked out in ways that I frankly find shameful and cynical.

If we are going to get up here as mothers and grandmothers, well, I qualify. I am a mother and a grandmother. Mr. Chairman, in 1992 I was part of the committee that worked very hard and proudly passed the IDEA bill. In my district, if you reach out to the parents who have children that have benefited from this program, sure, we would like to increase the dollars even more, and as the chairman said, we did increase it $312 million. But that is not what this debate is all about.

Let us, for a moment, think about the hardworking men and women who are parents of these children, who have to go to the store every day, who struggle to balance their lives, who work hard for a living, who have to take care of these children, and who work tremendously hard against the odds because they have additional burdens.

Let us think about these parents and let us think about what this cut would do, and let us worry a little bit about the parents who are being exploited in many situations. That is what this division is all about. Sure, most employers respect their workers, but this division is trying to ensure that those workers who are not treated fairly, who are not getting a decent wage, are going to have to be treated fairly, or the law or the U.S. Government will take action.

As one of my colleagues said before, why are we hiding behind these children that desperately need help, and whom our chairman and our minority member and all of us want to help? Why do Members not just come out and say they want to repeal this bill, that they do not like wage and hours enforcement? Why are they hiding behind these children?

Mr. Chairman, let me just say I am strongly opposed to this amendment. I find it cynical and shameful, and I do wish the gentleman from California [Mr. RIGGS] and others would have fought harder in the committee if they wanted to raise the money from $312 million to an additional number, but not try and pit one group against another.

In fact, frankly, I find the debate on all these amendments cynical and shameful, because instead of coming right out and supporting the issue, they are trying to pit one group against another. Mr. Chairman, let us vote this amendment down and move on, and let us try and pass this bill.

Mr. Chairman, there was an agreement that we were not going to add riders to this bill, that we had worked very hard to get good compromises on each of these very difficult, difficult issues. Let us vote down these riders, move forward, and pass this bill.

Again, I want to congratulate the gentleman from Illinois, Chairman PORTER, and the gentleman from Wisconsin, Mr. OBEY, the ranking minority member, on their outstanding work, and working in a bipartisan way. In contrast to last year, it was a pleasure working in a bipartisan way, Mr. Chairman.

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

Mr. Chairman, I want to compliment the gentleman from Illinois, Chairman PORTER, and the gentleman from Wisconsin, Mr. OBEY, the ranking minority member, for ushering through some very positive legislation with very limited resources, but appropriately, application of those resources for very, very critically needed programs to ensure the safety of the American people and American children in a diverse way. It is critically needed. It is done in a very difficult environment.

Mr. Chairman, I am not on the authorization committee or the appropriating committee, but I do have a very critical need for dollars in the IDEA Program in my district. I do not want to get involved in the hornet's nest of discussion about the controversy or about anybody's motives. I stand firm in my belief that we should protect workers' wage and hour rights. The Department of Labor should do that with all due diligence, and the amount of money we appropriate for that purpose needs to be the amount that is necessary to perform their given responsibilities.

We have to choose between critical programs. When we are talking about a program to educate children that are physically and mentally handicapped, where they have been underfunded for decades, probably for the existence of public schools, it is necessary, I believe, under those circumstances, and given the circumstances of the process that we use here in Congress, we are now ready to give a little more money to the IDEA program.

□ 1130

And I think the amount of money that goes to the IDEA program to ensure that the door remains open in our public schools for those children, to ensure that the right kind of professionals are hired to deal with those difficult problems, to ensure that there is a nurse nearby that knows how to administer to those children, to ensure that the technology is available in the school so those children can learn and have opportunities and some day have job opportunities and career opportunities, it takes a little money.

So, Mr. Chairman, in my mind, the amount of money that is taken away from the wage and hour enforcement is a very small amount of money. I do not think the Department of Labor is going to miss that amount of money with the mission that they have to perform, their duties. But that small amount of money, Mr. Chairman, that 4-some million dollars going into the IDEA program, from my perspective and in my district, and knowing children in that program, and having former students who have grown up now and have children and, sadly enough, have children in the category of being mentally or physically handicapped, I know the parents, I know their despair, I know their sorrow, I know their frustration.

So I am not involved in a turmoil of motives. I am involved in a few extra dollars going into a program that is really going to make a difference. So, Mr. Chairman, I support the gentleman's amendment.

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

Mr. GILCHREST. I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Chairman, I would ask the gentleman from Maryland [Mr. GILCHREST] if he knows how much the increased amount contained in the amendment of the gentleman from Indiana [Mr. MCINTOSH] would affect those children in his district?

Mr. GILCHREST. Mr. Chairman, reclaiming my time, we are talking about $4.3 million into the IDEA program nationwide. And I fully understand that it is a very insignificant amount of money, in all likelihood.

Mr. TIERNEY. Mr. Chairman, if the gentleman would continue to yield, does he understand that it is $1 per child?

Mr. GILCHREST. Mr. Chairman, again reclaiming my time, I understand that $4.3 million in a $1,600,000,000,000 budget is minuscule. But for those parents that are listening, the discussion of the positive nature that we want to protect their children, teach their children, love their children, give their children opportunities, the joy that that brings into their hearts is worth that small amount of money and in my mind is worth the debate.

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

Mr. Chairman, I, like the gentleman from Maryland [Mr. GILCHREST], am not going to challenge anybody's motivation. But I guess the Members who have spoken so far, or at least some who have spoken so far, when they have risen they have justified their reason for their position, and it included being related to or having someone in their family that has been handicapped or has a learning disability.

Mr. Chairman, nine brothers and sisters. I have 106 nephews and nieces and grandnephews and grandnieces. I have 5 children of my own, 14 grandchildren, and 2 great grandchildren. And I assure my colleagues in that number there have been those unfortunate children that have had disabilities and needed that education.

Mr. Chairman, I was raised in a neighborhood and at a time that those children were being denied that equal education. So no Member, I think, has as great compassion for those children as I do that was raised in that kind of an environment. So like I say, I will not challenge the motivation, but I will challenge the reasoning, and let me say why.

All of those children are being nurtured and cared for by someone who is working and trying to make a living. It is important to them that they make the kind of wages they need so they can take care of those children.

So, Mr. Chairman, I wonder how far does the compassion of my colleagues go? For the entire family, or just the child? Because after all, it is that adult that is responsible for that child. And where my colleagues may want to see that child get a good education, that parent wants even more than that for that child, and I do not think we should be standing in between them and their ability to provide a good living for themselves and their children and their families.

That is how important taking the money from one area to another is in this particular case, the Wage and Hour division.

Mr. Chairman, let me tell my colleagues this, that that money that is used there is very important. All of the budgets of all the agencies have been cut over the last few years tremendously. They are not operating on surpluses; they are operating within the budget restraints we have given them and are working very hard with that money. They are trying to do more with less, is what the theme was.

What really is a base here is what a Member on the other side of the aisle said: We have to prove that we can govern. Well, Mr. Chairman, my colleagues on the other side do not govern by political philosophy; they do not govern on dislikes or dislikes for one agency or the other and in their own selection of one priority or one agency over other. All of these things are good causes and all of these things have been considered by the Committee on the Budget in their deliberations.

It has been more than 2 years now that our subcommittee, the Subcommittee on Early Childhood, Youth and Families, with the gentleman from California [Mr. RIGGS] as chairman, we have been deliberating that IDEA bill. In the last Congress it failed because we were not able to come to an agreement. Now, finally, we have come to an agreement on it and we passed out by almost unanimous vote a bill that was a compromise bill and everybody shook hands on it and thought what a great job we did.

Mr. Chairman, always in those authorizing committees there is a consideration of how much money will be made available. Our chairman of the full committee, the gentleman from Pennsylvania [Mr. GOODLING] got up yesterday and got another $25 million for this program. That is not $4 million. That is $25 million.

So we saw the gentleman from Illinois [Mr. PORTER], the chairman of the Subcommittee on Appropriations, stand and say that he would work as hard as he could to get that money. I would think that Members on that side would trust their own leaders and allow them to do everything they can to increase that fund as much as they can.

Mr. Chairman, let me go back to that mandate that my Republican colleagues keep talking about. That is not a mandate. The gentleman from California [Mr. RIGGS] and I studied this law considerably over the last few years getting ready to come to this bipartisan agreement on this bill. We can both tell our colleagues that there is no mandate in there. The States do not have to take that money, but the States do have to educate these children.

Let me tell my colleagues why they have to educate the children. Not because Congress demanded it, but because the courts demanded it. There was a court case that ruled that these children were not being educated and that they must be educated by the State. So if the mandate comes, it comes from the courts, not from the Congress. The Congress simply took the initiative to make sure that they were in the mix of the effort to try to get these kids educated. That is how this all came about.

And so, Mr. Chairman, I beg my colleagues to consider this. That like my colleagues, I would love to see that 40 percent that we originally wrote into the bill reached. But we wrote that into a lot of other bills that we have never attained. Head Start, we promised full funding for I do not know how many years, and we have not reached that. But as the money would become available, we would do everything we could to make sure that the 40 percent was obtained.

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

Mr. Chairman, I would like to compliment the gentleman from Illinois [Mr. PORTER] and the gentleman from Wisconsin [Mr. OBEY] for a good bill. I think 99 percent of the bill is on a bipartisan issue, and I think they have done a great job in bringing the consensus, whether it is breast cancer, prostate cancer, medical research, and the rest of it. But sometimes the priorities of the committee are a little bit different, and this is where I disagree with the chairman and the ranking minority member and support the amendment. Let me tell my colleagues why.

Mr. Chairman, I was the subcommittee chairman on the Subcommittee on Early Childhood, Youth and Families on which many of my colleagues on the other side at whom I am looking served when we went through the IDEA bill. We have never funded IDEA, special education, higher than 7 percent.

Take a parent, a hopeful parent that is just first married and their whole future is ahead of them. Every single day a child is born with special education needs, disabilities, whether it is physical or mental. Now, that parent that had a bright future, whether they were a homecoming queen or scholar or whatever, is thrust into a nightmare with a special education child. They do not know where to go. They have no idea where to get the help.

That is balanced between the schools' excessive costs and a parent's need to help their child. We brought the Congress together in the subcommittee and then in the committee. The gentleman from Pennsylvania [Mr. GOODLING] on the authorization committee poured his heart into this bill. The gentleman from California [Mr. RIGGS] and others, and Members on both sides of the aisle, tried to come to an agreement. It was like trying to put a Persian cat and a Siamese cat together when we sat in the committee and brought the school groups and the parent groups together, because of the different concerns.

Finally, the gentleman from Pennsylvania [Mr. GOODLING] put both groups in a room, no food, no water, and asked them to come out with a solution, and they did. It was one that was acceptable and it was balanced, and yet it was underfunded and tensions on both sides were very great. But it is a critical issue.

But the bottom line is whether we want money to go to labor or we want money to go to special education children. Our priority, most of us, is to support the children. Some of my colleagues say, what about taking care of the parents that are going to raise these children? If my colleagues are really concerned about that, then the balanced budget was very important because it gives them 2 to 6 percent more money in their pocket, instead of having to send it to the Federal Government.

Welfare reform is more important, and many people opposed it. That is more important in taking care of those children. But the bottom line is that there is a difference between sending money to labor or sending money to children.

Let me give an idea. Secretary Reich was Labor Secretary, and in his last book, and I ask my colleagues to be the judge whether they want the money to go there or not, and I challenge them to read his book. I quote, Secretary Reich said, there should be no employee or employer that should earn more than $200,000. A salary cap. That is socialism.

Second, he said there should be no business other than for the welfare of the employee, no business for profit. Now, that is Mao.

And I take a look at what labor has done versus small business. When we say, you are for the working person, unions only employ about 6 percent, but yet most of the legislation kills

small business from the labor unions. Look at the AFL–CIO; they are Federal employees. They want bigger government which causes higher taxes which takes more money away from these people. And even if they get a minimum wage, they cannot make a living with the higher costs.

So, Mr. Chairman, when we look at it, we are talking about money for labor or we are talking about money for children and special education, which has never been funded at higher than 7 percent. Now, the committee sat down and worked in both authorization and appropriations on a very balanced bill. But this is a case, I think, where we can set a priority and put our priorities with the children. As many of the others say: This is for the children. This is where they can put their money and where their ideas are and put it for the children.

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

Mr. CUNNINGHAM. I yield to the gentlewoman from California.

Ms. PELOSI. Mr. Chairman, the gentleman from California [Mr. CUNNINGHAM] said that the choice is between money for the children and money for labor. Quite frankly, with all due respect to the gentleman, and he knows that I do respect him and consider him my friend and colleague from California, this debate here today is weird. Maybe my colleagues should all go to their offices and watch themselves on television.

The CHAIRMAN. The time of the gentleman from California [Mr. CUNNINGHAM] has expired.

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

Mr. Chairman, it is like a stream of consciousness. Whatever we think, we can attribute it to anything. It certainly is not a choice between children and labor. This is not about that. This is about my colleagues on the other side of the aisle taking a poll and finding out what everybody in America knows: That education is important to the American people.

Mr. Chairman, for most people in America, it is the opportunity for their children. And what is also important for their children is the economic security of their families. This $4 million, or whatever the cut is, is a small amount of money, as the gentleman from Wisconsin [Mr. OBEY] said, in comparison to the needs that are there.

Let us put our hand in the pocket where the money is, if we really want to get down to helping children in our country. So that the people listening know what is going on here, the Republicans took a poll. They found out that the American people care about education. Welcome to the world of the living. Everybody knows that.

We have to establish our credentials around here. I have five children. I have grandchildren. I have two children, one daughter, and one son-in-law, who are special education teachers.

□ 1145

I know of what I speak here about the needs that are there. If you really want to help special ed teachers, what are you coming around for with this chump change, cheap shot $4 million on a $4.3 billion budget, taking the money out of what the American people want? And I am surprised your pollsters did not tell you that.

That is family and medical leave. They want it enforced. That is what this department protects, family and medical leave, overtime, minimum wage, slave labor, child labor, enforces the law against employers illegally employing immigrants which apparently is a big priority for all of you except when it comes time to pay for it.

Perhaps you were misled in our opening remarks yesterday when we praised the chairman of the committee for the bipartisan nature of the presentation of the bill and the cooperation with which we were able to come to this floor. Perhaps you were misled into thinking that because we complimented the chairman, it was the bill that each of us would have written on this side of the aisle. It most certainly is not. But it was a compliment to the chairman that he met the challenges before him and was able to reach some compromises.

It is certainly not a list of the priorities as I would write the bill, but I respect his priorities. He is the chairman, and he did the best he could with what the Committee on the Budget gave him and the immunity that is given to the defense budget.

So do not mistake our compliments to the chairman as saying this is the bill we would have written, because the priorities would have been quite different if we could have approached this from a saner standpoint, from the standpoint of the budget.

It is important, I think, for Members to know that this is a few million dollars, $4 million on a budget of $4.3 billion. There are 6 million children in special education, so we are going to give them under a dollar each, under this cheap-shot amendment, under a dollar each so that you can all go out there and say in Washington, DC, they do not think $3 million is a lot of money. It is not compared to the need. But it is on the worker protection wage and hour line item that this money is coming out of.

So if you want to talk about children, certainly their education is a most critical issue. We must fund it appropriately and wisely, but not at the expense of the economic security of their parents and of their families. That is why you see an exploitation of this Labor-HHS bill.

Last night we had an amendment on homeless vets and all night we spoke about education. It was not germane to the issue at hand. It was germane to the politics of the Republican majority trying to pose as the champions of education. So I lose patience after the committee has worked so hard under the leadership of our chairman to produce a bipartisan product that we can associate ourselves with, but as I say, it would not be the bill that I would have written, but one that I am proud to support the chairman's leadership under the circumstances.

Mr. MCINTOSH. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. Mr. Chairman, the gentleman from Indiana [Mr. MCINTOSH] has had enough time. If he wants more, he can get it from his own side of the aisle.

As you can see, I have lost patience with this exploitation of our bill. If you want to help the children of America, let us move this bill along, remove all doubt that we can engage in a civil debate with each other. Establish priorities. Make the compromises. Come forward with a bipartisan package that will be signed by the President and get on with the business of the House instead of this political exploitation of a bill that is very, very important to the future of our country.

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

Mr. Chairman, I first do want to react to two things the gentlewoman just said. She always makes me feel so good when I see her because she is always so elegant. However, it was the President's poll, I think, that the gentlewoman was referring to, before he gave his State of the Union Address in relationship to education.

And, second, I do not pose as a friend of education. I think I am known as a friend of education.

But I take this time simply because I want to pay tribute to the chairman of the subcommittee and to the ranking member for their efforts in the area of IDEA. Again, if you were to ask anybody in the disability community who has been fighting for them for 20 years and not getting very much, I must admit, I am sure they would refer to me.

However, in the last 2 years that has changed. For 20 years, I asked the majority at that time to put the money where they put the mandates. The mandates came from the Federal level, and therefore, the 40 percent that we promised should have come from the Federal level also. I have mentioned many times, it is the greatest expense that the local school district has and they do not have any control over it.

We changed a lot of that by forcing all of those groups into a room and making them come up with some decent legislation. I realize that in that legislation, if we get another $1.2 billion, we can give some of that relief to the local school districts. I did not expect to get that overnight. I did not get anything for 20 years. Even combining with the gentleman from Michigan [Mr. KILDEE] in a bipartisan fashion on the Committee on the Budget, we got nowhere.

But in the last 2 years we have made great strides. We got $784 million last

year. We got $240 million this year. Then I asked them for more and we got $25 million more.

We also got the promise that they will go to the Senate's figure, if there is any way possible, which is $834 million. That is getting us very, very close to the $1.2 billion, and if they continue the leadership that they have shown thus far, there is no question in my mind that in another year we will pass that $1.2 billion and we will give that relief to local districts.

But I do want to make sure that everyone appreciates what this chairman of the subcommittee and this ranking member of the subcommittee have done in relationship to IDEA.

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

Mr. GOODLING. I yield to the gentleman from Indiana.

Mr. MCINTOSH. Mr. Chairman, we have gotten into a debate about weirdness and stream of consciousness. Let me interject one fact that I think is important from the report of the gentleman from Illinois [Mr. PORTER]; that is, we are talking about $4.3 million. It has been stated that is not a lot for IDEA, but it is something in the right direction.

It has also been stated that it would gut the wage and labor enforcement program. But the fact is the report indicates that last year's funding was $117 million. It is being increased, if I read this correctly; the chairman can correct me if I am misreading the report, but it is being increased to $121 million for that line item; $117 million is plenty of dollars to enforce the labor standard laws that that department is in charge of. I think we should keep that fact in mind as we continue this debate.

I thank the gentleman from Pennsylvania for his efforts on IDEA and for yielding to me.

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

Mr. Chairman, let me just pick up, if I can, where my colleague, the gentlewoman from California [Ms. PELOSI] left off. In terms of what this debate is actually all about and the reading of the poll data and the communications experts, front page of the Washington Post or the New York Times in the last couple of days talked about Mr. Frank Luntz, Republican consultant, who talked about communicating to the Republicans on how they should approach issues and what they ought to be saying.

Sentences that work particularly well: All children deserve a chance at a quality education; your communications, direct quote, must always focus explicitly on one word, children.

It is a veil, a thinly disguised veil to talk about what you want to do for children instead of what you really want to do to workers in this country.

What you did not read in your poll data is that when Americans talk about cutting waste and bureaucracy, they do not mean eliminating vital protections like the Federal minimum wage and enforcing that minimum wage and enforcing family and medical leave. The Wage and Hour Division's mission is to make sure that we pass laws that regard and take into consideration basic worker pay and protections and that they are respected and carried out.

Mr. Chairman, my mother is a seamstress. My mother worked in a sweatshop. She worked at earning pennies, 2 cents a collar. I went to that sweat shop when I was a kid. I watched what she did. She and other women with their backs bent over sewing machines, pumping dresses out as fast as they could so that in fact they could take care of their families. My mother and those women and those people who work there were exploited and so many others were exploited.

I will tell my colleagues that today we have hard-working people out there. They are attempting to stay off of welfare, to earn a decent wage. They want to raise their kids to be productive and they want them to be contributing members of society.

At a time when we have given tax breaks to the richest corporations in this country and at a time, in fact, when we have done some good about giving a tax break to parents to help them be able to keep more of their paycheck in their pockets, what we should not be doing here today is undermining their ability to earn that fair paycheck in the first place.

I support IDEA. Other Members here do that. What you are doing here today is talking about essentially an increase of about 72 cents, 72 cents, less than a dollar. Who are we kidding? Do not think we are going to kid the American people. We are not kidding anybody over here on this side of the aisle.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Ms. DELAURO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to make the point that, far from benefiting Washington bureaucrats, the Wage and Hour Division, through the enforcement of our labor laws, last year was able to put an additional $132 million in money into the pockets of workers who had earned that money but were denied it by exploitation.

That is the purpose of this account. This account leverages far more money into the pockets of workers than it costs us in the first place, and that is why it should not be diminished one dime.

Ms. DELAURO. Mr. Chairman, the agenda is clear. It is antiworker. If you were concerned about children and their families, you truly would be working to increase funds to pay for research that will cure these youngsters, to help with the schools that will educate them, to deal with job training and help them to get jobs and to be productive citizens. Yet you will cut that off.

In the wage and hour, they look at Davis-Bacon. You are always complaining about Davis-Bacon and how unfair it is. What this division does is look at Davis-Bacon. It says where wages are fair and where they are not biased, but what you want to do is you want to talk out of one side of your mouth about cutting back on Davis-Bacon and yet you want to cut out the money from the Wage and Hour Division that looks at that that will make it fair. This is a direct assault on American working families. It is nothing less than that. Truly, you should be ashamed of coming to the floor with this kind of an effort. These are false choices that you are asking people to make. It is wrong to do that. We need to be protecting American working families and their children.

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

Mr. Chairman, for the sake of a civil debate, as was earlier mentioned, even I will try to keep the tone civil and try not to come to this debate from such a limited vocabulary that refers to it as ''weird.'' But I would simply say that we did not take a poll on this side because we do not need to.

Long before America heard about Frank Luntz, they heard about Dick Morris and they had to hear about Dick Morris because someone talking to the President about education, that person had to take a poll about education because that person sent his child to private school.

If you want to know about the course of education in America, you need to come to people that send their children to public school, such as I do, and so I do not need to take a poll to hear what is happening in education today. What is happening in education today is the Federal Government is expanding its influence in education.

I was not going to talk about this amendment specifically, but when the issue of education and speaking out of one side of our mouths, I think that they are looking at the wrong institution. They should look at the White House when they talk about speaking out of one side of their mouths because they do not know the ills personally of the public school, public education system, and the problems that have been created by a tremendous Federal bureaucracy that was created in 1980, almost 200 years after the Founders created this country by the U.S. Constitution.

□ 1200

If we want to help the children of this country, let us put it in the hands of the people that really care about the children. Last night we heard in this debate that a program in this bill called whole school reform was created as the result of the research of a group of businessmen. Businessmen. I was glad that I heard the debate because I learned more about whole school reform last night than I knew before that time.

But here today we are talking about we cannot hand over the issue of wage and hour compliance to what was earlier referred to as ''loathsome employers.'' Are these the same loathsome employers that we are asking to create education policy in our country? Are these the same sweatshop owners that we are entrusting the future of our children's education to? Maybe you had different people at your sweatshop hearings than you did at your businessmen to create education policy hearings. I do not know. I am not a member of that committee, but you can understand that.

Last night we heard that there were problems with title I, from that side. We heard that there were problems with title I and that bureaucrats were not actually engaged in the actual creation of educational progress in our country and that they had problems with Goals 2000. So what is the solution? We bring businessmen into Congress and ask them how to educate our children. And then to evaluate the process, we ask bureaucrats to evaluate it as a creation of whole school reform.

There is one entity that is taken out of the picture here. We did not ask the parents how to educate our children. We asked businessmen, or loathsome employers or sweat shop owners, or however you want to refer to them today, depending on the day of the month or the debate that we are talking about. But the fact is that we did not bring parents in. When it comes time for us to evaluate the progress of our children, we are not going to ask parents either.

What are we going to do? One Member said last night, ''We're going to bring them in for coffee.'' Well, that is nice if they are coffee drinkers. But if they are parents concerned about education, why do we not ask the parents to evaluate the educational progress of our children? Is that unreasonable? If I gave my colleagues a list of 10 people on that side of the aisle or this side of the aisle, Members of Congress, Senators, the President, even teachers or administrators, and I placed in there the term ''parent'' and asked you who is most interested in the educational progress of our children, I think everyone in this Chamber would say it is parents. But who have we not asked to develop educational policy in this country? Parents. Who have we not asked to evaluate the progress of our children in this country? Parents, as a result of this bill.

There is a fundamental difference in America today and that difference is inside the Beltway and everywhere else in this country. There is a fundamental difference in how and why and to what extent our children should be educated and on what basis we should create that. If you want to do the right thing for children, help the children of this country, as I heard one individual so eloquently put it, and you want an agenda that is clear, then I say, let us ask the parents how to educate our children. Let us give them the flexibility.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. HOSTETTLER] has expired.

(By unanimous consent, Mr. Hostettler was allowed to proceed for 1 additional minute.)

Mr. HOSTETTLER. Mr. Chairman, I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Chairman, just to finalize this, the contrast here is not to hurt people who are working. The contrast here is to fund a program that we have mandated to the States to allow local people to decide what they are doing, to take and force efficiency on bureaucracies and move money from Washington to the local school districts. That is what this debate is about. There is not any ill intention on anyone's side. It is saying let us do the right thing. Let us move direction from Washington to the local community, from bureaucrats to local school districts and parents. That is what this debate is all about.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. MCINTOSH].

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

RECORDED VOTE

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

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 167, noes 260, not voting 6, as follows:

[Roll No. 367]

AYES—167

Aderholt
Archer
Armey
Bachus
Baker
Barr
Bartlett
Barton
Bass
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Deal
DeLay
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Fowler
Gallegly
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kingston
Klug
Kolbe
Largent
Latham
Lewis (KY)
Linder
Lucas
Manzullo
McCollum
McCrery
McInnis
McIntosh
McKeon
Mica
Moran (KS)
Myrick
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Parker
Paul
Paxon
Pease
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Royce
Ryun
Salmon
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Smith (MI)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Upton
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Young (AK)

NOES—260

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
English
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gilman
Goodling
Gordon
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Houghton
Hoyer
Hyde
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDade
McDermott
McGovern
McHale
McHugh
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Nethercutt
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Petri
Pickett
Pomeroy
Porter
Poshard
Price (NC)
Quinn
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schumer
Scott
Serrano
Shaw
Shays
Sherman
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith, Adam
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Torres
Towns
Traficant
Turner
Velazquez
Vento
Visclosky
Walsh

Waters	Weygand	Wynn
Watt (NC)	Whitfield	Yates
Waxman	Wise	Young (FL)
Weldon (PA)	Wolf	
Wexler	Woolsey	

NOT VOTING—6

Ballenger	Gonzalez	Schiff
Boucher	Pryce (OH)	Stenholm

□ 1231

Mrs. LINDA SMITH of Washington and Mr. FOX of Pennsylvania changed their vote from ''aye'' to ''no.''

Messrs. BILIRAKIS, WHITE, HUTCHINSON, and DICKEY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. GEKAS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, my purpose in moving to strike the last word is to engage the distinguished gentleman from Illinois [Mr. PORTER] in a colloquy on an important portion of the overall bill of which he is the prime mover, and I would ask his indulgence to stand with me for this colloquy.

Mr. Chairman, I want to thank the gentleman from Illinois [Mr. PORTER] for his assistance to disabled Medicare claimants in Pennsylvania and in other States that I brought to his attention last year regarding their difficulties with filing deadlines to have their claims paid.

These Medicare claims involve situations where an individual has been employed, for example, at Bethlehem Steel, and becomes totally disabled and is no longer able to work. They are fortunate to have employer health care plans as well as Medicare to cover their health care expenses.

However, there has been a problem with changing their claim status with Medicare contractors once they become permanently disabled and Medicare happens to be the primary payer. If the request for status change takes longer than 1 year, Medicare will not pay the claim due to the 1 year timely filing deadline. The employer and the disabled employee have requested the change in the timely manner, and through no fault of their own, the Medicare contractor has not processed the request within a year of the date of service.

Status change requests take between 4 to 6 months to process by Medicare contractors. This delay results in the inability of the employer and the disabled employee to meet timely filing deadlines.

Medicare contractors will not accept claims for services until the status change has been completed. As a result, the disabled claimant is unable to get the claim for medical services paid due to inaction beyond their control.

Additional delays of 3 to 6 months in processing Part B Medicare physician services through Social Security also results in employers and disabled employees not meeting the timely filing requirements.

Last year, to address this problem, Mr. Chairman, the gentleman from Illinois [Mr. PORTER] provided fiscal year 1997 appropriations report language that ''encouraged the Health Care Financing Administration, HCFA, to consider these claims as timely filed,'' where the request for a change in status was made.

Unfortunately, this request to the HCFA has not been communicated by HCFA to the Medicare contractors.

Mr. Chairman, I would ask the gentleman from Illinois [Mr. PORTER], would he request HCFA to communicate to Medicare contractors that they are encouraged to consider these claims as timely filed? I think this might solve the problem.

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

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

Mr. PORTER. Mr. Chairman, I want to thank the gentleman from Pennsylvania for bringing this failure in communication by HCFA to my attention, which impacts the permanently disabled who are no longer able to work and are seeking Medicare coverage for their medical claims. I fully intended that Medicare contractors be aware of our requests, and thought that they would have been issued a directive last year about our intention.

I will request HCFA to pass along this request to the Medicare contractors who process the change in status for the formerly employed disabled and will consider these claims as timely filed. It is our intention that any Medicare claim filed within a year after making a change in status or Medicare part B enrollment would be considered timely.

I encourage HCFA to issue directives to Medicare contractors to make these status changes effective efficiently within 30 to 60 days of the request, giving the contractors such time to verify the correct Medicare status. Disabled Medicare claimants should not have to wait 6 months for Medicare contractors to act on a request for status change.

Mr. GEKAS. Mr. Chairman, reclaiming my time, I would ask the chairman to follow through with that, and I know he will. We thank the chairman for his help in this matter.

I hope the directives issued by HCFA to Medicare contractors will solve the problems we have heard about from our constituents.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to note in response to the latest colloquy that there is a very serious backlog problem at the Social Security Administration, as well, and I would like to simply inform the House, if they are not aware of it, that the budget agreement which the Congress passed and the President agreed to has a very unfortunate side effect with respect to the extensions of delay in response to requests for Social Security Administration determinations. It is going to grow substantially.

One of the assumptions in that budget is that the Social Security Administration costs will be cut by one-quarter over the next 5 years. There is already about a 3-month delay in responding to claims requests in Social Security. That is expected to grow to about 9 months to a year under the budget agreement that was reached.

So I recognize the legitimacy of the gentleman's concern about this backlog. I want Members to know with the budget deal that Congress signed on to, we can expect to see a very serious backlog also grow in the Social Security area, and I do not think any of us are going to be very happy with that.

AMENDMENT NO. 21 OFFERED BY MR. RIGGS.

Mr. RIGGS. Mr. Chairman, pursuant to the rule, I offered amendment No. 21 printed in the RECORD.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 21 offered by Mr. RIGGS:

Page 19, line 19, after the dollar amount, insert the following: ''(reduced by $9,800,000)''.

Page 44, line 5, after the dollar amount, insert the following: ''(increased by $19,600,000)''.

Page 44, line 16, after the dollar amount, insert the following: ''(reduced by $9,800,000)''.

Mr. RIGGS. Mr. Chairman, I want to indicate to my colleagues that it is unlikely as we progress with the debate on my amendment that I will insist on a vote, and in fact, I would like to alert the gentleman from Illinois [Mr. PORTER] and the gentleman from Wisconsin [Mr. OBEY] of my hope and intention to engage in a colloquy with those gentlemen.

First, let me explain the purpose of my amendment. My amendment is very simple and straightforward. It would restore the $19.6 million cut from the Older Americans Act program.

I understand why the appropriators have decided to make a reduction in Older Americans Act program funding. I understand, of course, that the Older Americans Act has not been reauthorized for several years now, and it is my intention on my watch as the chairman of the Subcommittee on Early Childhood, Youth and Families, with jurisdiction over the Older Americans Act, that we will reauthorize that very important legislation in this Congress.

Mr. Chairman, under my amendment, I propose to reduce overhead accounts at the Departments of Labor and Health and Human Services in order to again restore this $19.6 million in funding for the Older Americans Act, so the programs can be funded for at least the current fiscal year level.

I would like to go ahead now and move to my colloquy before time expires, but would simply point out that the senior population is growing in America, and so is the need for the types of senior services provided under the Older Americans Act.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from

Wisconsin [Mr. OBEY], the distinguished ranking member of the subcommittee, and hopefully, the gentleman from Illinois [Mr. PORTER], the chairman of the subcommittee.

As I have already expressed, I am deeply concerned that the bill before us today funds some programs for older Americans below their current levels, despite an increased need for the services. We have already heard anecdotal evidence to that effect in the early hearings we have been having in our subcommittee on reauthorization of the Older Americans Act.

As the gentlemen know, the other body has included, I am told anyway, an increase of over $56 million for Older Americans Act programs in their version of the Labor, Health and Human Services and Education spending bill for fiscal year 1998; and I understand yesterday an amendment was accepted in the other body to further increase the funding by an additional $40 million.

I would like to yield to the ranking member of the full Appropriations Committee, as well as the subcommittee, to ask whether it is his intention to attempt to reach higher funding levels for Older Americans Act programs when he goes to conference with the other body.

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

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

Mr. OBEY. Mr. Chairman, I thank the gentleman for the question. Let me simply say that every year I have been on the subcommittee I have attempted to raise funding levels for these programs.

The Senate has a higher allocation overall for the bill, so they are able to provide more funding than our House committee is. I certainly in conference expect to try to move very close to the Senate position and increase this account significantly.

I agree with the concerns expressed by the gentleman, and that is why I would ask the gentleman to withdraw his amendment so that we can, in fact, work in conference to achieve the end that the amendment has expressed.

Mr. RIGGS. Mr. Chairman, reclaiming my time, I thank the gentleman for his assurances. I understand that the allocation provided to the subcommittee, as I have already indicated in debate on the previous amendment, has required making some tough choices in the bill, but I do hope that the subcommittee's allocation might increase during conference with the other body.

I would also like to yield to the gentleman from Illinois [Mr. PORTER] to ask whether it is his intention also to strive for a higher funding level for the Older Americans Act programs during conference on this bill with the other body.

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

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

Mr. PORTER. Mr. Chairman, I would intend, as does the gentleman from Wisconsin [Mr. OBEY], to do everything we can to provide a higher funding level for the Older Americans Act programs in the conference.

As the gentleman said, the Senate has been armed in their budget allocation with a significantly higher amount of funds to work with, and we will not know until we get to conference what the level is for both Houses. But within those numbers, we will do our very best to fund these important programs.

□ 1245

Mr. RIGGS. Mr. Chairman, I appreciate the gentleman's sincere intentions, and with the assurances of the chairman and the ranking member, Mr. Chairman, I believe my amendment is no longer necessary, and I ask unanimous consent to withdraw my amendment.

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

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

Mr. CUNNINGHAM. Mr. Chairman, if the chairman and the ranking member would allow, if I can enter into a colloquy with the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Illinois [Mr. PORTER], most of us support the initiative and what the gentlemen are doing, the ranking member and the chairman.

I would ask the chairman, the last term, in the 104th Congress, the GAO report came out.

The CHAIRMAN. The time of the gentleman from California [Mr. RIGGS] has expired.

(On request of Mr. CUNNINGHAM, and by unanimous consent, Mr. RIGGS was allowed to proceed for 1 additional minute.]

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

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

Mr. CUNNINGHAM. There were excessive administrative costs in all areas under the administration here in Washington by the Older Americans group, of the 10 different groups. When we ask for funds, I would just like to make sure that the ranking minority member and the chairman would look into making sure that the fraud, waste, and abuse that is present in the Older Americans Act is eliminated, and they will do everything they can to reduce that so we can actually get more money to them.

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

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

Mr. OBEY. Mr. Chairman, let me simply say to the gentleman, as the gentleman knows, the Congress does not administer the laws, we only pass them. It is the responsibility of the Executive Branch of government to administer them in such a way that we have minimum leakage.

I am certain the gentleman from Illinois [Mr. PORTER] and I will both pursue every reasonable avenue in order to minimize that leakage, because we certainly want to see moneys expended to deliver services to people, and not to go out the window for no good purpose.

Mr. CUNNINGHAM. I agree. We can put leverage on those that do abuse it.

The CHAIRMAN. Is there objection to the request of the gentleman from California [Mr. RIGGS] to withdraw his amendment?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from California [Mr. RIGGS] is withdrawn.

Mrs. LOWEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to express my concern about the funding levels for the Older Americans Act, as well, in this bill. I was unsuccessful in obtaining the needed increases in committee, and I know we worked very hard with the chairman and the ranking minority member to do so, but I know these programs do enjoy support in our committee.

The Senate bill as reported out of committee provided $42 million more than the House did, and I look forward to working with the chairman and ranking member, the gentleman from Wisconsin [Mr. OBEY] to move toward the Senate levels as we go to these vital programs which provide meals and other services to seniors to enable them to remain independent in their own homes.

These programs have not had a noticeable increase for quite some time and are feeling squeezed. Our senior centers just do not and cannot meet the demand for services. I visit many of these senior centers, as I know my colleagues do, and we see the really outstanding work they do, and the need for these services in our communities.

These seniors have a lifeline in these centers. They provide nutritious meals, they provide a place where they can congregate. I know that, working together, we can do better for our seniors, and I look forward to working with the chairman and the ranking minority member in the conference to do so. I thank the chairman for his cooperation.

AMENDMENT OFFERED BY MR. BLUNT

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

The Clerk read as follows:

Amendment offered by Mr. BLUNT:

Page 17, line 6, after the first dollar amount, insert the following: ''(reduced by $11,250,000)''

Page 69, line 26, after each dollar amount, insert the following: ''(increased by $11,250,000).

Level-funds OSHA; transfers increase to Vocational and Adult education.

Mr. OBEY. Mr. Chairman, I reserve a point of order against the amendment.

Mr. BLUNT. Mr. Chairman, this amendment, as has been read, transfers the increase in OSHA to vocational and adult education. In the last debate I believe I heard the gentlewoman from

Connecticut [Ms. DELAURO] suggest that we need to challenge the House to spend more money on training. This amendment meets that challenge, and may be more timely even because of that challenge, that we spend more of our money on training.

I think increasing spending in OSHA, as opposed to increasing spending in vocational and adult education, really just does not make sense to me, so this amendment is to transfer that increase. OSHA would be frozen. OSHA is being studied. There are field hearings on OSHA. There is nobody who is a member of this body who does not believe that OSHA needs to be significantly restructured in the way it does its job.

At the same time, vocational and adult education have been incredibly successful programs that are actually funded below the 1997 levels. In a bill that funds programs that are not even authorized, vocational education and adult education are funded below last year's levels. I find that unacceptable.

In fact, as we match these two things together, the best place to ensure workplace safety is in training. The best place to prevent accidents is before they happen. The best place to have workers prepare to be safe workers is not on the job, but before they get on the job, and vocational education has a track record of doing that effectively.

This transfer would make sense from the training point of view. It freezes OSHA at the 1997 level. With this transfer we actually fund vocational education and adult education above the 1997 level. I urge its passage. I think when we look at the number of people that work in OSHA, the average business that is affected by OSHA really can anticipate a visit maybe as infrequently as once every 10 years. That does not ensure workplace safety.

Well-trained workers do ensure workplace safety. Vocational education money and adult education money get people to work who have not been to work before. They increase the skills of those people who have not been to work before.

On the other hand, OSHA often encourages people not to create jobs, and there are examples probably in every district represented in this House where people keep their employee numbers below 50 just so they will not have to deal with OSHA. When the OSHA inspector comes, it depends on which part of the OSHA code that inspector is familiar with on how the inspection goes that day. Training, Mr. Chairman, is the key to the workplace. It is the key to workplace safety.

Leaving these two programs at levels below 1997 funding in this bill while we increase OSHA funding I think is unacceptable, so this amendment would rectify that situation. I urge its passage, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. OBEY] insist on his point of order?

Mr. OBEY. Mr. Chairman, I withdraw my reservation of a point of order, and rise in opposition to the amendment.

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

Mr. OBEY. Mr. Chairman, this is another example of an amendment being offered which attacks the ability of the U.S. Government to protect workers in the workplace.

Mr. Chairman, Members of Congress do not serve in very hazardous jobs. We may get an occasional threat against our lives, as a number of us have done, unfortunately, but by and large we do not serve in very hazardous duty. But I would point out last year, or just 3 years ago, some nearly 7 million workers were injured in 1 year on the job, and some 6,300 workers died on the job. A number of workers died in my district just last month. I have had four incidences in the last year of workers dying in my district on the job.

Mr. Chairman, I would point out that the gentleman is adding funding to an account to train workers, but the net effect of his amendment would be to reduce the safety of the workplace in which those workers are employed. Mr. Chairman, I would like to point out that in the gentleman's own State, there were 155 workplace fatalities last year. I would like to point out that in the gentleman's own State, there are so many inspectors for OSHA that the average employer would be inspected once every 235 years. That is hardly overload, in terms of inspections. There are only 25 OSHA inspectors in the gentleman's own State to cover that entire State. There were 178,000 illnesses, workplace-related illnesses and injuries, reported in the gentleman's own State last year.

Mr. Chairman, I do not think that those numbers indicate the wisdom of reducing the committee recommendation about the amount of money necessary to protect the health and safety of workers. I take this issue very personally. I used to work with asbestos. My father ran a floor covering business and a home improvement business. I worked with asbestos for 11 years, off and on, until I found out what Johns Manville Corp. had known since 1939 that asbestos caused cancer.

I also at that time smoked three packs of cigarettes a day. I did not know about the synergistic effect of asbestos and tobacco in terms of geometrically increasing your chances of getting lung cancer. I certainly do now. I did not know that 40 percent of the British shipyard workers who had worked with asbestos had died of mesothelioma as a result. I certainly know that now.

The Government had an obligation to protect workers like me from hazards like that. They did not. That is why my colleague from Wisconsin, a good Republican by the name of Bill Steiger, who unfortunately died at a very early age from diabetes, that is why Bill Steiger led the fight to create OSHA, so we would have an agency of the Federal Government that would enforce the laws, so workers knew when they got up to go to work every morning and work 8 or 10 hours, whatever they worked, they would at least be guaranteed government protection, and seen to it that they performed their duties in a safe and hazard-free workplace.

Mr. Chairman, I would point out that the OSHA budget that we provided here has a 1-percent increase, which is a pittance compared to the need in enforcing workplace health and safety. The only exception to that is the 12-percent increase that we have for compliance assistance.

With Sylvio Conte, I started the first OSHA efforts to see to it that OSHA could go into a plant voluntarily, on the basis of a request from an employer, and review what they were doing and make suggestions about how they could improve their situation without subjecting the employer to a fine.

We feel that that increase is necessary.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, we think it is important that those employers be able to provide or that OSHA be able to provide that additional assistance to employers, so that employers who want to can voluntarily figure out what they can do to make their workplace more safe.

It just seems to me that anyone in this House would like to put more money in the program that the gentleman is talking about, but I doubt that a majority in this House on either side of the aisle would want to take the money from the area the gentleman wants to take it from.

The bottom line, if we are going to train workers, they have the right to know that they are going to be working in a workplace which is safe and healthy. OSHA is the agency charged with that responsibility. They have some wonderful programs which we have utilized to increase safety many times over in the logging industry, a cooperative relationship which they worked out, for instance, so loggers who are engaged in one of the most hazardous occupations in the country can do so a bit more safely.

We should not be cutting back this appropriation from the committee recommendation one dime. This is a gut, basic requirement that we have to workers in this country. We ought not to walk away from it to any degree whatsoever.

□ 1300

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to first put the numbers in a little perspective. The increase in the OSHA account overall for

the next fiscal year in the version of the bill that is on the floor is 3.5 percent. That is $11.6 million below the President's budget request. When the cost increases and Federal pay raises are factored in, the amount provided is actually a reduction from last year's figure in terms of actual buying power.

The Federal compliance assistance activities are increased by the subcommittee and full committee by 22 percent, while enforcement activities as the gentleman from Wisconsin [Mr. OBEY] described them, including the cost of paying for OSHA inspectors, would be only 1 percent above fiscal year 1997. Compliance assistance activities involve the activities of OSHA working with employers in a cooperative way and not in a way of providing inspections and the heavy hand of Federal regulation on them.

Mr. Chairman, I believe that this amendment, if offered some years ago, would have been very relevant. I have watched OSHA the entire 16 years I have been on the subcommittee, but most particularly since President Clinton became President. I believe that OSHA is in the process of truly transforming itself.

The President brought in a new director named Joe Dear when he took office in 1993, and Joe Dear came in with the philosophy that OSHA could get a lot more done if they worked with employers, rather than worked against them.

While it takes a long time for any agency, whether it is in the Federal Government or in the private sector, to change the thinking on-the-ground. I believe that the thinking has definitely changed in the leadership in OSHA during the Dear administration, and that we are a long way toward having a very different OSHA today than we had 5 years ago.

Mr. Chairman, while normally if I felt the same way about OSHA that I did 5 years ago, I would support this amendment and in our mark I would have cut OSHA very severely. I think that cutting the money we provide would send exactly the wrong message to a new OSHA that is attempting to do things in the way we want.

Mr. Chairman, under those circumstances this amendment is simply a mistake. What we want to do is encourage OSHA to do better. I think that we have not given them a large increase. We are below the President's request. That sends our message in the way we want to send it. If we cut below that, I am afraid we are going to discourage the very things that we are trying to encourage. Mr. Chairman, I would oppose the amendment.

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

Mr. Chairman, there is no bigger champion of education and training in this House than I am: Training for our high school students so they leave high school ready and trained for a job that pays a livable wage, and training for our workers so they can stay in step with changes so they will be ready for the 21st century and do not lose their jobs because they are not trained adequately.

When I first came to the Congress, I requested to serve on the Committee on Economic and Educational Opportunities because I believed that is the most important committee in the House of Representatives. I have been a member of that committee for 5 years now. I work long and I work hard to make sure that all American students get a world-class education and that all students get the training they need for their future and that all workers are trained for the jobs of the future also.

Our students need world-class training and education. They need that so they can get high-skill, high-wage jobs, and they need that to ensure that America remains competitive in the global marketplace. Because, of course, a vast majority of American students become American workers. When they are workers, they also require additional training.

But to that end, Mr. Chairman, it makes absolutely no sense to pit education funds against funds that will keep our American workers safe. Funding for important protections for American workers must stay intact. Funding for OSHA is particularly important. Funding for labor is important in general.

Mr. Chairman, we cannot leave American workers less safe. OSHA cuts, and by just adding 1 percent it is a cut, would mean more workplace accidents and injuries. Labor cuts will mean more American workers will become vulnerable to workplace discrimination and to the loss of important workplace protections. They need protections, not only for their own physical safety, their emotional safety, their mental safety, they also need the 40-hour work week.

Mr. Chairman, much of today's rhetoric will place American workers at risk and that is just to make political points. That is what this debate is really about this morning. It is about pitting one deserving group of Americans against other groups of Americans for political gain.

What my colleagues are offering in this amendment is not about the real world, because in the real world one group is not separate from another. American workers are not separate from American students and Americans that need training. American workers are students. American workers are requiring training, but many of them also expect and insist and need and depend upon OSHA for the protections they need to keep them safe on the job.

They need labor protections also, so that they can earn a fair and livable wage and that they can go home every day and their children will know they will come home safe. They will know that they are protected because OSHA has been there for them.

Americans will not fall for this obvious political cynicism, Mr. Chairman, and neither should my colleagues. We cannot vote to cut OSHA, because OSHA is important to the safety of our workers. It is important to those who we train as workers. It is important to the students of this country who are going to become workers. OSHA is the backbone for keeping American workers safe.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Ms. WOOLSEY. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would simply like to point out, we have heard a lot about Hudson Foods lately, and the E. coli contamination which caused a number of deaths around the country. I should point out that OSHA is one of the agencies that has determined just how far from an acceptable norm that plant has been operating. OSHA reviewed that firm's activities and cited them for 34 different violations, including a number of sanitary condition violations.

Mr. Chairman, it is no wonder that the American public's health is being endangered when corporations like this are able to produce without having adequate resources that will enable the agencies that are charged with the responsibilities for public health and safety to do their jobs adequately.

The CHAIRMAN (Mr. GOODLATTE). The time of the gentlewoman from California [Ms. WOOLSEY] has expired.

(On request of Mr. OBEY, and by unanimous consent, Ms. WOOLSEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, if the gentlewoman will continue to yield, it just seems to me that there are so many examples where OSHA has not been able to reach where they needed to in time to protect workers' health and safety and for that matter the public health and safety. I think this amendment ought to be recognized as perhaps well intentioned, but ill advised.

Mr. NORWOOD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment for, I think, some very clear reasons. I would remind or inform the gentleman from Wisconsin [Mr. OBEY] that OSHA is in charge of health and safety in the workplace and perhaps they ought to do a little better inspection of their own people, since they had to close down the OSHA facilities in West Virginia to Legionnaires disease. I think they may want to take care of their own offices first.

Second, I would remind the gentleman from Wisconsin that I suppose being in Congress is not hazardous duty, but I can assure the gentleman that if OSHA were to come to this Capitol, come to Cannon, Longworth, or Rayburn and do the same inspection that they do in the private industry, we will be meeting on Pennsylvania Avenue, because they would have to close these buildings down.

Mr. Chairman, I want to make it very clear that the process of spending money should be the prioritization of how we spend that money. Recognizing that for 40 years this body has not paid much attention to that, if they wanted to spend it, they borrowed it. But we are at a point now where we are not willing to borrow anymore, so we have to prioritize.

This amendment is simply asking this: Do we want to cut spending in vocational education next year by $11 million or do we want to increase spending in OSHA next year by $11 million? Now, that is our choice here, and it is a process of prioritizing.

Cutting OSHA back to last year's spending level of $325.7 million is not exactly closing it down. Are we not all pleased that the growth rate is good in this country, interest rates are down, unemployment is down, the stock market is up, things are going pretty well? Well, no small part of that was the belt tightening that working America has done over the last 10 years. Why can we never tighten our belt in Federal agencies? Why do we always insist on judging the efficiency of an agency by how many dollars we spend?

The gentleman from Pennsylvania [Mr. GOODLING], our chairman in the Committee on Education and the Workforce, reported before the gentleman from Illinois [Mr. PORTER] that there are lots of problems in OSHA. None of that was mentioned by the gentleman from Illinois. But there are still lots of problems over there.

Why can we not ask them to be more efficient and operate on the $325.7 million next year that they did last year, until they start dealing with some of the problems? And in the meantime, until they solve the problems that have been pointed out many times in oversight by the Committee on Education and the Workforce, let us spent $11 million on training young men and women in this country we need jobs.

Now, if my colleagues believe that everything is just hunky-dory at OSHA, then I want to make a few points. In its latest move to get out an ergonomic standard, OSHA has plans to put the Ergonomics Technical Assistance Manual on the Internet. OSHA's ergonomic guidelines would require employers to take extreme steps to prevent repetitive motion injuries.

Well, that may be a good idea, except we do not understand repetitive motion injuries. And what I mean by that, we could have two Americans, same sex, same age, doing the same job, working side by side, and one has a repetitive motion injury and the other does not. The medical community does not understand that.

Mr. Chairman, all we are asking for OSHA to do is just be calm until they get the right science and then we can deal with this. If we put the ergonomic standard on the Internet, employers are going to be required not only to have written plans to prevent these injuries that they do not understand, but also to redesign work areas in hopes that it will help, not that we know it will help. We do not have the science. They will be asked to slow assembly lines and potentially pay for medical bills.

Private industry, for example, estimates that a similar rule proposed by the California OSHA would cost $3.1 billion annually just in California. Other sources estimate the Federal rule would cost $21 billion to implement. That is with nine zeros.

The CHAIRMAN. The time of the gentleman from Georgia [Mr. NORWOOD] has expired.

(By unanimous consent, Mr. NORWOOD was allowed to proceed for 2 additional minutes.)

Mr. NORWOOD. Mr. Chairman, OSHA insists that the manual is not for educational purposes, but on enforcement of a new standard. It is widely regarded as constituting guidelines which are enforceable under the general duty clause. They are not kidding. Too many of those of us who are on the right committee and are paying attention to them; of course they are going to enforce these standards.

□ 1315

Therefore, employers will have no choice but to comply with standards that we do not understand, nor does the medical community.

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

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

Mr. PORTER. Mr. Chairman, I think it is appropriate now, because the gentleman has covered so much of this, that we read into the RECORD exactly what we have done on the ergonomics standards. The gentleman from Texas [Mr. BONILLA] of our subcommittee, along with the gentleman from Texas [Mr. DELAY], took a major lead in this area and reached an agreement on what OSHA could and could not do in the next fiscal year.

Let me read into the RECORD section 104 of the bill: ''None of the funds made available in this Act may be used by the Occupational Safety and Health Administration to promulgate or issue any proposed or final standard regarding ergonomic protection before September 30, 1998,'' that is for the entire fiscal year, ''provided that nothing in this section shall be construed to limit the Occupational Safety and Health Administration from issuing voluntary guidelines on ergonomic protection or from developing a proposed standard regarding ergonomic protection: Provided further, that no funds made available in this Act may be used by the Occupational Safety and Health Administration to enforce voluntary ergonomic guidelines through section 5.''

I do not think the gentleman has any worry about fining anyone.

Mr. NORWOOD. Mr. Chairman, yes, I do, because they made a deal saying that if we will do that for 1 year, ''The committee will refrain from any further restrictions with regard to the development, promulgation or issuance of an ergonomic standard following fiscal year 1998.'' That means it cannot be discussed again and that does not mean we will have the science.

Vote for this amendment.

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

Mr. Chairman, I rise in strong opposition to the amendment, and in doing so, I really want to expose it for what I believe it is. It is a political agenda. It is part of an all-out assault on organized labor and on working men and women in this country. It is part of a pattern that we have seen in some quarters here, unfortunately on the Republican side of the aisle, for the past 3 years.

First of all, last year we passed an increase in the minimum wage which was done so kicking and screaming by many Members on the other side of the aisle with great reluctance. They did not favor an increase in the minimum wage.

The first thing that the GOP did when it controlled this Congress was to change the name of the Committee on Education and Labor and purge the word ''labor'' out of everything from the committee and the subcommittee. We have seen an all-out assault on OSHA.

I have been to many of the hearings where Members on the other side of the aisle proposed to eliminate all kinds of OSHA standards and to eliminate all kinds of funds for OSHA. We have seen them try to cut funding for the National Labor Relations Board time and time again. This last amendment, which was defeated, thankfully, was part and parcel of this assault on working men and women, trying to cut wage and hour enforcement.

We have seen them try to put back company unions with the so-called TEAM Act, unions that really would not, in my opinion, have the best interests of America's workers at heart. They are trying to eliminate Davis-Bacon, which is the prevailing wage in Federal contracts, so that people who are doing these contracts will not get a prevailing wage, which in turn would hurt union companies right-to-work laws they tried to pass. They have tried to gut the 40-hour workweek with all types of comp time and other regulation.

So this is part and parcel of an assault on organized labor, but more importantly, an assault on working men and women in this country.

One does not have to be a genius to understand that we need OSHA standards. We need a strong OSHA department. We need a strong OSHA. Workers are still being maimed and injured on the job.

Let us look at the latest statistics. In 1993, there were 6,300 workers who died from traumatic injuries in America on the job and more than 50,000 died from occupational diseases. Nearly 7

million workers in 1993 were injured on the job. These are American workers, Democratic, Republican, Independent, old, young, men and women. Unfortunately, injuries on the job and deaths on the job cut across all kinds of lines.

On an average day, 154 workers lose their lives as a result of workplace injuries and illnesses and another 16,000 are injured. That is one workplace death or injury every 5 seconds in America. Should we be cutting back on OSHA funding which protects that and tries to mitigate against that? I think not.

Workers need more OSHA protection, not less. OSHA is a small agency that does not have the funding or staff to oversee the safety and health of 90 million American workers in 6 million workplaces under its jurisdiction. Federal OSHA has only 900 inspectors and on the average it can inspect workplaces, on average once every 87 years. The current OSHA budget, which is 318 million, amounts to a little more than $1 per citizen.

So let us really expose this for what it is. It is a continued assault by some Members on the other side of the aisle, unfortunately some GOP Members, against working men and women in this country.

We all want more money for education, but again, pitting one group against the other is not the way to go. This does nothing, again, but advance an agenda which hurts America's workers, and I think this ought to be soundly defeated.

Mr. LEWIS of Kentucky. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Georgia [Mr. NORWOOD].

Mr. NORWOOD. Mr. Chairman, I just want to say to the gentleman from New York, this is not an assault on anybody. I, for one, am sort of sick and tired of hearing it. Not one of us in this room has any clue how the $325.7 million was spent last year, whether it saved one life, how efficiently it was used; and we do not have a clue whether they need another $11 million. We do know we need another $11 million in vocational education. This is not an assault on anybody.

Mr. LEWIS of Kentucky. Mr. Chairman, why give OSHA an $11 million raise and take from vo-tech training and adult training? Why do that when I think the statistics that have been given to us from across the aisle indicate that OSHA has not been doing a very good job; if we look at the National Safety Council statistics indicating that OSHA, since its founding in 1970, has been irrelevant to the long-term decline in workplace fatalities?

Moreover, a 1991 study by the National Bureau of Economic Research found that OSHA regulations significantly reduced productivity and growth in the United States, which undoubtedly means a parallel loss in employment opportunities.

Is this good for the workers who take $11 million out of vocational training and adult training to cut them?

I want to talk about a small town in my district, Campbellsville, KY, population 10,000. They just lost 1,400 workers from a textile company, 1,400 workers. Is that good for the workers, and then to take $11 million out of vocational training and adult training that could help these displaced workers find new jobs?

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

Mr. LEWIS of Kentucky. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I want to say that we have level-funded the vocational education account and that we have not taken anything out of it at all.

Mr. LEWIS of Kentucky. It is $11 million less than the 1997 funding.

Mr. PORTER. No, Mr. Chairman, it is level funded.

Mr. LEWIS of Kentucky. Well, Mr. Chairman, that was not what I saw.

Even with that, should we not be trying to help displaced workers with better vocational training, better adult training? That is the key.

Look at OSHA, a bureaucracy that is out of, basically out of control, if we look at some of the horror stories. Rod Stewart owns and operates a small business that manufactures corn brooms and cotton mops in Union City, IN; Reit-Price Manufacturing Co., which he owns, started by his father in 1900, employs four people. When Indiana OSHA inspected his operation 3 years ago, even though it was a first-time inspection, the inspector fined Mr. Stewart $500 for not having paperwork on hand listing hazardous items in the shop.

Well, Mr. Stewart did not need to fill out any paperwork because there was not any hazardous material that he deals with in his business. When Mr. Stewart realized that OSHA considered many items to be hazardous, even though they can be purchased anywhere, in a grocery store or a hardware store, he was able to talk the inspector out of fining him for not having paperwork on his Lava hand soap, but he was still fined $500 for other items, such as a standard oil can WD–40, which can be purchased at any gas station.

Mr. Stewart has not always had just four employees. He used to have more than 20, but due to foreign competition, particularly from Mexico, seven corn broom manufacturers have gone out of business this year. That is 400 to 500 people who have lost their jobs.

Mexican importers, they do not have to absorb the cost of regulatory agencies like OSHA. One thousand four hundred jobs in my district; $11 million should be going for better training, better education, job opportunities that will allow them to take care of their families.

I do not think an $11 million pay raise for OSHA is going to do anything that is going to help worker safety. The statistics do not bear it out. And my colleagues across the aisle, the numbers that they gave on workplace injuries and fatalities since 1970, these are recent reports; is OSHA doing their job with those kinds of negative numbers? I do not think so.

Let us do something to help the workers in this country better than what OSHA is doing.

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

I am proud to be here opposing the amendment because I think the amendment is cynical. Some of us have worked for many years to improve vocational education funding; and like some of my colleagues, I served on the committee that dealt with vocational authorization, and we worked to make sure that the funding was there.

Yet on the floor of the House we say that we are going to give you vocational money to be trained, but we are not going to give you a safe workplace. We can train you, but you will be killed on your job. That is what this amendment will do.

I have been to the memorial services for machinists in my district who were killed on the job site last year. I do not know if many of the other Members on the other side of aisle have seen what happens in an industrial-type district. Again, this looks like it is a war against workers who work with their hands because that is where the injuries are. They are in the trenches, they are in the chemical plants and refineries, they are in the machine shops, they are in the printing companies that I used to work at. That is where it is. Those are people who work with their hands that lose their limbs and also their lives.

Is OSHA doing the best job that they can? Of course not. I went with OSHA inspectors when they were at my company and was disillusioned, but I thought they needed to be better trained. But they were not. They were looking for things that I thought were not really important enough. Maybe that is why we need to provide them better training and more funding. I want to increase vocational education money, but I do not want to take it away from a safe workplace because the United States has one of most dismal records of safe workplaces.

My colleague from Kentucky who talked about the loss of jobs because the imports do not have to comply with regulations; well, if that is what you want to do, we would not have a minimum wage because around the world the minimum wage may be a dollar a day. They do not have job safety in some of the countries we have to compete with. Let us take that debate up on something else, on trade issues, and not on lowering our standards to compete with somewhere else in the world.

I do not want to lower our standards. I do not want any more job deaths because OSHA did not go out there and was not able to inspect the plant. I do

not want to hear of any more chicken plants in North Carolina that keep the exit doors chained shut, and people die because of that. That is what this amendment is aiming for.

Again, it looks like we are having a war against the workers because of the last amendment and this one; that is what is frustrating.

In 1993, we had 6,300 workers die from traumatic injuries and more than 50,000 died from occupational diseases. On the average day, 154 workers lose their lives as a result of workplace injuries and illnesses, and another 16,000 are injured.

Again, I represent an industrial district that has people who work with their hands in refineries and machine shops. This amendment again is a cynical way to try and say, we are going to cut OSHA because we do not like what they are doing somewhere else.

Let us give them some guidance, but not cut their funding. Let us put more inspectors out there, who are better trained, to make sure we can lower the number of deaths in our workplace.

□ 1330

Again that is what is frustrating to hear, an amendment like this today, Mr. Chairman.

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

Mr. GREEN. I yield to the gentleman from Missouri.

Mr. BLUNT. I thank the gentleman for yielding. First, I would just like to point out that this amendment does not discuss OSHA funding. It leaves the funding for OSHA at the same place it is this year.

Mr. GREEN. Mr. Chairman, reclaiming my time, that worries me because we have not seen a lessening of injuries on the job. Maybe what we need to do is make OSHA better by providing more funding for training of those inspectors and more inspectors to go out and inspect those sites. As the gentleman from Wisconsin, the ranking member, said, there are only 900 OSHA inspectors and they inspect the average workplace once every 87 years. We need to do a better job.

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

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

Mr. OBEY. I thank the gentleman for yielding. I would simply point out to the gentleman from Missouri, my understanding is that Hudson Foods of now notorious fame is from his State. OSHA had to cite them because their place of employment was not kept clean and orderly or in a sanitary condition. Drainage was not maintained where wet processes were used. That is the kind of problem that creates a hazard to not only workers but to the entire country as was demonstrated.

The previous speaker from Georgia, I would point out, there were 249 fatalities in the workplace in his State last year, 200,000 injuries, and the average workplace is inspected now once every 257 years. That is longer than this country has been in existence. In Kentucky, there were 158 fatalities, 115,000 injuries, one inspection per workplace every 79 years. That hardly is an agency which is overfunded.

Mr. BENTSEN. Mr. Chairman, I rise to express my support for H.R. 2264, the 1998 Labor, Health and Human Services, and Education appropriations legislation, as reported by the Appropriations Committee. This legislation provides important and necessary funding for many important health and education programs, including the National Institutes of Health [NIH], the Corporation for Public Broadcasting, Head Start, and Pell grants. I urge my colleagues to approve this bipartisan legislation without divisive amendments.

Medical research is an investment that we must continue because it is so vital to our quality of life and will yield new treatments for diseases such as cancer, heart disease, Alzheimer's, and AIDS. This legislation provides $13.5 billion for the NIH, an increase of 6 percent over last year's budget. It is noteworthy that Congress has included more than an inflationary increase for the NIH for the third year in a row, even as we seek to balance the Federal budget. In 1995 the majority part passed a budget which would have cut NIH by 5 percent. I and other opposed that provision and ultimately we prevailed. We must ensure at least the level of NIH funding in H.R. 2264 as the appropriations process moves forward.

As the representative for the Texas Medical Center, one of our Nation's premier medical education and research centers, I know firsthand of the importance of NIH funding for medical research projects. Over the last 5 years, the Texas Medical Center has received more than $2 billion in grants from the NIH and other Federal agencies. From this investment, cutting edge medical research and discoveries have been made. For instance, some of the major discoveries at the Texas Medical Center include the DeBakery roller pump, a major component of the heart-lung machine which is now used in open-heart surgery around the world; the first artificial heart and successful heart transplant surgery by Dr. Denton Cooley, the gamma-knife diagnostic machine to treat brain disorders at Hermann Hospital; and the first approved gene therapy for lung cancer condjucted at M.D. Anderson Cancer Center. All of these treatments are possible because of our continued investment in the National Institutes of Health.

I am also pleased that this legislation would provide $300 million for the Corporation for Public Broadcasting [CPB]. CPB is an asset to children and families throughout the Nation. The quality and variety of educational, informational, and cultural programming found on public broadcast stations cannot be found anywhere else on radio or television. Public broadcast stations are among a limited selection of stations that cater to a large number of locally originated programs. In addition, public broadcast stations in rural and underserved urban areas greatly depend on federal funds for their economic base.

CPB provides services that reach out to people of all backgrounds and ages throughout the country. CPB plays an essential role in our educational and cultural growth as a nation. For example, the Public Broadcasting Service is the leading provider of classroom video programming for all grades from kindergarten through 12th grade and provides college telecourses to more than half of America's campuses, making PBS the leading source of college-level telecourses. Public Broadcasting does what the market does not. It provides superior cultural and children's programs free.

This legislation also maintains our Nation's commitment to Head Start by fully funding the President's request at $4.3 billion for fiscal year 1998, an 8-percent increase over last year's level. While many sacrifices have been made to balance the budget, I am pleased that Congress has continued its support of this vital program, which helps prepare millions of disadvantaged children to succeed in school and throughout their lives. Head Start helps to ensure that children in the most formative years of their development get the special attention and nourishment they need to learn and grow.

I am also pleased that this legislation provides $9 billion for student financial assistance, including $7.4 billion in Pell grant funding for the 1998–99 academic year, a 26-percent increase from fiscal year 1997. The bill increases the maximum Pell grant award from its current level of $2,700 to $3,000. The Pell grant provisions in this bill, coupled with the higher education tax credits included in the tax relief portion of the balanced budget agreement, will make a college education more accessible and affordable so students can obtain the education and skills needed to succeed in our global, high-technology economy.

Because of these and other vital programs, this legislation in its current form merits a strong, bipartisan vote of support. Let's avoid divisive amendments and pass this important legislation.

Mr. DELAHUNT. Mr. Chairman, I rise on behalf of the appropriations bill which Chairman PORTER has brought before this Chamber. This legislation was carefully crafted to restoring bipartisan priorities for Federal health, labor, and education policy, and deserves the enthusiastic support of this House.

I also want to draw particular attention to a small provision which has enormous implications for many communities across the Nation, including the town of Bourne, on Cape Cod, in my congressional district.

As many of my colleagues know, the impact aid program was created in 1950 to ensure compensation to local communities for at least part of the cost of educating children of families associated with military bases or other Federal installations.

On reliance of that assurance, cities and towns have expended considerable sums to educate these kids. The Federal formulas were never even close to covering the actual educational costs, but for awhile there was at least lipservice to the commitment.

For the past dozen years, however, Washington has done all it can to abandon its obligations altogether—while towns like Bourne have struggled under the weight of these extra financial burdens.

The irony is that, as impact aid communities do their best to maintain opportunity for federally connected students, now 15 percent of the student population, the quantity and quality of school services inevitably suffer. In 1 year alone, Bourne was forced to lay off 74 school employees.

And when Washington saves, Bourne pays—in the form of increased local property

taxes to defray the increased expenses, which compromise a substantial portion of the town's school budget.

Local communities are perplexed at a Congress which decries unfunded mandates, but then shrugs its shoulders year after year at this direct, and regressive, hit on the local tax base. In all, the town of Bourne has subsidized the cost of educating federally related students to the tune of $7 million.

I rise today, however, to suggest that, through the work of impact aid towns across the country, and the assistance of Chairman PORTER, there is some hope. After a decade-long decline, this bill would increase impact aid funding levels for the 2nd year in a row—$66 million more for fiscal year 1998.

This increase, which restores program funding to its 1979 level, will not cover all current impact aid costs, much less retroactive obligations. However, it suggests that we are deciding, for the year to come, to do no more harm—and for that, at least, 1,800 school districts across America are grateful.

Mrs. MINK of Hawaii. Mr. Chairman, the Labor-HHS-Education appropriations bill represents in my estimation the most important Federal spending bill we consider each year. It represents our investment in the human capital of this country—our investment in education, employment, and the health and well-being of our people.

The bill before us, H.R. 2264, is a significant improvement over Labor-HHS-Education appropriation bills we have seen the majority report out of committee over the last 2 years. This bill includes increase funding in priority areas such as health research at the National Institutes of Health, job training, and education programs. This, I believe, is a direct result of the persistence of our President and congressional Democrats in protecting several key spending areas during budget negotiations earlier this year.

I am pleased that the bill includes increased funding for the National Institutes of Health by $764 million and that nearly $124 million of this amount will be directed to increases for the National Cancer Institute. With language included in the committee report listing ovarian cancer as a research priority, I am confident that a portion of this increase will go to enhance efforts in ovarian cancer early detection and prevention research.

This year 26,800 American women will be diagnosed with ovarian cancer. It is truly disheartening that most of them will be diagnosed too late and fewer than half of them will survive 5 more years. Why? Because there is no early detection screening test for ovarian cancer. Because although the 5-year relative survival rate for ovarian cancer is 92 percent when detected early, only a quarter of all cases are detected early.

For the last 7 years I have fought hard for increases in ovarian cancer research. We have successfully increased funding from around $8 million in 1989 to close to $40 million this year. Funding available in this bill will allow us to progress even further.

The committee specifically calls for a specialized program of research excellence [SPORE] for ovarian cancer, a concentrated research initiative that has been successful in other research ares such as breast, lung, and prostate cancer. Legislation I introduced in the 104th and 105th Congresses directs the NCI to establish such a program. I am pleased that the committee is supporting this provision of my bill, H.R. 953.

It is time we take serious action to develop an early detection screening test for ovarian cancer and I applaud the committee for their support.

H.R. 2209 also includes $2 million for Hansen's Disease Payments to Hawaii for the care of Hansen's disease patients who continue to live at Kalaupapa, Molokai.

Authorized under Public Law 82–411 and later Public Law 99–117, the Federal Government has provided payments for health care and other support services for the Hansen's disease patients at Kalaupapa and additional outpatients at other facilities in Hawaii since 1954. Federal funding is an important supplement to the State's overall efforts to serve and provide for these individuals.

The Hansen's disease program in Hawaii supports approximately 400 individuals. Most are served through the Hale Mohalu Hospital in Honolulu and through outpatient services. However, about 60 individuals reside at Kalaupapa, a remote peninsula on the island of Molokai which was designated in the mid-1800's as the place of banishment for individuals with Hansen's disease.

Over the years, Kalaupapa has become a place of comfort and tranquility for the patients—a home that they have grown to love. The Federal Government made a commitment to the patients that they will be allowed to live out their lives at Kalaupapa. These Federal funds help to fulfill this promise.

I want to thank Chairman PORTER for his willingness to continue funding for this program, and the effort he has made in the last 2 years to assure that Federal support for Hansen's disease patients at Kalaupapa will continue.

I would also note that funding for the Native Hawaiian Health Care Act would be continued under the $826 million allocated for the Consolidated Health Centers. The Native Hawaiian Health Care Act enacted in 1988 established health care systems on each island in the State of Hawaii to address the significant health care needs of the native population in our State.

On the education front the bill includes $32.1 billion for education programs, a $3.2 billion increase over fiscal year 1997 appropriations.

Priority items outlined by the President and congressional Democrats do well in this bill. Head Start, the early childhood education program for low-income children, is increased by 8 percent which brings the funding total to $4.3 billion. We have heard so much this year about the importance of the preschool years in the development of a child's brain. We now know that the Head Start Program, established over 30 years ago to provide disadvantaged children with opportunities for early childhood education, was light years ahead of its time and on the right track.

This bill also funds a 5-percent increase in the title I program for disadvantaged children in elementary and secondary schools. Bilingual education and immigrant education is increased by 35 percent with funding at a total of $354 million. Impact aid funding to help States provide education to military children is increased from $796 million in fiscal year 1997 to $862 million.

The bill also provides a $300 increase in the maximum award for Pell grants. This means low-income students would be eligible for up to $3,000 a year in Federal Pell grants. To meet this new Pell grant maximum the bill increases funding for Pell grants by $1.5 billion. For the academic year 1998–99 a total of $7.4 billion will be provided for Pell grants.

I would like to express my support for the $2 million allocated for the Women's Education Equity Act. In the past the majority has sought to eliminate this program, which I authorized in 1974. Last year we were able to restore WEEA funding through a floor amendment. I am pleased the committee included WEEA funding in its bill this year.

While this bill generally moves us in a more positive direction in terms of spending on human resources in our country, there are some important areas of concern.

I am deeply disappointed that the committee did not include funding for the Native Hawaiian Education Act. In existence for about 10 years the Native Hawaiian Education Act funds programs dedicated to improving educational opportunities for native Hawaiians. In was established as part of the Federal Government's effort to fulfill its trust responsibility to the native Hawaiian monarchy in 1893.

Since 1921 the Federal Government has acknowledged its responsibility to assist in the rehabilitation of the native Hawaiian people and work toward improvement of their education, economic, and health status.

Fifteen million dollars provided in fiscal year 1997 for the Native Hawaiian Education Act went to support six specific programs including, family-based early childhood centers, a higher education scholarship program, a Native Hawaiian Gifted and Talented Program, a special education program, curriculum development and teacher training program, and community-based education centers. The President requested continued funding at $15 million. I am very concerned that the committee did not include this funding in its bill.

I sincerely hope the committee will reconsider its decision and concur with the Senate and fund the Native Hawaiian Education Act programs.

Mr. BEREUTER. Mr. Chairman, this Member would like to commend the distinguished gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations, the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking member of both the full committee and the Subcommittee on Labor, Health and Human Services, and Education and the distinguished gentleman from Illinois [Mr. PORTER], the chairman of the subcommittee, for their exceptional work in bringing this bill to the floor.

Mr. Chairman, the fiscal year 1998 Labor, Health and Human Services Appropriations Act contains several provisions regarding important rural health programs which benefit rural communities across the Nation, as well as continued funding for the Ellender Fellowships.

Regarding rural health funding, this Member would like to specifically mention two programs which this Member strongly supports and has expressed this support together with other Members of the House Rural Health Care Coalition to the subcommittee. These programs are Rural Outreach Grants, and the National Health Service Corps.

This bill includes $27.8 million for Rural Outreach Grants, which is the same as the fiscal year 1997 level and $2.7 million above the

amount requested by the President. This important program supports projects that provide health services to rural populations not currently receiving them and that enhance access to existing services.

The National Health Service Corps receives $120 million in this bill, which is a $4.6 million increase above both the fiscal year 1997 level and the amount requested by the President. One of the top health care concerns in rural America is the shortage of physicians and other health professionals due to the difficulties rural areas have in attracting and retaining primary health care professionals. The NHSC program addresses this need by providing scholarships to, and repays loans of, primary care professionals in exchange for obligated services in a health professional shortage area [HPSA].

The program also provides matching grants to States for a loan repayment program. These incentives for health professionals and physicians to serve in rural areas are greatly needed.

This Member is also pleased that H.R. 2264 includes $1.5 million for Ellender fellowships. Earlier this year, this Member testified before the subcommittee regarding this important program. This amount is the same as the fiscal year 1997 level, even though the President's budget did not include any funds for the extraordinarily valuable citizen education program for American high school students. The Ellender fellowships are used to enable low-income students to participate in the highly successful Washington Close Up Program.

Each year the Close Up Foundation awards thousands of Ellender fellowships, which included 3,942 students during the 1995–96 school year. Nationally, since 1971 over 480,000 students and teachers have participated in the Washington Close Up Program. Almost 94,000 of those participants received full or partial fellowships.

Again, Mr. Chairman, this Member commends the distinguished gentleman from Ohio [Mr. STOKES], the chairman of the subcommittee, and the distinguished gentleman from Wisconsin [Mr. OBEY], the ranking member of both the full committee and the subcommittee for their continued support of these important programs.

Mr. PORTER. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PEASE) having assumed the chair, Mr. GOODLATTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1998, and for other purposes, had come to no resolution thereon.

MOTION TO INSTRUCT CONFEREES ON H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

The SPEAKER pro tempore. The unfinished business is the demand for a recorded vote on the motion to instruct offered by the gentleman from Ohio [Mr. TRAFICANT] on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will re-report the motion.

The Clerk read as follows:

Mr. TRAFICANT moves that the conferees on the part of the House on the bill, H.R. 1119, be instructed to insist upon the provisions of section 1032 of the House bill relating to the assignment of Department of Defense personnel to Border Patrol and control.

RECORDED VOTE

The SPEAKER pro tempore. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 150, not voting 22, as follows:

[Roll No. 368]

AYES—261

Aderholt
Andrews
Archer
Armey
Bachus
Baesler
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bono
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Cubin
Cummings
Cunningham
Danner
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Ewing
Fawell
Foley
Forbes
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Granger
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (KY)
Livingston
LoBiondo
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Martinez
Mascara
McCarthy (NY)
McCrery
McDade
McHugh
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Minge
Moakley
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Owens
Oxley
Packard
Pallone
Pappas
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Porter
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Souder
Spence
Stearns
Strickland
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
White
Wicker
Wise
Wolf
Young (FL)

NOES—150

Abercrombie
Ackerman
Allen
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Blagojevich
Blumenauer
Bonilla
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Cannon
Capps
Cardin
Carson
Chenoweth
Clay
Clayton
Clyburn
Conyers
Coyne
Crapo
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Dingell
Dixon
Doggett
Dooley
Doolittle
Edwards
Ehlers
Engel
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Fowler
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hamilton
Hastings (FL)
Hayworth
Hefner
Hilliard
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Kolbe
Lampson
Lewis (GA)
Linder
Lofgren
Lucas
Markey
Matsui
McDermott
McGovern
McHale
McInnis
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Pastor
Paul
Payne
Pombo
Pomeroy
Rangel
Reyes
Rodriguez
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Sanders
Sawyer
Scott
Serrano
Sessions
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Stump
Stupak
Thompson
Tierney
Torres
Velazáquez
Vento
Visclosky
Waters
Watt (NC)
Weygand
Whitfield
Woolsey
Wynn
Yates

NOT VOTING—22

Baker
Ballenger
Boucher
Callahan
Everett
Gonzalez
Graham
Istook
Lewis (CA)
Lipinski
McCarthy (MO)
McCollum
Miller (FL)
Parker
Pelosi
Pryce (OH)
Schiff
Smith, Linda
Solomon
Stenholm
Waxman
Young (AK)

□ 1359

Messrs. STUPAK, KOLBE, CLYBURN, CANNON, DOOLITTLE, and POMBO changed their vote from ''aye'' to ''no.''

Ms. HARMAN, Mrs. MALONEY of New York, Mr. ANDREWS, Ms. DUNN, and Mr. MCDADE changed their vote from ''no'' to ''aye.''

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 856

Mr. STUMP. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 856.

The SPEAKER pro tempore (Mr. Pease). Is there objection to the request of the gentleman from Arizona?

There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON THE BUDGET

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Budget:

SEPTEMBER 4, 1997.

Hon. NEWT GINGRICH,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Effective immediately I do hereby resign my assignment on the Committee on the Budget to take a new assignment on the Committee on Banking and Financial Services.

Sincerely,

BRAD SHERMAN,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON BANKING AND FINANCIAL SERVICES

Mr. FAZIO of California. Mr. Speaker, I offer a resolution (H. Res. 221) and I ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

HOUSE RESOLUTION 221

Resolved, That the following named Members be, and that they are hereby, elected to the following standing committees of the House of Representatives:

To the Committee on Banking and Financial Services, the following Member: Brad Sherman of California.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. FAZIO of California. Mr. Speaker, I ask for this time in order to inquire from my friend and distinguished colleague, the gentleman from Illinois [Mr. HASTERT], what the schedule for next week would be.

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

Mr. FAZIO of California. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from California for yielding.

Mr. Speaker, I am pleased to announce we have concluded our legislative business for the week. The House will meet on Monday, September 8, at 12:30 p.m. for morning hour, and at 2 p.m. for legislative business. Members should note that no recorded votes will be held before 7 p.m. on Monday night.

Just after 2 p.m. on Monday, the House will consider the following three suspensions: H.R. 976, the Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997; H.R. 700, a bill regarding the Agua Caliente Band of Cahuilla Indians; and we will take up the Senate amendment to H.R. 1866, Need-Based Educational Aid Antitrust Protection Act of 1997.

In consultation with the minority, we have agreed to resume consideration of amendments to title I of the Labor–HHS appropriations bill on Monday evening. Debate will be between 6 and 10 that evening. As I mentioned earlier, we do not expect any votes until 7 p.m. on Monday, September 8.

On Tuesday, September 9 and the remainder of the week, the House will consider the following bills, both of which will be subject to a rule: H.R. 2267, Commerce, Justice, State and the Judiciary Appropriations Act for fiscal year 1998; and H.R. 2378, Treasury, Postal Service Appropriations Act for fiscal year 1998.

Mr. Speaker, meeting times for next week are as follows: On Tuesday, September 9, the House will meet at 9 a.m. for morning hour and 10 a.m. for legislative business; on Wednesday, September 10, and Thursday September 11, the House will meet at 10 a.m. There will be no legislative business and no votes on Friday, September 12.

Mr. Speaker, next Wednesday, September 10, the White House will be hosting the annual congressional picnic. Members should be assured that we will have our last vote by approximately 6 p.m. that evening, so Members and their families can join the festivities.

Mr. FAZIO of California. Mr. Speaker, reclaiming my time, let me ask the gentleman, that date of September 10 is also the date at which time the ethics moratorium, most recent, expires. Would the gentleman indicate to us whether he believes the ethics reform package is going to be brought to the full House next week, or will there be some effort to extend that ongoing moratorium?

Mr. HASTERT. Mr. Speaker, at this time we are having discussions within our conference. I am not prepared to answer that either yes or no. By early next week we should make a valid decision on that.

Mr. FAZIO of California. Would the gentleman give us the latest status of the rule on the commerce bill? I understand there is that very contentious issue of the census and the method by which it is taken. Is there a current encouragement that we will have a rule that can be broadly supported on that bill?

Mr. HASTERT. There is a hearing today, but they have not made a final decision on that bill. We expect them to take final action either Monday or Tuesday.

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

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, if I might ask a couple of questions, one is, my understanding is that with respect to the current appropriations bill that is under consideration, on Monday we will only do title I. Hopefully, we will finish title I.

If for some reason we finish title I early, title II and title III will be carried over and will be begun on Tuesday; is that right?

Mr. HASTERT. Mr. Speaker, if the gentleman will yield further, the agreement we have and that we will follow is we will do title I and hold over other titles until Tuesday.

Mr. MILLER of California. If I might ask another question, once again absent from the agenda is any reference to campaign finance reform. Can the gentleman tell us what might be suggested there for either next week or the remainder of the session?

Mr. HASTERT. I am not prepared at this time to tell the gentleman. We have no definite answer to that specific question.

Mr. MILLER of California. If the gentleman would continue to yield, I would just want to say that in that case, Members should expect to have a continuation of procedural and other votes being called throughout next week in an effort to try and get the leadership to tell us when and how they are going to address campaign finance reform before we adjourn.

So Members ought to expect that some of those votes may come without notice.

Mr. FAZIO of California. Reclaiming my time, I yield to the gentleman from Texas, the majority whip, [Mr. DELAY].

ANNOUNCEMENT OF THE PASSING OF MOTHER TERESA

Mr. DELAY. I was just informed that Mother Teresa passed away. I would ask that we suspend for a moment of silence in the memory of Mother Teresa, who has done so much for so many people around the world.

The SPEAKER pro tempore. Members will rise. The House will recognize the passing of Mother Teresa with a moment of silence.

EXPRESSING SENSE OF CONGRESS REGARDING TERRORIST BOMBING IN JERUSALEM ON SEPTEMBER 4, 1997

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from further consideration of the concurrent resolution (H. Con. Res. 146) expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997, and ask for its immediate consideration in the House.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 146

Whereas on September 4, 1997, three terrorist bombs exploded almost simultaneously on the Ben Yehuda street pedestrian mail in Jerusalem, killing at least four innocent people and wounding over 190 others; and

Whereas Hamas claimed responsibility for this bombing; and

Whereas despite a clear U.S. call that Palestinian commitment to fight terror must be constant and absolute, PLO Chairman Yasser Arafat convened a national unity conference on August 20, 1997, in which he embraced leaders of the Hamas and Islamic Holy War movements; and

Whereas in the four years that the Oslo process has been in effect, it is clear that the leaders of the Palestinian Authority have yet to implement in any sustained manner the specific pledges they made in numerous agreements to: prevent incitement and hostile propaganda; combat terrorist organizations and their infrastructure systematically and effectively; apprehend and punish terrorists; and confiscate illegal firearms: Now, therefore, be it

Resolved, by the House of Representatives (the Senate concurring), That the Congress

Expresses its outrage at this latest attack on civilian Israelis, extends the deepest sympathies of the Congress and the American people to the families of the victims and to the people and Government of Israel at this tragic loss of innocent human life, and expresses the commitment of the American people to remain dedicated to Israel's security in the face of this brutal and heinous act of terrorism;

Demands that Chairman Arafat and the Palestinian Authority systematically and comprehensively eliminate the terrorist infrastructure and combat terrorist activities of members of all terror groups operating in areas under its control and fulfill the commitments the PLO made to Israel, the United States, and the world; and

Informs PLO Chairman Yasser Arafat and the leaders of the Palestinian Authority in the strongest possible terms that choices must now be made: either they do what they solemnly pledged to do as part of the Oslo process to fight terror and the terrorist infrastructure in a consistent, serious and sustained manner, or the entire peace process, relations with America, and the hopes of the Palestinian people for a better future will be seriously jeopardized; and

Urges Secretary of State Madeleine Albright to underscore to the Palestinians one distinct message: the Palestinian Authority must fulfill its most important single obligation of fighting terrorism relentlessly with all the means at its disposal; and

Believes that all United States assistance to the Palestinian Authority, whether direct or indirect, should be suspended until such time as substantive compliance with its commitments under the Oslo agreements is achieved.

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

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

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. GILMAN] is recognized for 1 hour.

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

Mr. GILMAN. I am pleased to yield 30 minutes to the gentleman from New York [Mr. NADLER].

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Concurrent Resolution 146.

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

There was no objection.

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

Mr. Speaker, I rise in strong support of the pending legislation, House Concurrent Resolution 146, which condemns the latest bombing against Israelis which occurred just yesterday. Once again, a heinous terrorist attack, this time at a busy pedestrian mall in Jerusalem, has claimed innocent lives. Three terrorist bombs exploded almost simultaneously on Ben Yehuda Street yesterday afternoon, killing at least 4 innocent people and wounding almost 200 others. The Gaza-based Hamas terrorist group claimed responsibility for this bombing.

Regrettably, the House considered similar legislation just a few short weeks ago.

During the August recess, a number of my colleagues joined with me in visiting Israel, where we paid our respects to those who were still hospitalized from the July 30 attack. We also visited the Machaneh Yehuda market where the bombings took place.

Today's act of terrorism occurred once again in the very heart of Jerusalem. If Machaneh Yehuda market is where Jerusalem people buy their fruit, meat, and vegetables, the Ben Yehuda Street pedestrian mall is where they shop, where they bank, and where they socialize, another busy street in Jerusalem.

This resolution before us condemns this bombing. Despite a clear United States call for Palestinian leaders to wage a war on terror, PLO Chairman Yasser Arafat convened a ''national unity conference'' on August 20, 1997, in which he kissed and applauded leaders of the Hamas and the Islamic holy war movements and warned that Palestinians were prepared to resume their violent revolt against Israel.

Since the signing of the declaration of principles between Israel and the PLO on September 13, 1993, over 200 Israelis have been brutally murdered in terrorist acts, many of which were plotted by individuals in areas controlled by the Palestinian Authority, repeatedly calling into question the PLO's compliance with its commitments.

□ 1415

Mr. Speaker, it has become increasingly clear that the leaders in the Palestinian Authority have yet to implement the specific pledges they made in numerous agreements to prevent incitement and hostile propaganda, to combat terrorist organizations and their infrastructure systematically and effectively, to apprehend and punish terrorists, and to confiscate illegal firearms.

Mr. Speaker, Congress did not reauthorize the Middle East Peace Facilitation Act, due to its conviction that the PLO was not complying with its commitments. This measure that is now before us expresses our collective outrage at this latest attack on civilian Israelis, and makes several recommendations.

We extend our deepest sympathies to the families of the victims and to the people and the Government of Israel with regard to this tragic loss of innocent human life. We express the commitment of the American people to remain dedicated to Israel's security in the face of this brutality and heinous act of terrorism.

Chairman Arafat and the Palestinian Authority must systematically and comprehensively eliminate the terrorist infrastructure in areas under its control, and it must fulfill the written commitments that the PLO made to Israel in Oslo, and to the United States and to the entire world.

PLO Chairman Yasser Arafat and the leaders of the Palestinian Authority must understand that Congress speaks in the strongest possible terms. The choices must now be made. Either they do what they solemnly pledged to do under the Oslo agreements to fight terror and the terrorist infrastructure in a consistent, serious, and sustained manner, or the entire peace process and relations with our Nation will be further undermined.

Our legislation also urges Secretary of State Madeleine Albright in a forthcoming trip to the Middle East to underscore to the Palestinians one distinct message. That is, if the Palestinian Authority does not fulfill its most solemn, single obligation of fighting terrorism relentlessly with all the means at its disposal, relations with our Nation will be seriously jeopardized. This legislation also expresses a belief that all U.S. assistance to the Palestinians be halted until such time as substantive compliance to their commitments under the Oslo agreement will be achieved.

I would like to take this opportunity to thank the gentleman from Indiana [Mr. HAMILTON], our ranking minority member, and the gentleman from California [Mr. BERMAN], our distinguished committee colleague, for their close involvement and original cosponsorship of this bill. I also want to thank those who cosponsored House Concurrent Resolution 146 on such short notice.

Accordingly, Mr. Speaker, I urge my colleagues to voice strong support for this measure, and request its urgent adoption.

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

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

Mr. Speaker, I want to first acknowledge the great assistance and aid in drafting this resolution of the gentleman from California [Mr. BERMAN], who cannot be here at the moment, without whose assistance and work this would not have been drafted.

Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank my friend, the gentleman from New York, for yielding time to me.

Mr. Speaker, I rise in strong support of this resolution. I have just recently gotten back from a trip to the Middle East, which I took with the gentleman from New York, Chairman GILMAN, and had the opportunity there to express my sense of outrage over the previous bombings in Jerusalem on July 30, and certainly my outrage is even more intense after the spate of bombings yesterday.

Let me tell my colleagues what I said to Mr. Arafat face to face on August 21. It was the day after he convened his so-called unity conference, and kissed the leader of Hamas, and embraced all the people in the Palestinian camp, including those who support terrorism.

I was very unequivocal and forthright, and told Mr. Arafat that he had to make a very important decision; that we in the Congress would not continue to fund the Palestinian Authority, we would not continue to fund any of these activities, unless he went after the terrorists, unless he went after them actively, unless he moved to break up their infrastructure, unless he fulfilled his commitments under the Oslo accords.

I have not been convinced, sadly, that he has fulfilled his objectives. We understand and we know that he can go after the terrorists if he so chooses. He has, unfortunately, this year chosen not to do so. Last year there were some times when he went after the terrorists. He went after them, he tried to break up their infrastructure, but we have not seen him do it at all this year.

When the Palestinian population was rioting in the town of Hebron, the riots went on for days and days and days, and when Mr. Arafat decided there was enough, he moved his police in and they effectively were able to quell the rioting. We know that there can be effective measures taken by Mr. Arafat to destroy the Hamas terrorist infrastructure. He chooses not to do so.

I would say to Mr. Arafat what I said to him face to face, and I will say it again and again. The ball is squarely in his court. He can no longer talk out of 16 sides of his mouth. Either you support terrorism or you do not. Supporting terrorism does not mean that you have to be the one to plan the actions. Supporting terrorism means that you know actions are being planned and you do nothing to stop it, you do nothing to destroy it, you do nothing to break it up.

Mr. Speaker, let us be very clear. The peace talks, the Oslo accords, the underpinning of the Oslo accords was combating terrorism. Terrorism cannot be equated with anything else. It cannot be equated with the building of homes, it cannot be equated with closures, it cannot be equated with collective punishment, so to speak. Terrorism has to stand by itself. If terrorism is not eradicated, if terrorism is not gone after, there can be no peace process, there will be no peace process, and there will be no peace.

Mr. Arafat has to decide. Terrorism cannot be used as a legitimate negotiating tool. That is what he is doing. He is looking the other way. He is winking at terrorism. He is saying, I did not plan it, I did not do it, I am not at fault. That is not enough. That is not good enough. How many more people are going to be killed and maimed, innocent people, including American citizens, killed and maimed by terrorist bombs?

I went in the latest trip to Hadassah Hospital and saw some of the victims. One of those victims was a 15-year-old Arab boy who had his leg blown off in the market in Jerusalem. Bombs do not know the difference between Arabs and Israelis or Americans or anybody else. Bombs kill and maim people.

I say to Mr. Arafat and to those with him in the Palestinian Authority, we in the U.S. Congress are not going to stand idly by and pretend there is business as usual. No leader of any country can continue to accept innocent civilians being blown up wantonly in the street.

I say that enough is enough. We are at our wit's end. Our patience is over in this Congress. Until we see the Palestinian Authority and Mr. Arafat actively go after the terrorists, actively break up the Hamas infrastructure, and actively do the things that we know he is capable of doing, we will not believe that he is serious in combating terrorism.

So I support this resolution wholeheartedly. I said it to him face to face, to Mr. Arafat face to face, on August 21, and I say it now in the U.S. Congress, exactly what I repeated to him, except I think it is even more important now. We will not stand for terrorism. We insist that the Palestinian Authority and Mr. Arafat live up to his commitments under the Oslo accords to fight terrorism, get at the root of terrorism.

If he does not do that, then there can be no peace process and the blame will rest solely at the foot of Mr. Arafat. The ball is in his court. He has to decide what he wants to do. Let us see some serious going after terrorism before I will vote for one more red cent for the Palestinian Authority.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I thank the chairman for yielding to me.

I rise in strong support of this resolution. I commend him, as well as the ranking member of the committee, and all my colleagues who have worked on behalf of this resolution. I certainly extend my condolences and condolences from the people of the 15th Congressional District to the people of Israel who have, again, been victimized by the terrorists, and in particular, by this very, very ugly form of political terrorism, the suicide bomber.

I had the opportunity as well to go to Israel in August and visited with the Prime Minister, Mr. Netanyahu, as well as the defense minister and the Arab negotiators. I additionally had the opportunity of visiting the Jerusalem market where the bomb exploded in July, and I personally, along with my wife, we were at the Ben Yehuda Street where this recent bombing occurred.

I can tell all of my colleagues that this is the most vicious, despicable form of terrorism that is imaginable, where you send suicide bombers into shopping markets where innocent men, women, and children are, and as very correctly pointed out by our colleague, Palestinians are actually in the area. They are blowing themselves up, in some instances.

Mr. Speaker, this is a form of mindless terrorism. What is extremely disturbing about all of this, as has been indicated by the previous two speakers, there is abundant evidence that Mr. Arafat has the ability to put a stop to this; that he has actually attended a meeting and spoken in support of Hamas, and Hamas has taken credit, responsibility, for this act. For Mr. Arafat to claim to be in support of peace, in my opinion, is hypocrisy. Some people have risen up and said he should return his Nobel Peace Prize, and I would say he should, at this point.

Just a few minutes ago in this body we rose and had a moment of silence in recognition of Mother Teresa, a woman who is recognized the world over for her work on behalf of the poor and the innocent, and the sacrifices she has made in her life in respect of human life. Yet, just 1 day ago we can see that others in another place in this world decided that they were going to take brute force in their hands and kill innocent women and children, innocent elderly people.

The problems that exist in the Middle East are serious, but they will not be moved forward, peace will never occur in the Middle East, as long as there are people in Hamas, in the PLO, that are willing to resort to these kinds of heinous acts in order to fulfill their ends.

I encourage all my colleagues to support this resolution. I again commend the chairman and the ranking member and all of my colleagues on both sides of the aisle for their work on behalf of this. I rise in strong support of this, and in opposition to terrorism in any place in this world.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Florida for his strong, supportive arguments.

Mr. NADLER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this latest atrocity in Jerusalem tears the heart out of all civilized people. It is another example of terrorism, which is a crime against all of us. It is not only a crime against all of us and against all concepts of civilized life, it is a crime against peace, and it is intended to be a crime against peace.

The whole campaign by Hamas and Islamic Jihad in the last 2 years has been a campaign of terror, to make sure there will be no peace accord between Israel and the Palestinians and the neighboring Arab countries. Unfortunately, Yasser Arafat, head of the Palestinian Authority and the Palestine Liberation Organization, has played into their hands, into the hands of the terrorists, and has done so deliberately.

He has his own political problems in the Palestinian constituency. We all appreciate political problems, but that is no excuse for allowing murder. It is no excuse for winking at murder, for encouraging murder. If the peace process collapses, as it seems to be doing, it will be on Mr. Arafat's head. The blame and the blood will be on his hands for playing with the terrorists.

We must all remember in looking at this the key element of the entire Middle East peace process. The key element is land for peace. Israel will trade land to the Palestinians, will give up sovereignty, will give up control of land, and how much land and which land is to be debated, to be discussed, to be negotiated, but will give up land in return for peace.

□ 1430

But this is not a symmetrical process. Land is tangible and once given up is very difficult or impossible to recover. Peace is a promise. So the peace process is that Israel gives up tangible land in return for a promise. And the peace process says we will spend a few years developing confidence.

But what kind of confidence can Israel develop that she will be allowed to live in peace and security once she has given the Palestinians everything they are going to get, everything they want; if she is continually attacked and if men, women, and children in the streets of Israel are continually attacked by terrorist bombs; and if Mr. Arafat holds a day of unity with the terrorists, with the bombers, and kisses one of their leaders; if Mr. Arafat, when there is a terrorist bombing and the world is aghast, says to his people, Round up the usual suspects, and a week later releases them; when Mr. Arafat has broken every commitment so far he has made under the Oslo accords?

Mr. Speaker, remember some of those commitments, some of the easy ones. Arafat and the Palestine Liberation Organization is supposed to repeal those provisions of the Palestinian charter that call for the destruction of Israel and for the murder of its entire population. They have not done so. A document that calls for genocide, they cannot repeal. They promised to do so in 1993. They did not do it.

When Israel gave up Hebron, withdrew her troops from Hebron last year, the promise was that they would repeal that charter within 2 weeks. That is a year ago and they have not done so. There cannot be an agreement, there cannot be a peace process if Arafat and Company continue to wink at terrorism and do not bring everything to bear, all their forces to bear to stop it.

We know that Arafat talks out of both sides of his mouth and uses violence and the threat of violence as a negotiating weapon. As the gentleman from New York [Mr. ENGEL] said before, when the stone-throwing mobs and the mobs that were shooting at Israeli soldiers last year with slingshots and other weapons were suddenly told by Mr. Arafat, ''Stop,'' they stopped.

There can be no peace process if Arafat does not finally decide, if he is not persuaded by American pressure, by other pressure, by maybe common sense, that he must stop trying to coddle the terrorists, he cannot do business with them, and if there is going to be a peace, he must crack down and do everything in his power to stop the terrorists.

Mr. Speaker, in the United States we have gone a long, long way in turning our eyes; to give him the benefit of the doubt; to say maybe he is not coddling the terrorists; let us continue giving him aid. But I think we have come to the end of that road. We should have come to the end of that road a while ago.

Mr. Speaker, I strongly support this resolution, and I say to Ms. Albright, the Secretary of State, and the President, the one major purpose of that trip next week to the Middle East must be to convince Mr. Arafat that if the peace process is not going to be broken down, war resumed, and everyone blaming him, he must crack down on the terrorists. He must be seen doing it, and there must be confidence that there is someone there worth negotiating with and not simply a snake in the grass.

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

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

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

Mr. LANTOS. Mr. Speaker, I want to commend the gentleman from New York [Mr. GILMAN], my good friend and the distinguished chairman of the Committee on International Relations, for introducing this resolution.

Mr. Speaker, it seems we were here just a few weeks ago dealing with an identical resolution, at which time we all hoped that perhaps we saw the last of these monstrous terrorist attacks on innocent women, children, and the elderly in the streets of Jerusalem.

Apparently, Mr. Speaker, the series of outrages have not yet ended. But the hypocritical charade of Yasser Arafat is at an end. This corrupt dictator who has misconstrued the patience of the Congress and the American people must now understand that our patience has been exhausted. We will no longer tolerate his embrace of the leaders of terrorist gangs. We will no longer tolerate the double-talk that on American television emphasizes the importance of the peace process, while in the streets of Gaza and the West Bank whips up sentiments of hate, violence, and bloodshed.

Mr. Speaker, Secretary Albright is going to the region at a critical moment. She has the full support of this body and of the American people in making it clear to Yasser Arafat that the game is over. This corrupt dictator can no longer play along with the goodwill and the patience and the genuine desire of the American people and the American Congress to see a peace evolve between the Palestinians and Israel.

Mr. Speaker, we will not tolerate one more school girl's body torn apart by terrorist bombs without full, significant retaliation. The infrastructure of the terrorists must now be destroyed by Arafat. If it will not be destroyed by Arafat, it will be destroyed by the Israeli defense forces, because to continue this series of terrorist attacks in the city of Jerusalem is simply unacceptable by the civilized world.

Mr. Speaker, our President spoke forcefully and eloquently on this subject. The American people are united behind the policy of firmness. Yasser Arafat must understand that the clock has now struck 12. He will either destroy the terrorist infrastructure or that infrastructure will be destroyed for him.

As the only survivor of the Holocaust ever elected to this body, I witnessed at close range the mass murder of 6 million innocent people. I am sick and tired of seeing this process repeated piecemeal in the streets of Jerusalem.

Our patience is now at an end. We have suspended aid, but that is only step No. 1. This Congress and the American people are determined that the bloodbath in the streets of Jerusalem can no longer continue. We are anxious for peace, but for peace to take place the terrorists must be exterminated, their infrastructure destroyed, their embrace ended, and a truly genuine attempt at reconciling the long-suffering people, the Palestinians and Israelis, must at long last begin.

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

Mr. NADLER. Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. SHERMAN].

Mr. SHERMAN. Mr. Speaker, 2 weeks ago, along with the gentleman from

New York [Mr. GILMAN], I had a chance to visit in Hadassah Hospital Intensive Care Ward with several of the victims of the last atrocity in Mahane Yehuda Market, and I saw not only the pain but the indiscriminate effect of these acts of terrorism.

One of the individuals we visited was an Arab boy, the other a Lutheran minister. And just as that memory seared of looking at the faces of those, and the hands still burned, of those who suffered from that atrocity, we face another atrocity at Ben Yehuda Market, and 7 deaths and over 100 wounded.

There is something that can be done, not to ease the suffering of the families, but at least to say: Never again. It is time for Yassir Arafat to change that Palestinian charter the way the gentleman from New York pointed out. It is time for him to crack down on the Hamas' infrastructure the way the previous gentleman from California remarked. And it is time for Mr. Arafat to go to every Arab capital and say, Now is the time to end hatred and venom against the Jewish people from Tehran to Libya, because Israel has already made unforced territorial concessions.

Mr. Speaker, there is more that the United States can do. Yes, our Secretary of State can and should go to the Middle East to focus exclusively on security for Israel and for an end to terrorism. But there is one other thing we can do.

There was a besieged city in the early 1960's, Berlin, and our President went there to show solidarity and he said, ''Ich bin ein Berliner.'' Now Jerusalem and its people are under siege from terrorism and there is something of equivalent import we can do, and that is move the U.S. Embassy to Jerusalem now, without reservation, without condition, and making it plain that we stand with the citizens of Jerusalem as they stand against terrorism. It is time for everyone to do what they can to make amends for this tragedy.

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

Mr. Speaker, I thank the gentleman from California [Mr. SHERMAN] for not only his comments today, but for being with us when we went to the hospitals to pay our respects to the victims and also to conduct a memorial service at the marketplace where the last bombing took place. And, Mr. Speaker, I take this opportunity to thank all of my colleagues for their support of this measure.

It is with a great deal of outrage and frustration, however, that we once again have to consider this kind of legislation. Let us hope and pray that we will not have to take up any more measures extending our sympathies to the families of the people of Israel as a result of the violence at hands of terrorists.

Mr. Speaker, I ask unanimous consent to turn over the balance of my time to the gentleman from Nebraska [Mr. BEREUTER] vice chairman of our Committee on International Relations, and that he be permitted to control that time.

The SPEAKER pro tempore (Mr. GIBBONS). Is there objection to the request of the gentleman from New York?

There was no objection.

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

Mr. Speaker, I say to the gentleman from New York [Mr. GILMAN] before he leaves, that I want to express my appreciation for the gentleman's efforts in bringing this to the floor. It is my hope that this resolution will help lead from the crossroads where we are now, whether we will go down the road to war in the Middle East or to peace, that this resolution will be a milestone, hopefully, on the road to peace.

Mr. Speaker, I urge unanimous adoption of the resolution, and I yield back the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise with a heavy heart in full support of this resolution expressing the sense of Congress regarding the terrorist bombing in Jerusalem yesterday.

I am, like many of my colleagues, a strong advocate for a negotiated peace in the Middle East and have felt with each attack a renewed sense of urgency to move forward in this process.

On the behalf of the residents of the 18th Congressional District, I offer the families of the people killed and the people injured our sympathy, but also our encouragement in their search for a lasting peace built on the work set forth in Oslo.

The rule of chaos and lawlessness must not win the day, or the dawn of the next century will not bring the unlimited promise that peace in the Middle East could offer this generation and the next.

I have two school age children who understand that unrest anywhere in the world threatens the security of the world that they will some day inherent. I would hope for the children of the Middle East that the conflicts of the past not be adopted as their own, but left in the past where they belong.

I would ask that all Americans join in the efforts to bring all sides in the Middle East peace process back to the negotiating table. That those who cater to or support terrorist activities are working against the Palestinian people and preventing them from reaching their full potential.

I would also ask that all who have influence on the parties to the peace process aid them in moving toward each other and not be controlled by the bombmakers.

Mr. BERMAN. Mr. Speaker, I rise today as a cosponsor of the concurrent resolution now before this House expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997.

The choice in the Middle East is clear: PLO Chairman Yasser Arafat must do everything possible in his power to aid Israel in fighting the scourge of terrorism or the peace process begun so hopefully in Oslo will die at the hands of Hamas suicide bombers.

That the peace process has been in trouble in recent months, there can be no doubt. That fault can be found with both parties in implementing their commitments under Oslo, there can be no doubt as well.

But now is not the time to engage in verbal score keeping. Now is the time for a clear commitment by Chairman Arafat to keep his solemn pledge to combat terrorism.

The blood spilled on Ben Yehuda Street demonstrates all too vividly that the leaders of the Palestinian Authority have not implemented the promise made in the context of the Oslo peace process to: First, prevent incitement and hostile propaganda; second, combat terrorist organizations and their infrastructure systematically and effectively; third, apprehend and punish terrorists, and fourth, confiscate illegal firearms.

Chairman Arafat's solemn promise to do everything possible to fight terrorism is at the heart of the peace process. It was his sacred oath to the Israeli people. He must keep that promise for the Israeli people to keep their faith in Oslo.

I urge my colleagues to support this concurrent resolution. Its message is clear: There can be no progress toward peace nor American support for the Palestinian Authority unless Chairman Arafat fulfills his obligation to fight terrorism. The hopes of both Israelis and the Palestinian people depend on Chairman Arafat fulfilling his promise of peace.

Mrs. MCCARTHY of New York. Mr. Speaker, I would like to extend my deepest sympathies to the families of those caught in the senseless bombing that shattered the fragile peace and security to which so many in Israel cling.

Yesterday, three suicide bombers entered the main pedestrian area in Jerusalem and within minutes of each other set off three bombs killing themselves and three and injuring at least 165. The injury toll is still climbing.

Watching the carnage, I shuddered how just last week I had walked down some of the very same streets where this violent attack occurred. In fact, I shopped at the stores located in this crowded area and spoke with the shopkeepers about the recent United States warning against travel to Israel. Those streets are crowded with tourists from around the world; residents out for a stroll or enjoying a quiet lunch, and students. Within walking distance of this area is the hotel where I stayed.

Senseless and cowardly acts of terrorism like this bombing must stop. They do nothing to advance peace in the Middle East.

This time, apologies like those given after the July 30 bombing will never bring about a peaceful resolution. The Palestinian Authority must honor its solemn promise to combat terrorism. If this does not happen, America will be forced to reconsider its willingness to deal with the Palestinian Authority.

Knowing how it feels to have your life turned upside down by violence, I would like to extend my deepest sympathies and ask the American people to keep the families of those injured and killed in their prayers.

□ 1445

Mr. BEREUTER. Mr. Speaker, I wish to express my support for the resolution. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore [Mr. GIBBONS]. Without objection, the previous question is ordered on the concurrent resolution.

There was no objection.

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

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ADJOURNMENT TO MONDAY, SEPTEMBER 8, 1997

Mr. PAUL. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. PAUL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

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

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

KOREAN AIR FLIGHT 801 TRAGEDY

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

Mr. UNDERWOOD. Mr. Speaker, while the rest of the Nation has turned its attention to other matters, we on Guam are still reeling from the aftermath of the worst air disaster in our island's modern history.

On August 6, 1997, at approximately 1:42 a.m. Guam time, a Korean Air Boeing 747 enroute from Seoul to Guam crashed into a hill 3 miles short of the runway at the airport. The jumbo jet carried 254 people, 228 of whom have perished. The last victim of flight 801 was Mr. Chung Yong-hak, who died on September 3 while being treated at Brooks Army Medical Center in San Antonio, TX.

I rise today to express the people of Guam's condolences to the family and friends of the crash victims. We shared their pain most intimately, not only because it was on our soil but also because the people on that plane were not entirely strangers. Nationalities and citizenship aside, there were mothers and fathers, brothers and sisters, sons and daughters, aunts and uncles, friends and neighbors who were coming home or looking forward to a visit.

Guam is a small community and a significant number of our population were touched by the loss of someone known to them in some way. Among the dead, eight were returning Guam residents of Korean descent. And among the survivors, there were four returning home.

Last December I had the pleasure of sitting with Mr. Kenneth Kim of Tamuning as his daughter, Yuri Kim, was being sworn in as an officer of the American Foreign Service. Yuri's first assignment is at the U.S. Embassy in Beijing. She traveled to Guam, first to await word and then to mourn the death of her mother, Jane, who was among the passengers of that ill-fated flight.

Mrs. Jane Wha-Young Kim was active in community service affairs and served as president of the Guam Korean Women's Association. She was laid to rest on August 18, 1997, and is survived by Kenneth, Yuri, and her son, Yong Sae. The Kim family will carry on and I, along with their friends, will offer solace as best as I can.

The Dahilig family has also been severely affected by this tragic event. Mr. Mike Dahilig of the village of Dededo, his sons, Richard and Michael, his father-in-law Young Min Kim and his many brothers and sisters are making preparations to inter Mike's wife Joung-Ok and their 1-year-old son Mitchell.

I want to express to them again and to all the families of Korea Air Flight 801 our deepest condolences. Whether to respond to the ravages of typhoons or earthquakes, the people of Guam have always pulled together as a community and worked cooperatively to attend to one another's needs.

In the early hours of August 6, our abilities were challenged to the maximum, but I stand proudly today to say that civilian and military personnel and volunteers from all sectors of our community joined forces, not merely as a consequence of training and function but in the spirit of kindness and compassion.

By 6 a.m. on the morning of the crash, more than 500 civilian and military rescue personnel were on the site, which is in plain view from the roadside on Nimitz Hill but unaccessible by motorized vehicles. Rescue personnel, carrying what equipment they could manage, clambered down a steep ravine and up the other side. Desperately trying to reach survivors, they trekked for a mile and a half through mud and swordgrass.

To reach the crash site, bulldozers widened a narrow utility road leading to a navigational beacon just yards from the crash site. Additionally, cranes were utilized to lift debris and wreckage so that victims and survivors could be reached. None of the first rescue personnel ever gave up hope of saving lives. As if unsatisfied with the toll on human life, the crash of Korean Air Flight 801 also claimed the life of an Air Force volunteer who suffered a heart attack while assisting at the crash site.

Mr. Speaker, America can be proud of its men in uniform, men and women in uniform, who were stationed on Guam. The Navy, on whose property the crash occurred, the Air Force, the Coast Guard, the Guam National Guard, and the U.S. Army all responded quickly, professionally, and compassionately.

The U.S. Army delegation was composed of airline crash investigators from the Army Central Identification Lab in Hawaii who just happened to be on Guam to examine a World War II B–29 crash site.

Men and women from nearly every department and agency of the Government of Guam rallied to meet the crisis, either as professionals or volunteers. The Guam Fire Department, the Guam Police Department, Guam Airport Authority, Office of Civil Defense, Departments of Mental and Public Health, Public Works, Parks and Recreation, Labor, Corrections, Youth Affairs and the Energy Office, the Governor's office, all allocated equipment, supplies, and personnel to meet the rescue and treatment efforts.

Guam's business community also offered their full support. From Continental Airlines to small businesses like a McCrory Store, Little Future, Boonie Dog Designs, numerous establishments offered their time and energy. Churches of every religious denomination, nonprofit, civic organizations, and educational institutions lent their support.

As a result, the Guam Chapter of the American Red Cross was able to deliver more than 9,000 meals to crash site workers and offer nearly 2,000 grief support encounters in the 7 days following the crash. No one likes to point out that this is an opportunity to see the community work together, but the people of Guam certainly could be proud of their effort.

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

AUGUST 11, 1997.

His Excellency KIM YOUNG SAM,
President, Republic of Korea, Presidential Palace, Seoul, Korea.

YOUR EXCELLENCY, The courage, strength and stamina of Asian-Pacific people in times of adversity are legendary. Sadly, we know that the great people of the Republic of Korea must again call upon these inherent qualities to bear the terrible tragedy of the loss of Flight 801. In this, we, the people of the Territory of Guam, join you in pain and sorrow, and offer this message of hope: we have unfaltering confidence in the legacy of the Korean people to triumph over adversity. Together, we shall attend to the painful and difficult tasks at hand; together, we shall endure this tragedy; and together, we shall grow stronger in respect and friendship.

On behalf of all the people of Guam, we send our deepest and most heartfelt condolences to you, the families and friends of all

the victims, and to the people of the Republic of Korea. Please know that we are doing all we can to assist the families in any way possible, and that we stand ready to do more if need be.

Yoo Gam Eul Pyo Ham Ni Da. Si Yu'us ma'ase,

CARL T.C. GUTIERREZ,
Governor of Guam.
ROBERT A. UNDERWOOD,
Member of Congress.

[From the Pacific Daily News, Aug. 21, 1997]

CANCELING FLIGHTS IS THE WRONG RESPONSE TO GUAM KOREAN AIR CRASH

Korean Ministry of Transportation and Korean airline company officials may have overreacted to the recent crash of Korean Air Flight 901.

That reaction may be an economic blow to both Guam and Saipan, and can be interpreted as shifting blame away from Korean Air and putting it on Guam International Airport Authority and the Federal Aviation Administration.

According to Asiana Airlines, the company will suspend all flights to Guam until Sept. 12, when the glide slope at the Guam International Airport is supposed to be repaired.

That decision follows a Korean Ministry of Transportation recommendation to stop night flights.

Korean Air has restricted its Guam-bound flights to daylight operations and has completely canceled all flights into Saipan until Oct. 25.

These changes may result in significant losses in tourist revenue until service is fully restored.

The reason for the crash hasn't been established, but National Transportation Board officials in early statements were clear that the inoperative glide slope and a malfunctioning altitude warning system did not cause the airliner to go down.

In fact, other airline companies have not let the crash or equipment inadequacies alter their schedules. They continue to fly safe night approaches and landings into Guam's airport. Their pilots seem confident they can handle flights here.

If Korean airline companies are concerned about flying into Guam at night, then perhaps they should stop all night operations until this crash is thoroughly analyzed.

There are certainly plenty of challenging and even more dangerous approaches to other airports where these airlines fly.

It doesn't make sense to restrict flights coming to Guam and Saipan without taking similar action elsewhere.

Instead, this appears to single us out and summarily put the blame on U.S. air controllers, flight safety operations and navigational equipment at airports on Guam and Saipan.

It would be much more constructive, in fostering international relations and developing safer flights procedures, to work more closely together on this problem, than to appear to single us out for retribution.

OFFICE OF THE GOVERNOR,
TERRITORY OF GUAM,
August 27, 1997.

Hon. JOONG YOL AUN,
Consul General, Consulate General of the Republic of Korea, Agana, Guam.

DEAR CONSUL GENERAL AUN: The Government of Guam would like to extend its appreciation to the Consul General for his expression of interest in the modalities of rescue procedures carried out by emergency personnel of the Government of Guam and the United States Government following the tragedy of Korean Air Flight 801. We request the indulgence of the Consul General in understanding that our responses represent the views of the Government of Guam, and all references to actions by the U.S. military should be reconfirmed by them. We request that the facts be considered without prejudice.

A. Although there was some initial traffic congestion, a broken fuel pipeline damaged by the aircraft blocked the closest road to the crash. In addition, it must be pointed out that the road itself did not lead directly to the site. The aircraft crashed in an uninhabited and hard to reach area. Fire trucks could not have reached or been driven down to the wreckage because there was no path or road leading to it. Additionally, witnesses who first reached the scene indicate that intense heat made certain areas inaccessible from the moment the crash occurred. They report it is nearly impossible for anyone to have survived the fire in those areas, which erupted immediately upon impact.

B. Throughout the rescue phase, every effort was made to save all possible survivors. This priority was first and foremost on the mind of everyone on the scene that night. The brave men and women who were part of the rescue effort were at constant risk throughout the operation. The commanders on scene determined that it was impossible for any passengers to still be alive in the areas burning, areas which were burning for over a half-hour before rescuers could reach the scene. Firefighters on the scene, professionally trained to determine the best course of action in such situations, indicated that dousing the wreckage with water would do little in the way of extinguishing the fire. In fact, spraying water on the wreckage could have posed an even greater risk if pressurized hoses spread pieces of burning metal onto survivors or rescue workers. Water could also have dispersed burning fuel to unburned areas, and the use of Halon, a firefighting agent, could also have posed a health hazard to survivors or rescue workers. In some areas of the wreckage, temperatures were estimated to be as high as 1100 degrees Fahrenheit. Additionally, a decision was made by the Navy to use the helicopters to fly survivors to the hospital, rather than drop water. A water drop could very easily have injured or killed more survivors or rescue workers.

C. The ''explosion'' referred to in your letter of 3:24 a.m. on August 6, was, according to preliminary reports, in an area of the wreckage that did not contain survivors, and while the immediate sound and flying debris was noticed by rescue workers, it did not have any significant impact on the rescue efforts underway, nor on the number of survivors pulled from the wreckage. At the time of the explosion the fire was generally confined to the fuel tank area of the wing, and did not endanger any survivors.

I would also like to note that ABC News, one of the agencies that first put out erroneous reports on the rescue efforts, has retracted its inflammatory and false statements, and the retraction has run on the ABC internet page.

Finally, I would like to sum up by saying that you have my personal assurances, having been one of the first individuals on the crash site, that the Government of Guam, the U.S. Government, and all the civilian volunteers involved, did everything within our power to rescue the survivors of Korean Air Flight 801. Dozens of brave men and women put their lives on the line to save every person who could be saved. I would also like to note that a full investigation into the cause of the crash will be issued by the National Transportation Safety Board, and until that time, official reports on the crash and the conduct of everyone involved will be under review.

I trust this letter will satisfy your concerns. The Government of Guam, Sir, wishes to take this opportunity to extend to the Consul General the assurances of our highest consideration.

Very truly yours,

CARL T.C. GUTIERREZ,
Governor of Guam.

ON BOSNIA

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

Mr. PAUL. Mr. Speaker, I have asked for this time today to express my deep concern for the recent military buildup in Bosnia.

I think this is a dangerous situation and I would like to call it to the attention of my colleagues here in the Congress. This is something that has been going on for a long time.

Many of us have tried to get our troops out of Bosnia and out of harm's way, but so far that has not been the case. Yesterday, the U.S. Defense Department announced that they would be adding more aircraft in this region. There will be 6 more F–16's sent to this region, taking the total number up to 24. They will be flying out of Ariano, Italy, and the purpose is to patrol the Bosnian skies.

The purpose that is stated is to provide deterrence and to provide a peaceful situation to a very difficult problem that has existed not for a few months or for a few years but for decades, if not hundreds of years in this region.

Instead of providing deterrence and a peaceful effort being made here, I believe our contribution is going to do nothing more than escalate the problems of that region.

The recent buildup has also been said to be necessary because it is supposed to guarantee an election process. During the last year there were two attempts to hold elections in this region but, due to the political turmoil there, the elections have had to be canceled. Again, they are trying to have another election. Our presence there is supposed to provide the stability to a region that is inherently unstable, and I challenge this notion whether or not this can even be achieved.

In addition to the troops and the aircraft that have gone in, we are sending, the international bodies have sent in 2,600 election monitors. The odds of this providing stability to an election are very, very slim.

Last month there were some additional troops sent into Bosnia. Not much was said about this. There were not very many reports in the media regarding this, certainly no discussion here in the Congress. But we have had 8,000 troops stationed in Bosnia. We have added 1,600 more. So we are now in the process of adding aircraft and adding personnel in a situation which puts our troops in jeopardy. It was not too long ago that our troops were stoned and homemade weapons were used against them.

The NATO forces just recently took control of a television transmitter and said that the information over this transmitter was not acceptable. Just recently that transmitter was returned in hopes that the return of the transmitter to the Serbs would calm the personnel there, the people there, so that the elections could be carried out. But just the thought of taking over the transmitter is one thing. But the conditions that were placed on the Serbs in the return of the transmitter is something else again.

Our Pentagon official threatened the Serbs that if they violated the instructions that were given the television station, it would be a clear cut justification for NATO forces to retaliate. In the best of diplomatic jingoism, our Pentagon official, as quoted in the Washington Post, said, if they do not comply, we will whack them.

Hardly do I think this policy will lead to peace and a wonderful election. I really challenge the Congress here for us, in the continuation of the funding of a military operation that is doomed to fail. It is a real tragedy that we get promises made by the administration.

The troops were supposed to be in there until December 1996 and here they are, another year, supposedly, they are supposed to come out next July, but the way things are going there and by the way we comply, we are complicit in this operation and provide the funds, the odds of our troops being out of there next July are very, very slim.

This raises the question about overall policy. Traditionally, the American foreign policy, up until the latter part of this century, has been that we should have a policy of noninterference, nonintervention in the affairs of other nations and also that of neutrality with all nations.

This is proper under the Constitution. This has been traditional. Instead, we should be concentrating on national security issues. We should be concerned about what the American position is, and we should not pretend that we know what is best for everybody because we do not.

TRIBUTE TO THE ACERRA BROTHERS BASEBALL TEAM

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

Mr. PALLONE. Mr. Speaker, I want to take the opportunity today to pay tribute to the Acerra brothers baseball team.

Mr. Speaker, the Acerra brothers who grew up in my hometown of Long Branch are a unique phenomena in the world of baseball. The 12 brothers played club baseball for 14 years, from the late 1930's to the early 1950's. And they were inducted in June of this year into the National Baseball Hall of Fame and Museum in Cooperstown, NY, 45 years after their final game.

There are now seven surviving brothers, Paul, Alfred, Robert, William, Fred, Edward, and Richard, and they all attended the ceremony and obviously were very proud to do so.

□ 1500

During that era when the baseball team was active, there were some 16 or so what they call all-brother baseball teams on file at Cooperstown, but no other all-brother team played as many years or accomplished as much as the Acerra brothers of Long Branch. They played in a circuit that included teams from New Jersey, New York, Pennsylvania, and Connecticut. The team stayed together even during World War II, even though six of the brothers enlisted in the service at various times. When the Acerras were being scouted by major league teams, their ages ranged from 17 to 40 years old. One brother, Alfred, continued to play catcher after having lost an eye while playing ball. Besides baseball, the brothers excelled in football, basketball, golf, softball, swimming, and bowling. Their achievements were extensively covered in newspapers and on radio and television and obviously they are very well known in my hometown of Long Branch and in the surrounding area where they and their children and their grandchildren continue to live.

While compiling remarkable statistic feats on the field of play, the Acerra brothers never lost sight of the sense of family, and I cannot express that enough. These brothers were all and had a very strong sense of family. Their father, Pop, never missed a game and was active in coaching. Two of the brothers were offered professional contracts but turned them down because they did not want to leave their mother and break up the family team. There was another brother who turned down a football scholarship for the same reasons.

Mr. Speaker, it is really a great honor for me to join with the Baseball Hall of Fame in paying tribute to the great accomplishments of the Acerra brothers baseball team and to extend my best wishes to the entire Acerra family and many of their friends. I am going to be with some, if not all, of them this Sunday where we are also going to be paying tribute at an event in Long Branch to them and I am just very proud of them and all that they have accomplished. They certainly bring a great sense of pride to my hometown of Long Branch, NJ.

STOP THE THEFT OF OUR SOCIAL SECURITY NUMBERS

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

Mr. FILNER. Mr. Speaker, many of my constituents have alerted me to a serious attack on our personal privacy, and that is an insidious practice that has become known as identity theft. Amazingly enough, this theft is facilitated by a public agency, the Internal Revenue Service, which aids and abets this theft not through the Internet or any high-technology means but through the U.S. Postal Service.

Yesterday I introduced a bill which I entitled the Stop the Theft of Our Social Security Numbers Act. This will prohibit the IRS from including our Social Security numbers on the mailing labels of the tax booklets the IRS mails us every year. It will also stop the IRS from printing Social Security numbers on the refund checks that millions of people receive annually in a way that numbers are visible when mailed.

Identity theft is one of the fastest growing crimes of this decade. Identity thieves make off with billions of dollars each year and each day more than 1,000 people are being defrauded. With just your name and your Social Security number, a thief can open credit lines worth $10,000, rent apartments, sign up for utilities, and even earn income. Your credit rating is ruined, you risk being rejected for everything from a college loan to a mortgage, and it is up to you to fix it all. Law enforcement will generally not pursue these identity theft cases.

In light of this, making it even easier for identity theft by allowing public view of Social Security numbers on IRS mailings and refund checks seems criminal. Yet that is precisely what the IRS is doing. Taxpayers all know that their Social Security number appears just above their full name and address on tax booklets. It appears the same way on refund checks and is clearly visible through the window on the envelope. What more can the IRS do to aid the theft of your identity? Hand mail the thieves and unscrupulous people who might handle your mail your mother's maiden name?

When I brought this to the attention of the IRS, I was told that there is no way that IRS can change this practice before the 1999 tax season. I find it incomprehensible that neither this agency nor its contractor can change a computer program for booklets that will be mailed out for 1998. The IRS apparently has decided to be the conduit for identity theft with the Postal Service as a de facto accomplice.

My bill will force the IRS to make this change in time to protect one of the most precious keys to our personal information, our Social Security number, before the coming tax filing season. To do any less would expose millions of us to devastating personal and financial losses and the most important loss of all, our good name.

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

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

TIBET—A FIRST-HAND LOOK

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Virginia [Mr. WOLF] is recognized for 60 minutes as the designee of the majority leader.

Mr. WOLF. Mr. Speaker, I appreciate this opportunity to have this time.

I recently returned from a journey to Tibet where I visited during the period of August 9–13 this summer, accompanied by a member of my staff and another Western man who was fluent in Tibetan and steeped in the culture. At no time while I was there did I tell the Tibetan and Chinese Government that I was a Member of Congress. I wanted to just kind of bring the body up to date on some of the things that we had an opportunity to see.

At the outset, one of the first things I would show the Members is a picture of a monastery in ruins. The Chinese Government has ruined several thousand monasteries and is trying to eradicate the Buddhist faith.

The second picture is a picture of an individual who was showing us a picture of the Dalai Lama. It is against the law to have a picture of the Dalai Lama and to show a picture of the Dalai Lama.

The next picture is a picture of the Potala and then the marketplace. Around the marketplace, the Chinese are bulldozing a lot of the buildings and turning what was a Tibetan culture into a Chinese culture.

This next picture is of a guard tower. If there is one growth industry in Tibet, it is prisons. It is a guard tower of the Sangyip prison complex. We went out and visited a number of prisons outside to take pictures.

The last picture is the main gate of the Drapchi prison, which is a particularly brutal place that we heard stories of terrible, terrible punishment and types of torture that are really almost beyond the imagination.

An approved delegation would have been very difficult to have been there because the Chinese have a history of denying Members of Congress who want to visit, visit Tibet. I cannot think of any other place in the world where a tighter lid is kept on open discussion. Government agents and spies and video cameras guard against personal outside contact. Offenders and even suspected offenders are dealt with quickly and brutally.

In Tibet, humane progress is not even inching along and the repressed people live under unspeakably brutal conditions in the dim shadows of international awareness. One of the purposes of the trip is so that the world will know and will have to face and have to address, and the Clinton administration, which will be meeting with the President of China at the end of next month, will have to confront and address the horrible situation that is taking place in Tibet. We hope that when the American people know and when the Clinton administration knows that they will demand that China change its policy of boot-heel subjugation and end what one monk I met termed ''cultural genocide.''

What they mean by cultural genocide is the Chinese are coming in and stripping the Tibetan society of its culture and trying to turn it into a Chinese society. The fact is Lhasa, the capital, is really no longer a Tibetan city. It is more a Chinese city than it is a city from Tibet.

We found that the People's Republic of China has a near perfect record of vicious, immediate, and unrelenting reprisal against the merest whisper of Tibetan dissent. We met with monks and men and women on the streets and others who I may say risked their personal safety and well-being to just give us a few minutes alone to tell us how bad the conditions are in Tibet and to petition and urge that there be support from the West.

Tibet is about the geographic size of Western Europe with a Tibetan population of around 6 million. It has been estimated that in the past 2 decades, nearly 1 million Tibetans have been killed, starved, or tortured. That is 1 million out of roughly 6 million have been killed under the occupation of the People's Republic of China, of the Chinese Government. Let me just say that the Clinton administration ought to make it perfectly clear that 5 million Tibetans are of no danger to 1.2 billion Chinese. Tibet is about the geographic size of Western Europe with a population, as I said, anywhere from 5 to 6 million. The People's Republic of China has undertaken a program of mass infusion of Chinese people who probably now outnumber Tibetans in their own country. There are no valid census data, but some estimate that in the capital of Lhasa there are about 160,000 Chinese and only 100,000 Tibetans.

In this market, many places would be Tibetan merchants but interspersed would be Chinese merchants. But yet when we went into the parts of town that were Chinese, there would be almost no Tibetans and the stores and the karaoke bars and different things like that would be all over the place. We have seen that change, the startling change that is taking place by the stripping away of the culture. Stores, hotels and bazaars and businesses and tradesmen are largely Chinese. Storefront signs bear large Chinese writings beneath much smaller Tibetan inscriptions. Driving out from Lhasa, one encounters as many Chinese villagers, shepherds, farmers, construction workers, and travelers as Tibetan. In short, Tibetan culture is rapidly disappearing.

What do the Tibetan people say? Before my trip, I was told that individuals would seek me out, an obvious Westerner, visitor, to hear their story. I might say at no time did I ever tell anyone in Tibet that spoke to me or anyone else that I was a Member of Congress. I was told that it would be very dangerous for them, that informers were everywhere and being caught talking to a Westerner was a guaranteed ticket to prison and more. Frankly I was skeptical that anyone would approach us and yet I was wrong. Someone took advantage at almost every opportunity for a guarded word or two.

During our first encounter with a Tibetan who realized we were Westerners and one of us was fluent in Tibetan, we found that he could not contain himself. He said, ''Many are in jail, most for political reasons.'' We saw the Drapchi prison which is off the beaten path in a slum area. Guards in pairs were ever present as we showed in the photo. We saw the Sangyip prison complex, which I also put in the photo and then Gusta prison.

As I said, prisons certainly appear to be a growth industry in that area. We were told that Tibetans would not take chances, and yet they did take chances. The man went on to tell us that it was important that we see these places. He did not care and he wanted us to see what a nightmare tour this was going to be. We passed the main security bureau, the intelligence headquarters, and then the prison bureau, each heavily guarded. All the while, we heard about monks and nuns and common men and women who were dragged away to prison and tortured. He said to us, ''Don't worry about me at all,'' and continued to tell about the torture that was taking place of Tibetan monks and nuns and the Tibetan people.

□ 1515

They are routinely beaten with sticks, kicked and poked with electric sticks, cattle prods with huge electric charge. Political prisoners are isolated from the general prison population and kept in unlighted and unheated areas with no sanitary or medical facilities, almost no food or water at times. He added that the people have no rights. They cannot talk freely.

Even though Tibetans view the Dalai Lama as their spiritual and political leader, they are forbidden to show their affection and love for him, and possessing a picture of the Dalai Lama could be an offense which could draw harsh and brutal punishment and imprisonment.

He went on to say, ''We Tibetans must have permission from the Chinese to do everything, and we can do nothing on our own.'' So when Clinton gets the opportunity to meet their President, when our President meets their President, he should make the issue of the Tibetan people a priority issue, not privately, but publicly; not behind the scenes, but in front of the scenes.

Strangely enough, strangely enough, the Chinese Government officials have gotten to visit the White House to meet with the President, and yet when the Dalai Lama came, they had what they called a ''drop-by,'' where the President dropped by another office,

but would not see him in the Oval Office, as he did some of the people from China.

Why should the Tibetan people have to go through and suffer under this type of oppression? The Dalai Lama has asked for help. They have asked a number of Western countries for help, and a number of Western countries are helping.

All of this story that I was telling came from one man. The agony, the agony of his people, the agony of his family. Yet he ended by saying, ''I am not afraid. Some day the sun will again shine in Tibet.'' And throughout we found overwhelming support for the Dalai Lama by every single Tibetan that we talked to.

Yet, if you read the Chinese newspapers, they give the impression that the Dalai Lama is not supported. Quite frankly, the PRC Government is wrong, and the people of Tibet support the Dalai Lama.

On the issue of religious persecution, next week this body will hold hearings on a piece of legislation introduced by about 115 members of this body, Republicans, Democrats, conservatives, liberals, Independents, across the board, which will set up a special office in the White House to look at the religious persecution.

As many people know, there are perhaps more Christians being persecuted today than at maybe any other time in the history of this country in so many other countries, and last year this Congress proudly put the Congress on record to deal with the issue of the persecution of people of faith of whatever faith. And one of the faiths that we discussed in the last Congress, and we will deal with in this legislation, will be those of the Buddhists in Tibet.

We visited numerous monasteries where monks and nuns would talk to us. Their stories amplified what we had already learned. Every monastery we visited was tightly controlled by a small group of Chinese overseers, who have a cadre to report. And how would you like to have a cadre at your church, a cadre at your synagogue, a cadre at your mosque? Why does the Chinese Government have to put cadres at all the monasteries in Tibet?

I call on the government to demonstrate that they should withdraw and pull these people out, whereby these Buddhist monks and nuns can worship without having Chinese overseers watching everything that they do.

Every report we heard told of a dramatic reduction in the number of monks at the monasteries. Many were imprisoned for not turning their backs on the Dalai Lama. It would almost be like somebody asking you to deny something, to deny your family, to deny your mother, to deny your father; and they refuse to deny them, and thereby they are taken away to prison.

Many are in prison for not turning their backs on the Dalai Lama, or even refusing to give up the pictures of him.

Young monks, some under 15, are turned out, and since the Cultural Revolution, many monasteries have been destroyed. Rebuilding, although there is some rebuilding, rebuilding has been painfully, painfully slow.

We were told on several occasions that the monks are afraid. When asked what message they would like me to take back to America, I was told that they are not allowed in many cases to practice their religion and that their people are suffering. Their biggest hope is to be free, free to practice their faith, free to travel, free to teach their children their culture.

My goodness, how does that harm China? Under the Chinese constitution, under their constitution that they sometimes will refer to, Tibet ought to have the freedom whereby they can do these things. They want the opportunity to be free.

At one place we met a woman at worship. When she realized we were Americans, she burst forth. She started to talk and then began to sob and tears poured down her face as she told us of the conditions.

She said ''Lhasa may be beautiful on the outside, but inside it is ugly. We are not allowed to practice what we want to practice. Senior monks are gone, and there are no replacements, and they are our teachers.''

Asked for a message to America, she said, ''Please help us, please help the Dalai Lama. When there is pressure from the West,'' and I would urge this administration that has not put pressure, and she said, ''Many times when there is pressure from the West, things loosen up a bit before returning to as before. Please have America help us.''

Every single person with whom we spoke had very positive feelings with regard to America and with regard to the American people. We were always given a thumbs-up or a smile with a comment, ''America is great.''

The people would not stop talking to us, even when their safety could have been potentially threatened. But when they knew that we were from America, they were pleased, they smiled, because they have great respect. They listen to Radio Free Asia and they know about America, and they were pleased to see that somebody was going to go back and take the word back.

The Chinese stranglehold, the Chinese assault is on the cities, the countryside, the environment. It has been no less harsh than its assault on the people.

What they are doing to the environment of Tibet is terrible. Tibet areas in Lhasa are being demolished and replaced with smaller and more confined structures, with remaining space being given over to Chinese users. The area in front of the Potala Palace has been bulldozed and leveled and turned into sort of a minimum or small Tiananmen Square, with a MiG, a Chinese MiG, in the middle, like it is something that people want to see, some MiG on stilts. All of the Tibetan buildings in front of the Potala have been destroyed or demolished.

This is not a pretty picture. The glowing reports of progress from Beijing or Shanghai, where business is booming and skyscrapers may be rising and industry and education perhaps is increasing, have certainly not reached Tibet. It has not reached Tibet.

I am not connecting this to the issue of MFN and everything else, but I have heard Members say that conditions were improving in China, and they actually had laptop computers and things were wonderful. Those conditions, if they exist, have not reached Tibet.

America and the rest of the free world should help and urge China to back off from its clear goal to plunder Tibet. The true story of Tibet is not being told, aside from a few courageous journalists. Many times people in the political process can complain about the press.

I say, as Thomas Jefferson said, ''God bless the free press, because if the press were not going in and covering many of these cases, the world would not know about it.''

So the press, whenever they can get in, are attempting to tell the story, but the Chinese Government will not allow the press in.

The U.S. Government's policy seems many times to be based on economics, to open more and more markets with China and to ignore every other aspect of responsible behavior. Men cannot live by bread alone, and economic growth, while it is important, is not the main thing in life. Also, the spiritual aspects and the opportunity for faith are important, and the United States Government and President Clinton, when he meets with the Chinese, should raise this issue.

The clock is ticking. The clock is ticking for Tibet. If nothing is done, a country, its people, its religion, its culture, will continue to grow fainter and fainter and could one day disappear. That would indeed be a tragedy.

Based on the observations, I will submit a complete copy of the report for the RECORD at the summation of these comments, here are some of the observations and recommendations.

First, the administration must appoint a special representative for Tibet who will both understand the conditions there and who will aggressively pursue improvements. The person that they should appoint for Tibet should be someone like Richard Holbrook, somebody who is strong and knows the issue, somebody who speaks out, somebody like that, and not somebody who will just go along and get along and not do anything.

Second, the administration should raise with the People's Republic of China the issue of Tibet, both before and during the forthcoming visit by Chinese President Jiang Zemin to Washington. Efforts to obtain the release of political prisoners must be part of that initiative. We know of approximately 700 political prisoners that

are rotting away in the jails of Tibet, and these political prisoners, their cases should be raised.

Third, efforts to open Tibet to the international press and human rights groups must go forward. As long as the Chinese continue to exercise power away from the public scrutiny, brutal excesses will continue.

Asia Watch should go in. The American Red Cross, the ICRC, the Swiss Red Cross, religious groups, different people should all ask for the opportunity to go and visit Tibet, see if the people in Beijing are being true when they say that Tibet is open and you can travel.

You should ask to travel. You should ask for a visa. You should ask for a permit and see if you are able to go.

Fourth, I urge my colleagues in the House and in the Senate to make every effort to travel to Tibet. Congressional delegations traveling into Tibet could very well make a difference. Even though they may have a Chinese handler with them, the very nature of an American Member of Congress or a Western member of the parliament coming in, being there, walking through the markets, walking through the town, being seen, sends a message to the Tibetan people that the people of the West and the people of the United States care.

I urge my colleagues in the House and in the Senate to adopt a prisoner of conscience and contact the People's Republic of China time and time again on his or her behalf.

When Perm Camp 35 in the Soviet Union existed during the dark days of communism, we went in and met with the prisoners. The prisoners told us they knew when a family in the United States or the West adopted them and wrote to them. They knew about it. Sometimes the letters got to them, sometimes they just got to the warden. If the warden knew that 10 or 20 letters a week or a day were coming in for prisoner X or Y, the warden was careful how they treated that prisoner. If it never got to the Perm Camp, but it got to Moscow, then the word came forth from the Communist official, be careful what you do to prisoner X or Y.

So we in the Congress and the American people should adopt prisoners of conscience and write to them and send them messages and try to visit them, send them magazines, write to the Chinese Government, write to the Chinese Embassy here in Washington, because we have to let the world know.

If you can imagine you are in the darkest, most dingy place almost on the Earth and nobody cares, you wonder, does anybody care? So by adopting these prisoners of conscience, as we did in the Soviet Union in the 1970's and 1980's, we make a difference.

Just talk to Natan Scharanski, who was so courageous, in Perm Camp 35. He knew the West was thinking of him, was praying for him, was remembering him. He was so proud and so bold and encouraged that when he got out of Perm Camp 35, on the bridge in Berlin going from East to West Berlin, the Communist officials told him to walk straight across the bridge. What did Scharanski do? He walked this way and then that way, and he zigged and zagged, because he was a free man, and he remembered that the people of the West stood with him, and we should stand with the prisoners of conscience in Tibet.

Sixth, we urge a strong effort that officials from the International Committee of the Red Cross, the ICRC, and the American Bureau of Prisons visit the Tibetan prisons to observe the condition and treatment of prisoners and urge and push for improvements.

□ 1530

If the Chinese want to come into our prisons, fine, let them come into ours, and we will go into theirs.

Seventh, I urge the administration and the press for representatives from the free world to attend the trials of Tibetans accused of political crimes, as has been done in Eastern Europe and elsewhere.

During the Soviet Union and Eastern Europe we would send an American representative of the American Embassy who would go and sit in the courtroom, be at the trial, which would put some restraint on the Communist officials.

Eigth, I urge religious leaders of all denominations around the world to pressure the Peoples Republic of China for permission to visit Tibet.

Last, I urge the administration and others to press the Chinese Government to engage in negotiations and in dialogue with the Dalai Lama concerning the future of Tibet, and to give the people of Tibet their freedom.

I close by saying to the Chinese Government, 5½ million Tibetans are of absolutely no threat to 1.2 billion Chinese.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BALLENGER (at the request of Mr. ARMEY) for today after 10:30 a.m., on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FILNER) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.
Mr. PALLONE, for 5 minutes, today.
Mr. FILNER, for 5 minutes, today.
Mr. FLAKE, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) and to include extraneous matter:)

Mr. DIAZ-BALART, for 5 minutes each day, on September 9 and 10.

Mr. PAUL, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FILNER) and to include extraneous matter:)

Mr. COYNE.
Mr. POSHARD.
Ms. BROWN of Florida.
Mr. LAFALCE.
Mr. BONIOR.
Mr. STOKES.
Mr. KENNEDY of Massachusetts.
Mr. FARR.
Mr. BORSKI.
Mr. TOWNS.
Mr. STARK.
Mr. SCHUMER.
Mr. BERMAN.
Mr. MOAKLEY.
Mr. PALLONE.

(The following Members (at the request of Mr. PAUL) and to include extraneous matter:)

Mr. HANSEN.
Mrs. KELLY.
Mr. NEY.
Mr. CAMP.
Mr. PACKARD.

(The following Members (at the request of Mr. WOLF) and to include extraneous matter:)

Mr. PALLONE.
Mr. SCHUMER.
Mr. HOYER.
Mr. TORRES.

ADJOURNMENT

Mr. WOLF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 31 minutes p.m.), under its previous order, the House adjourned until Monday, September 8, 1997, at 12:30 p.m. for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4809. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—National Poultry Improvement Plan and Auxiliary Provisions [Docket No. 96–070–2] received August 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4810. A letter from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, transmitting the Service's final rule—Mexican Fruit Fly Regulations; Removal of Regulated Area [Docket No. 97–085–1] received August 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4811. A letter from the Administrator, Farm Service Agency, transmitting the Agency's final rule—Upland Cotton Marketing Year Transition Procedure for Import

Quotas—received August 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4812. A letter from the General Sales Manager, Foreign Agricultural Service, transmitting the Service's final rule—CCC Facility Guarantee Program (FGP) (Commodity Credit Corporation) [Workplan Number 96–001] (RIN: 0551–AA35) received August 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

4813. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Contract Action Reporting [DFARS Case 97–D013] received August 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

4814. A letter from the Federal Register Liaison Officer, Department of the Treasury, transmitting the Department's final rule—Incorporation, Organization, and Conversion of Federal Mutual Associations (Office of Thrift Supervision) [No. 97–83] (RIN: 1550–AB06) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

4815. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Regulation of Fuels and Fuel Additives: Baseline Requirements for Gasoline Produced by Foreign Refiners [FRL–5883–3] (RIN: 2060–AH48) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4816. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Telephone Number Portability [CC Docket No. 95–116, RM–8535] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4817. A letter from the AMD—Performance Evaluation and Records Management, Federal Communications Commission, transmitting the Commission's final rule—Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended [CC Docket No. 96–61] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4818. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's final rule—Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act [16 CFR Part 305] received August 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4819. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers [Docket No. 89F–0176] received August 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4820. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Indirect Food Additives: Adhesives and Components of Coatings [Docket No. 92F–0261] received August 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4821. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—New Drug Applications and Abbreviated New Drug Applications; Editorial Amendments [21 CFR Part 314] received August 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4822. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Food Additives Permitted in Feed and Drinking Water of Animals; Selenium [Docket No. 86F–0060] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4823. A letter from the Director, Regulations Policy Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Specific Requirements on Content and Format of Labeling for Human Prescription Drugs; Addition of ''Geriatric Use'' Subsection in the Labeling [Docket No. 89N–0474] (RIN: 0910–AA25) received September 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4824. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Final Policy Statement on the Restructuring and Economic Deregulation of the Electric Utility Industry [10 CFR Part 50] received August 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4825. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Chemical Process Safety at Fuel Cycle Facilities [NUREG–1601] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

4826. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 97–35), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

4827. A letter from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Reporting and Procedures Regulations: Consolidation of Information Collections; Annual Reports on Blocked Assets and Retained Transfers; Reports on Rejected Transfers; Reports on Litigation; Procedure for Releasing Funds Believed to Have Been Blocked due to Mistaken Identity; Procedure for Removal from the Lists of Blocked Persons and Vessels [31 CFR Parts 500, 501, 505, 515, 535, 536, 550, 560, 575, 585, 590, 595, and 596] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

4828. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Small Entity Compliance Guide National Aeronautics and Space Administration) [48 CFR Chapter 1] received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4829. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Modification of Existing Contracts under FARA (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–606; Item XIX] (RIN: 9000–AH44) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4830. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Modification of Existing Contracts under FASA (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 94–723; Item XVIII] (RIN: 9000–AG90) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4831. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Year 2000 Compliance (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–607; Item XVII] (RIN: 9000–AG90) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4832. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Independent Government Estimates-Construction (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 97–005; Item XVI] (RIN: 9000–AH63) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4833. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Local Government Lobbying Costs (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–003; Item XV] (RIN: 9000–AH35) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4834. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Foreign Differential Pay (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–012; Item XIV] (RIN: 9000–AH43) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4835. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Designation of Hong Kong (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 97–019; Item XIII] (RIN: 9000–AH68) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4836. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Executive Order 12933, Nondisplacement of Qualified Workers Under Certain Contracts (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 94–610; Item XII] (RIN: 9000–AH62) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4837. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Minority Small Business and Capital Ownership (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 95–028; Item XI] (RIN: 9000–AH34) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4838. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting

the Administration's final rule—Federal Acquisition Regulation; Economically Disadvantaged Individuals (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 97–008; Item X] (RIN: 9000–AH65) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4839. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Certificate of Competency (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–002; Item IX] (RIN: 9000–AH66) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4840. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; ADP/Telecommunications Federal Supply Schedules (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–602; Item VIII] (RIN: 9000–AH29) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4841. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Service Contracting (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 95–311; Item VII] (RIN: 9000–AH14) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4842. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; New FAR Certificates (National Aeronautics and Space Administration) [FAC 97–1; FAR Case 96–329; Item VI] (RIN: 9000–AH67) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4843. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Environmentally Sound Products (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 92–054A; Item V] (RIN: 9000–AG40) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4844. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Automatic Data Processing Equipment Leasing Costs (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–010; Item IV] (RIN: 9000–AH41) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4845. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Irrevocable Letters of Credit and Alternatives to Miller Act Bonds (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 95–301; Item III] (RIN: 9000–AG99) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4846. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; FASA and the Walsh-Healey Public Contracts Act (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 96–601; Item II] (RIN: 9000–AH31) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4847. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Regulation; Business Process Innovation (National Aeronautics and Space Administration) [FAC 97–01; FAR Case 97–006; Item I] (RIN: 9000–AH64) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4848. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Circular 97–01; Introduction (National Aeronautics and Space Administration) [48 CFR Chapter 1] received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4849. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Presidential Management Intern Program (RIN: 3206–AH53) received August 13, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4850. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Qualification Requirements (General) (RIN: 3206–AH85) received August 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

4851. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Pipeline Right-Of-Way Applications and Assignment Fees; Requirements for Filing of Lease Transfers (RIN: 1010–AC04) received August 12, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4852. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Regulations for the Administration of Special Use Permits on National Wildlife Refuges in Alaska (RIN: 1018–AD93) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4853. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Migratory Bird Harvest Information Program (RIN: 1018–AD08) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4854. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting the Department's final rule—Financial Assistance for the Pribilof Environmental Restoration Program (National Oceanic and Atmospheric Administration) received August 19, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4855. A letter from the Acting Chair, Federal Subsistence Board, transmitting the Board's final rule—Subsistence Management Regulation for Public Lands in Alaska, Subpart C & Subpart D—1997–1998 Subsistence Taking of Fish and Wildlife Regulations; Correcting Amendments (RIN: 1018–AD90) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4856. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for Maryland [Docket No. 961210346–7035–02; I.D. 081597C] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4857. A letter from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; 1997 Management Measures for Nontrawl Sablefish [Docket No. 970520120–7198–02; I.D. 040297A] (RIN: 0648–AJ19) received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4858. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' Species Group in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 070397D] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4859. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Ocean Perch in the Eastern Regulatory Area of the Gulf of Alaska [Docket No. 961126334–7025–02; I.D. 070797A] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4860. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Indiana Regulatory Program [SPATS No. IN–127–FOR; State Program Amdt. No. 95–5] received September 3, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

4861. A letter from the Director, Federal Bureau of Prisons, transmitting the Bureau's final rule—Religious Beliefs and Practices [BOP 1011–F] (RIN: 1120–AA17) received August 15, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4862. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the Service's ''Major'' final rule—Nonimmigrant Classes; Treaty Aliens; E Classification [INS 1427–93] (RIN: 1115–AC51) received August 20, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

4863. A letter from the Acting Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, transmitting the Service's final rule—Clean Vessel Act Pumpout Symbol, Slogan and Program Crediting (RIN: 1018–AC67) received August 14, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

4864. A letter from the Chief Counsel, Bureau of the Public Debt, transmitting the Bureau's final rule—Regulations Governing United States Treasury Certificates of Indebtedness, Treasury Notes, and Treasury BONDS—State and Local Government Series [Department of the Treasury Circular, Public Debt Series No. 3–72] received August 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4865. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Rules and Regulations [Rev. Proc. 97–41] received August 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4866. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 97–42] received August 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4867. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Last-in, first-out inventories [Rev. Rul. 97–37] received August 29, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4868. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property [Rev. Rul. 97–36] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4869. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Employee Plans and Exempt Organizations; Requests for Certain Determination Letters and Applications for Recognition of Exemption [Announcement 97–89] received August 25, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

4870. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare Program; Hospice Wage Index (Health Care Financing Administration) [BPD–820–F] (RIN: 0938–AG93) received August 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 901. A bill to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands; with an amendment (Rept. 105–245). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DELAHUNT:

H.R. 2411. A bill to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission; to the Committee on Resources.

By Mr. SMITH of Texas:

H.R. 2412. A bill to amend the Immigration and Nationality Act to modify the religious worker visa programs and to extend the visa waiver pilot program, and to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the effective date for certain paperwork changes in the employer sanctions programs; to the Committee on the Judiciary.

H.R. 2413. A bill to amend the Immigration and Nationality Act; title 18, United States Code; the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; and the Immigration Act of 1990 to make technical corrections to such statutes; to the Committee on the Judiciary.

By Mr. CASTLE:

H.R. 2414. A bill to provide for a 10-year circulating commemorative coin program to commemorate each of the 50 States, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. CONDIT:

H.R. 2415. A bill to amend the Federal Water Pollution Control Act concerning the effect of administrative orders on civil penalty actions; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 2416. A bill to provide for the transfer of certain rights and property to the U.S. Forest Service in exchange for a payment to the occupant of such property, and for other purposes; to the Committee on Resources.

By Mr. KENNEDY of Rhode Island:

H.R. 2417. A bill to amend the Social Security Act to fight fraud by hospitals under the Medicare Program, and for other purposes; to the Committee on Ways and Means.

By Ms. MILLENDER-McDONALD (for herself, Mr. FAZIO of California, Mr. UNDERWOOD, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. TOWNS, Ms. SLAUGHTER, Mrs. MEEK of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. RUSH, Mr. WAXMAN, Ms. BROWN of Florida, Ms. JACKSON-LEE, Mr. WYNN, Mr. PAYNE, Mr. DELLUMS, Ms. LOFGREN, Mr. CONYERS, Mr. DIXON, and Mr. DAVIS of Illinois):

H.R. 2418. A bill to extend the National Bone Marrow Donor Program, and to establish a provision regarding the bone marrow registry and persons of mixed ancestry; to the Committee on Commerce.

By Mr. REYES:

H.R. 2419. A bill to amend the Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act to decrease the requisite blood quantum required for membership in the Ysleta del Sur Pueblo tribe; to the Committee on Resources.

By Mr. SANFORD:

H.R. 2420. A bill to permit the transportation of passengers between U.S. ports by certain foreign-flag vessels and to encourage U.S. flag vessels to participate in such transportation; to the Committee on National Security.

By Mr. STARK:

H.R. 2421. A bill to repeal the Military Selective Service Act; to the Committee on National Security.

H.R. 2422. A bill to amend the Social Security Act to provide for findings of presumptive disability under title II of such act in the same manner and to the same extent as is currently applicable under title XVI of such act; 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. TOWNS:

H.R. 2423. A bill to direct the Secretary of Health and Human Services to disseminate to the public information relating to fraud, abuse, and quality of care in nursing homes; to the Committee on Commerce.

By Ms. WOOLSEY:

H.R. 2424. A bill to recognize businesses which show an exemplary commitment to participating with schools to enhance educators' technology capabilities and to make every student technologically literate; to the Committee on Education and the Workforce.

By Mr. GILMAN (for himself, Mr. HAMILTON, Mr. BERMAN, Mr. LANTOS, Mr. HAYWORTH, Mr. SHERMAN, Mr. FOX of Pennsylvania, Mr. SHIMKUS, Mr. LAZIO of New York, Mr. WELLER, Mr. SAXTON, Mr. PITTS, Mr. WELDON of Florida, Mr. BOB SCHAFFER, Mr. COOK, Mr. RYUN, Ms. ROS-LEHTINEN, Mr. PORTER, Mr. FORBES, Mr. OXLEY, Mr. NADLER, Mr. ENGEL, and Mr. FOLEY):

H. Con. Res. 146. Concurrent resolution expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997; to the Committee on International Relations.

By Mr. ALLEN:

H. Con. Res. 147. Concurrent resolution expressing the sense of Congress that a postage stamp should be issued commemorating Joshua Lawrence Chamberlain; to the Committee on Government Reform and Oversight.

By Mr. FAZIO of California:

H. Res. 221. Resolution designating minority membership on certain standing committees of the House; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FRANK of Massachusetts:

H.R. 2425. A bill for the relief of Lawrence E. Hall, Jr. and Nancy T. Hall; to the Committee on the Judiciary.

By Mr. REYES:

H.R. 2426. A bill for the relief of Vince Munoz, Governor of the Tribal Council of the Ysleta del Sur Pueblo and all other enrolled members of the Ysleta del Sur Pueblo; to the Committee on the Judiciary.

H. Res. 222. Resolution for the relief of Vince Munoz, Governor of the Tribal Council of the Ysleta del Sur Pueblo and all other enrolled members of the Ysleta del Sur Pueblo; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 66: Mr. PASCRELL.

H.R. 108: Mr. LEVIN.

H.R. 164: Mr. BOUCHER, Mr. HYDE, Mr. MARTINEZ, Mr. COBURN, Mr. SCOTT, Mr. MEEHAN, Mr. CUMMINGS, Mr. HOYER, Mr. STARK, Mr. SERRANO, Mr. ENSIGN, Mr. NEY, Mr. MASCARA, Mr. LOBIONDO, Mr. MOLLOHAN, Mr. HASTINGS of Florida, Mr. TIERNEY, Mr. DIXON, and Mr. GUTIERREZ.

H.R. 176: Mr. KUCINICH.

H.R. 198: Mrs. CHENOWETH.

H.R. 336: Mr. PASCRELL.

H.R. 404: Ms. CHRISTIAN-GREEN, Mr. SENSENBRENNER, and Mr. SHERMAN.

H.R. 444: Mr. JEFFERSON.

H.R. 561: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. COYNE.

H.R. 594: Mr. ACKERMAN, Mr. DAVIS of Illinois, Mr. WEXLER, Mr. CAMP, Mr. COLLINS, Mr. HINCHEY, Mr. FRANKS of New Jersey, Mr. MCCOLLUM, Mr. TIERNEY, Ms. PELOSI, Ms. JACKSON-LEE, Mr. BACHUS, Mr. TALENT, and Mr. ABERCROMBIE.

H.R. 610: Mrs. THURMAN.

H.R. 612: Mr. CUNNINGHAM.

H.R. 619: Mr. NADLER and Mr. DIXON.

H.R. 712: Mr. DELLUMS.

H.R. 735: Mr. CONYERS, Mr. DELLUMS, Mr. DAVIS of Illinois, Mr. FILNER, and Mr. RUSH.

H.R. 755: Mr. COBURN and Mr. DAVIS of Illinois.

H.R. 834: Mr. BURR of North Carolina.

H.R. 836: Mr. BLAGOJEVICH, Mr. CLEMENT, Mr. COSTELLO, Mr. DEUTSCH, Mr. DICKS, Mr.

HEFNER, Mr. HOLDEN, Mr. KUCINICH, Mr. LIPINSKI, Mrs. MALONEY of New York, Mr. MASCARA, Mr. MCHALE, Mr. MEEHAN, Mr. MOLLOHAN, Mr. OBERSTAR, Mr. PASCRELL, Mr. PETERSON of Minnesota, Mr. RODRIGUEZ, Mr. SABO, Mr. SISISKY, Ms. SLAUGHTER, Mr. WEYGAND, Mrs. KENNELLY of Connecticut, Mr. KLINK, and Mr. PRICE of North Carolina.

H.R. 875: Mr. KUCINICH.

H.R. 877: Mr. HOSTETTLER, Mr. ROHRABACHER, Mr. ARCHER, Mr. GOODE, Mr. SCARBOROUGH, Ms. DANNER, Mr. HILLIARD, Mr. CRAMER, and Mr. SNYDER.

H.R. 925: Mr. LUTHER.

H.R. 953: Mr. FAZIO of California.

H.R. 971: Mr. NEAL of Massachusetts.

H.R. 1060: Mr. MCCRERY.

H.R. 1061: Mr. JENKINS.

H.R. 1114: Mr. HAYWORTH.

H.R. 1129: Mr. PASCRELL and Mr. YOUNG of Alaska.

H.R. 1151: Ms. DELAURO.

H.R. 1161: Mr. BISHOP.

H.R. 1165: Ms. SANCHEZ.

H.R. 1176: Mr. BILBRAY, Mr. PASCRELL, Ms. ESHOO, Mr. PRICE of North Carolina, Mr. KENNEDY of Massachusetts, Mr. VENTO, and Mr. HORN.

H.R. 1231: Mr. MARTINEZ.

H.R. 1232: Mr. CAPPS.

H.R. 1260: Mr. DREIER.

H.R. 1261: Mr. LEACH, Mr. GUTKNECHT, Mr. EWING, and Mr. HASTINGS of Washington.

H.R. 1446: Mr. OBERSTAR and Mr. LUTHER.

H.R. 1445: Ms. FURSE.

H.R. 1493: Mr. GIBBONS.

H.R. 1526: Mr. BLUNT, Mr. LEWIS of Kentucky, and Mr. GILCHREST.

H.R. 1542: Mr. HOLDEN.

H.R. 1614: Mr. BOEHLERT and Mr. ROTHMAN.

H.R. 1689: Mr. ROYCE.

H.R. 1698: Mr. COYNE, Mr. HASTINGS of Florida, and Ms. CHRISTIAN-GREEN.

H.R. 1719: Mr. WATKINS.

H.R. 1769: Mr. MILLER of California.

H.R. 1770: Mr. MILLER of California.

H.R. 1782: Mr. BILBRAY.

H.R. 1836: Mr. HOYER and Mr. MORAN of Virginia.

H.R. 1839: Mr. BAESLER, Mrs. THURMAN, and Mr. POMEROY.

H.R. 1842: Mr. SKEEN.

H.R. 1872: Mr. GILLMOR and Mr. PAXON.

H.R. 1878: Mr. PARKER.

H.R. 1909: Mr. DAN SCHAEFER of Colorado, Mrs. CHENOWETH, Mr. SCARBOROUGH, and Mr. WELDON of Florida.

H.R. 1913: Mr. GREEN and Mr. SANDLIN.

H.R. 1995: Mr. BILBRAY, Mr. STARK, Mr. HORN, Mr. FRANK of Massachuesetts, Mr. HINCHEY, Mr. FILNER, Mr. MATSUI, and Mr. JONES.

H.R. 2038: Mr. RADANOVICH.

H.R. 2090: Mr. QUINN, Mr. FORBES, Ms. SLAUGHTER, Mr. MCNULTY, Mr. THOMPSON, Mr. TRAFICANT, Mr. LAMPSON, Mr. LOBIONDO, and Mr. DEFAZIO.

H.R. 2121: Mrs. LOWEY.

H.R. 2129: Mr. LINDER, Mr. HOBSON, and Mr. ENGLISH of Pennsylvania.

H.R. 2156: Mr. KLUG.

H.R. 2185: Mr. DELLUMS, Mr. FALEOMAVAEGA, Mr. OWENS, and Mr. JACKSON.

H.R. 2196: Ms. ROS-LEHTINEN and Mr. BOB SCHAFFER.

H.R. 2253: Mr. HINOJOSA, Mr. REYES, Mr. FALEOMAVAEGA, and Ms. CHRISTIAN-GREEN.

H.R. 2293: Mr. COBLE.

H.R. 2332: Mr. COBURN.

H.R. 2345: Mr. MOAKLEY.

H.R. 2349: Mr. FATTAH, Mr. COYNE, Mr. SKELTON, Mr. DOOLEY of California, Mr. LIPINSKI, Mr. POSHARD, Mr. PETRI, and Mr. ABERCROMBIE.

H.R. 2365: Mr. BOEHLERT.

H.R. 2373: Mr. KINGSTON, Mr. THUNE, Mr. DEAL of Georgia, and Mr. BOB SCHAFFER.

H.R. 2380: Mr. SMITH of Texas, Mr. COBLE, Mr. GIBBONS, Mr. WOLF, Mr. GOODE, Mr. PETERSON of Minnesota, Mr. BRYANT, Mr. SMITH of New Jersey, Mr. COBURN, and Mr. LARGENT.

H.R. 2385: Mr. FORD, Mr. ADAM SMITH of Washington, Mr. BLAGOJEVICH, Mr. LOBIONDO, Mr. GILMAN, Mr. DELLUMS, Mr. PASCRELL, and Mr. MORAN of Virginia.

H.R. 2387: Mrs. ROUKEMA, Ms. DELAURO, Mr. GREEN, and Mr. ABERCROMBIE.

H. Con. Res. 80: Mr. LANTOS, Mr. TURNER, Mr. SHAW, and Mr. LAHOOD.

H. Con. Res. 91: Mr. LUTHER.

H. Con. Res. 95: Mr. SENSENBRENNER, Ms. KAPTUR, Mr. BASS, Mr. TAUZIN, and Mr. MCCRERY.

H. Con. Res. 100: Mr. CALVERT, Mr. SAM JOHNSON, Mr. BROWN of Ohio, Mrs. MORELLA, Mr. JEFFERSON, Mr. KING of New York, Mr. MORAN of Virginia, Mr. DUNCAN, Mr. HILLIARD, Mr. MCCRERY, Mr. GALLEGLY, and Ms. KAPTUR.

H. Con. Res. 132: Mr. HALL of Texas and Mr. ROHRABACHER.

H. Res. 16: Mrs. MCCARTHY of New York.

H. Res. 37: Mr. MINGE.

H. Res. 119: Mr. COOK and Mr. RIGGS.

H. Res. 214: Mr. SPENCE.

H. Res. 220: Mr. NEY.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 674: Mr. CAMP.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2264

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 60: Page 44, line 16, after the dollar amount, insert the following: (''decreased by $1,000,000)''.

Page 73, line 15, after the first dollar amount, insert the following: ''(increased by $1,000,000)''.

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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

Vol. 143 WASHINGTON, FRIDAY, SEPTEMBER 5, 1997 No. 116

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, our motto says, ''In God we trust.'' This morning our prayer is to put that motto into practice. Each of us comes to this time of prayer with his or her own set of personal needs. You know these, Lord. We place in Your strong hands whatever holds us captive to anxiety or worry. There are people in our lives for whom we are deeply concerned. We trust You with their care.

We pray for the peace of Jerusalem. We pray for the families of the 7 people who were killed in the bombing and ask for Your special care for the 200 that are now convalescing because of injuries in the bombing. O Lord, bless that city with peace.

Thank You for freeing our minds so we can work for Your glory today—with inner calm and serenity.

Lord, You know the agenda before the Senate is filled with crucial issues. We commit them to You and ask for Your guidance.

We pray that the trust we have in You may give us greater trust in one another. Make us trustworthy as we seek Your best for our Nation. Free us of defensiveness and suspicion of those who may not share our party loyalties or our particular persuasions. Bind us together in the oneness of a shared commitment to You, a passionate patriotism, and the loyal dedication to find Your solutions for the concerns that confront and often divide us.

Bless the women and men of this Senate as they place their ultimate trust in You and are faithful to the trust placed in them by the people. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. JEFFORDS. Mr. President, for the information of all Members, this morning, the Senate will immediately begin debate on the motion to proceed to S. 830, the FDA reform bill, with the time until 9:50 a.m. equally divided in the usual form. As previously ordered, a cloture vote on the motion to proceed to the FDA bill will occur at 9:50 a.m. Also by previous consent, if cloture is invoked, the Senate will immediately begin 8 hours of debate equally divided between Senators JEFFORDS and KENNEDY on the motion to proceed. In addition, there will be an additional 4 hours of debate on the motion to proceed remaining on Monday. As a reminder to all Members, there will be a cloture vote on the motion to proceed to the FDA reform bill at 9:50 a.m. today. I thank my colleagues for their attention.

Mr. President, how much time do we have?

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. COATS). Under the previous order, there will be debate until 9:50 a.m., equally divided, on S. 830. It will be a little bit less than 12 minutes.

Mr. JEFFORDS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I salute the majority leader for moving the debate on the FDA modernization forward. We should no longer needlessly delay consideration of S. 830, the Food and Drug Administration Modernization and Accountability Act of 1997.

S. 830 represents months of bipartisan effort to address serious shortcomings in the FDA's regulatory procedures. Two hearings were held. The measure passed the committee with a strong bipartisan 14-to-4 vote, and months of negotiations have ensued with dozens of accommodations made for Senator KENNEDY and the administration.

For almost 20 years, Congress, the General Accounting Office, and numerous advisory commissions have examined, reviewed, and made recommendations to modernize the FDA.

During 1978 and 1979, Senator KENNEDY championed legislation that would have required FDA to do some of the very same things we are requiring of it in S. 830.

In 1982, the Commission on the Federal Drug Approval Process, convened at the request of Representatives ALBERT GORE and James Scheuer, recommended simpler investigational new drug requirements. The Commission recognized that drug effectiveness could be demonstrated by one study in appropriate cases, and it urged greater use of outside expert advice and improved interactions with industry.

In 1989, the advisory committee on the FDA, on which Dr. David Kessler served, made a key recommendation. It said:

> . . . the agency should be guided by the principle that expeditious approval of useful and safe new products enhances the health of the American people. Approving such products can be as important as preventing the marketing of harmful or ineffective products.

In 1991, Vice President Quayle's Council on Competitiveness recommended that the FDA expand the use of outside reviews and advisory committees, interpret efficacy with a more appropriate standard, and enhance internal agency management.

More recently, Vice President GORE has used the President's ''reinventing Government'' initiative to improve the FDA product approval system and to eliminate outmoded FDA regulations for a variety of drugs, medical devices, and food products.

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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Last year, the committee on Labor and Human Resources held four hearings on reforming the FDA. The witnesses testified about the same problems that have been described for 20 years, and they recommended many of the same solutions that have been recommended for 20 years.

This year, the Labor Committee continued its effort to modernize the FDA. The committee held two hearings in early 1997. The first hearing was dedicated to the FDA, and the second hearing included representatives from patient and consumer coalitions and from the food, drug, and medical devices sector regulated by the FDA. It is no easy task that we ask FDA to perform. Americans want the FDA to hold the gate tightly shut against unsafe or ineffective products while opening it wide for the next generation of innovation. Clear statutory guidance is needed to assist the agency to find this delicate balance and to bring our food and drug laws and regulatory systems into the next century. S. 830 contributes significantly to reaching that balance. The measure embodies the bipartisan conclusions and recommendations reached for the past 20 years for accomplishing this difficult task of balancing risk and promise.

Mr. President, a few have charged that this Congress is moving too fast. They ask, ''What's the rush?'' But they have asked the wrong question. For the past 20 years, every administration has sought to make FDA better—to make better, safe and more effective products more readily available. After almost 20 years, we must ask ourselves, why delay further? Why continue to delay reforms that have been studied, reviewed, recommended, restudied, and endorsed again and again for over 20 years? Clearly, the FDA should be modernized now.

The PRESIDING OFFICER. The Chair informs the Senator from Vermont, on his time, there are 4 minutes 24 seconds remaining.

Mr. JEFFORDS. Thank you. I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have how much time?

The PRESIDING OFFICER. Eight minutes.

Mr. KENNEDY. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

PRIVILEGE OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent that Diane Robertson be given the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, first of all, I congratulate my friend and colleague, Senator JEFFORDS, for the attention he has given to trying to bring the FDA into the modern world and to trying to consider a wide variety of different recommendations and suggestions and for working with the members of our committee, both the Republicans and Democrats.

This has been a trying process, but I commend him—and I speak for all of those on our side—for the diligence with which he has approached this and the knowledge he has demonstrated on this particular range of issues.

We all understand, the American people understand, that the principal responsibility of the FDA is to preserve and protect the public health. This is different from other agencies. Therefore, any alteration or change in the authority of the FDA and in consideration that various aspects of the law have to be balanced against what is in the short-term, medium-term and long-term interest of the public health of the American people. The FDA is the singular agency throughout the world that has demonstrated that it understands that particular commitment and has done an extraordinary job.

Many of us have frustrations about the FDA on particular products in our State and about general kinds of process and procedure. But no one can review the history of the FDA and not understand that today the FDA is the principal instrument for approving new drugs and new medical devices. This legislation today is to try to extend what we call the PDUFA, which is a proposal that was enacted under the leadership of Senator HATCH and myself a number of years ago, which provides user fees by the major drug companies to make sure that we will have the expertise to consider various drug products more rapidly. There is an important need for the extension of that particular proposal, and all of us want to see it extended. I am a strong supporter of extending it. There are many, many features of this legislation which I support.

But having said that, Mr. President, we have to look at the remaining items that need attention and, in particular, one which is completely unacceptable and enough to warrant and justify the attention of the Members of the Senate about whether we are prepared to move ahead and consider this legislation, with that particular provision in in, that is now before the U.S. Senate. It is a provision that was not a part of either the initial proposal that was advanced last year by Senator Kassebaum or advanced this year by Senator JEFFORDS. It concerns the whole question of the preemption of the States with regard to cosmetics and over-the-counter medicines, but primarily on the issue of cosmetics.

There are other important protection items dealing with unsafe or ineffective medical devices, including provisions that could undercut FDA's ability to regulate cigarettes, and there is a back-door assault on one of the most important environmental protections. We will have a chance to get into those later in the course of the morning.

I want to point out what this legislation is going to do with regard to cosmetics, to all of the Members as we are coming over here to consider a cloture vote. We have to recognize and we will have a chance later on in the morning to point out the limitation of the Food and Drug Administration in regulating cosmetics. It has virtually no regulatory authority in this area.

The American people should take no satisfaction in extent of the protections regarding the cosmetics they use every single day because the Food and Drug Administration does not have the jurisdiction to determine what is in those cosmetics, whether they are safe and whether they are effective. Absolutely none. There are only two members of the FDA who are out there supervising this issue—only two members of the FDA—in terms of looking out after the packaging and the labeling provisions—two members.

The enforcement, in terms of protection of the public health on the issues of cosmetics, are left to the States. That is where the real regulatory authority is today. And now, because of the greed—and it is greed—of the cosmetic industry and because of the success of a referendum in California, they want to preempt any kind of protections for the health and the safety enacted by the States with Federal legislation that will effectively eliminate for all time the possibility of the States providing protection on health and safety. That was put into this legislation as an amendment. That amendment has been objected to, not just by the Senator from Massachusetts, but by all of the Governors of the 50 States.

I will submit the correspondence from the National Governors' Association and from a principal Republican Attorney General Dan Lundgren of the State of California, a State that has done more in terms of protecting the American public as a result of the legislation passed in California than anyone else.

The last GAO study points out that in the cosmetics used primarily by women in this country every day, 125 ingredients are suspected of causing cancer, 20 ingredients are suspected of damaging the nervous system, 20 ingredients are suspected of causing birth defects. And the list goes on and on and on.

And to put that into this legislation without a single day of hearings—without a single day of hearings; the last hearings in the Senate of the United States were in 1978—will amount to a wholesale threat to the health of the American consumer. Primarily the women of this country do not deserve the kind of vote for cloture in moving ahead and effectively denying us the opportunity for a full debate and discussion of the issues that this provision deserves. That is why I hope that the vote on cloture is not successful.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JEFFORDS. I yield 2 minutes to the Senator from Connecticut, Senator DODD, and the remaining time after that to Senator COATS.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Vermont.

Mr. President, I urge our colleagues to vote to invoke cloture on this. But let me say at the outset here I want to commend our colleagues, and particularly my colleague from Massachusetts on this matter. He has labored for many, many years on FDA legislation. And he brings up an issue here regarding the cosmetics issue which will certainly be the subject of debate and has been the subject of debate in our committee over the last 2½ years. In the most recent round of markups—we have been through a couple markups—the bill has had pretty substantial bipartisan support coming out of the committee. I think our vote was something like 14 to 4 in the last markup.

This is an important piece of legislation. September 30 is coming. We have to reauthorize PDUFA. This is the first time we have been able to deal with FDA in a way that will not only guarantee that we will have a quicker response on these applications, but also a safe and efficient and effective response for the consumers, the patient groups of this country.

This is a very important piece of legislation. I commend my colleague from Vermont, the chairman of the committee, for his leadership on this. The committee has worked very, very hard on this, my colleague from Indiana and others. We have had some very difficult issues over the last 2½ years to try to reach compromise on and resolve them. And we have, by and large, with the exception of this one issue which is a great testament to the efforts of the members of the committee and the staffs that have worked on this.

But I think it is time now that we bring the bill to the floor and try to leave it up to the Members themselves to resolve any outstanding issues that we have or, hopefully, over the next coming days, to achieve a compromise so we can avoid a kind of battle here on the floor over one or two remaining issues.

Mr. President, I urge that we move forward on this. We have done a good job I think in the committee. It is not uncommon for there to be an outstanding issue. I urge the invoking of cloture.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator's time has expired.

The Senator from Indiana has 2 minutes 24 seconds.

Mr. COATS. I would like to yield some of that time to the Senator from Maryland, if she is interested in making some comments. I have a limited amount of time, but I would be happy to yield a portion of it.

Ms. MIKULSKI. Thank you very much.

I wish to say to my colleagues, we have worked very long and hard to move FDA reform ahead, to make sure that products, whether they be pharmaceuticals, biologics, or cosmetics, are available in a safe way to the American people. There are policy differences, but they should be decided on the basis of debates and votes. We should not hold up reform on the basis of process.

Let us vote for cloture. Let us move the bill forward. Let us resolve our differences in the usual and customary way. I ask my colleagues to join with me to vote for cloture, and then move forward in an adequate, robust and well-amplified debate on the issues.

I thank the Senator from Indiana.

Mr. COATS. Mr. President, I would like to add my support, in a bipartisan way, to the remarks as stated by the Senator from Connecticut and the Senator from Maryland and the efforts that have been undertaken by the chairman, Chairman JEFFORDS, and all of us on the committee over the past 2½ years to move this bill forward.

There has been extensive debate on this in committee, 2½ years' worth. There has been extensive hearings on this. There has been extensive negotiation, and there has been extensive compromise on the part of those of us who are advocating FDA reform.

We have made concession after concession after concession to Senator KENNEDY and the administration and to those who have opposed our efforts in an attempt just to get the bill to the floor. Every time we solved one issue, a new one pops up that we had discussed over and over and over and voted on in committee, but it does not mean that we should not move forward with the process.

All we are asking for today is to move this bill forward so that Senator KENNEDY and others who have concerns with it can raise their objections, can debate it once again, can negotiate some more. But to stop the bill from going forward, to keep the drugs from being approved, to keep funds from going into FDA, to deny people the benefits from FDA approval of drugs and devices, simply because a Senator has a problem with one portion of the bill, I think certainly does not serve this body well.

So I urge our colleagues to support the effort to invoke cloture so that we can move ahead with this.

Mrs. BOXER. Will the Senator yield?

Mr. COATS. I would be happy to.

The PRESIDING OFFICER. Time has expired.

Senator KENNEDY has 1 minute.

Mr. KENNEDY. Mr. President, it is not just one Senator. Let me read from ''The National Governors' Association, The National Conference of State Legislatures.''

When the Senate Labor and Human Resources Committee considered the Food and Drug Administration Reform legislation . . . the committee adopted an amendment proposed by Senator Gregg that preempts state regulations, disclosure requirements, labeling, and warning requirements as they apply to nonprescription drugs and cosmetics. The National Conference of State Legislatures and the National Governors' Association, vigorously oppose this provision and hope that it will not be part of the bill when it is reported by the Senate.

These are the Governors, the State legislatures. The Secretary of Health indicated that ''We and the administration all agree PDUFA is in the best interest. However, as maintained in its present form, with the outstanding issues not addressed, we will be forced to recommend to veto the legislation.''

We are talking about health and safety. And we will have a chance to develop that in the postvote of this. But this bill contains too many important provisions with PDUFA and the medical devices and the drug provisions to go forward. And I believe that it should go forward, but not with this provision.

The PRESIDING OFFICER (Mr. COATS). Time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 105, S. 830, the FDA reform bill:

Trent Lott, Jim Jeffords, Pat Roberts, Kay Bailey Hutchison, Tim Hutchinson, Conrad Burns, Chuck Hagel, Jon Kyl, Rod Grams, Pete Domenici, Ted Stevens, Christopher S. Bond, Strom Thurmond, Judd Gregg, Don Nickles, Paul Coverdell.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to the consideration of S. 830, the FDA Modernization and Accountability Act, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona [Mr. MCCAIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Pennsylvania [Mr. SANTORUM], and the Senator from Wyoming [Mr. THOMAS] are necessarily absent.

Ms. MIKULSKI. I announce that the Senator from Kentucky [Mr. FORD] and the Senator from Ohio [Mr. GLENN] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 5, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—89

Abraham	Baucus	Bingaman
Allard	Bennett	Bond
Ashcroft	Biden	Boxer

Breaux	Gramm	Mack
Brownback	Grams	McConnell
Bryan	Grassley	Mikulski
Bumpers	Gregg	Moseley-Braun
Burns	Hagel	Moynihan
Byrd	Harkin	Murray
Campbell	Hatch	Nickles
Chafee	Helms	Reid
Coats	Hollings	Robb
Cochran	Hutchinson	Roberts
Collins	Hutchison	Rockefeller
Conrad	Inhofe	Roth
Coverdell	Inouye	Sarbanes
Craig	Jeffords	Sessions
D'Amato	Johnson	Shelby
Daschle	Kempthorne	Smith (NH)
DeWine	Kerrey	Smith (OR)
Dodd	Kerry	Snowe
Domenici	Kohl	Specter
Dorgan	Kyl	Stevens
Enzi	Landrieu	Thompson
Faircloth	Lautenberg	Thurmond
Feingold	Leahy	Torricelli
Feinstein	Levin	Warner
Frist	Lieberman	Wellstone
Gorton	Lott	Wyden
Graham	Lugar	

NAYS—5

Akaka	Durbin	Reed
Cleland	Kennedy	

NOT VOTING—6

Ford	McCain	Santorum
Glenn	Murkowski	Thomas

The PRESIDING OFFICER. On this vote, the yeas are 89, the nays are 5.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. JEFFORDS. Mr. President, I want to most sincerely thank my colleagues for the tremendous vote to move forward on FDA reform. This is most rewarding. All of the proponents and supporters are pleased to know that we can go forward at this time.

This is a tribute to a lot of hard work and compromise from a lot of Members on both sides of the aisle and both sides of the issue. The vote represents the best of bipartisanship from Senators who support it, and even from opponents and the administration. Today is just the first step, but it could hardly be a better one. We will need to debate this bill, consider amendments to it and, no doubt, improve it. I believe that there are still changes that can be made to accommodate the concerns that have been expressed here by the opponents. I know we can find solutions to those.

We will need to debate this bill, consider amendments and, as I say, no doubt, improve it. But I hope by this time next week, the Senate will have given its resounding support to this bill. It is too important to the American people to let it languish. It is too important for us not to move it out as quickly as possible.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I understand we have a time agreement, am I correct? Would the Chair be kind enough to state it?

The PRESIDING OFFICER. The agreement is: Under a previous order, there will be 8 hours of debate, equally divided between the Senator from Vermont [Mr. JEFFORDS] and the Senator from Massachusetts [Mr. KENNEDY].

Mr. KENNEDY. I thank the Chair. The legislation we are debating today includes many positive elements. It reauthorizes the important prescription drug user fee program, one of the most effective regulatory reforms ever enacted. It includes a number of other provisions that will significantly improve and streamline the regulation of prescription drugs, biologic products, and medical devices. And I am pleased that through a long process of negotiation, both prior to and subsequent to the markup of the legislation, many provisions that seriously threaten public health and safety were dropped or compromised. But a bill that includes the damaging provisions that remain in this bill, should not become law.

I have received a letter this morning from the Administration announcing their opposition to these provisions and their judgment that the bill should be vetoed if they are not eliminated. It would be the height of folly for the Senate to doom this important legislation to failure by taking it up before the provisions that merit a veto are removed or changed.

The provisions that make this bill unworthy of passage by the Senate include: The preemption of State regulation of cosmetics and over-the-counter medicines; the elimination of two important protections against unsafe or ineffective medical devices, including a provision that could undercut FDA's ability to regulate cigarettes, and a backdoor assault on one of the most important environmental protections. The most egregious and unjustified provision in this bill would effectively preempt the State regulation of over-the-counter drugs and cosmetics. These provisions were not included in the chairman's original mark. They were not the subject of significant hearings. They have no place in a bill whose primary purpose is to reauthorize the Prescription Drug User Act.

If this bill were serious about dealing with issues of over-the-counter drug and cosmetic regulation, it would undertake a serious reform of the whole regulatory structure to assure that consumers are adequately protected and not include a single provision designed to protect the profits of wealthy companies at the expense of the health of consumers. Preemption of cosmetic regulation is fundamentally outrageous and shows a callous disregard for the health of American women, especially those who are pregnant. It shows a callous disregard for the likelihood of birth defects in newborn babies. Cosmetics are used far more broadly than most prescription drugs, medical devices, and biologic products.

Whether the issue is hair spray, or shampoo, or lipstick, or baby powder, or suntan lotion, or soap, or toothpaste, Americans assume that the products they use are safe. But this confidence is too often unjustified because Federal oversight of this $20 billion industry today is extremely limited. The basic law regulating cosmetics has not been updated since 1938. The FDA has less than 30 employees overseeing this huge industry. Only two deal with packaging and labeling.

The legislation, Mr. President, the food and drug and related law, has 126 pages dealing with drugs and devices. It has 55 pages for foods. It has 1½ pages of Federal law dealing with cosmetics. It basically does not deal with regulating the cosmetics of this Nation.

The FDA has no authority to require manufacturers of cosmetics to register their plans or products. The FDA has no authority to require manufacturers to register their plans or products. It cannot require manufacturers to file data on the ingredients of their products. So there is no information with regard to the ingredients of their products. That is completely different, obviously, from the complex and vigorous review schedules which are places for pharmaceuticals and for medical devices. The FDA cannot require the manufacturers of cosmetics to file data on the ingredients in their products. It cannot compel manufacturers to file reports on cosmetics-related injuries. It cannot require their products be tested for safety, nor can it require that the results of safety testing be made available to the agency. It has no power, as it does with prescription drugs and medical devices, to require that the tests be done or that they gather information as a result of tests. It has no oversight authority in terms of making sure there are safe manufactured products. None of that currently exists with regard to cosmetics. The FDA does not have the right of access to manufacturers' records, and it cannot require recall of a product. The FDA is virtually outside the loop with regard to giving assurances to the American people about the health and safety of their products. This is unlike prescription drugs, it is unlike over-the-counter drugs, it is unlike medical devices. The FDA is outside the loop.

A study by the respected, nonpartisan General Accounting Office reported that more than 125 ingredients available for use in cosmetics are suspected of causing cancer. Twenty cosmetic ingredients may cause adverse effects on the nervous system, including headaches, drowsiness, and convulsions. Twenty cosmetic ingredients are suspected of causing birth defects. The GAO concluded that cosmetics are being marketed in the United States that may pose a serious hazard to the public. That is the GAO. They concluded that cosmetics are being marketed in the United States that may pose a serious hazard to the public.

The legislation that is before us is saying that the States should not be able to do anything about it. This is the primary issue in terms of the health the American people—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will come to order. Senators will cease audible conversation. Would the

Senators to the Chair's left cease conversation.

The Senator from Massachusetts.

Mr. KENNEDY. The cosmetic industry wants the public to believe that no effective regulation is necessary at either the State or Federal level. They are the masters of the slick ad and expensive public relations campaign. But all the glamorous pictures of the world cannot obscure the basic facts. This is an industry that is underregulated and, too often, hazardous.

A mother of a beautiful 6-year-old girl in Oakland, CA, found this out when she used a hair product on her child that resulted in second-degree burns on her ears and neck. A 59-year-old California woman almost died from an allergic reaction to hair dye. A 47-year-old woman had her cornea destroyed by a mascara wand. In another tragic case, a woman's hair caught fire as a result of an inflammable hair treatment gel. She lost her hair and was severely scarred. Beauty parlor employees are particularly vulnerable to asthma and other diseases that result from exposure to chemicals in the products that they use.

In fact, for every 1 million cosmetic products purchased, there are more than 200 visits to the doctor to treat cosmetic-caused illnesses. In 1987, a study for the Consumer Product Safety Commission found that, in 1 year alone, cosmetic products resulted in 47,000 emergency room visits. These severe reactions are only the tip of the iceberg. As the GAO study points out, available estimates of cosmetic-related injuries do not accurately reflect the extent to which consumers are exposed to toxic cosmetic products and ingredients. Because symptoms of chronic toxic effects may not occur until months or years after exposure. The injury estimates generally account for only the acute toxic effects—the effects that are seen right away. It is a fact that many of the ingredients, according to the GAO, included in many products are toxic in nature, maybe carcinogens, that take time to work their way through the body system and only later reflect themselves in incidence of cancer, or assaults on the nervous system, or birth defects long after they are used.

In the face of limited Federal authority to protect the public against these hazards, and the even more limited resources devoted to preventing them, you would think that the Congress would want to encourage the States to fill the regulatory vacuum. Since the Federal Government is not doing it, you would think we would want the States to make sure that they are protecting their consumers.

That is logical. We are talking about a health and safety issue. We are not talking about the economic regulations. We are talking about health and safety issues. If we are not going to have a responsibility in doing it, you would think we would want the States to move ahead and at least ensure the protections. But not in this legislation. Effectively we are preempting the States—telling the States they can't do it. We are not doing it, and we are not going to permit the States to do it either, ever.

That is the effect of the provisions that have been included and added on to the bill in Committee—not in the initial proposal offered by Senator Kassebaum, not in the initial proposal offered by Senator JEFFORDS. It was one of the last of the amendments that were considered. There have been no hearings on this issue since 1978, 1988 in the House of Representatives. Still we have moved ahead, basically at the whim of the cosmetic industry, a $20 billion industry. This bill entirely bars the States from regulating packaging and labeling and places severe limits on the States' ability to establish other forms of regulation.

Mr. President, just listen to this language on the scope of the preemption provision on the packaging or labeling of a cosmetic: ''* * * shall be deemed to include any requirement relating to public information, or any other form of public communication relating to the safety or effectiveness of a drug or cosmetic.''

There it is, clear as can be; no more information for the people of California, no more information for the people in the Midwest or the East. This is what it says. ''This preemption shall be deemed to include any requirement relating to public information, or any other form of public communication relating to the safety or effectiveness of a drug or cosmetic.''

We don't do it at the Federal level, and we are denying the States the opportunity. What is the cosmetic industry so afraid of that they are precluding any public information or any other form of public communication relating to safety? What are they so frightened about? Is the almighty dollar worth that much when you are talking about carcinogens and toxic substances?

There it is, Mr. President, as clear as can be. The language, no warning labels, no information that a product contains carcinogens or can cause severe allergic reactions; no ''keep out of the reach of children'' labels; no notification that a product has been recalled because it is dangerous or adulterated; no expiration dates. Mexico requires expiration dates. The European Union has expiration dates. Sri Lanka has expiration dates. But no way—particularly in products such as mascara that can deteriorate and adulterate and cause serious threats to people's eyes—no expiration dates. The materials have been held in terms of the danger of mascara over a period of time without endanger rates or warnings to the public that use mascara; no preemption, right here in this legislation.

We are talking about health and safety. That is why we voted on this measure—health and safety issues.

We have already spent more time on this issue now this morning than we spent in the committee in its discussion. No ''keep out of the reach of children'' labels; no notification that a product has been recalled because it is dangerous or adulterated; no notification. The cosmetic industry seems to believe that for purchases of their products ignorance is bliss. In fact, what you don't know today can severely injury you, or even kill you.

Some States are already taking an active role in protecting consumers. Many more may do so in the future. But not if this bill becomes law. Minnesota has passed a hazardous product labeling bill requiring a warning on all products that are ignitable, corrosive, reactive, or toxic. You would think that all consumers should be entitled to that kind of information about products which they put on their faces or spray on their hair or wash their bodies with. But the cosmetic industry disagrees.

California requires notification if a product contains carcinogens or reproductive toxins that cause birth defects. You would think every consumer should be entitled to that information. Not after you pass this provision. When you take the time later in this debate to go through each of these and show the medical information, the study, the research which supports that finding, there are products that contain carcinogens and reproductive toxins. The studies have been done by some of the great research institutions in this country, but the data from their studies, warnings to expectant mothers, or to others who are going to use that product cannot be communicated to the American public by the States.

That authority will be gone. You can do all the research you want, find everything you want, but that authority will be gone. It is out. You would think that the consumer should be entitled to that information.

We had support for nutritional labeling around here for consumers to have information. It is one of our most important achievements, that people have some idea of the nutritional content of their diets, their fiber, and the various nutritional elements included in those. People want to know. That is enormously important in terms of the general health and dietary needs of the American people. But here we are talking about carcinogens. We are talking about toxic substances. We have the information that is being made available to the public on the one hand. But when it comes back to items that are going to endanger the health and safety, we are saying, no way—no at the Federal level and no at the State level.

Texas is investigating hormone creams that may affect the reproductive health of young women. You would think the States should be encouraged to take this kind of action. But this law prohibits it.

New York requires expiration dates on cosmetics because products can break down and be subject to bacterial contamination after a certain time period.

Most of you would think that this is basic information that every consumer should have. But not the cosmetics industry. If you want to try to say, OK; we had a preemption of various States' activities with regard to food and nutrition, yes. We did. We worked that process out. It was worked out with the various interests of the American consumer, and it is protected. If you want to go back and see where you want to have a national program in terms of preemption in terms of these dangers, you are going to talk about a completely different regulation. But that isn't recommended. That isn't suggested. That isn't talked about. That isn't being considered here. No. All it is saying is you are not doing it here at the Federal level. Legislation under the Food and Drug Act doesn't permit you to do it, right in that page and a half. It shows that they don't have the authority to do it. And we are not going to permit you to do it at the State level.

Mr. President, this provision of the bill is an example of what I consider to be the worst kind of sweetheart deal for special interests at the expense of the public interest. It is intolerable that it should be included in a bill that purports to be the Food and Drug Administration Modernization and Accountability Act. We are supposed to be out here modernizing the FDA, on the one hand, balancing the very important public health interests and also trying to consider the legitimate interest of the patient and the consumers using medical devices and new pharmacy products. That is a balance. It is a difficult and a complex one. You want to bring on line the new kinds of innovative products. But you don't want to do it if it poses a threat to public safety. That is a balance. And we have differences about the time, the process, and the procedure. Those are legitimate public health debates and discussions.

But not with regard to cosmetics.

So we have worked through the whole area with regard to pharmaceuticals and with regard to devices. There are two items which I think are of major importance that still need to be addressed. We have made very significant and important progress on the matters that are enormously important to the health and the safety of the American public.

And because that train is going down the track, here comes an old industry, the cosmetic industry, to hook this sweetheart deal right on it; hook right on it.

I hope we are not going to hear from other Members that we now need to have hearings now on various other issues after what we have seen on the cosmetics. I hope we are not going to have those issues. I heard the other day that we need more study in terms of the testing of children. We need more hearings on all of this. We have had extensive hearings over in the House and some hearings over here. But we need many more days of hearings before we jump into this at this direction—when you are talking about health and safety. And that has effectively never been done.

Another unacceptable part of this bill, Mr. President, contains the two provisions dealing with the safety of medical devices, which I will come to in just a few moments.

I see a friend and colleague, the Senator from Rhode Island, here on the floor. I would be glad to yield to him whatever time he might take.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Thank you, Mr. President. I thank the Senator from Massachusetts for yielding.

Mr. President, over the past several months, we on the Labor Committee have been working diligently and effectively to try to create a Food and Drug Administration reform bill—a bill that truly balances the need for technological innovations and flexibility but that doesn't upset the fundamental obligations of the Food and Drug Administration to protect the public's health and safety. And we have made progress.

We have to recognize that the purpose of this bill fundamentally is the reauthorization of the Prescription Drug User Fee Act. That is the critical dimension that we are faced with. With the expiration of that authority at the end of this month or the beginning of the next fiscal year, we would lose a very valuable program, a program that has generally provided great success in speeding up approval, of ensuring that drugs are brought to the marketplace in a much more efficient and effective way. Linking the authorization of the Prescription Drug User Fee Act to the controversial FDA reform proposals may threaten many of the benefits of PDUFA—the acronym for the Prescription Drug User Fee Act. I hope that will not be the case. I hope we can work out some of these details and reach a suitable conclusion.

Much of the credit is due to the leadership of both Senator JEFFORDS and Senator KENNEDY. They have been working diligently to arrive at a legislative proposal that would balance the need for a rapid and effective regulatory response to the approval of medical drugs and devices but also fundamentally protect the public health. Frankly, I suggest that this is the motivation for our debate today.

The critical issue has to be, must be, and should be the protection of the public health and safety. That is why we have a Food and Drug Administration. That is why we maintain a strong, vigilant Food and Drug Administration.

We have agreement, I believe, that PDUFA is working, and that we can move forward with PDUFA. The industry is, indeed, thrilled by it. It works well. They pay fees dedicated to the examination and review of proposed drugs and devices. These resources have enabled the FDA to speed up the process.

In terms of the FDA process, PDUFA has done a great deal. The bill that we are considering on the floor today includes a reauthorization of PDUFA, and represents many improvements in the original bill that we started with, and, indeed, even the bill that emerged from the committee. But there are still critical issues that have to be addressed in terms of protection of the public health and safety. They are complicated issues. They are issues that require careful review and deliberation.

One of the disappointing aspects of this process is that the final version of this bill was just released publicly Wednesday, the same time the cloture motion was filed. Again, in the spirit of careful, thorough, thoughtful review, this does not provide the best opportunity to review all the nuances of this legislation.

So that is why I believe the effort today, led by Senator KENNEDY, is a very important one. It allows this body to more carefully, more intelligently and more thoroughly review provisions that will affect the lives of untold Americans. I daresay that the Food and Drug Administration reaches the lives of every American, probably more so than any regulatory agency in this country.

All the prescription drugs on the shelves, all of the medical devices that are used—all of them, the food additives, all of these things—are influenced by FDA action. We have to be very careful, very thoughtful and, I believe, methodical. So today's debate—and again I commend Senator KENNEDY for ensuring that we do have a thorough debate—is vitally important to that goal.

I mentioned that we have made progress on this bill, but I should say there are also areas that need improvement—desperately need improvement. There is one in particular I would like to speak to for a moment, and that is the issue of medical device labeling.

This bill contains a medical device provision which potentially opens up a serious public health loophole. Section 404 of this bill would prevent the Food and Drug Administration, before clearing a device for the market, from examining whether a device will be used for an unlabeled use before clearing it for use in the market. This provision could allow the gaming of the FDA process where companies could attempt to escape a requirement of providing essential safety and effectiveness data by adopting a very narrow use for the device.

For example, under this bill, a company could get approval for a biopsy needle from the FDA, even though it may be used in practice—and, indeed, this would be something that the company might have knowledge of—for an entirely different purpose, such as for tumor removal. Yet, the company could avoid submitting to the FDA any safety or effectiveness data on this device for tumor removal because FDA

would be prohibited by law from asking for that data. In other words, the FDA would be prohibited from looking behind the limited proposed use of the device.

Another example is a company which receives approval of a general surgical laser, even though the laser is clearly designed for prostate surgery. The public health of the American people is dependent upon a thorough and complete review of such devices, and yet, section 404 would essentially put blindfolds on the agency. They very well might know from general literature, the company might very well know from its sales force who, when they present this product, hear medical professionals saying, ''This is great, but I'll use it for something else,'' and yet the FDA would not be able to require data on this likely use. This provision would prevent the FDA from providing for the safety and effectiveness of medical devices.

The issue of allowing FDA to look beyond the conditions of use on the label and evaluating the use of a device is somewhat of a gray area. Certainly, advances in technology, new uses by the medical profession of devices should not be inhibited, but we also do not want to compromise the ability of the FDA to protect the public health. That is the great balance we must strike in this legislation: allowing for technological flexibility, regulatory efficiency, but not compromising the public health of the American people. It is a balance that we are edging close to.

We have made progress since the adoption of this bill at the committee level, but more progress can and should be made. We are committed to making such progress. We are committed, I think, to coming up with final legislation that will reflect both the need for technological efficiency and innovation, but also protecting the public health of the American people.

I hope we can do that. I know that we desperately want, all of us, to reauthorize PDUFA so that we can continue that outstanding record of regulatory efficiency and approvals that have been generated by PDUFA. But, I don't think any of us want to create a situation where months from now or years from now we are confronted with public health problems because we acted hastily or we acted without the thoughtful, careful review that is necessary to develop legislation that protects the public health and provides for all of the new innovations that are fast becoming part of our medical marketplace.

Again, I commend Senator KENNEDY for his unflinching efforts to ensure that these concerns are fully addressed. I also thank and commend the chairman of the committee who has worked diligently, sincerely and doggedly over these last several months to try to bring together opposing views on the committee. I believe we are close but not quite there yet. I believe in the days ahead, we can, in fact, reach a position of which we will all be very, very proud. At this time, I am prepared to yield back to the senior Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator very much for identifying not only this issue on cosmetics, but also the issue of the medical devices proposal. That is an extremely important measure. Obviously, if there is advertisement and an intention for a certain kind of purpose and technologically it is suitable for that purpose, it meets the health and safety standards to be used for other kinds of purposes, that raises some very, very important questions.

The particular example that the Senator gave with regard to the biopsy needle is a current one. We understand it might be a suitable device in getting a biopsy in terms of cancer, but there are those actually using it to extract certain kinds of tumors. Whether it does that or not—and people assume it is going to be effective in doing that because it is used for other purposes—this is something that the device has not been tested for or intended. I think they there are very important health issues that are related and can be addressed. There are ways of trying to address those particular issues. We have tried to do this, and we still have important health and safety issues which I think are unresolved.

Mr. REED. If the Senator will yield for response, one of my fears is that not only would this situation result in perhaps not giving the FDA data on uses that the companies are aware of in the marketplace, but it might provide a subtle incentive in marketing these devices to encourage uses that are not authorized by the FDA and certainly not to be attentive to those types of uses and report back to regulatory authorities.

Again, when we think about this legislation, we have to think about also that there are a complex set of incentives and disincentives for the best possible behavior by pharmaceutical and device companies. I don't think any of us would like to unwittingly create a situation in which devices approved for one use are cavalierly marketed by companies for other uses and are merely winked at when they do not fall within the category of the approval. So that is another important issue.

There is another aspect of this which I would like to raise with Senator KENNEDY, and that is, I understand that Secretary Shalala has communicated concerns about this issue. I understand that she is concerned about this and her concern may be of such a level that it could suggest that she recommend to the President a veto of this legislation. A veto would be, I think, particularly unfortunate since we have worked so hard, we have made so much progress, and we have reached a point where we are very close to legislation which could virtually pass with unanimity in this body. It would be unfortunate that this type of provision of the bill would disrupt that process. I wonder if that is correct.

Mr. KENNEDY. The Senator is quite correct. In the Secretary's letter, she mentioned several items. I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, DC, September 5, 1997.

Hon. JAMES M. JEFFORDS,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to reiterate the Administration's commitment to continue working with you to accomplish the timely reauthorization of the Prescription Drug User Fee Act (PDUFA) of 1992 and the passage of constructive bipartisan Food and Drug Administration (FDA) reforms. I very much appreciate your leadership and hard work on the important issues that are raised by the FDA legislation and the spirit of cooperation and accommodation that resulted in agreement on so many of the provisions in the Food and Drug Administration Accountability Act of 1997, S. 830. However, we are concerned that a timely reauthorization of PDUFA is in jeopardy.

Mr. Chairman, since S. 830 was reported out of Committee in June, we have come a long way and have reached agreement on what appeared to be the most difficult issues in the bill, including the dissemination of information by drug and device manufacturers, the effectiveness standard for drugs and biologics, the regulation of health economic claims, and the regulation of drugs made through pharmacy compounding. Unfortunately, we continue to have serious concerns about a number of issues that remain unresolved. We think that most of these issues can be worked out, but there are four issues that have the potential for jeopardizing our mutual goal of timely reauthorization of PDUFA and passage of constructive, bipartisan FDA reform.

The first of these issues is preemption of the state regulation of over-the-counter drugs and cosmetics. The Administration has serious concerns about far-reaching preemption—particularly in the absence of a strong federal program. The second issue relates to what FDA may consider in making substantial equivalence determinations for newly marketed devices. For example, the bill requires the Agency to review the intended use of a new device based on the manufacturer's proposed labeling—even if the device's technology clearly indicates that the device will be used for a use not included in the labeling. Third, the bill seriously undermines what was sought to be accomplished by the National Environmental Policy Act by virtually eliminating the requirement that FDA disclose the environmental impact of new products that it approves. The Administration recently took significant steps to decrease the burdens that were associated with conducting environmental assessments for FDA-approved products. We can think of no reason to jeopardize the environment by eliminating a review that is not costly to industry. Fourth, the PDUFA trigger as currently proposed in the bill would undercut the bipartisan budget agreement by denying FDA access to user fees at expenditure levels consistent with the Balanced Budget Agreement and would interfere with my ability to allocate resources appropriately throughout the Department. Finally, with respect to the pediatric labeling issue, we want to work with the Congress to assure that any provisions in the final bill complement the recent FDA actions and reach our mutual goal of effectively protecting our nation's children

and providing needed information to health professionals who treat them.

Mr. Chairman, we in the Administration all agree that reauthorization of PDUFA is in the best interest of the American public. We believe that we are close to reaching consensus on a bipartisan bill that includes this essential reauthorization. However, if the bill were maintained in its present form, and the outstanding issues were not addressed, I would be forced to recommend to the President that he veto this legislation.

The Office of Management and Budget advises that there is no objection to the presentation of this report, and that enactment of S. 830 would not be in accord with the President's program.

Sincerely,

DONNA E. SHALALA.

Mr. KENNEDY. Mr. President, the letter says:

The second issue relates to what FDA may consider in making substantial equivalence determinations for newly marketed devices. For example, the bill requires the agency to review the intended use of a new device based on the manufacturer's proposed labeling, even if the device's technology clearly indicates the device will be used for a use not included in the labeling.

So I think the point the Senator makes where they get approval for a particular purpose, it might be easier to get it for one purpose but with the clear intention of marketing for another purpose in which there has not been testing, and that can produce a hazard to the individual.

We have seen, for example, in some of the laser technologies that they have been approved for certain kinds of cutting procedures, and then they have been in certain instances adopted, for example, for prostate cancer, where they have not been tested and have not been effectively cleared and pose some very important health hazards.

So this is something that is very important, as we are moving through innovation, because we want to make sure we get those innovations. We want to make sure that the products are tested and have full information and disclosure.

I thought we worked out language to try and deal with that. It is an important health issue, and I appreciate the Senator's focus and attention on it. It is a matter of sufficient importance in terms of public health that we would have this identified by the Secretary as being one of the two or three items that the Secretary has identified would pose sufficient health hazard as to indicate a recommendation for a veto.

Mr. REED. If the Senator will yield again, I concur with his analysis, with the danger, and also with the fact this has risen to the level of the Secretary of Health and Human Services as a significant an obstacle to passage or acceptance by the President. Again, I don't think any of us are suggesting that pharmaceutical and device manufacturers are going to—some may, but I hope not—deliberately try to bait and switch. But the market is evolving so much and there is so much innovation that if the FDA can't, by reviewing the literature, make an estimate of what a device might be used for and ask for data on that likely use, then I think we are really constraining FDA—as I said before, putting blinders on the FDA.

That, I think, would be a mistake in policy. And I also feel, based upon my sense of the progress we have made to date, that this is not an unsolvable issue. This issue is one that there is compromise language, with which we can both provide for innovation, we can provide for marketing, we can avoid cumbersome demands by the FDA. But we can still give the FDA the authority to say, ''Listen, you are marketing this device for a very specific use, but we are aware that it would likely be used two or three others ways. How does this device work in those contexts?'' This is a very serious issue.

Once again, without the efforts of the Senator from Massachusetts to try to focus on these issues, it well could have been lost in the clamor of getting out of here and getting on with other business. It would be, in the long run, unfortunate for the public health of the American people.

Let me conclude by saying that it is vitally important in ensuring when the bill passes—and I believe we all hope it passes—it passes in a way we will all be proud of and will deal with all these issues that, leaving no unintended loophole or unintended consequences. I hope that we will have thought it through, worked it out and come up with legislation that will provide for the kind of technological innovation we all want, provide for the kind of efficient regulatory review that we all want and certainly protect the safety of the American public which not only we want but the American people demand. I yield the floor.

Mr. KENNEDY. Mr. President, I thank the Senator from Rhode Island for raising those issues, because that is a rather technical issue, it is a rather targeted question, but one that is of very significant importance.

I certainly agree with the Senator that we don't believe that the overwhelming majority of the medical device manufacturers don't intend to do such things. But what we have to try and do is make sure that those who may want to—and that is basically what happens in any regulatory procedure—you want to try and catch those particular items which are dangerous; that this is one that, with the tremendous expansion, in terms of certainly medical device technology, that we should address.

I appreciate the Senator saying that it can be addressed. We had language that we had considered, that I thought the device industry had been very supportive of and was acceptable. Then in the rush at the end, somehow individuals who had been involved in it felt they didn't want to have any further kind of adjustment or change in the language.

I think it is significant—and I am sure the Senator would agree and the chairman would agree—that we have had, in the fashioning of this bill great support and cooperation from the industry, from the pharmaceutical and also the device industry. We have perhaps some differences that have been moving along on particular kinds of items, but I must say—and I think the Senator would agree; I know he is proud of the industry in his own State, as I am in my State—we have had enormous cooperation and help. So many of these items are technologically difficult, complicated, and involved. We are basically generalists as Members of the Senate. We have some information and try to develop some expertise in particular areas of responsibility, but this gets to an involvement in detail which is enormously complex. When we have responsible industry involvement trying to help us. I did find that in other parts of the legislation it was very helpful. What we hope to do as this whole process moves ahead is come back and visit this provision and see if we cannot address it.

Mr. REED. If I may, if the Senator will yield, I, too, concur with the support, the assistance, the advice, and I think the general goodwill that the industry has brought to this debate. We are now, though, at the detail level, the fine detail, technical detail, and that is critically important. These are the types of details which later on come back to haunt us sometimes if they are not done well.

Mr. KENNEDY. Yes.

Mr. REED. The industry has been responsive and reasonable, and we want to incorporate their best advice but also recognize that our ultimate responsibility is to the health of the American people.

Something else, too, that the Senator alluded to was that this industry is becoming a very important part of our economy, not just nationally but locally. In Rhode Island we have several companies that are emerging as leaders in the industry. They offer not only extraordinary opportunities to help the American people, indeed, the people of the world, through medicine and devices, but also are becoming increasingly important economic powers within our communities—sources of jobs, employment and the types of activity that we certainly want to encourage.

Part of our motivation today is to ensure that we do this right. We need to give them the kind of direction and incentives that will make them stronger competitors in the international marketplace, stronger sources of strength in the communities of America, but also make them responsible and accountable to the American people through appropriate regulation. All of these things we can accomplish because I believe that the differences that separate us at the moment are not fundamental, ideological or in any other sense broad based. They are, rather, important details which will ensure or not ensure that this legislation can be used effectively to protect the public health.

So again I thank the Senator.

Mr. KENNEDY. I thank the Senator.

When we are talking about these technicalities, we have to remember that some of these items, particularly those medical devices that enter the body, have enormous health implications. I remember chairing, in 1974 or 1975, the Dalkon shield hearings where we found that 2,300 American women died from a perforated uterus from the Dalkon shield. That was before we had a Food and Drug Administration that really looked into medical devices.

We have the Shiley heart valve that passed through the FDA, and then eventually the FDA was able to uncover some of the difficulties with that and took steps. I think, if my memory serves me correctly, they were going to use a perfected Shiley heart valve over in Europe, and they altered some opening where the blood went through by just about 10 degrees, and that resulted in a rather significant increase in the failure of that medical device which was actually marketed abroad. The FDA was very much involved in seeing the termination of that.

So even very modest changes or alterations can have important kinds of health implications. We are not going to be able to solve all the problems and we are not interested in producing a bureaucracy that is going to halt innovative and creative ways of dealing with some of these issues. But it is important that we are talking about a Food and Drug Administration and public health.

As I mentioned briefly at the outset, this is the one agency that is intimately involved with public health. It has broad jurisdiction on a wide variety of items, and it has important responsibilities for the public health. This is where the buck stops. Some feel it ought to just be the agency to fast track various kinds of devices or fast track various pharmaceuticals without considering the health and efficaciousness of those products. That is why I think it is useful to pause here for a little while to give some focus to exactly this legislation and what its implications are going to be in terms of public health.

I thank the Senator.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I would like to speak for a few moments just to try to allow those of my colleagues who are viewing us here as to why all this controversy. We just saw a vote of 89 to 5 in favor of moving forward with a bill that has come out and is ready to be placed before the body. Why is that occurring with all of these horrible problems which we have just been hearing about?

Take a look at this bill. This bill is 152 pages long—152 pages long. We are talking about four pages on cosmetics and two pages on medical devices. So we have to keep things in perspective. This bill has tremendous support because in almost every instance the issues that are of concern to people are taken care of.

But why all of this discussion about cosmetics? Because nobody is doing anything. That is why the controversy. The question is who should do something. Now, the question is whether or not you want some uniformity, and that is the Federal Government, the FDA, which we have tremendous confidence in, to take on the issue of warning about the problems of cosmetics and to have a uniform approach, uniform labels and those things so, if you go from one place to another, you don't get confused about what you should or should not be using or doing.

That is the question here. It revolves down to this. Right now, the States say, oh, my God, you can't tell us what we can do. Well, they haven't been doing anything, with the exception of California. It is not something we are moving into and pushing aside all existing regulations; there are none. The question is who ought to do it. Well, to California we said, OK, you have that so we will carve you out. Go forward. You have yours out there. That is fine. The Federal Government will not intervene, will not do away with that. So the bill presently says, California, what you have done is fine. The question is everyone else.

Now, since nobody has moved into this, it is not like you have a whole bunch of States out there panicked because their existing rules and regulations are going to be superseded. It is natural for Governors and State legislatures to scream and say, oh, my gosh, you can't take our power away to do something.

So where did we get down to before we came here? We got down to this close—this close. This is how close we are. We said, OK, if the FDA has not done something and has not established that this cosmetic is a dangerous one, then the States can move in. And if they feel differently, that it is and therefore we should do it, they have the power to do that.

That is the way it is right now. But we say that if the FDA has acted, then we want uniformity and so we should try to make sure that people across the country will have uniformity.

Then the issue was raised, well, suppose the FDA says that it is dangerous because it may cause problems on your face. Suppose the State believes it may have something to do with your blood system. Does that mean they cannot warn people that this cosmetic may be dangerous if it gets into your bloodstream?

Well, that is the issue. That is how far apart we are. On the two pages that deal with devices, the issue is about as narrow as that. It comes down to the question of, if a manufacturer says this device is for this purpose, and the FDA says, well, maybe we want to make sure that we know all the other purposes it might be used for, so they should alert us to those. We are down that far on those two pages, and we are down to within a few lines on the other four pages, but the other 146 pages there isn't really much disagreement with.

So I want to make sure we have things in perspective here. That is why the support, that is why we had the 89-to-5 vote on moving forward on this. But these are important issues. It is important for us to make sure that people know that with respect to cosmetics they are going to be protected and who is going to do it and what kind of awareness are we going to be able to have and what are the States rights versus the Federal Government.

So that is where we are. I will go at length later, but right at this point I want to make sure we understand where we are and what the issue is. In cosmetics, nobody is doing anything now with the exception of the State of California. We think the FDA ought to get in there. They ought to make sure that the cosmetics that are advertised are safe, that we know what problems could be caused and that we have uniformity in the country, so that when you go one place to another, you will have the ability to be able to rely upon uniformity as to what the various products may or may not do to you.

On the other hand, if the FDA does not take any action and a State thinks that this particular cosmetic or whatever is harmful, then they have the power to act.

So that is where we are. I want to reassure people that this bill does not ignore the problem of cosmetics. For the first time it really emphasizes that the FDA and the States should do something. What should they do? That is not going to be taken care of in the legislation because we would not know. But we do know that there is a need out there and that the FDA should have the authority to act and that they should have the authority to provide uniformity. But, on the other hand, the States should not be stripped of their rights to protect their people in the event the FDA has not acted.

Mr. President, I just wanted at this time to pause to try to make sure that everybody understands where we are and why we got the 89-to-5 vote to move forward.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. The fact is that the FDA does not have the authority today—just does not have it. It has the authority to deal with pharmaceuticals and with medical devices but not with the issues which involve health and safety.

I will spend a moment or two just going through the Food and Drug Administration Act, the actual law. It is a page and a half. And there cannot be a fair reading of this, of these provisions, section 601 to 603. To believe that there is any adequate protection for American consumers in this page and a

half is folly. I mentioned earlier the FDA has no authority to require manufacturers to register their plants or products. It cannot require manufacturers to file the data on the ingredients in their products. It cannot compel manufacturers to file reports on the cosmetic-related injuries. It cannot require that products be tested for safety or that the results of safety testing be made available to the agency. It does not have the right to have access to manufacturers' records. It cannot recall a product.

Now, those are powers the FDA has with regard to pharmaceuticals and medical devices, but not with regard to cosmetics that may also be carcinogenic, and may also include toxins. We are not talking about an unimportant matter. We are talking about questions of health and safety. I find it difficult, with all respect, to say, ''Well, look, in California, we've carved that out. All of our Members will probably understand that means. ''We have carved out California.'' California considered this and took action. But if Minnesota—and they have been interested in taking some action on some products—wants to take action down the road in the future to protect its consumers, it cannot do it. In my State of Massachusetts, that has very similar legislation to that of California pending now, and they hope to be able to pass it in the next legislative session—they are out. They are finished.

We have taken care of one State, California. I am glad we did not wipe out California because I am interested in the protection of the citizens of California. They are going to get some protection, but not full protection, because you are going to preempt other health and safety statutes in California. This did not provide all the protections in California. Nonetheless, I am glad that the consumers in California are going to get some protection. But I cannot understand why we are denying other States from making a judgment that they want some protection. That is what this legislation does.

An additional point others will make is, ''Well, we're just dealing with packaging and labeling.'' But that is where the States act, with packaging and labeling. We do not see the withdrawal of products. They are able to do that and have been effective at it, in California. And I will get into how effective they have been, because they have been very effective in protecting consumers, not only in California, but the rest of the country, because when California, as a result of an extensive kind of medical research, has discovered that various products may contain carcinogens or dangerous and toxic substances, and required those products to be labeled, what happened? The manufacturer changed the product. And I will get into the examples.

This is the power that regulations on labeling and packaging can have. This is where they have been effective. These are the key elements, the possibility of developing warning labels. They have not had to develop the warning labels in California because the companies and the manufacturers have changed the products. One of the outstanding examples is Preparation H. Where there were products that were dangerous to consumers, the California regulations were effective in improving product safety. The manufacturer reformulated the product itself and says now it is better than it even was before. That was as a result of research that was done to uncover potentially dangerous substances that had been included in the product.

So, Mr. President, we have an agency that cannot practically deal with and has been restricted from packaging and labeling. We have seen a carveout, a carveout in the FDA authority in section 601 that talks about various products. It says they will not be able to deal with either poisonous or adulterated cosmetics, and cannot apply to coal-tar hair. Coal-tar hair dye. There is the cosmetic industry able to write right into the law ''coal-tar hair dye,'' even though the research has shown what that has done in terms of making hair dyes more dangerous than they need to be. The cosmetics industry has been effective enough to get written into this legislatively that, even though it is dangerous, there cannot be any kind of oversight of it. That is the power. That is real legislative power.

Mr. President, just on this question of the FDA and its ability to deal with this, let us go back to what the GAO said should be done if we were to have an FDA that would be able to provide adequate protection for the public health. This is a public health issue and a safety issue. That is what we are dealing with with regard to cosmetics.

The other items that we mentioned earlier deal with health and safety and are of importance. But on cosmetics, we are effectively talking about health and safety issues. When the GAO last looked at the FDA, and were charged with making recommendations, these are the recommendations that they made. They said:

> We recommend that the Congress amend the Food, Drug and Cosmetic Act to give FDA adequate authority for regulating cosmetic products. Specifically, we recommend that the Congress authorize FDA to require:
>
> Registration of all cosmetic manufacturers.
>
> Registration of cosmetic products and filing of ingredient statements [so that they know what ingredients are in the various products].
>
> Manufacturers to submit to FDA data to support the safety of their products and the ingredients in them [to demonstrate the safety of their products prior to putting them on the market. Before marketing, to be able to give the assurance of safety and also to be able to get the ingredients of these products].
>
> Premarket approval by FDA of certain classes of cosmetics or ingredients when the agency deems such approval necessary to protect the public health.

Why? Because they take notice that some of these products contain possible carcinogens and some of them have toxic products. They are saying we ought to be able to demonstrate the safety of those products rather than put them out in the marketplace and endanger the public.

The GAO report further recommends that:

> Manufacturers to submit to FDA consumer complaints about adverse reactions to cosmetics.
>
> Manufacturers to perform specific testing FDA deems necessary to support the safety of a cosmetic or an ingredient.

So if the FDA were to make a judgment that they believe that items may cause birth defects, may cause an assault on the nervous system, may somehow threaten seriously the health and the well-being of the consumer, that they would be able to ensure there is going to be adequate testing. Those are very minimal standards. These recommendations are from the last review for the power and the authority for the FDA.

Now, do you think we have any of those today? No, we do not have any of those. And all we have to protect the consumer is what is happening at the State level. That is all we have. With this legislation, we are effectively preempting the States from providing those protections to the consumers in their States.

I find it extraordinary how quickly we are to be willing to accept that particular provision without hearings. We understand the power of the cosmetic industry. We understand why this has come up. This has come up, Mr. President, because of the action that has been taken by California. Because California has acted in various cases in order to ensure that the cosmetics that are being used by Californians are safe and effective. They do not want to have to keep dealing with this. Nonetheless, manufacturers have changed their products. They have made them, in so many different instances, safer. That is the way it should be.

If we are not going to do it at the Federal level, why do we take away the power of the various States? It is effectively like preempting the States from having State police. All the States have various State police in order to look after safety and security in their States. We are saying, we are not going to provide any kind of help and assistance, but, in addition, we are taking away your safety, a means of protecting your people as well. And that, I believe, is wrong.

Mr. President, I want to just mention some of the various items since we have talked in generalities here about some of them. Some of these items that we have addressed here have posed a threat to the health and safety.

First of all, we have hair dye, the coal tar in the hair dye. That is a potential carcinogen. It is a danger in terms of the American public and the consumer. One State, California, has a State law. Ohio has tried to deal with this, but they have been basically unable to do so. The industry has been so

powerful it has been able to get written into the law, into the bill itself, that we cannot tamper with something we know is directly a public health hazard. In public health we know that, and still it is written into the law.

We have the old Grecian Formula. It does not have to go through the FDA. It had lead in it—lead. People thought, well, we can use it because it is just a hairspray. We know what happens when lead is ingested. We know it causes mental retardation, for example, in children.

One of the principal problems in inner cities is old paint chips that have the lead content. We know the incidence of mental retardation, and if you go into any urban area in this country and go to the great county hospitals, they have a lead paint poisoning program. You see the incidents of mental retardation that are a direct cause of lead in the paint. The children are either eating the chips or they are playing outdoors and the chips are ingested. They get on the cats and dogs, and children pet them and then scratch themselves or put their hands in their mouths.

It just goes on. We understand that. That has been well understood and documented for 30 years now. But we now know there was lead in Grecian Formula. This came out as a result of the various analyses in California. There was a certain amount of concern about it, but then there was action by the company, and they said, look, maybe there is lead in it, but it is on your hair, and you are not ingesting it, so, therefore, it is not a problem. Then other studies showed that people were washing their hair and were also embracing their children and touching their children and working with their animals or their pets, and this was picking up the flakes and, if the dye was being used over a considerable period of time, the lead posed a significant and important threat to children.

So what happened? Grecian Formula changed their ingredients as a result of this to make a safer product. They did not miss a beat in terms of being able to market it and being able to be successful. But it was changed, and that is because of local activity—not the FDA, but because of local activity.

Mr. President, I will give further illustration, but I will just at this point remind Senators, as we are going through some of these examples, there may be those who say, ''Well, OK, you've got a half dozen out there, but is that really enough to try to resist this provision to preempt State activities?'' Well, the last serious study that was done by a congressional committee was actually done by our colleague, Congressman WYDEN, who held landmark hearings in 1988.

The industry gave his subcommittee a list of 2,983 chemicals used in cosmetics. The National Institute of Occupational Safety and Health at NIH analyzed the 2,983 chemicals and found 884 cosmetic ingredients had been reported to the Government as toxic substances. Let me just repeat that: The industry, the cosmetic industry, provided to the Congress a list of 2,983 chemicals that are being used in cosmetics.

The National Institute of Occupational Safety and Health, what we call NIOSH, which is the center for expertise in being able to analyze various toxic substances, and NIH analyzed these chemicals and found that 884 cosmetic ingredients have been reported to the Government as toxic substances.

We have known for 10 years that a third of cosmetic chemicals are toxic, but we have done nothing to strengthen the consumer protections. Instead, we would rather weaken the consumer protections. Instead of trying to make some progress to protect the consumer we are taking steps to put them at greater risk. Does that make any sense?

We had debate and discussion about the Delaney amendment with regard to carcinogens and processed food and we debated those issues and said is it not time to alter, change, and modify that? We passed very good legislation dealing with pesticides, insecticides, and fungicides just 2 or 3 years ago because we were looking at the fact that the best estimate is that there are probably 2,600 to 3,000 Americans that were dying because of pesticides and insecticides that were being put on products and were being ingested. We have run into problems. We had extensive hearings about the dangers of insecticides on children, because children eat more bananas and certain types of food and products have more insecticides, and therefore it has more of an impact in terms of their bodily functions.

We spent hours and hours and days and days on hearings because we wanted to provide protection against carcinogens in our food supply. Here we have now, according to NIOSH, and according to the NIH, 884 cosmetic ingredients that have toxic substances. Rather than trying to do something about those in terms of examining those in relationship to what is being done in the House and in terms of the well-being of the consumer, we have not only had no enforcement or regulatory protection at the Federal level but we are eliminating what actions could be taken at the State level.

It makes no sense, Mr. President, makes no sense at all. That is what the effect of the preemption does. I read the language on the preemption and that is effectively what that language does.

Now, Mr. President, we have a situation, for example, that has come up in fairly recent time, a hair spray that might be inflammable, and we find out that the State of Minnesota was looking at trying to make some effort to try and identify the dangers that result from this.

Mr. President, there is a Senator here that would like to address the Senate and I am happy to accommodate him.

Mr. JEFFORDS. Mr. President, I yield such time as he may consume to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I thank the chairman and I thank the ranking members who are ahead of me for allowing me this time. I have a schedule conflict and I appreciate the opportunity to say a few words.

I will have more to say as we move forward with this legislation. I wanted to make some opening remarks. I am very pleased that we are actually here at this time with the legislation on the floor. It has been a long and arduous road that we have traveled over this past 2½ years to address the need for FDA reform. We have, as the chairman and Senator KENNEDY said, had numerous hearings. We have listened to the Commissioner of the FDA and his representatives and employees and colleagues. We have listened to outside experts. We have heard from the various industry groups. But the real reason that we are here is not just the fact that a few Senators got an idea that perhaps we ought to address some issues at FDA. The real reason we are here is that all of us have been besieged by consumers, by patients, by, yes, manufacturers of drugs and devices and others who have outlined to us the nightmare that exists at FDA in terms of approving products for beneficial use by patients.

What I will primarily do this morning is briefly state the ''why'' of the need for FDA reform and save my remarks on what we have done—which I am sure will be outlined by many others—save my remarks on what we have done for debate on Monday, Tuesday, or following that, depending on how long this discussion goes on.

First of all, let me state that the precipitating reason for moving forward was the need to reauthorize PDUFA. That is the user fee that is paid for by the drug prescription industry to allow FDA to hire additional personnel and to employ additional technology to speed up the approval of drugs. I am not sure who bears the responsibility for lack of personnel or lack of updating technology.

I have worked with Senator MIKULSKI on a more comprehensive modernization of FDA, consolidating their campus, giving them the new technology that they need, and giving them the personnel that they need. Because SBA was in such desperate shape in terms of its ability to use drugs we enacted sometime ago a user fee whereby the industry itself would be taxed with the money designated specifically to hire the personnel and improve the process and procedures for approval of prescription drugs. That is what finally moved us from debate and delay to the NIOSH action.

I am particularly pleased that Senator JEFFORDS, the chairman, responded to my concerns that if we move only with a limited PDUFA reauthorization we will have addressed only

a small part of the problem that exists at FDA, that what we needed was a comprehensive bill, broad in scope, that would allow us to address a number of problems that exist at FDA, including substantive reform for medical devices and other products regulated by the agency. I commend the chairman for agreeing to do that. We held extensive hearings and broadened the scope of the bill. The bill we have put forward is one that does address a number of issues and that is why it receives such widespread support from the Congress.

Clearly, the vote in committee, a strong bipartisan vote for moving this process forward in support of the comprehensive bill and the vote that was just taken this morning—overwhelming, almost historic in proportion—vote on cloture I think indicates the depth and the breadth not only of the bill but of the support for the bill with Democrats, Republicans, liberals, conservatives, moderates, everybody in between. Only a handful, literally a handful of Senators voted against cloture. So I think that shows the need for moving forward on this bill.

FDA bureaucracy and delay, inconsistent rules, lack of willingness to use outside expertise—all of this has jeopardized the health of American patients. FDA opponents of reform like to state, ''Oh, we cannot jeopardize the health and safety of Americans,'' and yet in their insistence on maintaining virtually status quo in total FDA control on their assistance on that, they have denied Americans lifesaving and health-improving benefits both through prescription drugs and devices and other forms of medical assistance. They have denied people the opportunity to beneficially affect their health and have forced them to go outside the United States, forced manufacturing companies to go outside the United States, forced drug device companies to go outside the United States in order to market their product whereby they would be subject to the rules and regulations of foreign countries rather than this country.

To imply that only the United States FDA has the wisdom to be able to determine what is in the best interests of the health and safety of its citizens is, I think, a slap in the face to countries like Germany, Britain, France, and others who have similar approval processes that benefit the citizens of their own country.

FDA average review time, just taking medical devices, average review time for low- to moderate-risk medical devices, the so-called 510(k)'s in 1995 increased over the previous 6 years by over 200 percent, from 82 days to 178 days, for total review days from 66 days to 137 days for time actually in the FDA's hands. The law says they need to do this in 90 days—the law. We passed the law, a statute here that says that the FDA on low- and moderate-medical devices you have 90 days. The FDA said, OK, 90 days. In that period of time since we passed the law it has doubled in terms of the amount of time they take to review those. Those are average review times.

Specific examples show how ridiculous and how scandalous the process is or has been at FDA. Fortunately, we are in the process of looking for a new Commissioner, and hopefully that Commissioner will bring some business sense instead of simply an ideological bent to the agency and provide for some expediting of some of the devices that do not pose serious health risk to Americans at all.

We all hear about this whole idea that FDA is standing at the bridge, keeping Americans from being subjected to the most egregious of violations, drugs and devices perpetrated by a greedy industry that is concerned only about the bottom line.

I have a device manufacturer in my State that makes hospital beds. That device manufacturer, which is well respected on a national basis, that device manufacturer designed a new bed cover. This is the cover you put over a mattress, on a bed. The bed had been approved, the mattress has been approved, the old device cover has been approved. It is a piece of cloth. But they designed a new one that prevents bodily fluids from leaking into the mattress. Obviously, that could be a potential health risk to not only that patient but perhaps a subsequent patient. So they had come up with a new mattress pad which achieved significant improvement in promoting the health of patients who would use that mattress.

Of course they had to submit it to FDA for approval. This is a class I device, the lowest risk to the patient. So they submitted it to FDA, and the FDA took 476 days to review that mattress pad before it would grant approval. So we talk about the average review times and protection of the party but when you bring it down to specific examples of the ineptness and the bureaucracy that exists at FDA, there are examples on both sides.

The other side likes to use relatively rare anecdotes and of course many of these go back 20, 30, and 40 years, and no one—no one in support of FDA reform—is stating we ought to compromise on health and safety. What we are trying to do is say we think we can expedite and utilize new technology that improves health and safety if FDA could get its act together. Now, if you takes 476 days to approve a mattress pad which clearly is in the benefit of the health and safety of hospital patients because it prevents bodily fluids from seeping through the currents mattress pad, then if it takes 476 days to do that, something is wrong at FDA. Meanwhile, new 510(k) notifications have dropped dramatically, from 7,000 annually in 1989 to a projected 4,800 in 1998. So high-risk, if you look at that, and novel device review times increased from 348 days to 773 days, on average. Many are far longer than that. Some have been languishing in the system for 4 and 5 years.

Now, the statute says that FDA has 90 days on low to moderate risk, 180 days on high risk, and yet, FDA's average review time in 1995 is 773 days on high-risk and novel devices. So, clearly, something needs to be done.

What the committee has tried to do is simply say, let's take an agency that we need, an agency that is important to the health and the safety of Americans and let's see if we can improve it, let's see if we can reform it. The best step and the first step was the resignation of the Commissioner, who admitted to the committee in what was one of the most astounding statements I have ever heard any agency head ever deliver, which was basically saying, ''I am incapable of doing this. You in Congress are going to have to force me to do it. I need the pressure from Congress to do it.'' Can you imagine a CEO of a corporation coming before the board of directors and saying, ''I am not capable of running this company efficiently like you want me to, but if you will put pressure on me and force me to do it, then I can go to my vice presidents and say the board is insisting that I do this''? Is that an example of the weakest form of management and oversight that you can possibly imagine? I could not conceive that the then Administrator, Dr. Kessler, of the FDA would make such a statement. ''I am incapable of doing it, but you force me to do it and then maybe I can convince the people that work for me that we ought to do something.''

Well, let me talk about another example of intolerable delays. This isn't a mattress pad. This goes to life and death. The product was a stent, a small, mesh, spring-like device used to keep coronary arteries from closing. A new stent product that was developed by a manufacturer was submitted to the FDA in November 1986. In August 1987, FDA said, ''We need more paperwork.'' It took them that long to figure out they needed more paperwork. In April 1988 and in August 1989 and in June 1991 were additional requests for more paperwork. An FDA panel meeting was held in May 1992, and they gave unanimous approval to the product. Four years after it was first submitted, an FDA panel gave unanimous approval to the product. It then took the agency an additional year to issue a letter allowing the device to go to market.

Now, have you ever heard of such bureaucratic ineptness? After 4 years of reviewing paperwork on a life-saving device, on which the statute said the FDA had 180 days—after 4 years, the FDA panel met and gave unanimous approval. From that time, it took 1 year for the FDA to issue the letter saying, ''Congratulations, you have been approved.''

Now, critics of reform talk about the potential threat to American health and safety for approval of devices. But

they never talk about the demonstrated not only threat but consequence to the safety and health and even life of Americans for ineptness and delay in the approval of drugs. How many people died or suffered serious incapacity because a life-saving stent on which we could not get a letter of approval from FDA, which approved it, until 1 year later? How many people, over a 5-year period of time, lost their lives because a life-saving device didn't receive FDA approval for 5 years? Let's say it took 4 years; let's grant them that it took 4 years of reviewing paperwork to make sure that this life-saving stent device was worthy of FDA approval. There is no excuse. What possible excuse could there be for a delay of 1 year in submitting the letter so the company could go ahead and market the product?

Dr. FRIST, who is a member of our panel, said, ''I would have loved to have had that stent. I known what that stent does. I've used that stent. Had I known that stent was available before approval * * *''—to think that it was languishing in FDA 1 year after FDA approved it unanimously—it took them a year to get the letter out so that they could market the device. So there are people lying in their graves.

This Senator is tired of hearing about FDA being the guardian of the health of Americans and we should not move forward with any kind of reform at all. When you touch the words ''reform of FDA'' and try to move up their approval process or expedite the process at all, why, then you are jeopardizing the health and safety of Americans. The burden of that lies on the shoulders of those who won't move forward with responsible reform.

Fortunately, today, this Senate, in an overwhelming bipartisan vote—only five people opposed—said it is time to move forward with reform and it is past the time to move forward with reform. We owe apologies to the families of the Americans who have been denied life-saving treatments and devices because people have blocked reform and efforts to move forward.

A Hoosier who attended one of our FDA hearings recently had a life-saving vascular graft implanted in his body. Mr. Friar testified before our committee. He was one of the fortunate patients to receive the graft because he needed the product only after it was approved. Other patients who were denied that before FDA got around to approving it, were not so fortunate.

I could go on and on with examples, but I won't. I do get exercised over it because it is unfair to characterize those that try to seek meaningful reform as those who somehow don't care about the health and safety of American people. We care so much we want to get something done. We want to get some reform underway.

The Hudson Institute, in late 1995, surveyed this question and came up with an estimate. It is difficult to talk about an estimate when we are talking about human life. The Hudson Institute is a respected institution. Let me cite an example from their study. Delay in approving the coronary stent, they say, reached 27 months. The FDA gave access to this product to American patients 27 months after European patients had access to the product. Depending on how one attributes responsibility to the agency, partial or total, the regulatory delay is estimated to have resulted in 1,600 to 2,900 lives lost, patients whose lives were lost because of bureaucratic excess.

So we stand on this floor and talk about it being irresponsible to move forward with FDA reform and we delay FDA reform. We won't even allow a disputed issue to come to a debate on FDA reform, when we are talking about a potential loss of lives of Americans who are denied products because of FDA ineptness.

That is the human side of the question. I am not even going to get into the business side of the question because the two don't even begin to compare. We have lost manufacturing and jobs to overseas facilities in record numbers because manufacturers are throwing up their hands and saying they will go broke waiting for FDA to approve their products. It means a significant number of jobs. Sixty-one percent of U.S. device companies plan to market offshore first. We lead the world in drug and device product development. But they are being pushed out of the country by the FDA. They are being aggressively lured by foreign governments who know that our bureaucratically bloated system provides them the competitive advantage they need to draw those American companies and employees and the brain power away from the United States.

A Netherlands foreign investment company has a publication out highlighting the oppressive climate in the United States. They say, ''Come over here and we will provide a much more favorable climate.'' Now, we will hear in rebuttal about some product that was approved and later turned out to be a mistake. Well, there are exceptions and there will be exceptions, whether they are in the Netherlands or in the United States. We are talking about human beings. We can't guarantee 100 percent perfection. But that is no excuse for not reforming FDA and trying to give it the tools and give it the wherewithal to do a better job.

It has been estimated that the delay in U.S. availability of products threatens a loss of 50,000 jobs in the next 5 years. This is one of the greatest industries we have ever had in this country, in terms of promoting job growth, but beyond that, providing health-improving and life-saving benefits for the American people. Why do we make it so difficult for them?

I don't want to go any further with that because, as I said, you can't compare economic benefit with health benefit. We ought to be focusing on the denial of benefits, the loss of life for failure of the FDA to meet its statutory requirements. We are not asking the FDA to compromise; we are not asking them to compromise on health and safety. We are saying: Do what you said you could do, or at least let's look at alternatives. I proposed an alternative to try to help the FDA. You would have thought I was proposing an amendment to disband the FDA and let the free market sort it out. It was nothing of the sort. That is not what we are after here. I thought we would try to give them some assistance with a third-party review, the FDA certified agencies or organizations outside of the FDA. But FDA looked at it and said: You have the testing wherewithal and the scientific wherewithal to help us expedite approval of these products, and as long as we certify you and as long as we approve the process, and as long as we have a veto power, even if you approve it, if we have a veto power and say, no, we have changed our mind, or we are not sure about that—not even that was acceptable to the opponents of this bill. But it is acceptable, fortunately, to the majority of the committee. It is acceptable to a majority of the American people. It is acceptable to a majority—not a majority but a supermajority—of this Congress. But yet with all of that debate, there is delay and withholding of moving forward, and procedural delays, all in an effort to oppose an honest effort at trying to help the FDA do its job. The irony is the FDA was already doing some of this. We are trying to provide a way that they can do more of it. So the FDA couldn't come forward and say, ''Well, we think everything ought to be done within the FDA.'' They admitted they needed help from the outside, and we structured the statute in such a way that you even wonder if it is going to work because the FDA has so much preapproval, during the process approval, postapproval, veto, and everything else on the thing. But at least it is a start. At least it is a movement in the right direction.

FDA has made all kinds of promises about internal approval, approval, improvement, reinventing itself, and so forth and so on. The record speaks for itself. Prescription drug user fee types have improved, and we are grateful for that. And they have improved because we taxed the industry. The industry said, ''We are so anxious to try to get some of these drugs to market we will pay for it. Not only the development of the drugs, which is enormously expensive, not only the approval of the drug but we will tax us some more and we will give the money to FDA, and you can hire more people so you can look at it. If you turn it down, you turn it down. But at least get an answer one way or another so we can move on to something else, if you don't approve it.''

People say, Why don't you do the same thing with devices? Let's tax the device industry. We are not talking about American-owned products, or

Merck, or Pfizer, Glaxo, major international companies with the funds able to do this. The device companies are often small organizations—startup venture capital organizations. To tax them at this stage is going to just accelerate driving them offshore, and in many cases they in no way have the wherewithal to provide a tax for that. It is not their responsibility. It is a governmental responsibility.

The President's budget hasn't helped much either. The President's budget proposal for fiscal year 1998 reflects something other than an effort to strengthen the agency. In fact, it proposed a cut of funding for the agency. They wanted to cut the Device Center budget by 27 percent. Clearly that calls for congressional action to address the issue, to ensure that the bureaucracy, and the old ways of doing business give way to some efficiencies and accountability in this era of tight budgets.

So that alone is reason for us to move forward. Here we are now in September on PDUFA and a jeopardy of laying off—expiring and laying off—a whole bunch of people. And we are way behind the timetable that we ought to be on in terms of moving this forward.

Just on another point about the size of device companies. Of roughly 8,000 device companies that exist in United States, 88 percent have fewer than 100 employees and 72 percent have fewer than 50 employees. User fees are clearly not workable in a situation like this. And I am pleased that the bill doesn't impose those.

I have all kinds of statistics here, and all kinds of anecdotes and all kinds of stories. The bottom line is we are attempting to bring the FDA into this century. This century is almost over. We are attempting to try to take a tired, inefficient bureaucratic ideologically driven agency and introduce it to the modern era. We are trying to take advantage of these marvelous technological breakthroughs in drugs and devices and products that are occurring at an ever increasing rate around the world, but particularly in the United States, and make them available to American consumers to improve their health, to ensure their safety, to prolong their lives, to save their lives. That is why we have formed an extraordinary coalition between Republicans and Democrats. This has nothing to do with party lines, liberals, conservatives, and everybody in between. There was an almost unprecedented vote in committee of 14 to 4, and we would have had even a better vote than that if we went back and did it now because we have resolved some of the concerns that those four had. We wouldn't get all four. But we would have even a better vote—probably more like 16 to 2 because we have addressed those concerns that were raised in committee. Those Members thought that they had better reserve their vote and negotiating ability. And we resolved that.

We have done an extraordinary amount of negotiating from the time the committee passed the bill out until this point. We were that far away in July from resolving this. In the negotiations with Senator KENNEDY, we made 30-some concessions on a bill that passed 13 to 4 in order to get the approval of one person because one person could tie this thing up procedurally. We made 30-some concessions—concession after concession after concession by the chairman, this Senator, and other Senators. What is the problem? How can we fix it? Can you work it out? Can you go along with the bill, if we did that? Can you do that?

We finally threw our hands up in total exasperation because every time we thought we were at the goal line, no, move the ball back another 15 yards to another position. Take that up. Will that do it? Yes. Solve that. Then they thought of another one. There was always a reason to delay and delay. And then we went through the August recess. If we were talking about making a widget, if we were talking about something that didn't affect the health and the safety of the American people—I suppose that is just part of the process here—but we are talking about people waiting for steps that would save their lives; waiting for approval from FDA of drugs that can potentially keep them from dying, waiting for products that can make their life a little more tolerable while we play games in the U.S. Senate because one person doesn't think it is a perfect bill in front of him, even though there is a widespread majority in support of it. That is wrong.

So I am glad we are moving forward. I am sorry that we had to invoke a procedure to cut off a filibuster to do it.

I understand people may have some concerns about this bill. It is not a perfect bill. It passed through months of arduous negotiation. There has been give and take. Every Senator is free to come down here and make his point and raise his objection and offer an amendment and take a vote. If it passes, the bill will be modified. If it fails, instead of taking the ball and going home and saying we are not going to play anymore, let's just say apparently I wasn't persuasive enough, or maybe I got my facts wrong, or maybe that is not what the majority wants to do. But let's not deny health improvements and safety improvements for the American people and the American consumer just because we don't get our way. Let's move forward. We will now.

We have invoked cloture. I regret that we had to do that. I regret we had to go through the month of August waiting to reconvene, because there are people out at FDA that are going to be laid off if we do not get this thing moving. All the efforts that we have done to try to hire additional people out there will be undermined in terms of drug approval because we can't get this bill moving.

So let's move forward. Let's raise our objections. Let's have a debate. Let's have a vote and accept the result, and let's move forward with FDA reform.

Mr. President, I will have more to say about this at a later time. I have not gotten into the ''what.'' I was talking about the ''why'' here—why do we need reform. I have not gotten into what the bill includes. It is a broad bill with a lot of depth. It covers a lot of areas. It is significant reform. It is not as much as this Senator would like. It is more than some other Senators would like. But it is a big step in the right direction.

I just note for the RECORD that I don't know what is going on, Mr. President, at the White House. We have been without a commissioner now at FDA for some time. They nominated someone this week, and then withdrew the nomination 24 hours later. I don't know why. But I urge the administration to continue its search. I am going to suggest a couple of names to them of people, if they need people to look at. I don't do it with any hope that they think anybody I would suggest ought to head up FDA—not this administration. But we ought to get somebody in there who is willing to exercise the oversight and the administrative ability to work with the Congress in bringing this agency into the modern era and improving the way things are done there. There are a lot of dedicated, competent, hard-working scientists and researchers and medical personnel at FDA who deserve to have competent leadership, competent management, and deserve to have the support of this Congress in providing the funds and providing the technology and providing the assistance in expediting in an appropriate manner the bringing to market of drugs and devices that can make a difference in people's lives.

Mr. President, there is more to come later. I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Illinois.

UNANIMOUS-CONSENT AGREEMENT—S. 1061

Mr. DURBIN. Mr. President, I ask unanimous consent that it be in order to offer two amendments to S. 1061, even though the bill is not pending, and that those two amendments be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1078

(Purpose: To repeal the tobacco industry settlement credit contained in the Balanced Budget Act of 1997, as amended)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Ms. COLLINS, proposes an amendment numbered 1078.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . REPEAL OF TOBACCO INDUSTRY SETTLEMENT CREDIT.—Subsection (k) of section

9302 of the Balanced Budget Act of 1997, as added by section 1604(f)(3) of the Taxpayer Relief Act of 1997, is repealed.

AMENDMENT NO. 1085

(Purpose: To provide for the conduct of a study and a report on efforts to improve organ and tissue donation)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. LEVIN, Mrs. MURRAY, Mr. JOHNSON, and Mr. BREAUX, proposes an amendment numbered 1085.

The amendment is as follows:

On page 49, after line 26, add the following:

SEC. . (a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the General Accounting Office, shall conduct a comprehensive study concerning efforts to improve organ and tissue procurement at hospitals. Under such study, the Secretary shall survey at least 5 percent of the hospitals who have entered into agreements with an organ procurement organization required under the Public Health Service Act and the hospital's designated organ procurement organizations to examine—

(1) the differences in protocols for the identification of potential organ and tissue donors;

(2) whether each hospital, and the designated organ procurement organization of the hospital, have a system in place for such identification of donors; and

(3) protocols for outreach to the relatives of potential organ or tissue donors.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under subsection (a), that shall include recommendations on hospital best practices—

(1) that result in the most efficient and comprehensive identification of organ and tissue donors; and

(2) for communicating with the relatives of potential organ and tissue donors.

Mr. DURBIN. Mr. President, I ask unanimous consent those amendments be laid aside for debate at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1086

(Purpose: To express the sense of the Senate that hospitals that have significant donor potential shall take reasonable steps to assure a skilled and sensitive request for organ donation to eligible families)

Mr. DURBIN. Mr. President, on behalf of Senator LEVIN, I would like to, on the same bill, S. 1061, offer an amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Mr. LEVIN, Mr. THURMOND, and Mr. INOUYE, proposes an amendment numbered 1086.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . (a) FINDINGS.—Congress finds that—

(1) over 53,000 Americans are currently awaiting organ transplants;

(2) in 1996, 3,916 people on the transplant waiting list died because no organs became available for such people;

(3) the number of organ donors has grown slowly over the past several years, even though there is significant unrealized donor potential;

(4) a Gallup survey indicated that 85 percent of the American public supports organ donation, and 69 percent describe themselves as likely to donate their organs upon death;

(5) most potential donors are cared for in hospitals with greater than 350 beds, trauma services, and medical school affiliations;

(6) a recent Harvard study showed that hospitals frequently fail to offer donation services to the families of medically eligible potential organ donors;

(7) staff and administration in large hospitals often are not aware of the current level of donor potential in their institution or the current level of donation effectiveness of the institution;

(8) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq; 1396 et seq.), hospitals that participate in the medicare or medicaid program are required to have in place policies to offer eligible families the option of organ and tissue donation; and

(9) many hospitals have not yet incorporated systematic protocols for offering donation to eligible families in a skilled and sensitive way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hospitals that have organ or tissue donor potential take prompt steps to ensure that a skilled and sensitive request for organ or tissue donation is provided to eligible families by—

(1) working with the designated organ procurement organization or other suitable agency to assess donor potential and performance in their institutions;

(2) establishing protocols for organ donation that incorporate best-demonstrated practices;

(3) providing education to hospital staff to ensure adequate skills related to organ and tissue donation;

(4) establishing teams of skilled hospital staff to respond to potential organ donor situations, ensure optimal communication with the patient's surviving family, and achieve smooth coordination of activities with the designated organ procurement organization; and

(5) monitoring organ donation effectiveness through quality assurance mechanisms.

Mr. DURBIN. Mr. President, I ask unanimous consent that the amendment be laid aside for later debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOOD AND DRUG ADMINISTRATION MODERNIZATION AND ACCOUNTABILITY ACT OF 1997—MOTION TO PROCEED

The Senate continued with the consideration of motion to proceed.

Mr. DURBIN. Mr. President, I would like to address the motion pending before the Senate at this time on the FDA reform bill.

I have listened very, very closely to the statements by my colleague and friend, the Senator from Indiana. I note that his comments are heartfelt about a very important agency. The Food and Drug Administration is by Federal standards a small agency. The annual appropriations is in the range of $1 billion, and by the standards of Washington, DC, it might be ignored by many. But those of us who are familiar with the important mission of the Food and Drug Administration, those of us who have worked closely with that agency and with its Commissioners over the years, and in my particular case, those of us who have had the opportunity to literally fund this agency through the Appropriations Committee of the House, understand the critical importance of this agency. Though its resources and budget may be small by Washington standards, its responsibilities are immense. There is not an American living who is not touched by the work of the FDA. They regulate things as diverse as the radar guns used by police, microwave ovens used in airplanes, and virtually all of the drugs and medical devices for sale in the United States. We count on them every day. And they are an agency, as you can tell from the previous Senator's remarks, which is not above criticism. This is an agency which has a very difficult mission. On the one hand, a person who is ill seeking a new drug or medical device wants the FDA to issue approval as quickly as possible. That is a natural reaction.

By the same token, a company with a drug or a medical device which they want to see approved is anxious for the FDA to give approval as quickly as possible. The FDA approval on a drug or medical device is better than any Good Housekeeping seal of approval. It is literally a ticket for sales, confident sales, worldwide. Once the Food and Drug Administration of the U.S. Federal Government gives its approval, you know that your medical device or your prescription drug is going to have an opportunity for a worldwide market because that approval means something.

There is another side to this ledger. The Food and Drug Administration, with the pressure to approve drugs and medical devices by not only consumers but also by manufacturers, also has an awesome responsibility to make sure that those approvals are done in the right way, so that the American consumers know that what they purchase is safe and effective.

Those are the two criteria. So the scientists and those working at the FDA put in long hours, days, weeks, months, sometimes years, to make certain that a product, before it goes on the market in the United States, is safe. While they are in the process of evaluating, there are people on the sidelines saying, what is taking so long? Why hasn't this agency moved to approve this drug or this medical device?

I have been frustrated myself when people in my old congressional district or in my State have come forward and said, it has taken months, sometimes years; why don't we have the FDA's final approval? I am sure some of that may be associated with bureaucratic slowdown, and if this bill addresses

that, then I think it is a very important step forward. But do not minimize the fact that many times the evaluations by the Food and Drug Administration are careful reviews of clinical trials to make sure, before a drug or device is released in America, it is safe and effective. Not a single one of us would want to take a drug prescribed by a doctor uncertain as to whether or not it was safe. No one would want to do that. The Food and Drug Administration tries to give us that confidence.

There has been a reference made earlier to Dr. David Kessler, the last Administrator of the Food and Drug Administration. The previous speaker obviously shares a different opinion than some about Dr. Kessler's performance and contribution. I think he is one of the most extraordinary public servants I ever had the opportunity to work with. The only holdover from the Bush administration, Dr. Kessler was reappointed by President Clinton and I think did an exceptional job. Of course, we are kindred spirits on the tobacco issue, but beyond that I think his job at the Food and Drug Administration will set an example that others will have to try to emulate, and they will find it difficult to do so. I am sorry we lost him, but he gave so many good years of service to the Federal Government we can be thankful he did.

Let me also say that this is an agency which has fallen under criticism politically. When the Republican control of the House occurred after the 1994 election, I was amazed that one of the first lines of attack by Speaker NEWT GINGRICH was on the Food and Drug Administration. He made arguments, many of which you have heard this morning, that this agency was stopping those devices which would save lives, this agency was stopping the approval of drugs which would save lives. And he went on at great length about how they were going to dismantle the Food and Drug Administration, literally to turn out the lights at this agency.

Thank God that didn't occur; saner minds prevailed, came forward and said that would be a serious mistake. A lot of the references to a more responsible approach came from the same industries that are regulated by the FDA. They realized that when you drop your guard, when you get into a no-holds-barred strategy when it comes to the approval of drugs and medical devices, the reputable companies will be the first to lose when consumer confidence is destroyed.

Let me give you three examples of what I have seen in a short period of time, of the work of the Food and Drug Administration. Some of these are forgotten, and they should not be.

There was a counterfeit infant formula on the market that was discovered by the Food and Drug Administration. It turned out that some group of individuals had decided to take one of the most popular brands of infant formula in the United States and to literally copy its label and to put contents in a can and sell them as if it was the product that it was advertised to be. In fact, it wasn't. It was a phony. Luckily, the FDA caught them and in catching them stopped the sale of this infant formula product which was grossly deficient, which if it had been given to infants across America could have caused serious health problems. The Food and Drug Administration was vigilant, caught them and stopped them.

Let me make reference to one that most people remember. It was only a few years ago that they discovered these syringes in Diet Pepsi cans. Oh, every nightly newscast told us about this discovery. What did it mean in the wake of the AIDS crisis to find a hypodermic syringe in a can of soda? Well, luckily the Food and Drug Administration stepped in and determined that this was only an isolated example and a hoax. It was important for the consumers across America, but it was equally important for Pepsi Cola. Their stock had plummeted when this occurred. But the Food and Drug Administration stepped in and said this is something the consumers do not have to worry about. We have it under control. And because they have the respect of the American people, the product went back on the market without a problem and the stock resumed its climb. I think it is important for us to make sure that we talk about what this agency brings to us.

I also took a trip to the State of Massachusetts, to review the Food and Drug Administration programs there, in particular, to review one particular company that was making heart catheters. Most people are familiar with them. Those who are not should know that they are tiny little threaded lines that the surgeon will insert in your body and then it will course through your veins to your heart, and they can literally take samples as well as photographs of the interior of our bodies—a critically important medical device. Yet, as it turns out, this company was making defective heart catheters that literally broke off inside people's bodies and then, of course, surgery was necessary to remove them. That is the type of thing the Food and Drug Administration must be constantly vigilant to watch out for and to protect us against.

I could go on—and I will not—for hours about what the Food and Drug Administration does and how important it is when we reform this agency to remember their enormous responsibility to consumers across America.

I agree with my colleague, Senator KENNEDY, that there are portions of this bill that should be reviewed and I hope changed during the course of the floor debate. I think it is wrong for us to remove from the States the authority to review cosmetics and to put warning labels on them, if a State decides it is in the best interest of its citizens. We do not have sufficient personnel at the FDA right now in the Cosmetic Section to take responsibility for complete Federal oversight of this large industry. Senator KENNEDY has made a compelling argument that we should allow the States to continue to have this authority, to put those provisions in place which will protect the health and safety of consumers.

I have three amendments which I am going to offer, and I hope that they will be amendments approved on a bipartisan basis. One seeks to reverse an area of this bill which I am afraid will weaken the strong safety protections put in place by the Safe Medical Device Act of 1990. Many of us remember the tragedy resulting from the Bjork-Shiley heart valve failure. Extensive congressional hearings were held in the late 1980's examining what had gone wrong and how we might prevent future repeats of those terrible deaths when this heart valve failed.

In the United States alone, over 300 people died because this defective medical device was implanted. Worldwide, almost 1,000 people have died as a result of fractures in this valve once it was put in place. After it was concluded these heart valves were defective, over 50 percent of the patients with these heart valves in their bodies could not be located. One widow testified before Congress about how her husband had a heart valve, suffered chest pains and the couple had no idea that it was because of the defective heart valve. They had not heard about it. They had not been notified. They lived at the time equidistant between two hospitals, only one of which was capable of performing open heart surgery. They made a mistake; they went to the other hospital. Her husband died. She didn't realize that he might need open heart surgery because the heart valve in his body was defective.

The Safe Medical Device Act of 1990 set up a system for mandatory tracking of these high-risk devices so that if problems were found, the patients with the devices could be located and notified. That is a basic protection.

There are only 17 types of devices that require mandatory tracking. They are all extremely high-risk medical devices—heart valves; pacemakers; vascular stents; jaw, shoulder, hip joint replacements; windpipe prostheses; breathing monitors and ventilators.

It is hard to imagine the tracking of such high-risk devices could ever be made optional, and yet that is exactly what this bill does. The FDA has already complained that they find it extremely difficult to enforce this provision, and yet instead of helping them with enforcement, this bill weakens their ability further by making tracking discretionary.

Isn't it curious that automobile manufacturers are required to have a tracking system so that if a safety problem is identified with your car's model, they know where to find you. It seems unthinkable to have a lower standard of consumer protection for a pacemaker or a ventilator as compared to a seat belt.

The second aspect is surveillance. This is a key part of this Safe Medical Device Act which this bill undermines. The mandatory surveillance program of high risk medical devices is especially important for consumers. These surveillance programs are important for the early detection of potential problems with medical devices. In some cases the initial breakage of a device may not cause instantaneous harm. For example, in the case of Telectronics' heart pacemaker J leads, which were found to be defective in 12 percent of the patients, breakages did not result in harm until the next bout of heart arhythmia. Surveillance of these leads identified problems in some patients. This led to the notification of patients with these leads of the need to have them checked. Such early detection and correction can prevent a health crisis.

Let me give you another example. Early detection, unfortunately, was not seen in the case of Teflon jaw implants made by Vitek in the 1980s. These implants, once put inside of a human being, were found to splinter and cause massive corrosion of jaws and skull due to the triggering of inflammation and other immune responses. By the time the patient suffered the pain, extensive damage had already been done. Many of these patients required complete resection and removal of their jaws, even some of their skulls exposing their brains.

Donna Fennema from Ames, IA, testified here late last year at an FDA hearing of how she needed 30 hours of critical major medical surgery to rectify her splintered jaw implant. She needed a rib graft to rebuild her jaw on both sides. To this day, she suffers pain from both her jaw and her rib cage. If a surveillance program had been in place prior to the Vitek jaw implant defect, many of these patients would have been able to have the implants removed prior to the deterioration of their physical conditions. This terrible tragedy that we have seen is one of the major catalysts, along with the Bjork-Shiley heart valve, for the passage of mandatory surveillance and tracking of implantable high-risk medical devices.

Yes, it is true that these programs of surveillance and tracking are burdensome to industry. Make no mistake about it. But the cost to society, the cost to each of us, the cost to American families of weakening them is far too high for us to be undermining them.

The second issue I would like to raise is one that is very typical and one that I have worked on for a long time. It is the issue of tobacco. I am concerned that section 404 of this bill, this FDA reform could undermine FDA's ability to regulate tobacco. This section attempts to limit FDA's ability to look at anything other than the manufacturer's label to determine the intended use of the product and to determine whether the product is safe and effective for this labeled use.

This section has much broader implication than just tobacco regulation. It provides a generally huge loophole through which device manufacturers can attempt to avoid FDA regulation through imaginative labeling. However, it is most worrisome for tobacco regulation given the long history of tobacco companies and their deception.

In the early seventies when there was a ban on TV advertising of tobacco products, the industry devised every imaginable way to circumvent this ban. They would purchase bill-board space at sport's events which were placed in such a manner and location, that they knew they would be televised during the sport's event. For example, they would purchase billboards behind homeplate of a baseball game or near the scoreboard. They would purchase racing cars with advertisements along their sides. No stone was left unturned, looking for ways around the ban.

Around the same time of the television ban on advertising of tobacco, the industry passed a voluntary code that none of them would use models that appeared to be under 21, and yet many of the models which were used could pass as high school students.

All this suggests to me at least that we do not want to jeopardize any type of tobacco settlement with this FDA reform bill. I suggest a very simple and straightforward fix, and I hope that the sponsors of the bill will consider it. It says as follows: Nothing in this entire bill shall be construed to alter any authority of the Secretary to regulate any tobacco product or any additive or ingredient of a tobacco product.

Mr. KENNEDY. Will the Senator yield on that issue?

Mr. DURBIN. I will be happy to yield.

Mr. KENNEDY. I welcome the Senator's focus on that particular provision. We had attempted to address that question, but it was done very unsatisfactorily. I think the Senator has raised a very important issue with regard to what we have done in the legislation and the power of the FDA to deal with tobacco in this legislation.

We will have an opportunity to address that when we move toward the legislation itself, but I think it is important and one of the principal reasons for taking the additional time on the legislation for the reasons that the Senator has just identified.

For example, I think we have heard from responsible legal authority that if the manufacture of tobacco products were to label them as ''intended for smoking pleasure'' or ''intended for weight loss'' or ''intended to be used twice weekly,'' then there is a real question whether FDA can get safety data on the addiction of those health hazards.

We know how creative—and the Senator from Illinois knows well because he has been a leader in the House of Representatives and in the Senate with regard to the activities of the tobacco industry—how creative they can be in terms of packaging, so to speak, their intercessions with the FDA in ways that can circumvent the kind of protections that all of us are so concerned about, primarily with youth, and also as part of this whole tobacco negotiation.

I commend the Senator for the work that he is doing and welcome the opportunity to join with him to try and address the actions of the tobacco industry in the recent budget item to circumvent the agreements that the tobacco industry had made with the attorneys general. That is another issue for another time. What it does reflect is how the industry is working tirelessly at every junction to try and foreclose the opportunity of meeting their responsibilities, either under the agreement or under this legislation.

I think they undermine the authority of the FDA in their agreement, which they signed with the attorneys general, and that agreement should not pass under any circumstances unless that measure is addressed. I know the Senator will work with us closely in doing that.

But the Senator has identified another potential loophole that ought to be addressed. I am very hopeful that we will be able to do that. I thank the Senator for raising this because this is another very important aspect, as we are being asked to rush through this legislation. There are only two or three Senators evidently concerned about this particular proposal. We have seen the fact that the Governors, all of the Governors, the State legislatures sent in their resolution and their letter saying, ''Go slow,'' in opposition to the legislation. As the Secretary of Health and Human Services has also indicated, go slow.

I thank the Senator for his comments on these other items, but particularly with regard to tobacco.

Mr. DURBIN. I thank the Senator from Massachusetts. Another item I would like to address on which I will be offering an amendment that I hope Senator JEFFORDS will consider is that of removing any possible money taint of the external review process.

This bill expands the ability of medical device companies to purchase their own third-party reviewers. Given the importance to the public of the approval process remaining untainted by monetary influence, it is extremely important we ensure that there are very strict anticonflict of interest standards for product reviews.

In laymen's terms, if we are going to hire companies to review medical devices to determine whether or not they are safe enough for sale in America, devices such as the heart catheter that I mentioned earlier, we want to make certain that the reviewers are truly objective; that they do not have any conflict of interest or any monetary gain associated with what they are doing.

This bill, as currently drafted, has only very limited language on the issue of preventing conflict of interest. Senator HARKIN was successful in adding

some strength to that language. His amendment which was accepted after the markup of this bill in committee, allows the FDA to look at the contractual arrangements between an outside reviewing entity and the company whose product is being reviewed.

FDA employees themselves are subject to a wide range of anticonflict of interest legislation for obvious reasons. If you are an employee at FDA, if you can purchase stock in the company of the device you are about to approve, you are in for a windfall. We don't want that to occur, and we certainly don't want it to occur when we talk about third-party reviewers.

Senator FEINGOLD and I will be offering an amendment that would codify into law basic requirements for outside reviewers. We don't seek to impose all the FDA employee regulations on outside reviewers, merely the most appropriate. We would be happy to work with Senator JEFFORDS' staff to tailor these very basic requirements specifically to outside reviewers.

Our amendment is simple. It merely asks outside reviewers not be allowed to have a financial interest in a company that they review. It further demands that no outside reviewer may receive a gift from a company whose product they review. To monitor and prevent such activities, the amendment allows FDA to require financial disclosure.

It should be obvious to all of us why it is necessary.

The money stakes are certainly higher with respect to getting FDA approval. Every day we read of how the stock market soars for a company whose product has just received FDA approval. For instance, on May 7 this year, FDA announced approval for a laser system made by a company called Premier Laser Systems, Inc., that treats tooth decay painlessly. There is something we all would like to see. Within days of this approval, the company's stock price more than doubled, and for the first time since going public in 1995, Premier hit the top 10 in trading volume on Nasdaq, far surpassing even Microsoft 5 days in a row. That is what FDA approval means.

As we farm out this responsibility to third-party reviewers, it is important that they make decisions that are objective and honest.

Failure to get approval of a product can have the opposite effect. For example, recently an FDA panel voted 9 to 2 that FDA reject an approval for a heart laser made by a company known as PLC Systems. Trading in the stock had to be halted after this announcement. Shares of PLC had risen dramatically in recent weeks on the expectation of a more favorable result. FDA denial of approval shattered the stock's profitability.

The medical device industry produces over $50 billion annually in sales. In fact, a recent article in the journal Medical Economics, entitled ''Why Medical Stocks Belong in Your Portfolio,'' the medical device industry was described as ''a hot market that is only getting hotter.''

Not only are the money stakes high for investors, however, the stakes are also high for patients who have to rely on these devices.

Reviews must be of the most stringent nature and must be carried out without outside corrupting influences.

The approval of an unsafe drug or device, as I have already mentioned, can have a devastating impact. Surely, it is not too much to ask that a reviewer be prevented from accepting gifts or loans from a company they are reviewing and that they not be allowed to designate another person for acceptance of such a gift.

Furthermore, a reviewer or their spouse or minor child should not be allowed to have a financial interest in a company whose product they are reviewing. That seems basic and fundamental. I hope Senator JEFFORDS and others on the committees would consider agreeing to the Durbin-Feingold amendment. The products are too important to the American people. I believe we should take a firm stand and specifically enumerate basic standards within this legislation to prevent even the potential for corruption of this process.

Let me say, I was one of the five this morning who joined with Senator KENNEDY in suggesting that this bill should be debated at length. I hope that some of the items that I have raised during the course of this debate will give Senator JEFFORDS and others an indication of my concern. But let me say also that I respect what Senator JEFFORDS and the committee has accomplished here. FDA reform is needed, and I think what you are setting out to do, to make it a more efficient process, is a very worthy goal.

I find most of this bill to be very positive, and I am anxious to support it. I hope that during the course of the debate on my amendments and others, we can rectify what I consider to be a handful—but only a handful—of very important items which still need to be debated. I hope to be able to vote for final passage of this bill, and I hope Senator JEFFORDS and others will be open to these amendments. They are offered in good faith, and I hope we can work together to resolve some of the concerns I have.

Let me close by saying that those who are critical of the FDA often pine for those countries overseas where it is so easy to get approval for drugs and medical devices. I recommend to some of them that on their next trip to Mexico that they drop into a pharmacy and look at what is for sale on the shelves of those Mexican pharmacies. You will find products that are openly advertised as being cures for cancer and AIDS. Many countries, which have a much easier process, have little integrity in that process. We want to maintain that integrity to make sure the American consumers know that they still are getting the very best. I yield back my time.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first of all, Senator MIKULSKI will be here shortly. I would like to make a few comments before I turn the floor over to her.

With respect to the devices, as I pointed out earlier and I just want to refresh everybody's recollection, the bill that we are dealing with is 152 pages long. The matters on devices are two pages. The matters on cosmetics are four. I thank the Senator from Illinois for bringing attention to some possible problems with respect to ensuring, as we all want to ensure, that there is no conflict of interest involved with any of the companies that they will be dealing with.

I point out, first of all, that the FDA has total control over the third parties that will be allowed for the purposes of reviewing. They have total control over that. There are already regulations which propose to correct most of the problems, although a couple others have been raised, and we certainly are going to seriously consider amendments that will take care of those problems.

Let me go through the provisions right now on the existing regulations for FDA:

Can't own a device company;

Can't have any ownership or financial interest in any medical device company;

Can't participate in the development of medical products;

Can't be a consultant;

Can't prepare advice for companies; and

Fees cannot be contingent on third-party recommendation.

In addition, I emphasize that the FDA has a list of those they have examined, have gone through to make sure that they are appropriate for the purposes of assisting—assisting—FDA in coming to conclusions on these devices.

There are some protections:

Can't obtain reviews for the same product from more than one third-party organization;

Can't contract for a substantial number of reviews, like more than 10 a year, from the same review organization on different devices; and

Can't contract for reviews from the same review organization where the sum of fees is substantially like $50,000 one year when the other organizations have the same capacity.

So there are many protections now. Of course, we are very concerned, along with the Senator from Illinois, and want to make sure we have taken care of every possible situation.

With respect to the legislatures and the Governors, I will point out that the discussion in that regard has been very limited to certain provisions, but I want to enter into the RECORD a letter

which came to the majority leader, Senator LOTT, from Gov. Tom Carper from the State of Delaware, chairman of the Committee on Human Resources, and Gov. Tom Ridge, the vice chair of the Committee on Human Resources. I will read that for the RECORD:

On behalf of the nation's Governors, we are writing to express our support for swift passage of bipartisan FDA reform and a reauthorization of the Prescription Drug User Fee Act (PDUFA).

Better health care for all Americans is a paramount national goal that is strongly supported by the Governors. An important component to improved health care delivery is the development and approval of safe and effective new medical technology. New therapies, for example, have the potential to improve the lives of millions of Americans and may, in many instances, reduce health care costs.

The Governors also recognize that the competitiveness of the U.S. pharmaceutical, biotechnology, and medical device industries—and the hundreds of thousands of people they employ in our states—is dependent on bringing products to market safely and quickly. Constructive reform will improve the efficiency of the approval process while continuing to protect the public's health and safety.

We have the support of the Governors. They are not going to go through everything. Generally, they support what we are doing. That is why we had an 89-to-5 vote today to move forward.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, July 25, 1997.

Hon. TRENT LOTT,
Senate Majority Leader,
Capitol Building, Washington, DC.

DEAR SENATOR LOTT: On behalf of the nation's Governors, we are writing to express our support for swift passage of bipartisan FDA reform and a reauthorization of the Prescription Drug User Fee Act (PDUFA).

Better health care for all Americans is a paramount national goal that is strongly supported by the Governors. An important component to improved health care delivery is the development and approval of safe and effective new medical technology. New therapies, for example, have the potential to improve the lives of millions of Americans and may, in many instances, reduce health care costs.

The Governors also recognize that the competitiveness of the U.S. pharmaceutical, biotechnology, and medical device industries—and the hundreds of thousands of people they employ in our states—is dependent on bringing products to market safely and quickly. Constructive reform will improve the efficiency of the approval process while continuing to protect the public's health and safety.

Thank you for your consideration in this important matter.

Sincerely,

GOVERNOR TOM CARPER,
Chair, Committee on Human Resources.
GOVERNOR TOM RIDGE,
Vice Chair, Committee on Human Resources.

Mr. JEFFORDS. With that, I see Senator MIKULSKI is here. I would, therefore, yield to her such time as she may desire.

Ms. MIKULSKI. Mr. President, I thank the chairman for his leadership in bringing about not only a reform structure for FDA that preserves both the safety and efficacy of pharmaceuticals, biologics and other products that the American people utilize, but also for the fact that he has been able to move this legislation to the floor.

I also extend my compliments to Senator KENNEDY for his longstanding commitment to public health, to public safety, and at the same time being able to maintain the whole idea of developing jobs in our own country.

Mr. President, I have been working on FDA reform for a number of years. I worked on FDA reform when I was a Member of the House of Representatives on the Energy and Commerce Committee, serving under then Congressman DINGELL, where we embarked, on a bipartisan basis, to ensure consumer protection and that we did not dump our drugs that did not meet our standards on third world countries.

Coming to the Senate, I joined with my colleague from Massachusetts and the Senator from Utah, [Mr. HATCH], in fashioning legislation called PDUFA, the Prescription Drug User Fee Act, which enabled a very important tool to go into place in which we could hire more people to come to FDA to examine the products that were being presented for evaluation, to be able to move them to clinical practice in an expeditious way. The leadership of Kennedy-Hatch on PDUFA has not only stood the test of time, but has really been shown as a test for being able to expedite approval processes and maintaining safety and efficacy.

But it was clear that PDUFA was not enough, that more staff operating in an outdated regulatory framework, without a clear legislative framework, was deficient. That is when we began to consult with experts in public health, those involved in public policy related to food, particularly with drugs and biologics. And in the meantime, while we were considering all this, something came into the world which was the revolution in biology. We had gone from a smokestack economy to a cyberspace economy. We had gone through basic discoveries in science from the field of chemistry and physics to a whole new explosion in biology, which is truly revolutionizing the world, whether it is in genetics or other biologic materials. These offer new challenges to ensure their safety and efficacy, new staff and a new legislative framework.

What we then said is that we needed an FDA with a new legislative framework and a new culture. This is then when we tried to put together what we called the sensible center, working with Republicans and Democrats alike, because we certainly never want to play politics with the lives of the American people to come up with it.

Senator Kassebaum chaired the committee during this initiative. We took important steps forward. I say to Senator JEFFORDS, you have assumed that mantle, and I think you have improved on the original legislation that Senator Kassebaum had written.

I was proud to participate for several reasons.

One, I have the pleasure and the honor of having FDA located in Maryland. I cannot tell you the enthusiasm to be able to have the National Institutes of Health in Bethesda and FDA in Rockville, really looking at the life science endeavors, the ingenuity, creativity and scientific know-how, to come up with basic knowledge, to work extramurally in these wonderful institutions in Maryland, in Massachusetts, and Vermont, academic centers of excellence, to come up with fantastic new ways of saving lives and at the same time generating jobs.

Through the work, then, of Secretary Shalala and the Vice President, we did make some improvements. But we must codify those improvements. So this is where we come to today. What I like about the legislation here is that it streamlines and updates the regulatory process for new products, it reauthorized that highly successful Prescription Drug User Fee Act, and it creates an FDA that rewards significant science and evaluation while protecting public health.

Now, what is the end result of the legislation that we will pass? It will mean that new life-saving drugs and devices will get into clinical practice more quickly, and it will enable us to add products that we can sell around the world and, through this, save lives and generate jobs.

FDA is known the world over as kind of the ''gold standard'' of the approval of products. We want to maintain that high standard. We want to maintain its global position. At the same time, we want to make sure that FDA can enter the 21st century. This bill gets us there. It sets up a new legislative and regulatory framework that reflects the latest scientific advancements. The framework continues FDA's strong mission to protect public health and safety and at the same time sets a new goal for FDA, enhancing public health by not impeding innovation or product availability through unnecessary processes that only delay the approval.

We are considering a very important issue today. I would just like to reiterate the importance that no matter what the outcome of this bill, we must pass the reauthorization of the Prescription Drug User Fee Act. This has enabled them to hire 600 new reviewers and cut review times from 29 to 17 months over the last 5 years. If we fail to act, it means that people who have been working on behalf of the American people will get RIF notices because we have not been as quick to approve FDA reform as we have asked them to approve products that do meet the safety standard.

Who benefits from this legislation? Most of all, it is the patients. Safe and effective new medicines will be getting to the patients early. It will meet the

performance standards in PDUFA, and we will be able to again provide this great opportunity for patients.

By extending PDUFA, we can make further improvements in the drug approval process. Currently, PDUFA only addresses the review phase of the approval process. Our bill expands PDUFA to streamline the early drug development phase as well. This expansion will be covered in a separate letter. This letter is very significant in how PDUFA will work. The letter includes performance goals that have been worked out between FDA and the biological and pharmaceutical industry.

What are the kinds of things that this will do that will help? Electronic submissions. It means that instead of a carload, whether it is UPS, IPS, or whatever, pulling up at FDA, with stacks and stacks and stacks of material, it can be done electronically. That not only reduces paperwork, but actually provides a more facile, agile way for the scientific reviewers to get through the data. Also, we are talking about meeting management, in other words, FDA meeting to discuss what are the appropriate protocols; reducing the response time on clinical holds; having written protocol agreements; predictable appeal processes; and reducing manufacturing supplement review times, along with some others.

These are management tools, and I cannot understand why the naysayers are saying no to this.

I want to make it clear that these goals that we are outlining should be binding on the agency. It is my intent that the letter that will accompany this legislation should be considered as a minimum, not a maximum, commitment. The agency can do better; it should by all means do better. The agency did a great job exceeding its commitments in the 1992 letter along PDUFA compliance. I am sure they can do it this time.

Updating the approval process for biotech is another critical component. Biotech is one of the fastest growing industries in our country. There are over 143 biotech companies like that in my own State of Maryland. They are working on AIDS, Alzheimer's, breast and ovarian cancer, other life-threatening infections such as whooping cough.

I know during the NIH discussion the other day we passed additional money for Parkinson's. I am proud to report that there is a biotech firm in Maryland that also has a joint venture with brilliant neurological scientists from Johns Hopkins. And we anticipate either a cure for Parkinson's—a cure for Parkinson's—or certainly the ability to stretch out the ability of people to function both intellectually and in terms of their motor skills.

You know what? That cure could very well come from Maryland. My gosh, can you understand the joy that I will have the day that I can come to the U.S. Senate and announce that we have found a cure for Parkinson's, that it is in my own home State, and that we have a pharmaceutical that can help people gripped by this devastating and debilitating disease?

That is what we are here for. We do not find the cure, but we fund the research to look for the cure. We do not invent the product; that is up to the genius of our private sector working with our scientific community. We cannot ensure the safety and efficacy of that idea to make sure it is not only a dream, but also has the ability to really work in clinical practice in a way that enhances in patients. And that is the job of FDA. But our job is to fund the research and to have the regulatory and legislative framework to evaluate it, to get it out to clinical practice. That is why I am fighting for this. This is exactly why I am fighting for this.

My dear father died of Alzheimer's, and it did not matter that I was a U.S. Senator. I watched my father die one brain cell at a time, and it did not matter what my job was. My father was a modest man. He did not want a fancy tombstone or a lot of other things, but I vowed I would do all I can for research in this and to help other people along these lines. And we can go around the Senate. Every one of us has faced some type of tragedy in our lives where we looked to the American medical and pharmaceutical, biological community to help us.

When my mother had one of her last terrible heart attacks that was leading rapidly to a stroke—there is a new drug that is so sophisticated that it must be administered very quickly. You need informed consent because, even though it is approved, it is so dramatic that it thins the blood almost to the hemophilia level. I gave that approval because my mother was not conscious enough to do it.

Guess what? That new drug approved by FDA, developed in San Francisco, got my mother through her medical crisis with the hands-on care of the Sisters of Mercy in Baltimore at Mercy Hospital. We were able to move that through. Mother did not have a stroke because we could avoid the clotting that would have precipitated it.

Thanks to the grace of God and the ingenuity of American medicine, we had my mother with us 100 more days in a way that she could function at home, have conversations with us and her grandchildren.

Do you think I am not for FDA? You think I am not for safety? You think I am not for efficacy? You bet I am. And that is what this is all about. It is not a battle of wills. It is not a battle over this line item or that line item. It is really a battle to make sure that the American people have from their physicians and clinical practitioners the best devices and products to be able to administer to save lives.

So that is what we are all about. I do really hope that we can approve this FDA reform. I am glad that we invoked cloture, not because I want to stifle debate, but I hope that for whatever ways can be done to improve the bill, let us offer those amendments on the floor, let us have a robust debate, and then let us vote on this, because at the end of next week we will make sure we have had adequate staff to be able to deal with work at FDA and an adequate framework to save lives and generate jobs.

So, Mr. President, I thank you for the time. If I seem a little emotional about it, you bet I am. I love FDA. I am really proud they are in my State. I thank God for the ingenuity of the American medical community. And I really look forward to moving the bill.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I thank the Senator from Maryland whose untiring efforts have enabled us to come forward here with an excellent piece of legislation, her undying efforts on behalf of FDA and the people of Maryland and the rest of the country to ensure that they are an effective, efficient operation and they do all that is possible and appropriate to protect the interests of others. There is no one I relied on more who has done more to bring about this bill in the shape that it is in and in a position where I feel confident that it can pass. So I thank the Senator very, very much for her effort.

Mr. President, I know of no other Members on my side of the aisle who desire to speak and I do not believe there are those on the other side, other than Senator KENNEDY.

I make a point of order that a quorum is not present for the purpose of allowing other Members to notify me if they do desire to come and speak and we will certainly accommodate them. I will wait for at least 5 minutes for a response.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JEFFORDS. 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. JEFFORDS. Mr. President, we have given Members time to notify us that they desire to speak. I have received no requests from my side or supporters of the bill for a presentation here. I believe the same is true for Senator KENNEDY, but I defer to him for that.

Mr. KENNEDY. Mr. President, there is a possibility of one speaker but not more than that, although I have some remarks related to the legislation which I will look forward to presenting.

Mr. JEFFORDS. My present intention is to make some final remarks myself and then to yield back the time on behalf of the majority. It is my understanding, as the Senator has said,

that he intends to proceed for some time and perhaps have one additional speaker, and it is my understanding at that time that he will yield back his time. I am not concerned for the presentation of the majority because we have another 4 hours on this on Monday morning, I believe, so we will have ample time—just to reassure the majority—we will have ample time on Monday to take care of any situation which may arise.

Before I complete my remarks, I want to refresh people where we are, especially on the critical issues that have been raised by the Senator from Massachusetts. I understand there are concerned people, and I am well aware of editorials and groups who have raised issues, most of which I have found not to be relevant to the bill which we are considering. Many of those problems were related to last year's bill and we are assured the whole country has available to them the bill before us here by having it on Web pages and all. I am hopeful those groups who have expressed their deep concerns will review the legislation that is before the Senate and not make conclusions or alarm the public based upon provisions which were in the bill which did appear before this body last year but of course were not voted on.

First, I remind everyone we voted 89–5 to proceed on this legislation. It is clear that the large majority of the Members here believe and have full confidence that any problems that may exist in the bill will be taken care of. I remind everyone, as I hold this bill up, it is 152 pages long. The areas we are concerned with are two, basically. One is cosmetics. That is an area of deep concern to all of us and the present status of things without this legislation. That is four pages in the bill. There are another two pages on the problems which some see with respect to medical devices and the approval process for them. The issues there have been narrowed down to very small issues, but they are important. I do not diminish that at all.

With respect to the cosmetics, and that is where the most concern has been expressed, and rightfully so because of the present situation with respect to cosmetics, there is little or no assistance or help to the public in understanding as to whether there are problems, health problems, created by cosmetics. The industry itself has done a great deal to work within the industry to try and ensure they have adequate understanding of what the contents of the cosmetics are and they have tried to eliminate to the extent possible any potential harm to individuals. That has apparently been fairly successful.

On the other hand, the present situation with respect to governmental influence in trying to protect the public or trying to allow people to determine the safety of the utilization of cosmetics, there has really been no effort to do this which is satisfactory to us and to the American public generally. The issues are raised in a way that explain what the present situation is and make it look like that is what the bill is. That is not what the bill is. The bill is trying to take care of the concern that the public has with the present situation of not being aware or officially find ways to determine whether or not cosmetics are harmful.

What the bill does is to say not only should the FDA get into this and reassure the public on cosmetics but that they should do that with an eye toward uniformity so that if you buy something in Vermont it does not tell you one thing and you find if you buy it in California, something else, or other places have no warnings. You do not have any way to judge if the product you may be using is one that is safe.

Now, the States have had authority to move into this area and thus to point out that this will somehow interfere with the States. You have to remember they have had this authority forever, I guess, and only one State has taken it upon themselves to really do anything in this area to try and solve the problem—not the best of ways, to determine what cosmetics are good or bad for your health.

What did we do? We said, ''OK, California, fine, we will not get involved with preempting you with respect to your laws that are on the books. We will allow those laws to stand. The FDA can work around that.'' But on the other hand, we will tell the other States that you are free, too, unless the FDA has moved in on those specific products and has made a determination and has exercised its authority, in which case you would be preempted.

Now, that leaves a narrow problem we are dealing with and is one of the reasons, perhaps the only reason, we are here, and that is suppose a State should say no, not only is that cosmetic going to cause possibly skin cancer, it may also cause blood poisoning, and the FDA only includes skin cancer. Can we not tell our people they should be protected against blood poisoning? We have not quite resolved that. It does not seem irresolvable to me or make the bill horrible because I have that much confidence in the FDA.

With respect to the devices, again, that is two pages of the bill. With respect to that, it gets down to another problem for the industry, and that is, when they have a device and they say we have studied it and this is the intended purpose of that device and the studies have gone on and it shows it is effective and safe for this purpose, FDA says, yes, but there may be some other uses of that, so we want to do studies on all possible uses of that device. The industry says, well, wait a minute, it is being produced for this purpose, being sold for this purpose, intended for this purpose; we should not have to run all these studies on other things that somebody dreams it may be used for.

The issue of tobacco has been raised. We were concerned, also, that the tobacco devices—I don't know what they might be, but obviously filter-type things, or whatever else, I don't know. Anyway, we were concerned about that. So, first of all, we asked the CRS as to whether or not the bill, as presently drafted, in the device areas would in any way allow tobacco devices to be sold out from under the bill and, therefore, create problems and a very serious situation in tobacco. I have the CRS study that was done.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, September 4, 1997.

To: Senate Committee on Labor and Human Resources, Honorable James M. Jeffords, Chairman.

Attention: Jay Hawkins.

From: American Law Division.

Subject: Discussion of Possible Effects of Sections of S. 830, the ''Food and Drug Administration Modernization and Accountability Act of 1997,'' On FDA's Ability to Regulate Tobacco.

This memorandum responds to your request for an examination of various claims and the effect that certain provisions of S. 830, the ''Food and Drug Administration Modernization and Accountability Act of 1997,''[1] may have on FDA's current authority to regulate cigarettes and smokeless tobacco products. Specifically, you are concerned with provisions of S. 830, as reported out of the Senate Committee on Labor and Human Resources, that may interfere with FDA's ability to regulate these products or have serious, unintended consequences. Two memoranda by different commentators have been prepared and have examined S. 830's provisions as they may relate to the FDA's regulation of cigarettes and tobacco.[2] The following highlights and discusses the main provisions of S. 830 that were discussed in the two memoranda and concludes that it would not appear that S. 830, in its current form, would interfere substantially or negatively with the FDA's tobacco authority. To a certain extent, this discussion is speculative considering that a hypothetical new cigarette product is discussed herein and that a new product application is not pending or known to be the focus of this inquiry.

RELEVANT PROVISIONS OF S. 830 AND DISCUSSION

Section 404 of the bill, as reported out of full committee, would amend the Federal Food, Drug, and Cosmetic Act (FFDCA)[3] and provides, in pertinent part:

''Consideration of labeling claims for product review.

''404(a) PREMARKET APPROVAL . . . In making the determination whether to approve or deny the application, the Secretary *shall rely on the conditions of use included in the proposed labeling as the basis for determining whether or not there is a reasonable assurance of safety and effectiveness,* if the proposed labeling is *neither false nor misleading.* In determining whether or not such labeling is false or misleading, the Secretary shall fairly evaluate *all material facts pertinent to the proposed labeling.''*

''404(b) PREMARKET NOTIFICATION . . . Whenever the Secretary requests information to demonstrate that the devices with differing technological characteristics are substantially equivalent, the Secretary shall only request information that is necessary

Footnotes at end of article.

to make a substantial equivalence determination. . . . The determinations of the Secretary under this section and section 513(f)(1)[Initial classification and reclassification of certain devices] with respect to the *intended use of a device shall be based on the intended use included in the proposed labeling of the device* submitted in a report under section 510(k) [of the Act].''[5]

Section 404(a) of the bill relates to agency action on an application for premarket approval of a device intended for human use.[6] This section of the bill primarily relates to the classification of devices, findings of substantial equivalence to prior approved products, and, premarket notification requirements under 510(k) of the Act. With reference to 404(a) and (b) of S. 830, several concerns and responses were raised in the commentators' memoranda. Regarding 404(a), Mr. Westmoreland asserts that the bill may limit the Secretary's ability to determine whether there is a ''reasonable assurance of safety and effectiveness'' if the Secretary's evaluation for approval is tied only to ''conditions of the use included in the proposed labeling'' of the product.[7] This concern is raised in light of the tobacco industry's history of dealing with the agency, consumers, and others. The commentator notes that, hypothetically, the manufacturer could develop a cigarette that reduces nicotine intake levels and state on the proposed labeling that the product is for occasional consumption, weekend use, or once-a-week use. Under this scenario and the language of 404(a), he claims that the Secretary would assess safety and effectiveness only in light of the proffered ''conditions of use'', when in reality, addicted smokers would most likely consume many more cigarettes than the occasional one or two. Under this scenario, the memorandum states, ''the FDA may be required to approve the product as safe (inasmuch as there are probably few data about smoking once a week.)[8]

The question is raised whether this provision would reduce or negatively interfere with the FDA's authority and result in the approval of a cigarette that would have the agency's imprimatur of ''safe and effective'' for the conditions of use listed on the label. By way of background, the FDA currently regulates cigarettes as delivery devices and nicotine as the drug in the device under the Act, recent rulemakings and other relevant statutes. The agency has been granted broad statutory and regulatory authority, as well as a great degree of agency discretion, when evaluating an application for approval of a device or drug, particularly in light of strong public health concerns.

Section 404(a) does appear to limit the Secretary's examination to the proposed label, to a certain extent, however, it provides an exception for ''false or misleading'' labeling and authorizes the Secretary to ''fairly evaluate all material facts pertinent to the proposed labeling.'' This exception is bolstered further by other important provisions of the FFDCA. The Act currently defines ''label'' to include a display of written, printed, or graphic matter upon the immediate container of the article and defines ''labeling'' to include all labels and other written, printed or graphic matter upon any article or its containers or wrappers or accompanying such article.[9] Additionally, under the misbranding provisions of the Act, an article may be deemed misbranded because the labeling or advertising is misleading. When determining if the labeling is misleading, the Secretary shall take into account, ''among other things'', not only representations made or suggested by statement, word, design, etc., ''but also the extent to which the labeling . . . fails to reveal facts material in light of such representations or material with respect to consequences which may result from the use of the article to which the labeling . . . relates under the conditions of use as are *customary or usual.*''[10]

Additionally, section 515(d) of the Act currently authorizes the agency to deny the approval of an application if, ''upon the basis of the information submitted . . . and any other information before [the Secretary],'' that ''based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular.''[11] Thus, even though current law does constrain the Secretary to ''conditions of use on the proposed labeling'', much in the same manner as S. 830, other relevant provisions grant the Secretary authority and discretion to examine other material facts and information when evaluating the product application. This permits the agency to view different facets of the product, the manner in which it is commonly used, the presence of misleading or false information on the label, or the absence of appropriate information.

When viewed in the context of the agency's broad statutory and discretionary authority under the FFDCA, it would appear that section 404(a) of the bill would not necessarily confine the FDA to look only at the label thereby compelling the agency to make a favorable decision on a product like the hypothetical new cigarette offered for ''occasional use.'' Relying on its statutory authority and recognizing its mandate to protect the public health, the agency would most likely evaluate the new product for safety and effectiveness by considering numerous issues it considers material. Thus, the agency would not necessarily be confined to a narrow reading of only the proposed labeling. Although this approach may be objectionable to some, it is likely that the agency would examine material issues beyond the proposed labeling, particularly in light of the scientific data that indicate the addictive nature of cigarettes, especially for young people, and the debilitating, serious health effects of cigarette ingredients and smoking. While the intent of 404(a) seems to be aimed at limiting or confining the agency to a certain degree and clarifying rules of procedure[12], it does not appear that this section would operate in a vacuum and result in a catastrophic, unintended consequence involving cigarettes or tobacco products.

Section 404(b) of the bill focuses also on the label but presents slightly different issues that involve the classification of devices[13] and the finding of ''substantial equivalence'' between a new device and a device already on the market, i.e., predicate device.[14] This subsection would amend section 513(i)[15] of the Act by adding new provisions relating to what types of information the Secretary may request to demonstrate that devices with differing aspects are ''substantially equivalent'' to a product already on the market. To generally explain, current law provides that any device intended for human use that was not introduced into interstate commerce for distribution before the date of enactment is classified in class III (triggering high risk controls) unless (1) the device (a) is within a type of device (i) which was introduced into interstate commerce before the enactment date and which is to be classified under 515(b) [classification panels] or (ii) which was not introduced before such date and has been classified in class I or II *and* (b) is ''substantially equivalent'' to another device within such type *or* (2) the Secretary, in response to a petition, has classified the device as class I or II. In sum, under current law all devices are class I, II or III, however, the manufacturer can petition to have its product placed in class I or II.

Examining the text of section 404(b) of the bill (see above), the thrust of the provision appears to be that the Secretary, when requesting certain information concerning substantial equivalence, must request only the amount of information that is necessary to the decision and is the least burdensome to the manufacturer. Among other things, this provision would operate during the agency's assessment of substantial equivalency and classification for controls. Section 404(b) would appear to limit the Secretary's inquiry concerning ''intended use'' of the device, and ultimately substantial equivalency, to only information of intended use that the manufacturer includes in the proposed labeling (submitted in a report under 510(k) of the Act.) At the same time, this provision appears to be aimed at lifting perceived information and demonstration burdens borne by manufacturers.

The question has been raised whether 404(b) is constructed in such a way that it, albeit unintentionally, could limit the FDA's authority to regulate cigarettes, tobacco, and nicotine by limiting the agency's decision only to the intended uses listed on the proposed label. Mr. Westmoreland raises the concern that clever labels and such a restricted authority might pave the way for cigarette products to enter the market, with less stringent controls, having (apparently) met the tests for safety and effectiveness. The commentator states, ''Under the terms of subsection (b), the FDA would not be allowed to look behind the conditions of use. Consequently, a cigarette manufacturer with a clever proposed statement of use may be able to force the FDA to classify or reclassify the cigarette as an approved Class I or Class II medical device with relatively few controls.''[16]

Under the bill, to a certain extent, the Secretary would be required to make the relevant determination based on the ''intended use included in the proposed labeling.''[17] However, the result proposed by Mr. Westmoreland may be unlikely since the hypothetical product would need to have the same intended uses as the predicate device upon which the claims of substantial equivalence are based. Current law provides that substantial equivalence means that the device has the same intended use as the predicate device and that the Secretary by order has found that the device (i) has the *same technological characteristics* as the predicate, or (ii) has *different technological characteristics* and the information submitted that the device is substantially equivalent to the predicate contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that the device is safe and effective as a legally marketed device and does not raise *different questions* of safety and efficacy that the predicate device.[18]

The more likely scenario would be that based on the prongs of the substantial equivalency test, the agency would not find substantial equivalence to a predicate device that had different characteristics or raised different questions without the requisite supporting data. And, under the Act, in most cases, a new or the hypothetical product would be automatically classified in class II.[19] A new type of cigarette that, say, reduces nicotine levels or has a unique filter, could very well have ''different technological characteristics'' that would probably not give rise to a finding of substantial equivalence. Thus, under this prong of the substantial equivalent assessment, the agency would not be overly confined in its judgement. In the context of cigarette and tobacco issues, S. 830 could potentially, but would not appear to affect drastically these determinations by the FDA.

The FDA's final tobacco rule and explanatory statements in the *Federal Register* shed

some light on the FDA's view of ''intended use'' for tobacco products. In the ''label'' section of the rule, the FDA requires that each cigarette or smokeless tobacco package that is offered for sale, sold or otherwise distributed shall bear the following statement: ''Nicotine-Delivery Device for Persons 18 or Older.''[20] The explanatory statement that accompanies the final rule indicates that initially, in the proposed rule, the agency indicated that it would exempt these products from the statement of identity and labeling for intended use. However, based on comments received, FDA reconsidered and concluded that it is appropriate to require that the intended use statement noted above must appear on the label. The FDA stated that as with all over-the-counter devices, cigarettes are required to bear the common name of the device followed by an accurate statement of the principal intended action/s of the device. ''As over-the-counter devices, cigarettes . . . are legally required to comply with this provision.''[21] To reflect the ''permitted intended uses'' of these products, the agency requires the statement: Nicotine Delivery Device for Person 18 or Older. The agency stated further: ''The statement of intended use, in essence, incorporates the statement of one of the principal restrictions FDA is imposing on these products.'', i.e., restrict and eliminate youth smoking.

These agency statements tie in with what are considered ''adequate directions for use'' of the products. The FDA acknowledged in the final rule that it is very difficult to establish adequate directions for use for cigarettes and smokeless tobacco, primarily because of the inherent nature of the products, their addictiveness, the numerous hazards associated with their use, and because the behavior of each user, e.g., depth of inhalation, duration of puff, whether the filter holes are covered, length of time in mouth, determines the amount of tar and nicotine delivered to the user from the device. The FDA has stated:

''Tobacco products have a very long history of use in this country, and they are one of the most readily available consumer products on the market today. Consequently, the way in which these products are used is common knowledge. FDA believes that the public health would not be advanced by requiring adequate directions for use. . . . In the agency's view, the warnings mandated by the Cigarette Act and the Smokeless Act satisfy this requirement. Additionally, the Surgeon General's warnings provide information warning against use in persons with certain conditions, i.e., pregnant women.''[22]

The FDA has chosen to regulate tobacco products as ''restricted devices'' under section 520(e) of the Act and is authorized to require that a device be restricted to sale, distribution or use only upon the written or oral authorization of a practitioner licensed by law to administer or use such device or *upon such other conditions as the Secretary may prescribe in regulation* if, because of its potentiality for harmful effect or the collateral measures necessary to its use, the Secretary determines that there cannot otherwise be reasonable assurance of its safety and effectiveness. Moreover, as a restricted device, the label of the product shall bear ''appropriate statements'' of the restrictions required by regulations under the noted paragraph as the Secretary may prescribe.

Returning to section 404(b), the current text would not appear to obviate or reduce the agency's authority in a manner that would ensure that the hypothetical cigarette product (for occasional use) would reach the market with little controls or by default. The agency could utilize the full range of its authority, briefly discussed above, with regard to the test for substantial equivalency, classification or reclassification of these products, as well as the enforcement and definition sections of the FFDCA. Moreover, the agency has been granted additional authority reserved for restricted devices under section 520.

Section 604 of the bill as reported raises similar issues regarding the Secretary's authority and discretion to evaluate a product and assign its classification. Mr. Westmoreland's memorandum indicates that this section, operating with section 404(b) of the bill, may limit the Secretary's authority and force the agency to rely only on the manufacturer's statement of intended conditions of use when classifying or reclassifying the product. In brief, this section allows manufacturers who have a class III designation to request the agency to reclassify the product to less stringent control levels, e.g., class I or II. The Secretary then has 60 days to respond to the request. Based on the foregoing and the current provisions of the FFDCA, the view expressed by the second commentator would appear to be the more likely scenario. The FDA would not be limited to the proposed labeling and would employ what it considers to be the appropriate evaluation of safety and effectiveness for class designation.

Additionally, the concern was raised that the bill, particularly section 402, may interfere with the FDA's regulation of ''combination products'', e.g., a combined drug and device product. This is raised in light of the fact that the FDA intends to regulate, and is regulating, cigarettes and smokeless tobacco products as combination products whereby the nicotine is the drug and the cigarette is the delivery system and device. The bill would establish a procedure for the FDA when assigning the product is appropriate designation, e.g., drug, device biologic, etc., thereby placing it within the proper sphere or center for regulation within FDA's structure. Many features of the bill are currently being performed via inter-center memoranda of understanding of FDA. Section 402 does not expressly state a person may request the designation of combination product. Further drafting attention may be merited to add that clarity, however its absence would not appear to remove that authority from FDA's powers. Under current law and policy, the FDA is authorized to designate and regulate combination products and assign the product to the appropriate center for its primary regulation. More express language may be desirable in order to remove any hint of ambiguity and to avoid some unintended or unforeseen consequences.

CONCLUSION

Based on the foregoing analysis and the current text of S. 830, it appears that the bill would not interfere with or lessen the agency's authority to regulate tobacco products by the agency. Current provisions of statutory and regulatory law upon which the FDA basis its jurisdiction to regulate tobacco, would continue to be viable and would appear to support the FDA's actions regarding these products. The two memoranda raise valuable insights by discussing and relating various sections of the law so that a more clear understanding is gained. However, it is reasonable to conclude that the highlighted provisions of S. 830 would not appear to operate in a manner that would reduce the agency's tobacco authority in a weakening manner. Although some issues await judicial resolution, the explanatory statements that accompanied the proposed and final tobacco rules issued by the agency, as well as other subsequent analysis indicate that the provisions of the law upon which the FDA bases its jurisdiction, would continue to support, as least at this point the FDA's regulatory actions governing cigarettes and smokeless tobacco products. Notwithstanding some unforeseeable circumstance, S. 830, in its current text, would not appear to alter drastically that approach. Finally, in addition to any drafting changes or clarifications of text, further explanation of congressional intent regarding these sections or the bill in its entirely may be included in report language, in order to guide a legal challenge in which the court might be called upon to discern the intent of the law, if enacted.

DIANE T. DUFFY,
Legislative Attorney,
American Law Division.

FOOTNOTES

[1] As ordered to be reported by the full committee.

[2] Memorandum of Tim Westmoreland, July 23, 1997 and memorandum of an unknown or undisclosed source.

[3] 21 U.S.C. §§301 *et seq.*

[4] Emphasis added.

[5] In the text of S. 830 supplied to CRS, there is additional handwritten language added to the end of 404(b) which reads''. . . provided however that nothing in this paragraph shall prohibit the Secretary from determining that a device is not substantially equivalent to a predicate device within the meaning of paragraph (A)(ii).'' This language does not appear to be included in the reported-out version of the bill, according to text in Sen. Rept. No. 105–43. However, I have included it here because it was included in the text supplied to CRS and also because it may benefit your examination of these issues.

[6] Section 404 proposes to amend section 515(d)(1)(A) of the FFDCA.

[7] Westmoreland memoranda, pp. 1–3.

[8] Westmoreland memorandum, p. 2.

[9] FFDCA, section 201 [Definitions].

[10] Id. Regarding the ''customary and usual'' phrase, even if one argued that a new cigarette product could be introduced where the ''customary and usual'' use would not be apparent, the agency has stated in the final tobacco rule issued in the *Federal Register,* the tobacco products have a very long history of use in this country and ''the way in which these products are used is common knowledge.'' 61 Fed. Reg. 44464 (Aug. 28, 1996).

[11] FFDCA, section 515(d)(2).

[12] Title IV of the bill is entitled, ''Improving Certainty and Clarity of Rules.''

[13] Devices are classified according to risk and then subject to various controls. For instance, class I trigger general controls; class II products present more risk to the user and are subject to tighter controls; class III present the highest risk and are subject to the most stringent controls on the products. The FDA stated in the final tobacco rule that it would apply the general controls provisions of the Act to cigarettes and smokeless tobacco, including restrictions on their distribution, sale, and use under section 520(e) of the Act governing restricted devices. These controls will be in place while the agency's decision on classification is pending. The FDA will, in a future rulemaking, classify cigarettes and smokeless tobacco in accordance with section 513 of the Act. ''In the meantime, the general controls will apply.'' 61 Fed. Reg. 44464 (Aug. 28, 1996).

[14] In brief, the finding of substantial equivalence permits the device to be marketed without going through the longer, more stringent premarket approval process for new devices.

[15] Section 513(i) relates to substantial equivalence in classification and reclassification of devices into categories I, II and III. This section also references section 520(l) that relates to transitional provisions for devices considered as new drugs or antibiotics.

[16] Westmoreland memorandum, pp. 3–4; [footnote omitted].

[17] This hypothetical again would involve the reduced nicotine cigarette that is labeled for once-a-week use or occasional use.

[18] Act, section 513(i). The Act defines ''different technological characteristics'' to mean that there is a significant change in the materials, design, energy source or other features of the device from those of the predicate.

[19] However, the agency's current classification of cigarettes is class I pending a rulemaking and final articulation of what class of controls these products will be under.

[20] 61 Fed. Reg. 44617 (Aug. 28, 1996).

[21] 61 Fed. Reg. 44464 (Aug. 28, 1996).

[22] Id.; citations omitted.

Mr. JEFFORDS. This clearly sets out that, in their opinion, it would appear

that, in its current form, our bill would not interfere or substantially negatively affect any of the FDA tobacco authority.

In addition to that, just to be double and triple sure, we, in the bill, say it can't apply to tobacco and that the FDA has full authority in the tobacco area. So that is why we got the 89 to 5 vote today. Yet, I certainly commend the Senator from Massachusetts, and others, who want to make darn sure that we are really doing the job we think we are doing. I appreciate that and I think it is healthy. The harder that Senator KENNEDY fights, the more the public will be aware of that, and I hope we have as good a vote this time.

Mr. President, with that, on behalf of the majority, I will yield back the time that we have today, except that I will provide the Senator from Minnesota 5 minutes at his disposal, at such time as he is appropriately available to make a statement. I would be happy to make that time available for the Senator.

Mr. GRAMS. Mr. President, I rise today in support of S. 830, the Food and Drug Administration Modernization and Accountability Act.

While this legislation covers many areas under the FDA's jurisdiction, as chairman of the Medical Device Caucus, I want to focus primarily on the provisions relating to the regulation of medical devices.

The medical device industry is an important asset to Minnesotans. I am proud to say that many of the world's leading and most innovative medical device companies call Minnesota home. In fact, there are over 500 medical device manufacturers in Minnesota.

In my State, the medical device industry has created more than 16,000 manufacturing jobs. Minnesota ranks fifth nationally in total employment for medical devices—and since 1988, the number of medical device manufacturing jobs has grown faster in Minnesota than in the rest of the Nation. In 1994 alone, 53 new medical device companies were created in Minnesota.

Yet, despite all the successes, there are significant hurdles the industry must clear in order to succeed in the increasingly competitive global marketplace.

Medical device manufacturers face incredible barriers that too often prevent them from marketing new products, creating jobs, researching and developing the latest technologies, and most tragically, from providing U.S. patients the best medical technology in the world.

Mr. President, it is easy for debates on reforming or modernizing the FDA to develop into an FDA bashing session which does nothing to persuade or accentuate the positive results of suggested changes made in the FDA reform measure, S. 830.

I want to be very clear: The individuals charged with ensuring the safety of medical devices, drugs, biologics, food, and cosmetics are good people, trying their best to do a difficult job. The pace at which new technologies are introduced in the medical community is staggering—and at best, difficult to keep up with.

This legislation will give the FDA the tools they need to keep pace with technology and ensure the safety and effectiveness of drugs, medical devices, food, and cosmetics well into the 21st century.

I would like to thank the Labor and Health and Human Services Committee for drafting what is a well-balanced and meaningful FDA modernization package in addition to reauthorizing the Prescription Drug User Fee Act.

The User Fee Act has proven itself as an example of how an agency and an industry can work together to bring highly regulated products to the market more quickly and more efficiently—without sacrificing safety.

However, the regulatory burdens imposed on the medical device industry have had a chilling effect on the industry and its customers—the patients. As a result of regulatory delays, device manufacturers are falling behind their foreign competitors or moving their production and development overseas.

While approval of devices in Europe takes only 6 to 8 months, the same device can be caught up in the regulatory process for years here in the United States. What this means is that Europeans have access to the most up-to-date technologies while patients in the United States are forced to wait.

If this continues, we will not be able to claim that the United States has the world's best health care for very much longer.

Many will say we need a strong FDA. I agree. I would argue, however, that far too many Americans have become victims of the Government's bureaucracy because they were denied access to devices which have been available and safely used in Europe for years.

We can no longer allow ourselves to perpetuate out-of-date rules and regulations which ultimately harm the patient, nor can we allow those same rules and regulations to force American jobs, technologies, and health care overseas.

The FDA Modernization and Accountability Act is a solid piece of legislation which will ensure American patients' access to the most advanced medical devices as well as create jobs and strengthen the economy.

I urge my colleagues to support this important legislation.

Mr. President, I understand that there are no other speakers on our side of the aisle wishing to come to the floor and talk about the subject today. So, on behalf of the manager of the bill, the Senator from Vermont, and the majority, I yield my time and the remainder of the majority's time.

Thank you.

Mr. KENNEDY. Mr. President, I wonder if the Senator would yield for a question on my time?

As I understand, Minnesota has passed a hazardous product labeling bill requiring warning of all products that are ignitable, corrosive, reactive, or toxic, and that that this legislation will effectively be preempted—Minnesota's passage of that particular legislation.

I was just interested in the Senator's reaction to that. That has been a judgment made in Minnesota by Minnesotans and passed by their legislature, is now current law, and has not been grandfathered into this legislation. It effectively would be eliminated.

Mr. GRAMS. I would have to defer to the author of the bill and to the Senator from Massachusetts. I am not aware of the details of that. I would have to look that up to understand it fully.

Mr. KENNEDY. I thank the Senator. I think we had earlier comments by our chairman, which we welcome, about the fact that California has been able to be grandfathered in and they will have the protections. But Massachusetts, my State, is about to pass this legislation. The people of my State of Massachusetts are concerned about the public health of citizens in that State, and want to provide the protection for those people. The action here in this legislation, as it is prepared, will basically wipe out those protections.

I have been on this floor so often and have heard that we want to get away from the Washington solution to these problems, that what we want to do is get away from this one-form-fits-all solution; what we want to do is let the States make judgments and decisions. And here we are writing legislation that is going to preempt States from taking action in the future. We grandfather in one State, California, but are denying any other State the opportunity to take action.

I find that very difficult to understand, or to be able to accept.

(Mr. JEFFORDS assumed the chair.)

Mr. KENNEDY. I will give my assurance that if there is a Senator on the other side coming over here on the floor and wants some time, we will be delighted to make sure they have an opportunity to do so.

Mr. President, again, I thank my friend and colleague from Vermont. We have worked long and hard on this issue, although there are areas where we do have differences, and I mentioned those here today. It is very important. It doesn't negate the point of the substantial progress that has been made on a wide variety of different matters, which we all believe will make a difference in terms of the health of the American people.

Mr. President, I want to just, first of all, address and respond to some of the comments made by my friend from Indiana, Senator COATS, about the FDA, come to their defense because it was a rather blistering assault on the FDA. I have heard those comments made by the Senator on previous occasions. But as we are here on the floor of the U.S. Senate, I want to say a few words

about the FDA and where it is now. Perhaps those comments might have been relevant some years ago. I don't believe that they are relevant today.

Out of fairness not only to the men and women that work at FDA day-in and day-out and toil to protect the American consumer because the protection for the American consumer sets an example for the rest of the world, and for the agency itself, and for respect for that agency, I would like to point out that there are few more important agencies of the Federal Government than the Food and Drug Administration. The FDA is responsible for assuring that the Nation's food supply is pure and healthy. The FDA provides a guarantee that the drugs and devices we rely on to cure and treat diseases are safe and effective. It does its job.

The FDA can speed miracle drugs from the laboratory bench to the patients' bedside. If the agency does its job poorly, it can expose millions of Americans to unsafe devices and medical products and jeopardize our food. I think even the most zealous supporters of the FDA recognize that there have been troubles in the past. But we would also recognize there has been the sincerest effort to address those deficiencies in the past. To listen to some of the speeches we have heard on the floor today, you would think that the FDA was a regulatory dinosaur, mired in the past, cumbersome and bureaucratic, imposing unnecessary and costly regulatory burdens on industry and denying patients speedy access to lifesaving drugs. That is a myth. Those who want to destroy the FDA in the service of an extreme ideological agenda, or in the interest of higher profits at expense of patients' health, would love you to believe that. But it isn't true.

The FDA's regulatory record is the envy of the world. It sets the gold standards for the protection of patient health and safety. The agency's recent performance under the leadership of former Commissioner David Kessler and the Clinton administration represents a model of how to transform the regulatory process so that it is more flexible, responsive, and speedy, while maintaining the highest standards of patient protection. Indeed, a large number of the positive elements of this legislation simply codify or extend actions the agency has undertaken administratively.

The landmark PDUFA reauthorization contained in this bill was essentially negotiated by the agency and the industry, working collaboratively with the bipartisan efforts here in the Senate and in the House of Representatives. I welcome the chance to work closely with Senator HATCH in the passage of this legislation to improve the review process.

In recent years, in partnership with Congress and the administration, FDA has responded to growing criticisms of delay in approving new products by taking impressive steps to improve its performance. The PDUFA Act of 1992 was one of the most effective regulatory reforms ever enacted. The bill established a new partnership between the agency and the industry. The industry agreed to provide additional resources and agreed to measurable performance standards to speed the review of products. This was unique instance where, in receiving the additional funding, they established criteria to be measured by over a period of time and those were strict criteria and a strict challenge. Every goal set by the legislation has not only been met, but it has been exceeded.

Today, the FDA is unequaled in the world in its record of getting new drugs quickly to market without sacrificing patient protection. In fact, last year, the average review times in the United States were twice as fast as in Europe. Fifty new drugs were approved in both the European Union and in the United States. In 80 percent of the cases, the United States approved the new drugs either first or at the same time as the European Union. More companies chose the United States for the introduction of breakthrough drugs than any other country.

In addition, to speeding the review times, the FDA has taken far-reaching steps to reduce unnecessary regulatory burdens on industry and modernize its regulatory process. More needs to be done, but these steps have added up to a quiet revolution in the way the FDA fulfills its critical mission. When PDUFA was originally passed, the device industry refused to agree to user fees that would give the FDA the additional resources and performance standards that have contributed to so much to the agency's outstanding record on drugs and biologics.

I remember the negotiations. They were unsatisfactory, regrettably. But even in the device area, the FDA's recent achievements have been impressive. The so-called 510(k) applications, devices approved based on their substantial equivalence to a device already on the market, accounts for 98 percent of all the device admissions. FDA has now essentially eliminated its backlog. Last year, it reviewed 94 percent of these devices within the statutory timeframe, compared to only 40 percent just 4 years ago.

Even in the area of class 3 devices, where the most problems remain, the FDA has improved its performance substantially. According to a study by the General Accounting Office, median review times dropped 60 percent between 1991 and 1996. In a recent survey of device industry executives reported that the business climate for the industry is in the best shape in the 5-year history of the survey. I introduced that in the RECORD in our markup. The industry publications are virtually uniform in terms of the progress that has been made and the atmosphere that has been created and the current very positive atmosphere. The sponsor of the survey attributes this favorable response in large measure to improvements at FDA and concludes that the agency has not only reduced the delays to allow new products to be introduced but, more importantly, has also greatly reduced executives' and investor's uncertainty about the timeliness of future product introductions.

So, Mr. President, the FDA must continue to improve many of the provisions in this legislation. The idea that the reforms in this legislation must be passed at whatever cost, because the agency is doing a bad job, is simply incorrect.

Now, Mr. President, I want to just return to what I consider the most troublesome part of our legislation. We have had very important discussions and representations by our colleagues and friends, the Senator from Rhode Island, Senator REED and Senator DURBIN, on particulars of the legislation, which I think need further attention. In my remaining time here, I would like to talk again about the whole issue of protection of the health and safety of the American consumer as it relates to cosmetic products. That is the most egregious and, I believe, unjustified provision in the bill, which would effectively cripple consumer protections by preempting State regulations on cosmetics.

I note for the RECORD that these provisions, as I mentioned, were not in the chairman's mark, they were not the subject of significant hearings, and they have no place in the bill, whose primary purpose is to reauthorize the Prescription Drug User Fee Act. That is the principal purpose of the bill, the reauthorization of that program and to try and accept these adjustments, incorporate into the law some of the measures which have been so successful administratively by the FDA. And also to incorporate the great majority of the measures which have been included in the bill that relate to pharmaceutical products and device products.

If the Congress were earnest about addressing over-the-counter drug and cosmetic regulation, it would have undertaken a serious and detailed inquiry into the regulatory structure and authorities which assure that consumers are adequately protected before even remotely contemplating the possibility of preempting active and essential State protections.

The preemption of cosmetic regulation is especially outrageous and shows a callous disregard for the health of American men, women and children. Cosmetics are broadly used by Americans, far more broadly than prescription drugs and medical devices and biological products.

Mr. President, I want to mention why we find ourselves where we find ourselves today and why this issue is of such importance. I have here the testimony of Commissioner Young from some years ago, 1988. It points out that Congress, in 1938, recognized the public health problems associated with cosmetics and addressed them in the laws

they enacted based on the science available to them. But science and the cosmetics industry have changed. In 1938, at most, only a few hundred ingredients were used to formulate cosmetics, and the industry was small in numbers of manufacturers that marketed products. Today, tens of thousands of cosmetics are in distribution, and the number of ingredients used has risen to an estimated 4,000 for producing a multitude of base formulation in equal number for compounding fragrances. Regulatory sciences have also progressed. When the law regulating cosmetics was enacted in 1938 the science was based on a less sophisticated concept for evaluating the safety of chemicals used on the skin. If you saw a reaction, you treated it; then avoid it. Today, science can take into account the effects produced under chronic long-term exposure to trace contaminants in addition to acute toxic effects, such as immediate skin irritations, contact allergic reaction, systematic reaction resulting from inhalation and ingestion. In 1938, the skin was considered to be an impenetrable barrier to cosmetics or other substances.

As the number of ingredients and products has multiplied through scientific and technological innovation, our ability to measure minute amounts of residual contaminants and unwanted substances also has taken a quantum leap. At the same time science has developed more precise ways to assess risk, taking into account relevant factors such as use and exposure over a lifetime.

(Mr. GRAMS assumed the chair.)

Mr. KENNEDY. Mr. President, I was pointing out how the change in the complexity of the different products had taken place from 1938 and the number of products that were out there; the number of potentially dangerous products that were out there and the progress that had been made from the time when there were only a few hundred of them; back to 1938.

Listen to what we have now at the present time. This is according to the Food and Drug Administration and the studies that have been done. The number of cosmetic ingredients in the industry's own inventory is over 7,500. The industry has been adding new ingredients at a rate of 1,000 per year for the last few years. Virtually none of these ingredients have been properly tested for safety. The industry's safety review process has reviewed only 450 of the most commonly used cosmetic ingredients. That is about 20 a year. At this rate, even using the industry's own process, it will be many years before new ingredients are considered for safety.

So the sheer number of cosmetic ingredients in products makes safety assurance difficult. And most adverse reactions for cosmetics are immediate burns or irritation—long-term effects which do not show up for many years, such as cancer or reproductive effects are even more difficult to determine. They require special studies designed to measure this risk, while many ingredients are studied for only short-term effects when they are added to products. Risk of cancer or reproductive effects are not available for the vast majority of cosmetic ingredients.

Mr. President, we have been talking here this morning and this noontime about the authority and responsibility of different agencies. We have been talking about the power of the States. We have been talking about rules and regulations. But, when we are talking about health and safety, we are talking about real people.

Let me give you the kinds of examples that we are dealing with.

A woman from Santa Rosa—this is 1995, April 22—complained about an acrylic product which is for nails. She had the product applied to her nails. The product burned, and the cosmetician tried to remove it. Since the incident, six of her nails have fallen out.

That was according to the California Department of Health Services, in April 22, 1995.

Here is another one.

On her 29th birthday, a woman from New Jersey was supposed to retire from the career she loved. She was a hairdresser for 11 years until a series of ailments, including difficulty breathing, burns in her sinuses and severe headaches prompted her to quit in August 1985. Her doctors had concluded that the beauty products she used on the job led to her medical problems. She had no idea what was actually in the products which she used in her beautician job. Lack of labeling is neither unusual nor illegal, although cosmetic manufacturers are required to list ingredients containing products sold to consumers. They need not do so for products sold for use only by professionals.

Another case is Carolyn, a secretary from Rockville, MD. She arrived at a wedding shower and realized the permanent she had received at a beauty salon the day before resulted in a red swollen, face. Carolyn's is a case of cosmetic contact dermatitis, also known as acute allergic inflammation of the skin caused by contact with various substances found in cosmetics, including materials used by the hair stylist. This is a case that was reported to the FDA.

A 33-year-old housewife consulted her dermatologist because of inflammation of her hands, face, and neck. She had experienced two similar episodes earlier in the year. After the skin properly healed, the physician determined through appropriate testing, that Swedish formula lotion had caused the adverse reaction.

A telephone company supervisor was hospitalized after a 2-year history of chronic irritation of her eyelids. She received a variety of topical medications without relief. Her contact history revealed a long list of cosmetic eye drops, and multiple spray perfumes. All the cosmetics were removed from her hospital environment, and after her skin healed, patch testing showed lanolin in her creams—lanolin in her creams—was causing her condition.

That is from a subcommittee hearing on health.

The use of chemical skin peeling products caused severe injuries, including reports of skin burns from using a product called Peel Away. FDA sources said such products can penetrate the skin too deeply causing severe skin damages. In several cases persons have been hospitalized with severe burns, swelling, and pain. In one case, a California woman suffered seizures, shock, and second-degree burns after a combination of skin peel chemicals was applied to her legs by a beautician. Skin peeling procedures used to be carried on by plastic surgeons.

However, they are now being done by nonmedical professionals, by beauticians and some using newly marketed preparations. Many have inadequate instructions. None has been approved by the FDA as being safe and effective. Again, an FDA consumer report.

A letter from the CDC cited nine cases of eye infections due to microorganisms contained in mascara. One was a 47-year-old woman who developed a corneal abscess within days of scratching her eye with a mascara wand. The woman eventually needed a corneal transplant.

As I understand it, it is because of the failure to be able to indicate that mascara needs an expiration date.

So, Mr. President, this list goes on. I want to show what the States have been doing with regard to the protection for the American consumer. The issue now that is before the Senate on the FDA reform deals with the medical devices and pharmaceuticals and the extension of what we call the PDUFA, which will help to expedite the consideration of those measures.

By and large, there is strong bipartisan agreement to those provisions. There are several that have been identified today that need further attention, but men and women of good will can work that out and work it out with the administration so that we can have a successful conclusion. But what was not considered in the original bill is the provisions that apply to preempting the States from giving protections to their consumers on the use of cosmetics. What we have recognized in this debate is that the Food and Drug Administration does not today have the authority, power, or personnel to protect the American consumer on the issue of these cosmetics.

What we know overwhelmingly today is that the number of dangerous and toxic products and the number of carcinogens has expanded exponentially and is continuing to expand. All you have to do is look at the past record, of the numbers that have been introduced, and it is continuing and continuing to grow and those products are not being tested adequately today.

So who has been protecting the American consumer? Who has been protecting the American public? The States have been doing it, and primarily California has been doing it, under the legislation which they have passed. How important that has been. It has not ended up with actions that have been taken by the State of California as the result of very extensive studies that products have been removed. What has happened is that the producers and the manufacturers have withdrawn the product, addressed the problem, put it back on the market, and by and large, if you look at the advertising, they would say the product is better today than it was yesterday.

That has been the record. That has been the record. And that is why this is so important. Just review with me, Mr. President, the extent of this preemption—as I mentioned before, the extent of this preemption of the cosmetic industry in the States. This is the language that there will be the preemption for—''labeling of cosmetics shall be deemed to include any requirement relating to public information or any other form of public communication relating to the safety or effectiveness of a drug or cosmetic.''

There it is in the legislation. They are effectively saying no to the States in providing public information or any public communication relating to safety. If the States are trying to protect their people and they develop public information on the basis of scientific studies, they are prohibited under this legislation. I don't know what the penalties are. I don't know what the civil penalties are, but they must be in there. They are prohibited from providing public information or any form of public communication relating to safety or effectiveness.

That is what the cosmetic industry is doing in this legislation. That is the disdain that the cosmetic industry has for those in the States who are trying to protect the public. That is the arrogance that this industry has for legislators or Governors or attorneys general or medical professionals who are interested in the public.

This is what this says. You cannot do it. You cannot provide public information even with regard to safety. That is arrogance. That is greed. That is the greed of a $20 billion industry.

What do the States say? Well, why are you so worked up, Senator? It isn't just myself. Again, we have shown we have the letters from the Governors, the State legislators. This is not just one Senator's position. This happens to be the position of the Governors and the State legislators.

Yes, I listened to the comments of my friend and colleague, Senator JEFFORDS, about the general statements of two of the Governors with regard to the health provisions on pharmaceuticals and devices, that is, an admirable job has been done. I think we still have areas to deal with. But I would certainly sign on to that. But what we are talking about is what we are saying to the States. The cosmetic industry is saying to the States you are not going to stick your nose in and protect the consumers there. What have they done in the past? Why are the other Governors worked up about it? Because of what these two charts demonstrate, Mr. President.

Here we have the issue of lead which is known to cause birth defects and has also been found in hair dye. That is the result of State action, of State analysis, of various hair dyes that are out there that contain lead product. Initially, when there was the analysis, they said, well, this really isn't dangerous because it is just on the scalp. Then they did additional kinds of studies and found that the lead got into the individuals, obviously, who were using it. That lead was passed on to pets, children playing with pets, children ingesting it and when people are washing their hair day after day after day it causes a birth defect. Lead is one of the principal causes of mental retardation among children, period. We find, as a result of State activity, they have found it and it has been changed in many, many of the products—not all of them, because the cosmetic industry was able to get an exclusion from some participation.

Mercury, which can cause mental retardation, has been found in lipstick and nail polish—lipstick and nail polish, mercury. With all the implications that has in terms of women's health and in terms of safe pregnancies, it is found in lipstick and nail polish. That was another study that was done in California.

Alpha hydroxy, a known carcinogen, has been found in face creams. That was not done by the Food and Drug Administration. That is a result of State activities. There is not a physician in this country who does not know the dangers of lead and mercury and the alpha hydroxy to the American consumer, primarily women. There isn't a doctor who will not tell you that. Yet this legislation is saying, no more. This legislation is saying, no more. ''Any requirement relating to public information or any other form of public communication relating to safety or effectiveness of the drug or cosmetic''—preempted. So we are saying, if you find this out, we are preempting you. You are not going to have to tell the public.

As a result of State regulation protecting consumers, we have seen that States forced the removal of reproductive toxins from lipstick and nail polish. That is a result of State action. You have to admire the resourcefulness, the innovativeness, the persistence of the leaders in States that have had the courage and the determination and have been willing to take on the cosmetic industry, the cosmetic industry that by its own agreement spends 70 percent of its lobbying dollars in the States rather than on the Federal Government. You can understand that, because we haven't got any power over it, so they have targeted it in the States. Yet you find the courage of State public health officials who have been willing to force the removal of reproductive toxins from lipstick and nail polish. They didn't take the products off the markets. The manufacturers took them off the market and they addressed those issues.

States forced the removal of harmful lead from hair dyes and antacids and calcium supplements. The States forced the removal of mercury from suppositories. These are just examples.

How do we know how many other dangers there are out there when we have an explosion of dangerous products that have been agreed to by Republican and Democratic leaders of the FDA over the period of years—increasing exponentially with the dangers of toxins and carcinogens. The problem isn't getting less. The problem and the danger is getting more as every consumer understands the range of additional kinds of products that are out there and available to them. Nonetheless, we are asked on the floor of the Senate to say no to the States. We are not doing it at the Federal level.

As I mentioned before, if you said, well, we are going to have a whole review, regulatory review, we are going back to say, OK, we will preempt the States but we will find out what we are going to do with regard to providing protection—we have had, as I mentioned earlier, the GAO studies that have been done 10 years ago which made a series of recommendations to the Congress about steps we ought to take if we are going to protect the public—then maybe, maybe then it makes some sense. But we have not done that. We have not done that. The FDA has been starved in resources to even fulfill its requirement for protection in terms of the American consumers in medical devices and with regard to pharmaceuticals.

So we have a situation where we have limited, limited, limited authority under the FDA to protect the public for a range of these cosmetics. We find a record today where you are getting the explosion of these dangerous products, of toxins and carcinogens. Carcinogens cause cancer—cause cancer. We are seeing those numbers expand. We are finding completely inadequate policing by the cosmetics industry. We find the only breath of air that is out there to protect the public is the States. California is leading the way. Thank God, at least California has been grandfathered in.

What we are saying is California is grandfathered in, but my State of Massachusetts, which is just about to pass a similar law, is out. We cannot protect people. Washington knows best. Washington is saying to Massachusetts, no matter how you want to protect your consumers up there, you can't do it because we are preempting you.

Come on, Mr. President. This is a health issue. This is a safety issue.

This involves primarily women, it involves children, and to some degree men in our society. But it involves health and safety.

We have thousands and thousands of complaints about various products. I indicated earlier today—maybe I didn't—about the number of people—there were 47,000 cosmetic-related injuries in the emergency rooms in American hospitals in 1987—47,000. I wonder how many today, with greater utilization of cosmetics, greater danger, more toxins, more carcinogens. These are just the emergencies. These are not the kinds of situations that maybe—they may be—have long festering, long lasting kinds of implications and have been festering for a long period of time.

That is what is happening out there—47,000 cosmetic-related injuries in the emergency rooms. How many others where people go back to their doctor and do not go through the emergency room? How many others?

We have scores, scores and scores of complaints that have come to the FDA, and they go down the list. Thousands of consumer complaints in 1996 alone: Equate Baby Oil—these are complaints to the FDA—their complaints are eye tissue damage. Disney Kid Care Bubble Bath: urogenital track reactions. Nat Robins Eye Shadow Pencils: eye rash, burns and irritation. Flame Glow No Mistake Eyeliner Pen, black magic color: Rash, burns, and irritation. Incredible Lex Mascara, Eye Perfector, Dramatic Timing Faceneck, Covergirl Professional Advanced Mascara: rash and burns.

These are the companies. You have the Disney Co., the Reckitt & Colman Co., Softsoap Enterprises, Great American Cosmetic. They produce Nat Robins eye shadow pencils.

You have Del Laboratories, Estee Lauder eye shadow; Avon products; Procter & Gamble, rash and burns.

You have Helene Curtis, Salon Selective Styling, flammable, resulting in thermal burns.

You have American Pride, hair relaxer, Alberto Culver lotions, hair tissue damage and hair loss.

You have Clairol, Clairol Infusion 23 Shampoo, hair loss and hair tissue damage;

Del Laboratories;

You have Products Naturistics Mango Shampoo, hair loss and damage;

Helene Curtis, Suave Balsam and Protein Shampoo, hair loss, hair damage.

Vigoral—we find hair loss and tissue damage.

Alberto Culver Co., VO5, hot oil concentrated treatment, hair loss and tissue damage;

Hydrox Laboratories, Fresh Moment Mouthwash, mouth infections—mouth infections;

Carter Wallace, Arrid deodorant, bleeding and infection with utilization;

Apollo Health Care, Baby Bear Lotion, pain, including itching, stinging, burning, and soreness.

Mr. President, these are just some of the items. I may very well include the whole list in the RECORD on Monday. These just give an example of some of the leading companies.

Some may say, these are not really accurate. We would know whether they are accurate if we were able to give the assurances that we had those in the States who were looking into this and be able to say, ''Look, this isn't a problem.'' But now we are not going to know because all the States are preempted. Now we are going to find these reports are going to come in more and more. We will have to just presume that they are accurate, because the cosmetic industry will not let us find out whether they are or are not accurate. They will not permit the publication of information that is going to reflect poorly on either safety or effectiveness.

Mr. President, these are just some of the items that I think form the compelling case for State action. I think we will on Monday go through some of the particular cases in more detail on the California situation, because I think that they have really had the soundest record. It isn't easy to get this kind of information, but we will go through it. These that I just mentioned are some of the thousands of consumer complaints to Government agencies. This is only for a few months of the year, and I have read just a very few of them. I will perhaps get into even more of them later on.

Mr. President, I mentioned earlier a study by the General Accounting Office which reported that more than 125 ingredients used today are suspected of causing cancer. We have scores of cosmetic ingredients that can damage the nervous system, including headaches, drowsiness, convulsions.

To all of those watching this program I would say, ''don't discount the fact that perhaps some of your ailments—headaches, drowsiness, and convulsions—may actually be resulting from the use of cosmetics.'' Don't discount that, because the record shows that cosmetics manufacturers are including ingredients that can cause those symptoms. You don't know, your State won't know, the Federal Government won't know, we won't be able to tell you because of the power of the cosmetic industry in foreclosing that kind of study and the publication of information about the real health implications.

The GAO found that additional Federal authority is necessary to protect the public. That is the General Accounting Office. It is not this Senator from Massachusetts, not a Democrat, it is not a Republican. Here is the General Accounting Office reaching the conclusion, after reviewing this whole subject matter, that if you want to protect the public, you need greater Federal authority—we are not getting that today. The only authority that we have out there is at the State level, and this bill is taking that away.

How much do we have to yield to the greed of this industry? How much? And why? Why should we do it? We patch together something that will take care of California because they passed their law a couple of years ago. But we say to the other 49 States, ''You can't, you are never going to be able to do it again, never be able to do it again, ever.'' They have been able to protect their consumers. Hopefully, they will be protecting the people of Massachusetts, because that is the only way we are going to be protected, not at the Federal level, but through their own leaders, legislature, and representatives. No, we are just saying absolutely not.

So, Mr. President, the cosmetic industry wants the public to believe that no effective regulation is necessary or desirable. They are masters of the slick ad and expensive public relations campaign, but all the glamour in the world cannot obscure the facts.

Mr. President, I just showed what the results of some of these actions are in terms of affecting people. I mentioned the peelaway product. This is a before and after appearance and complaint of the peelaway product. You can take a look and see what happens to people.

These are various ingredients which have been put on an individual's feet. Look at the reactions to it. We are saying, no, we are not going to permit the States to try and do something about that kind of activity. And we could have had a whole series of charts up here.

I mentioned just a few moments ago what was happening in terms of burns and irritations that are occurring with skin products and what is happening to eye tissue and what is happening with rash and burns and hair tissue and hair loss and mouth infections and bleeding—the list goes on and on.

We could have had charts all around this room. Generally speaking, when you have this kind of circumstance, we would be in here debating what to do about it. Instead of thinking about what we are going to do about it, we are talking about what we are not going to do about it.

Mr. President, here we have seen what the States have done, what the problems have been, what the dangers are to the American consumer in terms of mercury, lead, and other substances in products that everyone knows are dangerous and are health hazards. Here we have a problem, and it is getting bigger. The products that are being produced for the market are more dangerous. Yet, we are doing less and less and tying the hands of the local communities to act in our stead.

We allow States to decide whether your bottles are going to be recycled or whether they are going to be buried. We permit the States to decide what they are going to do about licensing barbers. States decide and have rules and regulations and laws about pets. We have States that have rules and regulations about how close to the crosswalk you can park your car. We have regulations in the States about

what store hours are going to be, how late a store can be open. But this bill would prohibit the States from protecting consumers from lipsticks, hair creams and the soaps, hair dyes, mascara, and deodorants that can give you cancer or can catch you on fire as a result of flammable ingredients, or cause serious birth defects.

Now, does that make any sense at all? Does that make any sense at all? When you have the most serious dangers in terms of health and safety, we are denying States the opportunity to do something about it, but we will let them go ahead and look after these other kinds of issues which are not related in any particular way to health and safety.

It just doesn't make any sense. It makes no sense at all. The proponents of this provision know they couldn't pass this legislation if it wasn't tagged on to the Food and Drug Administration bill. They wouldn't dare bring this legislation out here on its own. The reason they tagged it on this bill is because they knew the importance of food and drug reform. They knew that we had to pass the extension of PDUFA, which is a key program to provide sufficient resources to the Food and Drug Administration to get the qualified people who can help expedite the more rapid consideration of new products, new pharmaceuticals in the Food and Drug Administration and has been very creatively utilized over there.

So what do they do? They tag this on to that train. This legislation would be laughed out of this body if it came up here on its own. Why don't they try to bring it up on its own? We have Members in the Senate say, ''We don't understand, there are just one or two Senators troubled by this.'' All the Governors seem to be troubled by it, and you can't blame them. They have the fundamental responsibility for protecting health and safety. That has been fundamentally a responsibility at the State and local level. It is a fundamental responsibility that is as old as this country. So the Governors don't buy into this.

The administration understands that this thing is a phony grab, a greedy grab for profit, because that is what it is. It will mean that the various cosmetic industries are not going to have to be altering or changing their products because you are not going to have the research being done or the authority in the States to bring changes that would make products safer. It is going to mean more profits. On the one hand, more profits for the cosmetic industry and much greater health threats in terms of safety, in terms of potential birth defects for infants, for various kinds of ingested products with a whole range of sensitivity to the body—eyes, mouth, ears, hair—and the problems of lips and the ingestion of various products that are dangerous.

(Mr. COVERDELL assumed the chair.)

Mr. KENNEDY. It just defies any logic. So, as we all know—we have been around here—hopefully even the newer Members understand this one, where you get something that is going through and can't make it on its own, and is added at the last or next-to-last markup with just a fraction of the discussion as we have had to date out here today during this consideration, and it is locked in.

That cosmetic industry is just smiling. They are smiling now with the votes that they had down there saying, ''Well, it seems we've got through this hurdle.'' I am just telling you, this is a long, long process. And they better get used to the fact there is going to be a long process, because this issue is not going to go away. It is not going to go away today, and it is not going to go away when we talk about this some more on Tuesday and get more information. It is not going to go away on Tuesday and not going to go away in terms of the consideration of the legislation. It is not going to go away for a long, long time.

Amazing about how a measure like this can slow something down over a long time so that the American people can begin to understand what is really at risk. I do not believe that they do. I wonder how many Members of this body have read through the legislation and understood exactly what was included in terms of the cosmetic program.

So with this particular proposal in there, we are going to have to ensure that we are going to have the kind of full awareness and understanding, not only by our colleagues here but the American people as well, as to what the health implications are.

This has important and significant health implications. We deal with a variety of different proposals in terms of education—the HOPE scholarship, the tuition credit, the work-study programs—and we debate those and discuss those and allocate resources to those, trying to decide how much we are going to provide in terms of the Head Start Program. Will it be 59,000 new children this year or 100,000? At the end of the day we may understand that our side does not win, others prevail on it, but we know that we have made the battle and made the fight, and the people that are going to be disadvantaged may be those children who are not going to get that benefit in terms of education. And that is a tragedy in terms of a mind developed.

But here we are talking about something else that is even much more important. You are talking about the vital health of the American people and the safety of the American people. You are talking about the dangers to children and infants and about the birth of healthy children. You are talking about the dangers to children's eyes, and you are talking about the dangers to people who are trusting just what they see on the shelves of American pharmacies across the country.

I would say that 9 out of 10 Americans who walk into any pharmacy this afternoon and see a product on the shelf are saying, ''Well, this is just sort of like my medicine or just about like the other products that I'm buying here. Somebody's looked at it, the Food and Drug Administration or somebody's looked at it, and it is safe or it wouldn't be out there.'' That is baloney. It is true for prescription drugs. And by and large it is true about over-the-counter drugs. True about medical devices, by and large. You can flyspeck and find instances, but that is true about those. We have the safest regulatory systems in the world. But it is not true for those products that are on those shelves that so many millions of people are using and have resulted in, in 1 year, 46,000 people going to the emergency room.

People do not go to the emergency room unless it is serious. I do not know whether it is $300, $800 to go to an emergency room to get any kind of attention. People might go back to their doctors with good health insurance, go back to their dermatologists to ask them to do it, but how many people are going to the emergency room? Someone with a little burn is not going to that emergency room. Particularly if you are working families and have children and you do not have health insurance, you are not going to be going down. How many other people did not go and still were adversely affected? But we say, ''Oh, no, no, no, we're not going to do anything about that.'' Whatever was being done out there by the States—that is out now. You cannot go forward with it.

So, Mr. President, the cosmetics industry wants the public to believe there is no effective regulation that is necessary or desirable. They are masters of the slick ad and expensive public relations campaign. But all the glamorous pictures in the world cannot obscure the facts. This is an industry that is underregulated and its products are too often hazardous.

The severe reactions may be only the tip of the iceberg. Long-term illnesses, ranging from cancer to birth defects, may not be linked to their underlying cosmetic-related causes. As the GAO points out, ''Available estimates of cosmetic-related injuries do not accurately reflect the extent to which consumers are exposed to toxic cosmetic products and ingredients. Because symptoms of chronic toxic effects may not occur until months or years after exposure, injury estimates generally account for only acute toxic effects.''

The GAO is saying that with those 46,000 people that are going to the emergency room, that is only the tip of the iceberg. And Lord only knows, if you did not have State action in taking away the lead and the mercury and the other kinds of poisonous products that are cancer forming there would be even a much more dramatic number for it.

Here we have the GAO effectively saying that because the symptoms of

chronic toxic effects may not occur until months after exposure, injury estimates generally account for only acute toxic effects. We see that in 1987 we had 46,000 of what we know now was the exponential increase in the danger of all these products. We can imagine the dangers that exist out there today.

In light of this limited authority and even more limited resources to protect the public, you would think Congress would want to encourage States to fill the regulatory vacuum. You would think we would be out here asking, what can we do to help, if anything, the States that are trying to address protections for their consumers? What can we do with the Centers for Disease Control to help Massachusetts, to help Georgia, help North or South Carolina? What are the resources that are out there to assist your State legislatures, Republican and Democrat, to provide protection from some of these toxic or carcinogen problems?

But, oh, no, we are not out there asking that this afternoon. We are out there putting more roadblocks in front of the States in their attempt to do so. In fact, the language is so extreme the States have been barred, as I mentioned, from establishing ''any requirement relating to public information or any other form of public communication relating to the safety and effectiveness of a drug or cosmetic.''

So, Mr. President, the last time the Senate looked at the issue of cosmetic regulation was in the late 1970's. We held extensive hearings, and we debated the issue, and we passed a comprehensive bill that included additional authorities for the FDA. Today, we are considering a bill that resulted from no hearings, where there has been little debate, no expert testimony in a product area that touches the American public every day.

It should be made clear to anyone that cosmetics are as deserving of adequate regulation as they were 20 years ago. It defies logic that our single action in this important consumer product area is to preempt the States from acting where there is wide agreement that FDA has neither the authority nor the resources to adequately fill the field. An attorney, now with Procter & Gamble, wrote in a 1996 Food and Drug Law Journal article that although cosmetics are regulated by the Food and Drug Administration, ''the agency's regulation is extremely lenient.'' If lenient regulation led to the chamber of horrors documented in the Senate hearings 20 years ago, it is difficult to imagine the impact of preempting the States from acting.

The proponents of the bill will tell you their language preempts State safety regulations only—remember we heard that during the course of the day—that their language preempts safety regulations only where the Federal Government has acted. But the actual statutory language is very broad and demonstrates a different intent. The industry admits that the language is drafted specifically to undermine Federal judges that have narrowly interpreted the Federal preemption.

For instance, if FDA sets a standard for lead in hair products, this bill would direct a conclusion that the lead level sets the standard for other, unrelated products that might have different routes of exposure. So we know what the industry was doing. You can talk about these issues in generalities, but you have to look at the specific language here.

Mr. President, I have no doubt the industry will argue that any little action on FDA's part will preempt State action. Yet we have no assurance the FDA is actually up to the task of filling the void left by the States. Again, we have had no hearings, no public record, no expert testimony. In fact, the industry cannot cite one example of a burdensome State regulation that this law preempts. I hope that if that is not the case, that this record will be clarified. The industry cannot cite—you have not heard in this debate here this afternoon the industry citing one example of a burdensome State regulation. Instead, they suggest that the benefit of this law is prospective. They claim they are concerned about what the States might do in the future. This is legislation for a problem that does not exist. But they see that this was the chance to get on this particular train, and they are riding it.

The stark reality is that, according to the cosmetic industry itself, the industry spends 70 percent of its lobbying dollars influencing State legislatures. I suppose we should really call this the FDA Lobbying Relief Act. I find scarce comfort in the fact that this bill will relieve cosmetic lobbyists from having to lobby 50 States, who can now focus on Congress. Even worse, if this provision is enacted, the cosmetic lobbyists will spend their time getting FDA to act in some small way on a safety issue simply to create a broad scope of Federal preemption of the State in that area.

This is irresponsible deregulation, putting the proverbial cart before the horse. Let me emphasize that if we want to truly reform the FDA's regulation of cosmetics, we should start with ensuring they are protecting the American public from unsafe cosmetic products. Once the American people can be confident that FDA has the authority and the resources to protect them, that FDA is up to the task, then we can talk about State preemption. That is the way we have always approached State preemption in the past, and that is the only way to approach it now.

The proponents of this provision claim that by permitting States to petition for exemptions, there is adequate protection for States rights. In reality, the high procedural hurdles in this provision, especially the extreme, burdensome requirements of formal rulemaking, ensures a lengthy process where industry will entangle States in years of hearings. Given the lack of Federal presence in the area of cosmetic regulation, it is unconscionable to make the States jump through hoops in order to continue to protect and warn their citizens.

They finally say, ''Well, OK, you can make some progress and deal with this, but you're going to have to jump through all these hoops.'' How many times have we been hearing on the floor about rules and regulations and the bureaucracy of Federal regulatory agencies, and here we have those that support this proposal on cosmetics setting up hoops for any of the States to jump through—hoops and landmines—hoops for the States to jump through in order to continue to protect and warn their citizens?

I assure my colleagues that this is only the first instance of where you will witness efforts at sweeping preemption in the absence of significant Federal activity. We will be faced with a barrage of bills seeking to preempt State authority in the area of public health regulation. It is certainly ironic that this Congress is so determined to undermine States rights.

Mr. President, let me emphasize again how this provision hinders States from protecting their citizens at the end of the day. The labeling and packaging of a cosmetic is preempted completely under this language. States will be unable to communicate safety concerns in the most effective and sensible manner—through labeling and packaging. Even if the States retain some vestige of authority over cosmetic safety, this bill ties their hands and prevents them from giving the public the information it needs to make informed choices. ''Right to know'' under this provision means ''right to no information.''

What about the FDA? Today, the FDA has fewer than two people working on labeling and packaging. In fact, most of the 30 people working in the FDA Office of Cosmetics work on the regulation of color additives and not actually on cosmetics. The reason for this underwhelming presence is simple: FDA has put limited resources in the cosmetic program because they simply do not have adequate legal authority to address cosmetic safety. If you can't enforce the law because there is no enforcement authority and because the standards are basically nonexistent, you are not going to squander valuable personnel where there are drugs and medical devices to approve, and foods to keep safe.

For example, if the FDA suspects a cosmetic safety problem exists, as they do with the use of alpha-hydroxy, acid face creams, the agency faces high hurdles in bringing any kind of regulatory action. The FDA bears the burden of demonstrating by its own testing that the product is injurious to health. The FDA cannot make the company demonstrate they are selling a safe product. That is important, Mr. President. The FDA cannot come in and say to the company, ''Show us the information for the product you are testing to

demonstrate this is a safe product.'' No, they do not have that power or authority. The FDA cannot require the companies to come in, and the FDA, by its own testing has to demonstrate that the product is injurious to health.

Today, the FDA knows how many milligrams of aspirin are in a tablet and they know how much sodium is in human or animal food and can require disclosure of this information to consumers, but the FDA does not have to know how much alpha-hydroxy acid is in face cream. The agency cannot even require the cosmetic companies to disclose the presence of a known carcinogen like alpha-hydroxy acid to consumers. We need to understand, Mr. President, that the agency cannot even require the cosmetic companies to disclose the presence of a known carcinogen—they cannot do it—like alpha-hydroxy, to consumers.

It is, frankly, no wonder that 70 percent of the cosmetic industry lobbying takes place in the States because that is where the action is. That is where the standards are being set. That is where the standards are being set and enforced.

My colleagues do not have to take my word. We have a letter from the National Governors' Association, Association of Food and Drug officials, and the Association of State Legislatures, voicing strong opposition to this whole provision. We have a letter from the conservative Republican Attorney General of California, Dan Lundgren, strongly opposing this provision, and speaking eloquently about the importance of State laws on cosmetic safety.

In my own State we have a bill that would extend the same public health protections enjoyed by California under their right-to-know law, Proposition 65. Proposition 65 is so successful and so popular with California voters that the committee has excluded it from preemption. No one has refuted the positive impact Proposition 65 has had on the public health. No one has. But instead of taking a law that is working so effectively to protect the public and encourage other States to emulate California today, we are debating whether to preempt every State but California.

Some of my colleagues have expressed satisfaction with grandfathering Proposition 65. They should delay their celebration. This bill grandfathers Proposition 65 in its current form, which applies to reproductive toxins and carcinogens. But California cannot react to future scientific developments by warning its citizens against other hazardous substances.

I will include the whole letter and I ask unanimous consent the complete letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF CALIFORNIA,
DEPARTMENT OF JUSTICE,
Los Angeles, CA, July 14, 1997.

Re S. 830, FDA Modernization and Accountability Act of 1997—Potential Preemption of California Health and Safety Laws.

Hon. JAMES M. JEFFORDS,
Chairman, Senate Labor and Human Resources Committee, Hart Office Building, Washington, DC.

DEAR SENATOR JEFFORDS: It has come to our attention that S. 830, the FDA Modernization and Accountability Act of 1997, is moving rapidly through Congress. We understand that this omnibus bill, which covers the entire gamut of FDA authority, also contains language in section 761 on National Uniformity for Non-prescription Drugs to the effect that no state may establish or continue in effect any requirement ''that relates to the regulation of a drug intended for human use that is not subject to the requirements of section 503(b)(I) or a cosmetic'' unless is it identical to the Act. While this is only a small portion of a major piece of legislation, we are concerned that this provision may be construed to preempt states from imposing any requirements on cosmetics or over-the-counter drugs, and could therefore prevent the State of California from enforcing significant laws dealing with the health and safety of its citizens in the absence of a specific FDA exemption. California laws which could potentially be affected by the FDA Modernization Act in its current form include the Sherman Food, Drug and Cosmetic Law, and the Safe Drinking Water and Toxic Enforcement Act of 1986 (''Proposition 65'') as they apply to manufacturers of cosmetics and over-the-counter drugs.

Regulation of health and safety matters has historically been a matter of local concern and the federal government has been reluctant to infringe on state sovereignty in these traditional areas of police power. As noted by the Supreme Court in *United States* v. *Lopez,* 154 U.S. 151, 131 L.Ed.2d 626, 633 (1995), ''a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.''

Thus, many federal statutes that preempt state regulation in the traditional health and safety area do so narrowly, if at all. For example, the Federal Insecticide Fungicide, and Rodenticide Act and the Federal Hazardous Substances Act preempt only labeling requirements and the Medical Device Amendments to the federal Food, Drug and Cosmetics Act preempts state requirements only if there is an existing, very specific federal requirement in effect. In contrast, the ''National Uniformity'' provision of S. 830 as currently proposed, appears to generally preempt all state requirements, not just labeling requirements, even when there is no existing federal requirement in effect.

As noted above, S. 830 would, in the absence of specific FDA exemption, appear to prevent the State of California from enforcing both the Sherman Food, Drug and Cosmetic Law as well as Proposition 65, a state ''Right to Know'' statute, passed by the voters of California in 1986. Proposition 65 requires that persons who expose others to certain levels of carcinogens or reproductive toxins give a clear and reasonable warning.

Proposition 65 has been used successfully to reduce toxic contaminants in consumer products and has repeatedly been instrumental in creating positive changes in products regulated by the Food and Drug Administration. The federal government has at least twice in the past ten years followed the lead of the State of California after the state entered into various settlement agreements under Proposition 65 that required lower levels of contaminants in various products. For example, in 1990, after California filed suit under Proposition 65 concerning lead leaching from ceramic dishes, the Food and Drug Administration (''FDA'') adopted stricter lead standards for dishware. In 1991, the state brought an action concerning lead-foil wine bottle caps, resulting in industry-wide agreement to convert to tin or plastic caps. A year later, the FDA adopted a standard barring lead-foil caps.

Most recently, this office entered into settlements, just approved by the court, with the major manufacturers of calcium supplements and antacids (a non-prescription drug), both of which are taken in large quantities by pregnant women and many of which contained lead at levels that caused concern for the health of the fetus. The settlements require the manufacturers to lower the lead levels in their products substantially below previously mandated food and pharmaceutical levels. The manufacturers intend to make these changes on a nationwide basis. As has been the pattern in the past, the calcium settlements have served as a model for federal action, and the FDA is now considering changes to the federal standards for lead in calcium supplements and antacids.

While we appreciate the need for national uniformity of regulation in certain areas, the provisions of Proposition 65 have been in existence for over ten years and have repeatedly been found not to be preempted by federal law.[1] In June of this year, the Federal Occupational Safety and Health Administration approved Proposition 65 in the California workplace, ruling that it did not impose an undue burden on interstate commerce. (U.S. Department of Labor, Occupational Safety & Health Administration 62:31159–31181—Supplement to California State Plan, Approval (June 9, 1997)).

Propostion 65 as well as the Sherman Food, Drug and Cosmetic Law are examples of the type of state regulation that protects the health and safety of its citizens and that coexists comfortably with federal regulation. The states should be permitted to continue in their historical role as guardians of the welfare of their citizens. We therefore respectfully urge you to seek modification of your bill to address this issue.

Sincerely,

DANIEL E. LUNDGREN,
Attorney General.
THEODORA BERGER,
Assistant Attorney General.

Mr. KENNEDY. Reading from the last paragraph:

Proposition 65, as well as the Sherman Food and Drug Law are examples of the type of State regulation that protects the health and safety of its citizens and that coexist comfortably with Federal regulation. The States should be permitted to continue in their historic role as guardians of the welfare of their citizens. We therefore respectfully urge you to seek modification of your bill to address this issue.

There it is, Mr. President, from the attorney general of California, a conservative Republican, who understands as a person that has been working and implementing this legislation why this proposal is rotten and why it ought to be adjusted.

Mr. President, a few years ago, the agency proposed establishing a cosmetics hotline to receive consumer complaints. The FDA hoped to fill in gaps

[1] See, e.g., Committee of Dental Amalgam Manufacturers v. Stratton, 92 F.3d 807 (9th Cir. 1996) (no preemption by Medical Device Amendments to Federal Food, Drug and Cosmetics Act); Chemical Specialities Manufacturers, 958 F.2d 941 (9th Cir. 1992) (no preemption by Federal Insecticide, Fungicide and Rodenticide Act and Federal Hazardous Substances Act (''FHSA''); People v. Cotter, 53 Cal.App.4th 1373 (1997) (no preemption by FHSA).

because their voluntary cosmetics adverse event reporting systems had dismal compliance rates of well below 40 percent. The majority of all cosmetics health problems were going unreported, and here was an ingenious solution. The reason the reporting systems were all voluntary is because the FDA does not have the authority to require companies to tell consumers what kind of problems consumers are having. Put Congress and some heavy lobbying together and you get a congressional prohibition forbidding FDA from establishing the hotline. So we were denying the FDA from having a hotline.

When will it stop, Mr. President? We are preempting all of the States, except California, from taking any steps to give the FDA any kind of additional authority. Then when there was the effort to just establish a hotline so people could call in and register their complaints, the funding for that hotline was dropped. I wonder why? I can tell you why. I gave you some examples of why, just a few moments ago, with the consumer complaints to various agencies, including the FDA, with people writing in. No, we are not going to hear from the public.

Finally, Mr. President, there was some reference earlier about medical device legislation in Europe. We often hear about FDA's regulation of drugs as the international gold standard. I refer to our country's regulation of cosmetics as the fool's gold standard. Cosmetic regulation in other countries is far superior to our own. The European Union requires full ingredient listing on packaging, documentary proof of good manufacturing practice, and similar proof that extensive testing has been carried out on all products. Mexico recently adopted regulation mandating expiration dates on all cosmetics. Although New York recently adopted just such a rule, it may live a short life—the bill before the Senate would preempt that regulation even if FDA does not have its own regulation in place.

Let's continue on our world tour. Canada requires that manufacturers submit data showing that a product is safe under normal use conditions. Sweden is initiating product registration for cosmetics and Denmark is considering a similar law. Malaysia requires mandatory registration of cosmetics. The list goes on, but the point is clear. We are not content to lag behind other countries in protecting our citizens. We prefer to buck the trend and expose them to greater hazards. As experience has shown in other countries and in California with Proposition 65, the industry can readily comply with meaningful safety standards when they are imposed.

Unlike food or drugs, cosmetics are not essential to our health. We use them because their benefits are so clear. We need only mention this summer's unprecedented beef recall to illustrate that our food supply is not perfectly safe. But cosmetics are a different matter. We are not compelled to use them. For that reason, we should be far less willing to accept injury and death from such products.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HELMS). The clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, earlier I reviewed for the Senate the actions that have been taken by the States which have resulted in additional kinds of protections for safety for the American consumer in those States, primarily in California. I reviewed some of the items that posed the principal health hazards for citizens—the lead, the mercury, and other items and what has happened by the States when removing those items.

Then I also mentioned, Mr. President, the limitations we have in terms of the Food and Drug Administration in taking any actions to protect people and the power of the cosmetic industry in refusing to even have a hotline. We have hotlines in so many different and important areas for American people. We have them with regard to battered women, as one of the principal sponsors for that. We are not comparing that need with this one but there is enormous importance and enormous justification and that has been a powerful, powerful instrument for battered women in our society.

We wanted to try and have at least a hotline for people that might be able to have been impacted adversely by these cosmetics. We mentioned already that there are 46,000, at the last count, people going to emergency rooms—46,000. And we know the dangers which are out there in terms of impacting the American consumer and they have increased dramatically with the increase in products. It has been recognized by the companies and the industry itself by the number of products and the complexity and the toxins that have been included.

So the only real opportunity that we have other than going to the States and reviewing the kind of complaints that they have has been from the various agencies of government. I mentioned just a few moments ago about these various items and I will go into greater detail with the companies and what the allegations are and what the results are on Monday. I have them here but I will not take the additional time.

The fact is, these are the kind of results we are having, Mr. President. When California runs into those circumstances they can do something about it. When California found out about a particular product, the State was able to do something about it. Now, under this legislation, on this preemption, 49 States will not be able to do something about it. California has been grandfathered in, but all of the rest of us that come from other States will not be able to get that kind of a protection.

Now, I just mention the kind of injury complaints that have been included. They include, going through this code which we are gradually going through, injury code 14 includes rash, redness, swelling, blisters, sores, weeping, lumps, inflammation, sunburn, chemical burn and irritation; code 19, pain, to include itching, stinging, burning, soreness, and tingling; injury code 20, tissue damage—other than thermal burn, peeling, splitting, cracking, hair, or nail breakage; code 21, discoloration; code 22, infection; code 23, nervous system reactions, to include dizziness, headache, irritability, nervousness, numbness; injury code 24, respiratory reaction, to include choking, coughing, sneezing, shortness of breath, wheezing; code 25, digestive system reaction, upset stomach, nausea, loss of appetite, vomiting, diarrhea; code 26, bleeding, code 27, urinary tract infections; code 28, flammability resulting in thermal burns; code 29, blurred vision; code 30, death as a result of inhalation or sniffing deaths, and code 31.

These are serious, Mr. President. These are serious health hazards. Before we in this body and the House of Representatives see a piece of legislation tagged on to the important Food and Drug Administration, the medical device and the pharmaceuticals which are so important, on which we have made so much progress, on which all of us are hopeful will finally result in a bipartisan agreement, we see the greed of the cosmetic industry go right out there and tag on this amendment as one of the last amendments to preclude the States—they have gotten the Government effectively precluded, unlike the European countries. The European Union, and most of the other industrial countries of the world, have some protections. They have been able to preclude the Federal Government, and now they are precluding the States from protecting the consumers and putting them at risk for all those kinds of illnesses and sicknesses that I have talked about here that are resulting from all of those products.

That is what we are being asked to embrace. That is what we are being asked to embrace. For those that understand the importance—the Attorney General of the State of California, who has been working on this, makes it so clear: Don't do it, Senator. Don't do it, Senate of the United States. Don't do it in the Congress and Senate. Mr. President, don't sign that legislation. He wants to be able to protect the people in California, as other public health officials want to be able to protect their people in the other 49 States. That is the issue. That is the issue.

We are going to come back to it again and again and again, Mr. President, because it is of such enormous importance to the health and safety. The other side of the balance is the

question of greed by the cosmetics industry. Usually, when we are making tough decisions around here—and we have made them—we have limited funding; for example, for the food programs for our elderly people. We have to make a judgment, are we going to treat more people in congregate sites where you can feed more elderly people with limited resources, or are we going to carve out some and feed them at home, which means you will get to less people, you will get those people that are homebound. What do you do under those circumstances? You are placing needy people of one side against needy people on the other.

No easy answers on this. Painful judgments and decisions on that. We don't always get it right. We understand that. People of good will can differ on that and feel strongly about it, and we respect them here in this body. But under this circumstance, we are talking about the profits of the cosmetics industry and the risk to the American consumer. That is what the balance is. That is what is unacceptable. That is what is outrageous and that is why that cloture vote was necessary, so we begin to wake up America as to what is happening to these States. That is what we are going to have an opportunity to debate as we go to this bill, plus the other measures.

Mr. President, the last unacceptable element of this bill is an assault on the basic environmental protections contained in the National Environmental Protection Act, which is a key Federal environmental statute that regulates the Government's own actions through environmental impact statements. Under NEPA, Federal agencies must undertake a comprehensive environmental planning process for every major action they take. This law is a crucial statutory assurance that the work of the Government, the actions of regulated industries are consistent with the guiding principles of environmental protection.

Section 602 of the bill broadly exempts FDA's activities from environmental impact assessment under NEPA. This is the first preemption of NEPA in a regulatory agency and is the beginning now of cutting back very, very important environmental issues. For what reason? Why are we, in our committee that is responsible in terms of the education and the health and basic research, and the basic oversight of laws dealing with labor and management, pensions, and some of the older Americans activities —why in the world are we going around here in terms of preempting NEPA from the FDA? Who do you think was interested in that? Perhaps some of the industries who want to get out from under filing the environmental impact statement. If we are starting off with this agency, we know exactly what is going to happen in each of the other agencies.

This week, I spoke with the Vice President who expressed his serious personal concerns about this provision. Just a few sentences: This bill opens the door to weakening environmental protection, and lays a welcome mat down for future exemptions and attacks on the effective and essential environmental statute. This is an act of environmental extremism, which should have no place in this or any other bill.

The reauthorization of the prescription drug and user fee is tremendously important to assure that the FDA will have the resources to review the new drugs. That is what we ought to be addressing.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Massachusetts has 55 minutes 28 seconds remaining.

Mr. KENNEDY. Fine. I thank the Chair. I want to prepare to yield back the balance of my time this afternoon. As I understand, from a previous agreement, we will have time to continue this debate, I believe, on Monday next for a period of 4 hours, with the time evenly divided, starting at 11 o'clock, is that correct?

The PRESIDING OFFICER. Yes.

Mr. KENNEDY. I yield back the remaining time this afternoon.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS

The PRESIDING OFFICER. Under the order of July 16, 1997, the Senate having received from the House of Representatives the bill H.R. 2159, all after the enacting clause of H.R. 2159 is stricken, and the text of S. 955, as amended, is inserted in lieu thereof. H.R. 2159 is read for the third time and passed, and a motion to reconsider is laid upon the table.

The bill (H.R. 2159), as amended, was passed.

The PRESIDING OFFICER. The Senate insists on its amendment, requests a conference with the House on the disagreeing votes of the two Houses on H.R. 2159, and the Chair appoints the following conferees.

The Presiding Officer appointed Mr. MCCONNELL, Mr. SPECTER, Mr. GREGG, Mr. SHELBY, Mr. BENNETT, Mr. CAMPBELL, Mr. STEVENS, Mr. COCHRAN, Mr. LEAHY, Mr. INOUYE, Mr. LAUTENBERG, Mr. HARKIN, Ms. MIKULSKI, Mrs. MURRAY, and Mr. BYRD conferees on the part of the Senate.

PASSAGE VITIATED AND MEASURE INDEFINITELY POSTPONED—S. 955

The PRESIDING OFFICER. Under the previous order, passage of S. 955 is vitiated and the bill is indefinitely postponed.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may I proceed for 2 minutes?

The PRESIDING OFFICER. Yes.

THE DEATH OF MOTHER TERESA

Mr. KENNEDY. Mr. President, I have just been notified about the death of Mother Teresa. I think I speak for all of the Members of the Senate, and I know that I speak for all of the members of my family and the people of Massachusetts that feel a sense of loss with Mother Teresa. She was really an extraordinary, inspirational, spiritual person whose life was devoted to others. She was a woman of enormous tenderness, gentleness, faith, and spirituality.

I had the chance to visit with her in Calcutta in the late 1970's and was first exposed to her extraordinary work with the homeless and destitute in that community. I saw how she was able to minister unto the poorest of the poor in ways that were absolutely inspiring, in terms of her gentleness and in terms of her capacity for caring. Anyone whose life she touched will never forget her. She was really a very, very special person. This world is a better world because of her life. I know that all Americans will feel deeply about the loss of Mother Teresa. I just hope that we will all say a prayer for her. Thank you very much.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MOTHER TERESA

Mr. DASCHLE. Mr. President, we just received word that Mother Teresa has died in Calcutta of cardiac arrest. With Mother Teresa's death, another bright light has gone out in the world.

Someone once asked St. Francis what a person needed to do to please God. He answered, ''Preach the Gospel every day. If necessary—use words.'' Mother Teresa lived just that sort of life. She was a living reminder to all of us that faith is more than words. It is the good deeds we do in this world.

She was a tiny woman, but she was an enormous inspiration. In the same way we can best show our respect for Princess Diana by supporting the ideals she believed in, the best way to honor Mother Teresa is to reach outside of ourselves and try to show a little more compassion in our own lives.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, too many Americans have not the foggiest notion about the enormity of the Federal debt. Every so often, I ask various groups, how many millions of dollars are there in a trillion? They think about it, voice some estimates, most of them not even close.

They are stunned when they learn the facts, such as the case today. To be exact, as of 10:08 a.m. today, September 5, 1997, the total Federal debt—down to the penny—stood at $5,414,792,993,913.96.

Another astonishing statistic is that on a per capita basis, every man, woman, and child in America owes $20,203.80.

As for how many millions of dollars there are in a trillion, there are a million in a trillion, which means that the Federal Government owes more than five million million dollars.

MESSAGES FROM THE HOUSE

At 12:01 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 bills, in which it requests the concurrence of Senate:

H.R. 2159. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–218. A resolution adopted by the Advisory Board of Directors of the Methodist Medical Center of Oak Ridge, Tennessee relative to proposed National Spallation Neutron Source; to the Committee on Commerce, Science, and Transportation.

POM–219. A resolution adopted by the Midwestern Legislative Conference of the Council of State Governments relative to global climate change; to the Committee on Energy and Natural Resources.

POM–220. A resolution adopted by governing body of the Township of Little Egg Harbor, New Jersey relative to the Mud Dump site; to the Committee on Environment and Public Works.

POM–221. A resolution adopted by governing body of the City of Brigantine, New Jersey relative to the Mud Dump site; to the Committee on Environment and Public Works.

POM–222. A resolution adopted by the Midwestern Legislative Conference of the Council of State Governments relative to monopolization of agriculture production; to the Committee on the Judiciary.

POM–223. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Labor and Human Resources.

ASSEMBLY JOINT RESOLUTION NO. 12

Whereas, within the State of Nevada, the sport of rodeo has great historical, cultural and social significance, and is an important attraction for domestic and foreign tourism; and

Whereas, professional rodeos generate substantial economic activity and are significant sources of income, employment, recreation and enjoyment for Nevadans; and

Whereas, the sponsors associated with rodeos of the Professional Rodeo Cowboys Association assist in sustaining rodeos, making this sport affordable and accessible to millions of rodeo fans; and

Whereas, despite the importance of such events to the economy of Nevada and to the economies of other western states, federal agencies have proposed restrictions upon the activities of sponsors, programs and advertising connected with rodeo events; and

Whereas, such restrictions, if adopted, would jeopardize the financial viability of rodeos, causing considerable loss to tourism and related industries and interfering with the enjoyment of rodeo events by the millions of Americans who attend rodeos annually; and

Whereas, these restrictions would impose unconstitutional limitations on both commercial speech and the freedom of association of the membership of the Professional Rodeo Cowboys Association; and

Whereas, during their 104th session of Congress, Senators Richard Bryan and Harry Reid jointly introduced the ''Rodeo Freedom Act of 1995,'' which, if enacted, would have prohibited the regulation by the Secretary of Health and Human Services and the Commissioner of Food and Drugs of any activity of sponsors or sponsorship programs connected with, or any advertising used or purchased by, the Professional Rodeo Cowboys Association or any other professional rodeo association; now, therefore, be it

Resolved by the Assembly and the Senate of the State of Nevada, Jointly, That the Nevada Legislature supports the efforts of Senators Richard Bryan and Harry Reid in this regard and urges the Nevada Congressional Delegation to continue to bring this issue before Congress; and be it further

Resolved, That the members of the 69th Session of the Nevada Legislature do hereby urge Congress to enact legislation patterned after the ''Rodeo Freedom Act of 1995''; and be it further

Resolved, That the Chief Clerk of the Assembly prepare and transmit a copy of this resolution to the Vice President of the United States as the presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

Resolved, That this resolution becomes effective upon passage and approval.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1150. An original bill to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes (Rept. No. 105–73).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR:

S. 1150. An original bill to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multistate significance, to reform, extend, and eliminate certain agricultural research programs, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

By Mr. DODD (for himself, Ms. SNOWE, and Mr. KENNEDY):

S. 1151. A bill to amend subpart 8 of part A of title IV of the Higher Education Act of 1965 to support the participation of low-income parents in postsecondary education through the provision of campus-based child care; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Ms. SNOWE, and Mr. KENNEDY):

S. 1151. A bill to amend subpart 8 of part A of title IV of the Higher Education Act of 1965 to support the participation of low-income parents in postsecondary education through the provision of campus-based child care; to the Committee on Labor and Human Resources.

THE CHILD CARE ACCESS MEANS PARENTS IN SCHOOL ACT

Mr. DODD. Mr. President, I am pleased to rise today to introduce legislation to provide new support to needy college students struggling to balance their efforts in college with their role as parents. The CAMPUS—Child Care Access Means Parents in School Act will support the participation of low-income parents in college by supporting campus-based child care. I am pleased to be joined in this effort by Senator SNOWE and Senator KENNEDY.

The stereotypical college student is no longer an 18-year-old high school graduate. Increasingly, nontraditional students—older, with children and various job and life experiences—are filling the ranks of college classes. These students recognize the importance of college to future success.

But these students face new barriers unheard of in earlier times. Many are parents and must provide for their children while in school. Campus-based child care is a vital necessity for parents attending college. It is conveniently located, available during the right hours, and of high quality and lower cost. Unfortunately, it is unavailable at many schools. Even where programs exist, they are often difficult to access, particularly for low-income parents who struggle with the costs.

In the wake of welfare reform, new pressures are also coming to bear on low-income student parents. With the work requirements of the welfare reform bill, it will become increasingly difficult for students who are low-income parents to obtain Federal child care funds. States are likely to shift these funds to support welfare recipients returning to work, rather than to support low-income parents pursuing higher education. This outcome is particularly perverse given the impact of obtaining a college education on family earnings over time. Studies are clear: public assistance recipients who attend college are significantly more likely to leave welfare permanently.

This bill will offer new hope to these students. It will provide support to campus-based child care programs serving low-income parents. Colleges can apply for these 3-year grants to assist the institution in supporting or establishing a campus-based child care program serving the needs of their low-income students. Funds will be targeted to institutions serving low-income students and programs focused on meeting these needs.

Mr. President, this is a modest measure that will make a major difference to students. I am hopeful that it can be considered and enacted as part of the Higher Education Act which we will consider later this year. I look forward to working with my colleagues to move this important measure forward.

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. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CAMPUS-BASED CHILD CARE.

Subpart 8 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070f) is amended by adding at the end the following:

"SEC. 420C. CAMPUS-BASED CHILD CARE.

''(a) SHORT TITLE.—This section may be cited as the 'Child Care Access Means Parents in School Act'.

''(b) FINDINGS.—Congress finds that—

''(1) earning potential increases significantly when individuals attend college for any period of time;

''(2) public assistance recipients who complete college are more likely to leave public assistance permanently;

''(3) students who are parents and receive campus-based child care are more likely to remain in school, and to graduate more rapidly and at a higher rate than students who are parents and do not receive campus-based child care;

''(4) students who are parents rate access to campus-based child care programs as an important factor affecting their college enrollment;

''(5) children placed in high quality child care programs exhibit significant positive results from the experience, including—

''(A) higher earnings as adults;

''(B) higher rates of secondary school graduation;

''(C) lower rates of retention in grade level;

''(D) lower rates of teenage pregnancy; and

''(E) reduced need for special education or social services;

''(6) the public saves $7 for every $1 invested in quality child care; and

''(7) campus-based child care programs may have an increasingly difficult time accessing Federal child care funds under the structure of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

''(c) PURPOSE.—The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

''(d) PROGRAM AUTHORIZED.—

''(1) AUTHORITY.—The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services to low-income students.

''(2) AMOUNT OF GRANTS.—

''(A) IN GENERAL.—The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

''(B) MINIMUM.—A grant under this section shall be awarded in an amount that is not less than $10,000.

''(3) DURATION; RENEWAL; AND PAYMENTS.—

''(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

''(B) RENEWAL.—A grant under this section may be renewed for a period of 3 years.

''(C) PAYMENTS.—Subject to subsection (f)(2), the Secretary shall make annual grant payments under this section.

''(4) ELIGIBLE INSTITUTIONS.—An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $1,000,000.

''(5) USE OF FUNDS.—Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program serving the needs of low-income students enrolled at the institution of higher education.

''(6) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term ''low-income student'' means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

''(e) APPLICATIONS.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

''(1) demonstrate that the institution is an eligible institution described in subsection (d)(4);

''(2) specify the amount of funds requested;

''(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application student demographics and other relevant data;

''(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

''(5) identify the resources the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

''(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

''(7) in the case of an institution seeking assistance for a new child care program—

''(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

''(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

''(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

''(8) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

''(9) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

''(f) REPORTING REQUIREMENTS; CONTINUING ELIGIBILITY.—

''(1) REPORTING REQUIREMENTS.—

''(A) REPORTS.—Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months and 36 months after receiving the first grant payment under this section.

''(B) CONTENTS.—The report shall include—

''(i) data on the population served under this section;

''(ii) information on campus and community resources and funding used to help low-income students access child care services;

''(iii) information on progress made toward accreditation of any child care facility; and

''(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

''(2) CONTINUING ELIGIBILITY.—The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $60,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.''.

Ms. SNOWE. Mr. President, I am extremely pleased to join my colleague from Connecticut, Senator DODD, to introduce the Child Care Access Means Parents in School Act [CAMPUS Act]. Senator DODD and I have worked together to ensure access to quality child care, and this bill represents the next step in our shared commitment to this important issue. I am also pleased Senator KENNEDY has joined us as a cosponsor of this legislation, which provides grants to colleges in order to provide child care for low-income students.

Mr. President, this is the time of year when countless American students return to college. At this time, we should remind ourselves that many Americans face obstacles that prevent them from participating in higher education. The absence of affordable and accessible child care is, unfortunately, one such obstacle.

For many parents with young children, the availability of oncampus

child care services is central to their ability to attend college. Campus-based child care is conveniently located, available at the hours that fit students' schedules and often available at a lower cost than community-based child care centers. Student parents rate access to campus-based child care as an important factor affecting their college enrollment. Unfortunately, such services are often in very short supply, particularly for low-income parents who may find the cost of existing services prohibitive.

Moreover, in order to meet the high demand for child care created by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, States may divert funds away from programs currently providing campus-based child care services for low-income students and use the funds to provide child care to welfare recipients, because educational activities do not count as work under the act. This may leave students with less access to child care services. If we want to fulfill the goals of the welfare reform act and ensure that families are able to remain financially self-sufficient, we need to ensure that low-income parents have access to higher education and affordable and convenient child care. This is crucial given that people who receive public assistance and then complete college are far more likely to leave welfare permanently than those who do not.

There is no question that a person's earning potential increases dramatically with a college degree. According to the Census Bureau, in 1990 the average income for high school graduates was almost $18,000. Those who had 1 to 3 years of college education, however, earned an average of $24,000. And those who graduated from college received an average salary of $31,000.

Higher education is crucial to getting a job in today's global job market. More than half of the new jobs that have been and will be created between 1995 and 2000 will require education beyond high school. While nearly 40 percent of American jobs are currently in low-skill occupations, only 27 percent will fall in that category by the year 2000. Over the same period, high-skill occupations will grow from 24 to 41 percent of the work force. Getting the skills necessary to meet these market demands simply requires higher and higher levels of educational achievement.

For many low-income students who are parents, the availability of campus-based child care is key to their ability to receive a higher education and thus achieve the American dream. Student parents are more likely to remain in school, and to graduate sooner and at a higher rate if they have campus-based child care. Child care services are particularly critical for older students who choose to go back to school to get their degree or to improve their skills through advanced education. This is especially important in today's economy where people need to continuously train and retrain in order to meet the demands of high-technology jobs.

Children placed in campus-based child care also reap numerous benefits, given its very high quality. In fact, children in high-quality child care exhibit higher earnings as adults, higher rates of secondary school graduation, lower rates of teen pregnancy, and a reduced need for special education or costly social services. We also know that quality child care is cost efficient—the public saves $7 for every $1 invested in child care.

The bill we are introducing today will help bring the American dream within the reach of numerous American parents who need child care in order to attend college. The CAMPUS Act will amend title IV of the Higher Education Act to help provide campus-based child care to low-income parents seeking a college degree. Under the bill, the Secretary of Education will award 3-year grants to institutions of higher education to support or help establish a campus-based child care program serving the needs of low-income student parents. The Secretary will award $60 million in grants—equal to 1 percent of total Pell grant funding—based on an application submitted by the institution, and the grant amount will be linked to the institution's Pell grant funding level.

Under the bill, Pell grant recipients will be eligible for child care, to ensure that services target low-income students. In 1995–96, there were approximately 3.6 million Pell grant recipients, and almost 17,000 Maine residents received Pell grants. Students typically qualify for Pell grants if their income is under $30,000 per year. This bill will make a true difference in the lives of many low-income students who need child care to attend school.

I urge my colleagues to support this important legislation which will truly make a difference in the lives of numerous American parents who wish to attend college.

ADDITIONAL COSPONSORS

S. 224

At the request of Mr. WARNER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 224, a bill to amend title 10, United States Code, to permit covered beneficiaries under the military health care system who are also entitled to Medicare to enroll in the Federal Employees Health Benefits Program, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from New Jersey [Mr. TORRICELLI] was added as a cosponsor of S. 496, a bill to amend 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 historic homes for use as a principal residence.

S. 1096

At the request of Mr. GRASSLEY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1103

At the request of Mr. MOYNIHAN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 1103, a bill to amend title 23, United States Code, to authorize Federal participation in financing of projects to demonstrate the feasibility of deployment of magnetic levitation transportation technology, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the names of the Senator from Oklahoma [Mr. INHOFE] and the Senator from Georgia [Mr. CLELAND] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

AMENDMENTS SUBMITTED

THE DEPARTMENT OF LABOR APPROPRIATIONS ACT FOR FISCAL YEAR 1998

GRAHAM AMENDMENT NO. 1084

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill (S. 1061) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes; as follows:

At the end of the bill, insert the following:

TITLE ___—NATIONAL COMMISSION ON PUBLIC EDUCATION FACILITIES CONSTRUCTION AND REHABILITATION

SEC. ___01. FINDINGS.

Congress finds the following:

(1) The condition of our Nation's public pre-kindergarten through grade 12 school facilities play an enormous role in the educational development of our children as there is a relationship between the condition of school facilities and student achievement. In addition to their educational value, neighborhood public schools that are structurally safe and sound, and well-supported by the community can act as important civic and social institutions within our communities.

(2) The financing of public pre-kindergarten through grade 12 school construction and renovation has historically been primarily a local function. Typically, tax-exempt bond issues must be approved through a referendum reliant on local property taxes and are sold to finance capital spending. However, recent national trends indicate a decrease in bond referenda approval to pay for school construction projects. The General Accounting Office reports that 33 percent of school districts have had an average of 2 bond issues fail in the past 10 years.

(3) The United States is currently experiencing a 20-year rise in public elementary and secondary school enrollments which is projected to peak at over 54,000,000 students by 2006 from less than 40,000,000 in the mid-1980's.

(4) The General Accounting Office has reported the following conditions regarding education facilities construction in the United States:

(A) Approximately $112,000,000,000 is needed in order to make necessary infrastructure repairs to our Nation's schools and to comply with current Federal mandates.

(B) One-third of schools nationwide are in need of extensive repair or replacement and 60 percent of schools nationwide reported needing at least 1 major building feature extensively repaired, overhauled, or replaced with most of these schools requiring multiple features repaired.

(C) 60 percent of students in the United States attend school in buildings with at least 1 unsatisfactory environmental condition, with heating, ventilation, and air conditioning systems being the most frequently reported building feature in need of repair. It is estimated that nearly $2,400,000,000 is required to comply with new regulations on asbestos management.

(D) Often the schools with major renovation and rehabilitation needs are least prepared for 21st century technology learning and teaching needs, with over 14,000,000 students attending approximately 40 percent of our schools which report not being able to provide facilities to well meet the functional requirements of laboratory science or large-group instruction.

(5) As the result of the school enrollment increases, the need to prepare postsecondary academic institutions for the influx of these new students will be ever more important.

SEC. ___02. ESTABLISHMENT OF NATIONAL COMMISSION ON PUBLIC EDUCATION FACILITIES CONSTRUCTION AND REHABILITATION.

There is established a Commission to be known as the ''National Commission on Public Education Facilities Construction and Rehabilitation'' (in this title referred to as the ''Commission'').

SEC. ___03. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(1) Two individuals shall be appointed by the Speaker of the House of Representatives.

(2) One individual shall be appointed by the Minority Leader of the House of Representatives.

(3) Two individuals shall be appointed by the Majority Leader of the Senate.

(4) One individual shall be appointed by the Minority Leader of the Senate.

(5) One individual shall be appointed by the Secretary of Education.

(6) One individual shall be appointed by the Secretary of the Treasury.

(b) ADDITIONAL QUALIFICATIONS.—Each of the individuals appointed under subsection (a) shall be an individual with expertise and experience in public education facilities construction and financing (including financing the construction of public institutions of higher education).

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairperson and a Vice Chairperson of the Commission. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 30 days after the date of enactment of this Act. In the event that an officer authorized to make an appointment under subsection (a) has not made such appointment within such 30 days, the appointment may be made for such officer as follows:

(1) The Chairman of the Committee on Education and the Workforce may act under such subsection for the Speaker of the House of Representatives for 1 of the Speaker's appointments, and the Chairman of the Committee on Ways and Means may act under such subsection for the Speaker of the House of Representatives for the second.

(2) The Ranking Minority Member of the Committee on Education and the Workforce may act under such subsection for the Minority Leader of the House of Representatives.

(3) The Chairman of the Committee on Labor and Human Resources may act under such subsection for the Majority Leader of the Senate for 1 of the Leader's appointments, and the Chairman of the Committee on Finance may act under such subsection for the Majority Leader of the Senate for the second.

(4) The Ranking Minority Member of the Committee on Labor and Human Resources may act under such subsection for the Minority Leader of the Senate.

(f) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

(i) INITIAL MEETING.—The initial meeting of the Commission shall occur within 40 days after the date of enactment of this Act.

SEC. ___04. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The extent, degree, and national implications of the needs in public education construction and rehabilitation.

(2) The role of public education facilities with respect to the education of children and its impact on performance and achievement.

(3) The existing financing options available for school construction and rehabilitation, and how and to what extent the options are being utilized, including the identification of new sources of finances to assist with school construction.

(4) The adequacy of current State and local programs and policies to meet school construction and rehabilitation needs.

(5) The extent to which creative financing options are being explored and what yet-to-be utilized options could and should be formulated.

(6) The trends and practices in the construction and renovation of public school facilities, including the modernization of facilities to access and utilize new technologies.

(7) The cost of current construction practices and the impact of modernization and technological advances on these costs.

(8) The unmet needs of 21st century technology for education.

(9) Other related topics determined to be appropriate by the Commission.

(b) SPECIAL RULE.—The Commission primarily shall study and make findings and specific recommendations regarding the matters described in subsection (a) with respect to pre-kindergarten through grade 12 public schools, but also may study and make findings and specific recommendations regarding the matters with respect to public institutions of higher education.

(c) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to Congress, not later than 120 days after the date of the first meeting of the Commission, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

SEC. ___05. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this title, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this title. Each agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the ''Freedom of Information Act''), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this title.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this title.

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, and to such extent and in such amounts as are provided in appropriation Acts, the Chairperson of the Commission shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service,

and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

SEC. ___06. EXPENSES OF COMMISSION.

There are authorized to be appropriated to pay any expenses of the Commission such sums as may be necessary not to exceed $1,000,000. Any sums appropriated for such purposes are authorized to remain available until expended, or until 1 year after the termination of the Commission pursuant to section ___07, whichever occurs first.

SEC. ___07. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 60 days after the date on which the Commission is required to submit its final report in accordance with section ___04(c).

DURBIN (AND OTHERS) AMENDMENT NO. 1085

Mr. DURBIN (for himself, Mr. LEVIN, Mrs. MURRAY, Mr. JOHNSON, and Mr. BREAUX) proposed an amendment to the bill, S. 1061, supra; as follows:

On page 49, after line 26, add the following:

SEC. . (a) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the General Accounting Office, shall conduct a comprehensive study concerning efforts to improve organ and tissue procurement at hospitals. Under such study, the Secretary shall survey at least 5 percent of the hospitals who have entered into agreements with an organ procurement organization required under the Public Health Service Act and the hospitals' designated organ procurement organizations to examine—

(1) the differences in protocols for the identification of potential organ and tissue donors;

(2) whether each hospital, and the designated organ procurement organization of the hospital, have a system in place for such identification of donors; and

(3) protocols for outreach to the relatives of potential organ or tissue donors.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the study conducted under subsection (a), that shall include recommendations on hospital best practices—

(1) that result in the most efficient and comprehensive identification of organ and tissue donors; and

(2) for communicating with the relatives of potential organ and tissue donors.

LEVIN (AND OTHERS) AMENDMENT NO. 1086

Mr. DURBIN (for Mr. LEVIN, for himself, Mr. THURMOND, Mr. DURBIN, and Mr. INOUYE) proposed an amendment to the bill, S. 1061, supra; as follows:

At the appropriate place, insert the following:

SEC. . (a) FINDINGS.—Congress finds that—

(1) over 53,000 Americans are currently awaiting organ transplants;

(2) in 1996, 3,916 people on the transplant waiting list died because no organs became available for such people;

(3) the number of organ donors has grown slowly over the past several years, even though there is significant unrealized donor potential;

(4) a Gallup survey indicated that 85 percent of the American public supports organ donation, and 69 percent describe themselves as likely to donate their organs upon death;

(5) most potential donors are cared for in hospitals with greater than 350 beds, trauma services, and medical school affiliations;

(6) a recent Harvard study showed that hospitals frequently fail to offer donation services to the families of medically eligible potential organ donors;

(7) staff and administration in large hospitals often are not aware of the current level of donor potential in their institution or the current level of donation effectiveness of the institution;

(8) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq; 1396 et seq.), hospitals that participate in the medicare or medicaid program are required to have in place policies to offer eligible families the option of organ and tissue donation; and

(9) many hospitals have not yet incorporated systematic protocols for offering donation to eligible families in a skilled and sensitive way.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that hospitals that have organ or tissue donor potential take prompt steps to ensure that a skilled and sensitive request for organ or tissue donation is provided to eligible families by—

(1) working with the designated organ procurement organization or other suitable agency to assess donor potential and performance in their institutions;

(2) establishing protocols for organ donation that incorporate best-demonstrated practices;

(3) providing education to hospital staff to ensure adequate skills related to organ and tissue donation;

(4) establishing teams of skilled hospital staff to respond to potential organ donor situations, ensure optimal communication with the patient's surviving family, and achieve smooth coordination of activities with the designated organ procurement organization; and

(5) monitoring organ donation effectiveness through quality assurance mechanisms.

ADDITIONAL STATEMENTS

TRIBUTE TO COMDR. SEAN FOGARTY

● Mr. KEMPTHORNE. Mr. President, I rise today to recognize and say farewell to an outstanding naval officer, Comdr. Sean Fogarty, who has served with distinction for the past 24 years in naval service. It is a privilege for me to recognize his many outstanding achievements and to commend him for the superb service he has provided this legislative body, the Navy, and our great Nation.

A native of Idaho Falls, ID, and a 1977 graduate of the U.S. Naval Academy, Commander Fogarty comes from a patriotic family who has contributed immeasurably to our Nation's defense. His father was a career submariner and also a U.S. Naval Academy graduate.

Commander Fogarty's service at sea includes a division officer tour aboard U.S.S. *Harold E. Holt* FF–1074, department head tours as Operations Officer aboard U.S.S. *John Young* DD–973 and U.S.S. *Callaghan* DD–994, and an executive officer tour aboard U.S.S. *Downes* FF–070.

Commander Fogarty's duties ashore included scheduler for the commander in chief, U.S. Pacific Fleet, exercises and plans officer for the commander, U.S. Sixth Fleet, and the Office of Legislative Affairs.

As Assistant Director of the Navy's Senate Liaison Office for the last 5 years, Commander Fogarty has provided timely support and accurate information on Navy plans and programs. Working closely with the U.S. Senate, he has helped maintain the best trained, best equipped, and best prepared Navy in the world. His consummate leadership, integrity, and tireless energy serve as an example for us all.

Mr. President, Sean Fogarty, his wife, Anita, and daughters, Larissa, Colleen, and Megan have made many sacrifices during his 24-year naval career. They have made significant contributions to the outstanding naval forces upon which our country relies so heavily. During his illustrious career, Commander Fogarty has been the recipient of many awards and commendations including the Legion of Merit. He is a great credit to both the Navy and the country he so proudly serves. As he now retires from the naval service, I call upon my colleagues from both sides of the aisle to wish him fair winds and following seas.●

CHARLES A. HORSKY

● Mr. MOYNIHAN. Mr. President, Mr. Charles Horsky, former adviser to Presidents Kennedy and Johnson on the District of Columbia, passed away during the August recess. I rise today to pay honor to this man who devoted himself to improving our Nation's Capital.

Charlie Horsky was the ''Mayor of Washington.'' And yet, he looked forward to giving that up and getting home rule for the city of Washington. He accomplished a great deal toward that end. Mr. Horsky was instrumental in redeveloping Pennsylvania Avenue, in promoting the construction of a metropolitan subway system, and he played a crucial role in establishing the initial home rule for the citizens of Washington.

Further, he led the establishment of the National Building Museum, the John F. Kennedy Center of the Performing Arts, the University of the District of Columbia, and urged the preservation of Union Station.

I first arrived in Washington over three decades ago. Since those initiatory days, I was most fortunate to have known and worked with Charlie Horsky. He was as fine a gentleman as we have seen in our Capital, and his tireless efforts are reflected in so many rejuvenated aspects of the city around us. When thinking of this great man we do well to recall the epitaph of Sir

Christopher Wren at St. Pauls Cathedral, London: ''Si monumentum requiris, circumspice.'' (If you would see his monument, look around).

I ask that an obituary from the New York Times from August 24 be printed in the RECORD.

The obituary follows:

CHARLES A. HORSKY, 87, DIES; LEFT IMPRINT ON U.S. CAPITAL

(By Irvin Molotsky)

WASHINGTON—Charles A. Horsky, a lawyer and former Government official who helped redevelop the nation's capital during the Kennedy and Johnson Administrations, died Wednesday at Holy Cross Hospital in Silver Spring, Md. He was 87 and lived in Silver Spring.

The cause was kidney failure, said his daughter, Margaret Horsky Burns.

Mr. Horsky argued many cases and held many important positions in a law career that began in 1934, but it was his work as adviser to the President for national capital affairs from 1962 to 1967 that had the greatest impact on those who live in or visit Washington, an impact that will be felt for years to come.

President John F. Kennedy appointed him to the White House job and Lyndon B. Johnson carried him over when Johnson succeeded to the Presidency in 1963. During Mr. Horsky's time at the White House, he pressed for switching money from a highway project to the construction of a subway system, and the resulting Metro is now regarded as one of the best in the world.

He worked on the redevelopment of Pennsylvania Avenue, a project that was begun after the 1961 inaugural parade and Kennedy determined that America's Main Street had become seedy and unworthy of a great nation. That project is just being completed with the opening soon of the Ronald Reagan Building.

Senator Daniel Patrick Moynihan, who served in the Kennedy Administration with Mr. Horsky, recalled that they were reviewing plans for the redevelopment of Pennsylvania Avenue on Nov. 22, 1963, when they received the word that the President had been shot. The plans were to be presented to Kennedy for his approval the next day.

Another of Mr. Horsky's accomplishments is enduring a melancholy chapter. For years, Washington was run as a virtual fiefdom of Congress, with residents having no say in its government. During the Johnson Administration, a push was made to establish home rule for Washington and it was Mr. Horsky who played the pivotal role in getting legislation for it through Congress.

Mr. Moynihan, reached at his home in upstate New York, said: ''Charlie Horsky was 'Mayor of Washington.' He looked forward to giving that up and getting home rule for the city of Washington, and he accomplished a great deal toward that end.''

In recent years, however, with the District of Columbia's budget deficit ballooning out of control, Congress has taken back much of that power and placed it in the hands of a control board.

Mr. Horsky's other activities included establishing the Kennedy Center for the Performing Arts, rescuing Union Station and opening both the National Building Museum and the University of the District of Columbia.

He was born in Helena, Mont., graduated from the University of Washington 1931 and received a law degree from Harvard University in 1934. He served as a lawyer in the Solicitor General's office until 1939, when he joined Covington & Burling, one of Washington's leading law firms, staying there for the rest of his career except for his White House years.

After World War II, Mr. Horsky served as an assistant prosecutor at the Nuremberg war crimes trials and argued many cases before the Supreme Court, including a case that challenged the wartime internment of Americans of Japanese ancestry.

''I was trying to persuade the Court that there was no legitimate basis for the Army to arrest citizens,'' Mr. Horsky said in a 1989 interview with The Washington Post. ''I couldn't get enough information to make it stick.''

Mr. Horsky lost his argument before the Supreme Court, but in 1988, Congress approved and President Ronald Reagan signed a bill that offered the nation's apologies to Japanese Americans and provided payments to those who were interned.

A partner at the firm, David B. Isbell, said that Mr. Horsky took senior counsel status, that is, a reduced work load, in 1981 and that until he was slowed down by illness two years ago, he had kept active in the firm by arbitrating railroad disputes.

His wife of 58 years, Barbara Egleston Horsky, died two years ago.

Besides his daughter, Ms. Burns, a resident of Falls Church, Va., Mr. Horsky is survived by a sister, Flora Wertz of Missoula, Mont., and two grandchildren.

Despite his advancing years, Mr. Horsky maintained a rugged regimen. ''He never wore an overcoat, even on the coldest day,'' Mr. Isbell said of his colleague. ''I don't think he had one. It may have had something to do with his coming from Montana.''

That Great Plains frame of mind prevailing as recently as 1989, when he drove around in the middle of winter in his 1962 Ford convertible, often with the top down. When asked in the interview in The Post about his lack of an overcoat, he said, ''I am sure I had one in college.''●

MAYOR DONALD ARONSON

● Mr. TORRICELLI. Mr. President, I rise today in recognition of the mayor of my hometown, Englewood, NJ. Mayor Donald Aronson's dedication to the Englewood community and the State of New Jersey make it an honor to be able to recognize him. After being elected mayor of Englewood three times he has decided not to stand for reelection. As his term comes to an end, I would like to convey my good wishes to a friend and valued colleague.

Donald has made innumerable contributions to the residents of Englewood and to the State of New Jersey as a whole through numerous community service positions. He has served as commissioner and secretary of the Palisades Interstate Park Commission, president of the Bergen County League of Municipalities, and he has sat on the board of trustees for the American Red Cross. In addition, he has been a member of the Englewood Board of Adjustment, Englewood Chamber of Commerce, and Englewood Economic Development Corp. The list of his community activities is endless. The extent of his service to State and local organizations is evidence of his lifelong commitment to public service.

Now, Donald is preparing for a new position as the president of the Englewood Chamber of Commerce. I ask that you join me in recognizing Mayor Donald Aronson for all of his hard work and his service to the State of New Jersey.●

EXECUTIVE SESSION

NOMINATION OF ROBERT CHARLES CHAMBERS TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the nomination of Robert Chambers, of West Virginia; that the nomination be confirmed, the motion to reconsider be laid on the table, any statements relating to the nomination 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 nomination was considered and confirmed, as follows:

THE JUDICIARY

Robert Charles Chambers, of West Virginia, to be U.S. District Judge for the Southern District of West Virginia.

STATEMENT ON THE NOMINATION OF ROBERT C. CHAMBERS

Mr. LEAHY. Mr. President, I am pleased that the majority leader has moved the nomination of Robert C. Chambers to be a judge of the U.S. District Court for the Southern District of West Virginia. Mr. Chambers has the strong support of Senator ROBERT C. BYRD and Senator JOHN D. ROCKEFELLER IV. Mr. Chambers has been engaged in the private practice of law for almost 20 years and served as a delegate in the West Virginia House of Delegates, chairman of that body's judiciary committee, and speaker of the West Virginia House of Delegates. The ABA found him to be qualified and the Judiciary Committee unanimously reported this nomination to the Senate in July.

I congratulate Mr. Chambers and his family and look forward to his service on the Federal court.

As I noted yesterday, we have a good deal of work ahead of us if we are to fulfill our responsibilities and confirm the other fine nominees who are pending before us and are needed in the Federal courts around the country. I commend the majority leader for returning to the Executive Calendar today to take up this judicial nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR MONDAY, SEPTEMBER 8, 1997

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in adjournment until the hour of 11 a.m. on Monday, September 8; I further ask unanimous consent that on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate immediately resume consideration of the motion to proceed to S. 830, the FDA reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I also ask unanimous consent that following the expiration or yielding back of time on the motion to proceed to S. 830, the Senate resume consideration of S. 1061, the Labor, Health and Human Services appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. STEVENS. Mr. President, for the information of all Members, on Monday, the Senate will resume debate on the motion to proceed to S. 830, the FDA reform bill. Under the previous order, there are 4 hours of debate remaining on the motion to proceed, equally divided between Senators JEFFORDS and Senator KENNEDY. Following the expiration or yielding back of that time, the Senate will resume consideration of S. 1061, the Labor–HHS appropriations bill. Also under the order, a vote on an amendment relating to S. 1061 is expected at 5 p.m. on Monday. In addition, under the consent agreement, all amendments remaining in order to the Labor, Health and Human Services appropriations bill must be offered during Monday's session of the Senate. Also, all votes ordered on those amendments will be stacked to occur at a time to be determined on Tuesday. In addition, under the previous order, the Senate will begin consideration of S. 830 following the disposition of S. 1061, but not before 4 p.m. on Tuesday. As a reminder to all Members, the next roll-call vote is expected on Monday at 5 p.m. on an amendment relating to the Labor, Health and Human Services appropriations bill.

ADJOURNMENT UNTIL MONDAY, SEPTEMBER 8, 1997, AT 11 A.M.

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 3:38 p.m., adjourned until Monday, September 8, 1997, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate September 5, 1997:

THE JUDICIARY

ROBERT CHARLES CHAMBERS, OF WEST VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA.

EXTENSIONS OF REMARKS

DIANA'S LEGACY

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. MOAKLEY. Mr. Speaker, I would like to take this opportunity to bring to your attention an editorial written by our colleague, Rep. JIM MCGOVERN of the Third District of Massachusetts, regarding Princess Diana's role in the fight against landmines. I think that Congressman MCGOVERN's piece eloquently depicts Princess Diana's compassionate commitment to banning these terrible killing devices, and highlights the importance of our continuing the effort to ban landmines forever.

At this time I would like to place Congressman MCGOVERN's words in today's RECORD.

[From the Boston Globe, Sept. 5, 1997]

DIANA'S LEGACY—SHE REACHED OUT TO LAND MINE VICTIMS

(By James P. McGovern)

This week, at a conference in Oslo convened to forge an international agreement banning land mines, delegates from more than 100 nations rose and stood silent for one minute to remember the work that Princess Diana had done on behalf of victims of land mines.

Like the rest of the world, they had awakened Sunday to learn the terrible news of her death. And like all of us engaged in the international campaign to ban land mines, we felt the grievous loss of one of our most effective and compassionate champions.

In the space of 22 minutes—about the amount of time it took to read and absorb the details of Princess Diana's tragic accident—someone is killed or maimed by a land mine: more than 26,000 men, women, and children each year. In at least 68 countries there are more than 110 million unexploded land mines lying in fields, deserts, roads, along rivers and streams, in forests, and on footpaths.

In June Princess Diana attended a benefit organized by the American Red Cross in Washington that raised more than $650,000 for victims of land mines. Later that month, she traveled to Boston to raise funds on behalf of land mine survivors and declare support for the international movement to ban these terrible weapons.

Unlike many others of her social standing and celebrity, Princess Diana was not content to limit her work to appearing at posh charity events for causes she supported. She felt compelled to reach out and literally touch those individuals confronting life's greatest challenges.

Never satisfied to learn about issues solely from news accounts, Diana cared to witness firsthand the stories of those most affected by land mines: children injured and in pain from land mine explosions; families who had lost loved ones; and those unable to return to their ancestral homes because the land was sown with the death, destruction, and danger of antipersonnel land mines.

In the field she learned how these weapons do not distinguish between the foot of a soldier and the foot of a child at play. In the field she saw how land mines are designed to kill or badly maim anyone who triggers them and that they keep on killing long after hostilities are ended. The average lifespan of an antipersonnel land mine is 50 to 100 years. At the current rate, it would take more than a thousand years to rid the world of all the land mines in place.

That is why Princess Diana declared her support for an immediate ban on these terrible and indiscriminate weapons. This is why she traveled to Angola and Bosnia to bring comfort, support, and hope to the families of victims and survivors. And this is why she used her celebrity—and the horde of video cameras and photographers who shadowed her every move—to bring human faces into the living rooms of families across the world.

Just three weeks ago, Princess Diana visited Bosnia to hear personal stories from families of victims and survivors. She was determined that their stories would galvanize the international community to embrace a worldwide ban on these weapons.

Princess Diana clearly stated that her interests were humanitarian, not political. While international experts like General Norman Schwarzkopf can thoughtfully address how banning land mines makes for effective foreign policy, Diana understood that no one could express the human tragedy of these weapons to an international audience better than the victims themselves.

This June, legislation was introduced in the Senate calling for an international ban on land mines; similar legislation will be introduced in the House. In December, representatives from more than 100 nations will gather in Ottawa to sign a binding treaty to ban the use, manufacture, export, and stockpiling of these weapons. I hope that the United States will join this effort.

Princess Diana was perhaps the jewel in the crown of the international movement to ban land mines; her compassion and involvement helped to focus the world's attention on this issue. But no one acknowledged more gratefully than she that the crown itself is constructed from the lives and work of millions of people.

When the nations of the world gather in December to sign the international treaty, Diana will be remembered. And decades—perhaps centuries—from now, when the last land mine is cleared from the earth, her legacy and work will be complete.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. KIND. Mr. Speaker, today we bring to close the first week of our final legislative session this year. It has been a productive week, with the passage of several important appropriations bills. I have been pleased with the tone and demeanor of the bipartisan debate this week. Now is the perfect time to bring a bipartisan campaign finance reform bill to the floor for a vote. In the next several weeks we will have the time and opportunity to vote for campaign finance reform, if the leadership of this Congress is willing to let a bill come forward.

There are those who have begun to follow through on their threats to shut down the House and delay the normal work that we must get done before the end of the year. We can avoid all of this if we are given the opportunity to vote on a reform bill. I have been an active member of the Bipartisan Freshman Campaign Finance Reform Task Force, I am an original cosponsor of the Shays-Meehan bill, these two bills offer members the opportunity to let their constituents know where they stand on this issue. There are over 70 campaign finance bills pending this Congress. Not a single campaign finance reform bill has been given a hearing in this Congress. Whether you support or oppose campaign finance reform every Member should be given the opportunity to vote on this issue, and we must do it before the end of the year.

I hope that in the next several weeks the leadership of this House will give the Members an opportunity to vote on campaign finance reform. We will have the time to debate and vote on a bill and we have many bills that can be considered. Failure to act now will be a failure to serve the people we represent.

THE MILITARY SELECTIVE SERVICE REPEAL ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. STARK. Mr. Speaker, I rise today to introduce the Military Selective Service Repeal Act, to repeal in its entirety what I believe to be a wasteful cold war relic that should be extinct.

From 1948 until 1973, during both peacetime and periods of conflict, men were drafted to fill vacancies in the Armed Forces which could not be filled through voluntary means. Suspended in April 1975, it was resumed in 1980 by President Carter in response to the Soviet invasion of Afghanistan. However, as any American knows, the conditions for the draft have changed since the days of Vietnam and the threat of Soviet invasion. Still, registration continues as a supposed hedge against underestimating the number of servicemen needed in a future conflict.

The Department of Defense has concluded that we live in a time that projects no war—not even the worst case scenario of two simultaneous regional conflicts—that would require drafting combat troop replacements. Suspension of peacetime registration could be accomplished with little risk to national security, considering the low probability of the need for conscription. The fact is that peacetime draft registration could be suspended with no effect on military mobilization requirements, little effect on the time it would take to mobilize, and no measurable effect on military recruitment,

according to the Secretary of Defense in his 1993 report to the President and Congress.

In addition, ample alternatives to peacetime draft registration are already in place. The Selective Service System maintains an on-the-shelf system which would provide for a post-mobilization registration of up to 3.5 million health care personnel in more than 60 specialties. The Pentagon reports that mass registration would occur in 13 days after notice to mobilize, with induction orders to follow 3 weeks later. Likewise, we have stockpiled our Armed Forces, so that over 1 million trained Selected Reserve units and another 750,000 individual Ready Reserve personnel exist to augment Active Forces during the early days of a major conflict. Clearly, Mr. Speaker, we've no shortfall of resources.

More importantly, the draft registration fails to provide legal relief measures to conscientious objectors who cannot register, thus violating our freedom of religion. For 17 years now, youth have been required to register for a military draft that does not exist. The penalties for nonregistration, such as the denial of admission to colleges and universities and disqualification for student loans and grants, are an unjustifiable limitation on the civil rights of our youth.

If that's not enough to convince my colleagues, Mr. Speaker, they should consider the bottom line. Peacetime draft registration has cost taxpayers over $400 million since its reinstitution in 1980. According to present budget estimates, Selective Service registration will cost an additional $75 million by the year 2000. As we rest on the laurels of what many consider to be a successful budget deal, let's remember the children and legal immigrants we've deserted to allow the Selective Service System to continue.

Finally, the real impetus for terminating draft registration comes from the Selective Service System itself. A scathing evaluation was recently released by the U.S. Army Force Integration and Support Agency [USAFISA] documenting severe problems of waste and mismanagement within the Selective Service System. The problems discovered—a grossly overpaid staff and duplication of services—revealed the Selective Service System to be a bloated, inept Federal bureaucracy.

Current registrants and volunteers are abundant and stand ready to defend our country should the need arise. The time has come to do away with our outdated and unnecessary system. Clearly, if there is no need for draftees, there is no need for a Federal agency to conscript them—and certainly not one that costs over $23 million a year.

IN HONOR OF CARL ZACK

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to Carl Zack, to honor his 24-year commitment and dedication to the health of the Sumerville, MA, community through his leadership at Somerville Hospital.

Since receiving his education from Brandeis University and the Yale School of Public Health, Carl returned to his native Massachusetts to establish a career in hospital administration. He has served with great distinction and a longevity of commitment rarely matched. From his beginning as a Yale graduate student intern on February 5, 1973, he rose to become vice president, executive vice president, and then president of Somerville Hospital in November 1994.

Under Carl's leadership, Somerville Hospital took important strides to provide comprehensive health care services that were responsive to the community's needs. Among these accomplishments are the establishment of a home care department, a transitional care unit, and an occupational health program. Together with its sister hospital network, the Cambridge Hospital, the Somerville Hospital has promoted an innovative community initiative called the Somerbridge Community Health Partnership—to improve the health of the joint Somerville and Cambridge communities.

Carl has also served as an inspirational and valued leader to the employees of Somerville Hospital. Amid the current dynamic health care environment, Carl Zack achieved goals set out to assure the preservation of essential health care services in the city of Somerville while maintaining employment opportunities within the hospital network.

His work has been recognized by many organizations, including being selected as Humanitarian of the Year by the Visiting Nurses Association of Eastern Massachusetts, and an honoree of the HomeFirst Charitable Corp. of Somerville. He has been an active force with many community organizations, such as his longstanding tenure on the board of trustees of the Somerville Chamber of Commerce. He has also demonstrated his commitment to future generations of health care professionals on the faculties of the University of Massachusetts School of Medicine, the University of New Hampshire, and Northeastern University.

Mr. Speaker, I hope all of my colleagues will join me in celebrating Carl Zack's tremendous contributions. Again, I congratulate Carl Zack, along with his family—his wife, Andrea Cohen, and daughters, Emma and Hannah—for his hard work and as an outstanding leader.

TRIBUTE TO DICK PICKENS

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. HALL of Texas. Mr. Speaker, I rise today to pay a final tribute to a close friend and fellow east Texas, R.W. ''Dick'' Pickens of my hometown of Rockwall, TX, who died earlier this year at the age of 84. Dick Pickens was an extraordinary man who leaves behind a legacy of professional and personal accomplishment, and he will be greatly missed by those of us who were fortunate enough to know him.

Born May 28, 1912, in Frankfort, OH, Dick lived in my hometown of Rockwall for the better part of his life. After earning a degree in mechanical engineering in 1935 from Ohio State University, he went to work for the Alcoa Aluminum Co. as staff engineer. He later worked for Reynolds Metals Co. and then organized the Texas Aluminum Co. in 1942, over which he presided for more than 20 years. Because of him, Texas Aluminum won the prestigious Lockheed Zero Defects Award—a tribute to the standard of excellence he set. At one time he had an interests in facilities that stretched from Rockwall to Commerce, CA, to Puerto Rico and Australia. After a 60-year distinguished career, Dick retired from the Aluminum industry that he had served so well.

Dick's professional accomplishments, however, are just part of who he was. Dick cared about everyone he met and knew. He was devoted to his community and gave his support wherever it was needed. He was particularly interested in helping young people and at one time, he was sponsoring as many as 12 students in college.

Dick is survived by his wife, Louise Pickens of Rockwall; daughter and son-in-law, Patti and David Canup of Rockwall; daughter and son-in-law, Francie and Ross Oliver of Austin, TX; daughter Mayre Springer of Phoenix, AR; and step-son Mike Barringer of Rockwall; numerous grandchildren and a great grandchild.

Mr. Speaker, Dick Pickens was a true giant among us. He will be remembered by his family and many friends for his kindness and generosity—and he will be greatly missed. As we adjourn today, it is a privilege for me to honor this great man who also was my close friend.

IN HONOR OF THE GUARDIANS OF THE SICK

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. SCHUMER. Mr. Speaker, one of the pleasures of serving in this legislative body is the opportunity we occasionally get to acknowledge publicly the outstanding entities of our communities.

It is not easy to find someone who does something for nothing these days. No person is willing to give something away if it won't benefit him directly. That is why the gift of blood is so commendable: it is literally a selfless donation of one's own life source to save someone else's life.

Today I applaud the achievements of the Guardians of the Sick Blood Drive. This Brooklyn-based blood donor organization, the largest in New York State, has achieved record numbers of blood donations through its tireless public outreach, under the outstanding leadership of its chairman, Rabbi Gershon Tannenbaum. In an effort to encourage the members of the Orthodox community to donate blood, Guardians has championed the act as a mitzvah, a moral obligation to contribute to the life-saving efforts of the larger community. The Orthodox Jewish community's prolific service to the general public is unmatched in its monumental pace: last year alone the Guardians collected thousands of pints of blood, at scores of locations throughout Brooklyn. Each of those thousands of times, an Orthodox Jew performed the mitzvah of donating blood to save another human being's life.

The Guardians of the Sick has an honored tradition of community service, alleviating the discomfort of the sick and hospitalized members of the community for many years. Now it has another credit to its exemplary record: it has extended the boundaries of its benevolence to benefit every citizen of the State of

New York and beyond. The immediate success of the blood drive attests to the great need it serves: bolstering the available blood bank for all emergency situations of life and death.

Mayor Rudolph W. Giuliani selected the Guardians of the Sick for the New York City Community Development Agency's 1996 Most Outstanding community-based organization award. Today I select the Guardians' Blood Drive and its chairman, Rabbi Gershon Tannenbaum, for special recognition in light of their remarkable achievements in serving humanity. Also I would like to commend Mr. Louis Glueck for his aggressive leadership, Rabbi Shmuel Steinharter, executive director for his masterly administration, and Mrs. Esther Schoenblum, its blood drive coordinator for her dynamic zeal in making it all come together.

I hereby proclaim my incessant support and encouragement for the heroic goals of the Guardians of the Sick Blood Drive.

A TRIBUTE TO C. WILLIAM JONES

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. DOOLEY of California. Mr. Speaker, I rise today to recognize and honor C. William Jones of Firebaugh, CA, who served a distinguished 20 years with the San Luis & Delta-Mendota Water Authority.

Mr. Jones is a well-known farming leader in the San Joaquin Valley, which is the richest agricultural-production region in the country. Twenty years ago, Mr. Jones founded the San Luis & Delta-Mendota Water Users Association and in 1992, he oversaw the transformation of the association to the San Luis & Delta Mendota Water Authority. The San Luis & Delta-Mendota Water Authority is comprised of 32 water agencies representing approximately 2,100,000 acres of Federal and exchange water service contractors within the western San Joaquin Valley, San Benito, and Santa Clara Counties.

During his tenure as chairman of the San Luis & Delta-Mendota Water Authority, Mr. Jones ran the operations and maintenance activities of all Federal Central Valley project facilities south of the Delta, including: Tracy pumping plant, Delta-Mendota Canal, O'Neill pumping plant and the San Luis drain. He also provided leadership for the agricultural community's participation in Delta issues resulting in the Bay-Delta accord, Proposition 204, and the CALFED process.

Mr. Jones' involvement in water and agricultural issues has extended far beyond his duties as chairman of the San Luis & Delta-Mendota Water Authority. He has also found time to be active in the California State Water Commission, the Western Cotton Growers Association, the California Chamber of Commerce, and the California Water Control Resource Board.

Mr. Jones is also a devoted family man. He and his wife, Cornelia, have three grown children, including California Secretary of State Bill Jones, who have blessed him with seven grandchildren.

Mr. Speaker and my colleagues, please join me in wishing C. William Jones, devoted husband, father, and grandfather and active community member, the best of luck during his retirement.

TRIBUTE TO KELLY S. YARDE

HON. JOHN N. HOSTETTLER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. HOSTETTLER. Mr. Speaker, I want to take this opportunity to commend Kelly S. Yarde, a charitable and compassionate soldier from the Eighth District of Indiana.

Sergeant Kelly Yarde is a dedicated soldier, a loving father, and a committed husband. And Kelly gives, and he gives abundantly, even in times of personal hardship. In short, Kelly is unusually charitable.

While serving under the command of the U.S. Army in Bosnia, Kelly witnessed firsthand an often overlooked result of war—clothless, toyless, penniless children—while at the same time living in less than luxurious conditions himself. Yet Kelly looked beyond his own needs and did something for the children of the war-torn land where he serves. With the help of his brother Anthony, an Evansville, IN, newspaper reporter, and a hometown radio station, Kelly made a public appeal to his fellow Americans to come to the children's aid.

Citizens from the Eighth District of Indiana and neighboring States answered his call, and they gave abundantly. From new basketballs and hundreds of new crayons and pens to the establishment of new friends via pen pal relationships, Americans gladly spent their time and treasure for kids they may never meet.

I'm sure Kelly would humbly wave off these praises, directing our attention to who he recognizes as the true heroes, the people who generously responded to his pleas. Yet it is fitting to commend Kelly Yarde, a catalyst for giving, an example of charity, and an exemplary U.S. soldier serving his Nation.

PERSONAL EXPLANATION

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. KIND. Mr. Speaker, I wish the RECORD to state that during rollcall vote 364, on H.R. 2159, the foreign operations appropriations bill, I was on the floor of the House, I inserted my voting card into the electronic voting machine and voted for passage of the bill. For some reason my vote was not recorded and therefore I am listed as having not voted.

Please let the RECORD reflect that I was present for the vote, as evidenced by my votes on all of the preceding amendments, and I voted in favor of passage of H.R. 2159, the foreign operations appropriations bill.

A TRIBUTE TO JEROME TOWNSHIP FIRE CHIEF ALLEN COLE

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. CAMP. Mr. Speaker, the poet T.S. Eliot wrote that ''water and fire shall rot the marred foundations we forgot, of sanctuary and choir; this is the death of water and fire.'' For 50 years, the foundations and sanctuaries of Jerome Township were not forgotten, and because of one man's work, far fewer have suffered the death of water and fire.

Today we honor a man who has not only protected our sanctuaries, but our homes and hearths as well; who stood by the foundations of his community and in doing so, fortified its stones. Fire Chief Allen Cole built the Jerome Township Fire Department stone by stone, starting 50 years ago with little more than a converted fire truck Cole kept as his wrecker service he'd opened in 1935. With his wife, Lydia, acting as a dispatcher, citizens reporting a fire could call Cole's garage and know that help was on the way.

In an era when fire was a community's greatest enemy, and was ravaging America's towns and cities, Allen Cole stood watch over Jerome Township, protecting property and citizens from an enemy known for launching deadly, surprise attacks under cover of darkness.

Allen Cole was no stranger to the surprise attacks of fire. Once, while fighting a house fire in Homer Township, he fell through the roof of a burning home, only to slide down the hose—still battling the flames—and emerge through the front door unscathed. Allen Cole today enters retirement, but his commitment and heroism will remain.

He also bestows to the community a fire department that has grown and nourished generations of firefighters to carry on his legacy. For protecting the families of Jerome Township from the destructive power of fire for a half-century, we thank Chief Allen Cole for his service and dedication, and bestow upon him our highest esteem.

SALUTE TO ROCKWALL ACADEMIC BOOSTER CLUB

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. HALL of Texas. Mr. Speaker, as our Nation's young people return to school for the beginning of a new year, we are reminded of the importance of education in their lives and our responsibility not only to provide a quality education for them but also to encourage their efforts, build their self-esteem, and motivate them to aspire to a standard of excellence in all that they do.

This is a responsibility shared by all of us—by parents, teachers, school administrators, Government, and the community at large. Today it is my privilege to pay tribute to a community organization in my home town of Rockwall, TX, the Rockwall Academic Booster Club, that was recently formed with these goals in mind.

Beginning this year, the Academic Booster Club will present a letter jacket patch to those students who received straight A's for two consecutive semesters of the previous academic year. The first awards ceremony will take place on Tuesday, September 9, when some 40 students from two middle schools will receive a jacket patch. The letter program is being underwritten by Rockwall Women's League and Rockwall Newcomers Club.

The Academic Booster Club also will present awards to students whose grades improve, honorable mention awards to those who came close, and awards to inspirational teachers. Additional club activities include providing volunteers for school mentoring programs and raising scholarship funds for teacher endowments.

Mr. Speaker, we know that the quality of our students' education is the key to both their future success and to America's future in the global environment. We know that we must do all we can to prepare our young people for the challenges of the 21st century and to promote academic excellence in our schools. I am proud of these efforts in my hometown, and I ask my colleagues today to join me in saluting the Rockwall Academic Booster Club and the outstanding students in Rockwall, TX, whose dedication to academic excellence deserves our recognition.

PRESUMPTIVE DISABILITY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. STARK. Mr. Speaker, today, I am introducing legislation that incorporates the Supplemental Security Income's presumptive disability system into the Social Security Disability Insurance [SSDI] program.

The Social Security Administration [SSA] is still confronted with a backlog of nearly 1 million cases waiting for disability determination. In fiscal years 1994–96, administration requested additional funds for disability investment funding in order to help SSA handle the exorbitant amount of disability claims. The administration requested $534 million for disability investment funding as part of the regular administrative budget for fiscal year 1996. These funds were specifically earmarked for processing disability related workloads. Congress appropriated disability investment funding in the amount of $387.5 million for fiscal year 1996. I supported these past efforts, but we must do more to help these people in their time of urgent need.

Social Security currently has over almost 1 million pending applications for disability benefits. Social Security realizes the challenge it faces in processing an overwhelming number of disability cases. It has made efforts within the past 2 years to reengineer the disability determination process. In 1995, a disability applicant had to wait an average of 5 months to get an initial decision. Today, a disability applicant can expect to wait an average of 3.5 months. I commend the Social Security Administration for their work in reducing the time a needy person must wait for a determination. However, there is still the need to deliver assistance quickly.

In recent years, Congress has heard complaints of deserving applicants waiting months before receiving desperately needed funds, and in some cases, dying before a decision is made. For example, in Arizona a disability applicant was forced to leave her secretarial job due to injuries resulting from a serious auto accident. She applied to the Social Security Administration for disability benefits to offset the loss of her income. She did not realize that she was venturing into an understaffed, underfunded Federal program that often forces disabled people to wait months to learn whether they qualify for benefits. After a year wait, she was successful in obtaining the benefits to which she was entitled only after hiring an attorney who specialized in such cases. These kinds of long delays are repeated in anecdote after anecdote.

The SSI Program makes an initial determination that presumes a person to be disabled if they fit certain severe disability criteria. These people begin to receive SSI benefits immediately and the SSA then has a 6-month period to make the final determination of eligibility using the SSA's definition of disability.

Being able to receive SSI benefits on the basis of a presumptive disability determination provides the disabled person with much needed money immediately. However, for a worker who has paid into Social Security and becomes disabled, there is no comparable process to identify the people that would most likely qualify for DI benefits. My legislation would remedy this problem by providing for determinations of presumptive disability under Title II of the Social Security Act in the same manner and to the same extent as is currently applicable under title XVI of such act.

This means that if a person is found to be presumptively disabled under title II and meets the requirements for entitlement benefits, the person will begin to receive benefits, after the initial 5 month waiting period required before DI benefits can be paid, for up to 6 months while the final determination is being made. If the person is presumed eligible to receive DI benefits, then their dependents shall also begin to receive benefits.

If however, in the final determination, a claimant's impairment does not meet SSA's definition of disability, they and their dependents shall not be responsible for returning the money they received during the presumptive eligibility determination period.

In some instances, a person may be presumed eligible for SSI benefits before being found to be presumptively disabled under title II. In this case, the person will still be entitled to only 6 months of presumptive disability benefits. In most States, while receiving SSI benefits, a person is eligible for Medicaid. Under this proposal, claimants who would have been eligible for SSI benefits, were it not for their receipt of DI presumptive disability benefits, would be deemed eligible for SSI, making them eligible for Medicaid in those States where SSI eligibility triggers Medicaid eligibility. When the final determination for DI benefits is made, the claimant loses the Medicaid eligibility. Medicare will be provided to disabled workers and their dependents after they have been receiving disability benefits for 24 months, including the time they were receiving presumptive disability payments.

IN MEMORIAM OF MELINE KASPARIAN

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to a wonderful woman who dedicated her life to educating children in the Commonwealth of Massachusetts. Ms. Meline Kasparian, president of the Massachusetts Teachers Association, former member of the Amherst Town Meeting, past president of the Springfield Education Association, and teacher of literature, writing, and drama in Springfield for 25 years was lost to the people of Massachusetts during the recent August recess. Though she spent 2 years battling cancer, her death was nonetheless sudden and shocking to us all.

Meline strove to ensure educational opportunities for all students, without regard to their socio-economic background. She had a profound belief in the public school system. She knew that for thousands of children it was their best opportunity to succeed in life and she was determined to make sure that they were given the best education possible.

Meline spearheaded reforms in her own school system—initiating the Team Approach to Better Schools in Springfield. She was also a vocal advocate during the legislative battle for the Massachusetts Education Reform Act, which is today helping to improve the standards in every public school across the State.

As the representative for the teachers, Meline also showed an enormous amount of strength. She fought for better working conditions for teachers—knowing that those were the same conditions that our children are learning in. Meline knew that we need to invest more in our public schools in order for our children to succeed.

During my tenure in the House of Representatives I had the opportunity and privilege to work with Meline. Her unwavering devotion to improving public education never ceased to impress me. I will always remember Meline as a tireless advocate for public education. Her energy and drive will be sorely missed in the Commonwealth of Massachusetts.

SUPPORT MOTION TO INSTRUCT CONFEREES ON H.R. 1119

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. TRAFICANT. Mr. Speaker, last night the House debated a motion I offered to instruct House conferees on H.R. 1119, the fiscal year 1998 Defense authorization bill, to retain the amendment I had passed to the bill authorizing the use of United States troops on our border with Mexico. I urge all Members to support this motion and support this important provision. I would like to share with Members some compelling reasons to support the Traficant amendment.

The Traficant amendment authorizes the Secretary of Defense—at the expressed request of the Attorney General and/or the Secretary of the Treasury—to redeploy up to 10,000 U.S. troops to assist the Border Patrol, the INS, or the Customs Service in preventing illegal aliens, drug traffickers, terrorists, and narcotics from entering the United States. The Traficant amendment merely gives the Pentagon the authority to transfer troops—it does not require them to do anything. The transfer of troops could only be made if the Attorney General or Treasury Secretary requests such assistance.

The troops would only be providing support and assistance—they would not be directly involved in any arrests or civil law enforcement actions. Once again, the Traficant amendment does not mandate the redeployment of troops—it simply provides the President with that option. Under the Traficant amendment, if the President decides to deploy troops to the border, the Pentagon would work with Federal law enforcement to decide how and where to deploy troops.

The Border Patrol has only 6,800 personnel to guard the two longest borders of one of the largest countries of the world. The Federal drug czar, Gen. Barry McCaffrey, recently said that, to do the job right, the Border Patrol needs 25,000 agents. It will take years to even come close to that level. The Traficant amendment represents a prudent stop-gap measure to bolster the Border Patrol and Customs Service—until they have enough personnel to get the job done. But keep in mind that Congress and the President may never have the political will to fund that level of personnel for the Border Patrol and Customs Service.

We have United States troops currently being paid by the United States taxpayer that are defending Haiti, Bosnia, Europe, and Japan. Why not bring a small number of those troops with specific skills home to protect America from drugs and narcoterrorists? That's what the Traficant amendment is all about.

Over the past year, Border Patrol agents have been shot at from the Mexican border. General McCaffrey has been threatened by the drug cartel. Most disturbingly, cocaine and heroin continue to pour into this country through Mexico. Our children are being poisoned by these narcotics. Communities are being destroyed by drugs. Whole generations of Americans are being lost to gangs and drug-related violence. Our prisons are overflowing with young Americans convicted of drug-related crimes. We are under siege.

In my view, drugs pose more of threat to national security than the situation in Haiti, Bosnia, or Japan. Yet have thousands of troops deployed overseas—supposedly to protect our national security. Some have argued that deploying troops along our border will detract from military readiness. I don't buy that argument, especially when we have United States troops in Haiti giving dog vaccinations, building homes, and directing traffic. How does that add to readiness. We recently had United States troops in Bosnia retreat from a bridge because of a rock throwing mob. How does forcing U.S. combat troops to retreat from mobs contribute to military readiness?

The military claims that they do not support the Traficant amendment. Let me remind Members that in this country we have civilian control of the military. The military executes the will of the people through the Congress of the United States and the President. The truth is, if the military can build houses, direct traffic, and give rabies shots in Haiti, they can provide some assistance to Federal law enforcement in patrolling our border.

I want to emphasize that the Traficant amendment in no shape or form changes Posse Comitatus. Under the Traficant amendment, if troops are used to assist the Border Patrol and Customs Service they would not have arrest powers and they would not have the authority to engage in law enforcement functions.

However, there are within the U.S. military certain units and personnel that have the type of training and equipment that would be of great help to Federal law enforcement along the border. Let's take a look at the types of things the U.S. military could do: transport Border Patrol agents to points of penetration, aerial reconnaissance; surveillance, intelligence sharing, and inspection.

Many Members have decried the potential cost of deploying up to 10,000 troops to our border. Let me make a couple of points. First, my amendment authorizes up to 10,000. The real number, should we have a President that decides to deploy troops to the border, could be 10, it could be 100, it could be 1,000. Second, whether or not United States troops are deployed on the United States-Mexican border, or deployed to Haiti, South Korea, Japan, or Italy—the United States taxpayers still have to pay their salaries, pay their benefits, pay for their food, and pay to move them.

If Members and the Pentagon are concerned about the cost or concerned about diverting troops from other missions, then the Congress should work out a program whereby we transfer troops from less pressing missions—such as Haiti and Bosnia and bring them home to America. Right now, the troops we have in Haiti and Bosnia—more than 7,000—would be unavailable for deployment in the event of a conflict on the Korean Peninsula or the Persian Gulf. All I am saying is, why not transfer troops currently stationed in Haiti, and places like Bosnia to our own border?

It's time for Congress to stop talking about the war on drugs and start doing something to win it. I urge Members to support the Traficant amendment and the motion to instruct conferees.

RECOGNIZING FRED GRAY: A CIVIL RIGHTS PIONEER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. STOKES. Mr. Speaker, I recently received a letter from a good friend, Mr. Charlie Black. In his letter, Charlie reminded me about the life and contributions of an extremely dedicated and talented civil rights attorney, Fred D. Gray.

When people pause to reflect on the civil rights movement, many remember the contributions of people like Rosa Parks and Martin Luther King, Jr. But few realize the contributions of countless others, who were, and continue to be, instrumental in the movement for racial justice and equality.

Fred Gray is one of these figures. Throughout his life, Mr. Gray has always taken an active role in the advancement of the civil rights movement. Of his many notable contributions, some may remember the work of Fred Gray when he served as council for Rosa Parks. As her attorney, Gray helped Parks defend her right to sit where she wanted to on a publicly segregated Alabama bus.

Still others may remember meeting attorney Fred Gray when they met the late Dr. Martin Luther King, Jr. Gray was present when Reverend King, then a young man, was chosen to lead civil rights initiatives in Alabama. Later, he served as council for both King and Dr. Ralph Abernathy.

During his lifetime, Fred Gray consistently sought to right the wrongs of society. When America continued to maintain the notion that ''separate but equal'' was fair and just, Fred Gray fought to prove that segregation was inherently wrong. He traveled around the country representing school children who needed the assistance of a skilled lawyer, and sometimes a few soldiers, to take advantage of the same educational opportunities enjoyed by white school children.

At a time when the voting power of African-Americans was being diluted due to the gerrymandering of voting districts, Fred Gray fought to prevent racially motivated realignment of municipal boundaries. His fight would take him all the way to the U.S. Supreme Court, where he argued the famous Gomillion versus Lightfoot case.

The critical feature of the Gomillion case is that it established, in the words of the Supreme Court, that ''even the broad power of a state to fix the boundaries of its municipalities is limited by the Fifteenth Amendment, which forbids a state to deprive any citizen of the right to vote because of [their] race.'' Therefore, the Gomillion case set a precedent for all others, and not only a affected the State of Alabama, but also every State in the Union. Essentially, the case protected the rights and effectiveness of African-American voters.

Further, Fred Gray actively participated in overcoming other significant challenges facing African-Americans. He was an integral component of the civil rights movement, fighting courtroom battles that would impact the lives of all African-Americans. Such a battle manifested itself in the form of the Tuskegee Syphilis Study case in the summer of 1973.

From 1932 to 1972, the Government unethically studied the effects of untreated syphilis on African-American males in Tuskegee, AL. In July 1972, the New York Times exposed the study, which subsequently was halted by Federal order. However, the damage was already done.

The Government had used 399 black men as guinea pigs in order to study the effects of syphilis. The men did not know they were infected, nor did they realize that the treatment which could have cured them was intentionally withheld. When the men from the Tuskegee Syphilis Study needed an attorney, they went to Fred Gray. Gray brought the case to trial and eventually gained a $9 million settlement for the survivors and their families.

Moreover, the Tuskegee case changed research practices on human subjects in the United States. As a direct consequence of Fred Gray's efforts, the National Research Act was signed into law in 1974. The act created the national Commission for the Protection of Human Subjects of Biomedical Behavioral Research. From this, basic principles of research conduct were established and the informed consent of those participating in federally funded research was made a requirement.

Mr. Speaker, it is with great pride that I remember and share the life of Fred Gray. Mr. Gray is an outstanding man who remains active in his church, his community, and the law. Currently, Fred Gray works with his two sons and acts as managing partner of the Tuskegee law firm Gray, Langford, Sapp, McGowan, Gray & Nathanson. In addition, he is also involved in facing new challenges

which threaten the accomplishments of the civil rights movement. I encourage my colleagues and everyone across the Nation to learn more about this attorney who spent his life fighting for equality in America.

STATEMENT FROM THE NEW YORK STATE CATHOLIC WAR VETERANS

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mrs. KELLY. Mr. Speaker, the following was forwarded to me by Joseph R. Farina of New Windsor, who is the New York State chairman of the American-Catholic War Veterans. I am inserting his statement into the CONGRESSIONAL RECORD:

I wish to compliment the Congressional members of this committee (Congresswoman Kelly, Congressman Gilman, Congressman Hinchey and Congressman Shays) for their sincere concern and probing questions in extracting the truth from those who are testifying at this hearing.

The reduction of the Castle Point VA facility from a hospital to an outpatient clinic has devastated the veterans of the Hudson Valley who depend so much on the health care supplied by this facility.

The statements made by Mr. James Farsetta, Director of Veterans Integrated Service Network 3, were very disturbing to say the least.

Farsetta, who at first denied that his reduction in staffing and services were tied to cuts in spending, later amended his statement confirming that he received an annual bonus based in part on reductions in spending and direct patient care to veterans. This entire incentive procedure designed by the VA and implemented by Farsetta placed greed of the almighty dollar at the expense of veterans who gave the prime years of their lives in selfless devotion and pride to their country.

The bonus induced, costs cutting procedures implemented by the VA has resulted in patient neglect, errors in treatment, staff and service reductions, and failure to respond to veterans concerns.

I compliment Congresswoman Kelly for extracting the truth from James Farsetta and having him admit to his bonus arrangement.

Congressman Christopher Shays had every right to read into the Record a statement recognizing James Farsetta's 29 years of devoted service to the VA. But, I take exception to his statement. I condemn Farsetta's action in accepting a bonus based on reduction in services and medical assistance to veterans. A bonus which was earned at the expense of the health of veterans who have already suffered so much hardship and pain in their lifetime.

All we ask if to stop hurting the veterans, we have been hurt enough. Be a little considerate and let us go out with some compassion and dignity.

TRIBUTE TO THE NIAGARA SENIOR COMPANION PROGRAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. LAFALCE. Mr. Speaker, on Thursday, September 11, 1997, the Niagara Senior Companion program in Niagara County, NY, will honor 160 senior companion volunteers for giving 110,000 hours of service to their fellow seniors during the past year. They will also be celebrating their 17th anniversary of volunteer service to the residents of Niagara County. This outstanding program is sponsored by the Health Association of Niagara County, Inc. [HANCI] and is a program of the Corporation for National Service with additional funding from the New York State Office for the Aging and the United Way.

Senior Companions deserve our applause, respect, and recognition for the countless hours of love, compassion, and dedicated service to the frail elderly and their families in our community. Whether by kind deed or word, they brighten the lives of so many individuals as they help to ease the burden of illness or loneliness through their outreach.

Therefore, I am proud to have this opportunity to acknowledge this special group of senior citizens in the 29th Congressional District of New York in honor of Senior Companion Day, September 11, 1997, in Niagara County, NY.

TRIBUTE TO ROCKY MOUNT'S BUCK LEONARD

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. ETHERIDGE. Mr. Speaker, I regret that I cannot be there all in person today for these special events in Rocky Mount wishing Buck Leonard a happy 90th birthday and unveiling a historical marker in his honor.

Everyone in Rocky Mount knows of the many talents of Hall of Famer Buck Leonard. I recently read a description of Buck Leonard. It said that ''trying to sneak a fastball by Buck was like trying to sneak a sunrise past a rooster.'' Buck Leonard began his baseball career as a semipro star right there in Rocky Mount, but was soon forced to leave Rocky Mount during the Depression to chase his dream of playing professionally.

What he accomplished is truly amazing. Buck Leonard led his team to nine consecutive Negro National League championships from 1937 to 1945. Buck led the Cum Posey Grays to back-to-back World Series Championships in 1943 and 1944. In 1947, he batted .410, and in 1948, he led the league in batting and tied for the lead in home runs while leading his team to yet another World Series title. He was always a fan favorite and became a fixture in the annual East-West All-Star classic, setting yet another record by playing in 11 All-Star games.

I only wish that the whole world could have seen the talents of Buck Leonard in the major leagues. Although that national recognition came too late for Buck Leonard, he is enshrined today in the National Baseball Hall of Fame in Cooperstown. There is no player more deserving of that great honor than Rocky Mount's own Buck Leonard.

Though Buck was forced to leave Rocky Mount to pursue his professional career, he never forgot his beloved hometown. It is only fitting that today, the city of Rocky Mount honors Buck Leonard not merely for his many baseball talents and accomplishments, but also for what he has done for this fine community.

Buck, I wish you a happy birthday. Though I missed this celebration, reserve me a seat for your 100th birthday celebration.

MOTION TO INSTRUCT CONFEREES ON H.R. 1119, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1998

SPEECH OF

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1997

Mr. HALL of Texas. Mr. Speaker, I rise in strong support of this motion to recommit. It is crucial that the conference report retain the Traficant language authorizing the use of our military forces to protect our Nation's borders from illegal immigration and drug trafficking.

It's time to face the fact that we are losing the war against drug infiltration into this country and that our Border Patrol is too few in numbers to guard our borders. We have 6,600 Border Patrol personnel to do the work of 20,000. Congress has mandated hiring 1,000 Border Patrol agents a year, but the Immigration and Naturalization Service is having a tough time hiring that number—and it will take another 10 years to reach the level of border support that we need.

If we can send our troops to Europe, Haiti, and to Bosnia, we can certainly send them to help protect our own country against criminal encroachment. Our troops would provide the support and assistance that we need—a visible presence that would have tangible results.

Critics of this language argue that it would raise all sorts of questions about jurisdiction and personal liability. These are issues that can be resolved by the Department of Defense, Justice, and INS. They are small problems compared to the seemingly insurmountable flow of illegal drugs into this country—a problem that costs lives and money and livelihoods and threatens the safety and security of our families.

We also should not be misled by the issue of funding. We are already paying our military for food and shelter and salaries. We might as well use this valuable resource here at home and focus as much effort on protecting our borders against criminal activity as we do in protecting other countries.

I urge my colleagues to support this motion to recommit with instructions.

A TRIBUTE TO RALPH W. MCBANE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. NEY. Mr. Speaker, I commend the following article to my colleagues.

Ralph W. McBane, of Bergholz, OH, has been a pillar of the community for over 50 years. Born and raised in Bergholz, Mr. McBane returned to his hometown after attending Mount Union College to work in his family's insurance business, McBane Insurance Agency. He has led this company for

more than 50 years, and has been integral to the agency's substantial growth and success. Mr. McBane's efforts in the insurance industry have been rewarded with commendations from Buckeye Union Insurance Company, Cincinnati Insurance Company, Westfield Companies, and Mennonite Mutual.

Ralph McBane's leadership in the insurance and banking industries is matched by his leadership and dedication to the Bergholz community. He has been active in the Bergholz Civic Club and is also a founding member of the Bergholz Ruritan Club, Bergholz Community Improvement Corp., and the Bergholz Community Foundation. In addition, he has served his church, Trinity United Presbyterian, as an elder, trustee, and Sunday school teacher. McBane has proven his commitment to improving the Bergholz community by serving as president of each organization. Whether it be through his insurance company or his civic duties, Ralph McBane has worked consistently to make Bergholz a better place to live.

Mr. McBane has taught Bergholz and Carroll County about the importance of volunteering and dedication to one's community. He leads by example.

Mr. Speaker, I ask that my colleagues join me in thanking Ralph McBane for his service to Bergholz, OH, and to congratulate him as he is honored by the Bergholz Community Foundation with a ''Hats Off To Ralph'' evening. I wish Ralph McBane continued success, health, and prosperity.

OCEAN RESEARCHER LINKS GLOBAL WARMING WITH DEGRADATION OF VITAL ANTARCTIC ECOSYSTEM

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. FARR of California. Mr. Speaker, I would like to take this opportunity to applaud the research efforts of the many marine researchers in the Monterey Bay area and around the world, who are dedicating themselves to the task of exploring and understanding the ocean environment, and the critical links between marine ecosystem health and human activities. In particular, I would like to recognize the work of a scientist from my district, Dr. Valerie Loeb.

This summer, Dr. Loeb, an adjunct professor at Moss Landing Marine Laboratories, had her research featured on the front cover of the British scientific journal, Nature. For the past 10 years Dr. Loeb, her students and colleagues, have been studying the link between environmental variations and the dynamics of the Antarctic food chain, particularly changes in abundance of krill and other zooplankton. Krill, which are small, herbivorous, shrimp-like crustaceans, provide the basis for the animal food web in the southern ocean, and are a vital food source for many whale, fish, penguin, and other vertebrate species in the seasonal sea-ice zone. Another abundant planktonic herbivore, salps, are jelly-fish-like organisms which, in contrast, have few known predators, and are associated with open water habitats. Dr. Loeb and her coworkers have identified patterns of abundance of krill and salps as they relate to environmental changes in the area.

Salps are associated with open water habitat, unobstructed with ice, while krill's reproductive success is linked to increased ice coverage. In the past 50 years, atmospheric warming over the Antarctic Peninsula region has resulted in a decrease in sea-ice formation during winter months. Because of this, krill abundance since the mid-1980's has been greatly reduced compared to earlier years, while the springs and summers following these warmer winters have seen massive salp swarms. Since these salps compete with krill for phytoplankton, there is a further negative feedback from warmer winters affecting krill populations. This regional warming may be significantly altering the Antarctic food chain from one dominated by krill, supporting a variety of vertebrate predators, to one dominated by salps, effectively breaking the food chain.

This research is extremely valuable, not only in providing information important to the management of krill harvesting, which is currently conducted by Japanese, Polish, and Ukraine trawlers, but also as insight into the possible devastating effects of global warming on the oceans that may occur in addition to decreased ice development and sea level rise. The fact is that krill populations are already affected by ocean warming, making them, and the species that rely on them, further susceptible to human perturbations.

This research, and the hundreds of other marine research projects conducted in my district and around the world, are of great importance for us to understand and properly conserve the health of our planet, 71 percent of which is covered by oceans. We can no longer live in ignorance of the important links between ourselves and the oceans. I urge my colleagues to support America's leading role in ocean research and conservation, and to recognize and give credit to researchers such as Dr. Loeb for their great efforts in improving our understanding of the magnificent oceans, and clarifying how humans impact vital ocean resources.

HONORING THE CARLOW COLLEGE WOMEN OF SPIRIT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. COYNE. Mr. Speaker, I rise today to honor women that surpass all with their splendor and grace. They are the Carlow College Women of Spirit.

Founded in 1929, Carlow College has dedicated itself to the spirit of involvement and making a difference. The Women of Spirit Award highlights the achievements of Pittsburgh area women who exemplify competence and compassion in their communities, professions, and personal lives. The Women of Spirit Award recipients can be found in almost every profession in the region. Both the Women of Spirit Award recipients and Carlow College embody the values that we wish to foster in our children, and they provide admirable role models for young women in Allegheny County and around the world. The year culminates in an annual gala to honor the award recipients of the previous year. This year's gala will be held on Saturday, September 27, 1997. I wish to speak about each of these remarkable women today.

The October 1996 recipient of the Women of Spirit Award is Beth Berkebile. After graduating from Carlow College, Ms. Berkebile went on to become coowner of Randall's Restaurant in Perryopolis. Graced with one beautiful daughter of their own, Ms. Berkebile and her husband adopted two children from the former Soviet Union. Ms. Berkebile ensured that her new children would learn English by teaching them herself. Her son Sergey, just 1 year out of Russia, is making A's in reading.

Tradition dictates that there be one Women of Spirit for each month of the year. Joan Brest Friedberg and Elizabeth Segel are an exception because of their innovative program Beginning with Books. Beginning with Books is an early intervention program that works hand in hand with the Carnegie Library and is targeted at low-income families with young children. Ms. Friedberg has worked with other authors on the subject of quality books, has written ''Super Storytimes: A Guide for Care Givers,'' has served on many boards, and has presented at the National Association for the Education of Young Children. Ms. Segel has coauthored a book, published several articles, served on various committees—including the Hans Christian Andersen Award Committee and the Altruistic Projects Committee of the International Reading Association—and taught children's literature at the University of Pittsburgh.

The Leukemia Society of America is extremely fortunate to have Jeanne Caliguiri, winner of the December 1996 spirit award, serve as the director of Major Gifts. Her direction and service on various Pittsburgh boards, including the Pittsburgh Opera and the Salvation Army, shows her interest in the region and its community. Ms. Caliguiri is also interested in promoting the safety and well-being of children throughout southwestern Pennsylvania as a founding member of Girl's Hope and a board member of the George Junior Republic for boys. Her most impressive achievement to date is the foundation of the Richard S. Caliguiri Amyloidosis Research Fund, for which she has raised $600,000.

American Law is the centerpiece of the Honorable Kate Food Elliott's life. A member of the Superior Court of Pennsylvania and the January 1997 Woman of Spirit winner, Ms. Elliott serves as cochair of the Pennsylvania Bar Association's Women in the Profession Conference. She is on the board of advisors for Successful Women, Lawyers Concerned for Lawyers of Pennsylvania, and Step-by-Step, a community-based mental health organization.

Shampoo and psychotherapy go hand in hand for February, 1997 Women of Spirit winner, Dr. Lois Dabney-Smith. In 1975, Dr. Smith had just given birth to twins and decided that she needed to return to work. Her husband fashioned a small room in the rear of their home as a minisalon and Lois began to style hair. She explains her successful transition from beauty shop owner to psychotherapist as a natural. Women would walk into her salon and talk about the horrific behavior of their husbands who drank too much or couldn't keep a job. She enrolled full time at the University of Pittsburgh and received her doctorate in 1980. Today, Dr. Dabney-Smith is a nationally recognized expert on intervention.

Sister Michelle O'Leary embodies Carlow College's spirit and is the March 1997, winner of the Women of Spirit Award. As a Sister of

Mercy, Michelle O'Leary is part of a proud tradition of holy women that have served Pittsburgh for 150 years through the Mercy Health System and at Carlow College. Sister O'Leary is president of the Ireland Institute of Pittsburgh, which was founded in 1989 to promote western Pennsylvanian interaction in the political, economic, and social stability of Ireland and Northern Ireland.

Selflessness is a quality that embodies a Woman of Spirit and Lucille Rawson demonstrates this with her service to Pittsburgh and the world. That is the reason she has been named the April 1997, recipient of the Woman of Spirit Award. For years, Ms. Rawson has served as owner and operator of Hospital Albert Schweitzer that serves the poor in Haiti. She also served as host to Haitians in the United States. One of her more notable services was as treasurer of the Bryn Mawr Vassar Book Club, which provides scholarships to needy students.

Mary Molyneux is the Carlow College Woman of Spirit for May 1997. After the death of her husband, Ms. Molyneux kept up the family business of Molyneux Tile and Carpet Store and expanded it to three locations. Ms. Molyneux also owns a religious gift and book store. She earned her certificate in pastoral ministry at Carlow College and has performed her ministry at St. Margaret Memorial Hospital in Pittsburgh. She has also created a volunteer group at that hospital. Moreover, she has done all this and raised four children.

The June 1997, Woman of Spirit is Sandra McLaughlin, a senior vice president of Mellon Corp. Ms. McLaughlin heads Mellon's Cooperate Affairs Department and she chairs the board of the Mellon Bank Foundation and the Corporate Contributions Committee. Over the years, Ms. McLaughlin has moved from a teller to a very senior position in this company. She is also very involved in a number of community organizations.

Kay Snyder, July 1997's award recipient, earned her masters degree in social work from the University of Pittsburgh. A widow who raised three daughters, Ms. Snyder is known as one of the most gentle and warm people at Allegheny General Hospital. Ms. Snyder had a knack for trauma social work, and she rapidly became a valued member of the hospital staff. Today she operates the injury prevention program at Allegheny General. She is an inspiration to us all and a true woman of spirit.

August 1997 is highlighted with Women of Spirit Award winner Dorothy Davis of Dickie, McCamey & Chilcote, a Pittsburgh-based law firm. She is an accomplished professional who still works time into her day for volunteer activities as director of the Mt. Lebanon Extended Day Program and as a volunteer for the Girl Scouts of southwestern Pennsylvania. A graduate of Carlow College and the University of Pittsburgh Law School, Ms. Davis has continued to be active in these institutions.

September 1997's Women of Spirit Award winner serves the public interest. Karen Wolk Feinstein has served on the faculty of major universities across the country including Boston College and Carnegie-Mellon University. In addition to the boards she sits on at National City Bank, Shadyside Hospital, and Carlow College, Ms. Feinstein is also a member of the University of Pittsburgh Health Science Wide Panel on Medical Ethics. Her last position was a senior VP of the United Way, Allegheny County. She currently serves as president of the Jewish Healthcare Foundation of Pittsburgh.

Mr. Speaker, all of these women are modern day role models, and their contribution to our community helps to make Pittsburgh a wonderful place to live. Women of Spirit can be found every day, but Carlow College allows them to shine. Each and every individual that I have spoken about has energy, enthusiasm, intelligence, compassion, and competence that is unmatched. I salute this year's Woman of Spirit Award recipients and wish them the best at this year's gala.

TRIBUTE TO THE 25TH ANNIVERSARY OF LEISURE MANOR HOUSING COMPLEX

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. BONIOR. Mr. Speaker, 25 years ago, on October 1, 1972, Leisure Manor, in the city of St. Clair Shores, began opening its 120 doors to residents. The residents and the community are proud to recognize the anniversary of the opening on September 11. They will honor this happy occasion with an afternoon celebration on the Leisure Manor grounds.

In 1965, the St. Clair Shores Housing Commission was organized to administer federally subsidized rental assistance programs. Their goal was to provide affordable housing for families, senior citizens, and those who are handicapped or disabled. Until the commission constructed Leisure Manor, the city of St. Clair Shores did not offer subsidized rental assistance programs for senior citizens.

Leisure Manor is more than an apartment complex, it is a community. The residents enjoy the social atmosphere and community environment. Leisure Manor allows tenants to share with neighbors a community room with kitchen facilities, laundry rooms, library, card shop, and lounges. The complex also encourages residents to take part in social activities such as bingo, card games, catered dinners, and trips.

During the past two and a half decades, Leisure Manor has provided senior citizens with a safe and happy community. I hope that in the future, more subsidized housing developments will follow Leisure Manor's lead. I would like to extend my congratulations and best wishes to the tenants, employees, and all the people who have made the Leisure Manor experience possible and enjoyable.

IN MEMORY OF OFFICER PAUL DEGUCH

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. ROEMER. Mr. Speaker, I rise today to express my sorrow over the tragic loss of Officer Paul Deguch, a good friend and an outstanding public servant from South Bend, IN. I know Paul from when we worked together on the Impala sports program for children in public housing in South Bend. This is truly a sad time for the citizens of northern Indiana. While serving on duty during the evening of Monday, August 25, Officer Deguch made a self-initiated stop to investigate something he found suspicious. Suddenly and without warning, Paul was shot several times. Sadly, he died at St. Joseph County Medical Center shortly thereafter.

Mr. Speaker, Paul was a great family man and a talented police officer. He was a devoted husband and father, and it was very clear to all who knew Paul that his family was always his No. 1 priority. He enjoyed playing with his children, building their treehouse, tending his garden, enjoying his other hobbies including wine making, and exercising at Lynch's Gym in South Bend. Having been a star high school and college athlete, he enjoyed taking his family to ''The Cove'' for a baseball game, and teaching his three young children how to play T-ball. Additionally, Paul attended St. Mary of the Assumption Catholic Church and was a member of the Fraternal Order of Police Lodge No. 36.

Paul's wife, Annette, his family, friends, and coworkers will miss his infectious smile, his laugh, and his ability to bring sunshine to the most cloudy day. He was a role model as a police officer and as a public servant, and a role model for adults and children alike. Our hearts and spirits are burdened by the loss of a true and dedicated friend. Paul's death reminds us of the dangers that all law enforcement officers bravely and constantly encounter.

Mr. Speaker, Paul's 5-year-old son, David, summed up our feelings best, ''At my Daddy's funeral, everyone will be sad.'' I want his entire family and friends to know that we share their loss and their grief. We will remember Paul Deguch as a kind and caring community leader, an irreplaceable member of our city, whose memory will inspire us forever.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

SPEECH OF

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes:

Ms. BROWN of Florida. Mr. Chairman, I rise today in support of H.R. 2159 and to share my thoughts and observations with my colleagues concerning various aspects of this important legislation. As my colleagues know, numerous articles in the Wall Street Journal, New York Times, and other leading newspapers recently reported the retreat of some large American companies from Ukraine. I am pleased to know that the fiscal year 1998 foreign operations appropriations bill moves to address this problem by conditioning United States foreign assistance to Ukraine to economic reform

and the elimination of corruption, allowing American companies to compete on a more level playing field.

As the representative from Florida's Third Congressional District, it is important for me to know that north Florida's international businesses can flourish without unnecessary interference. Some 2 years ago, when a north Florida company, Itera International Energy Corp. needed Ukraine to honor business contracts worth many millions of dollars, I wrote to then Secretary of State Christopher requesting his assistance, met with Ukraine's Ambassador in Washington, and wrote several letters to Ukraine President Kuchma.

Later, in December 1996, I traveled to the former Soviet Union to personally examine the business climate for American businesses in the region. It was a tremendously informative and educational experience, meeting with our U.S. Ambassadors, foreign government officials, and U.S. business leaders. I was particularly interested in the energy sectors of these countries because Itera, headquartered in Jacksonville, is actively engaged in the marketing of natural gas to Ukraine and other countries of the former Soviet Union. I also was interested in other areas of trade and development for northern Florida, particularly transportation, agriculture, and tourism. Further, as a representative of the American taxpayer, I wanted to ensure that U.S. foreign assistance was the most cost effective and was used for the purpose for which it was provided.

I learned that the same problems that have plagued Itera have plagued many other American companies. Contractual agreements, accounting methods, and political attitudes are some of the many areas where there is room for differences of opinion, corrupt practices, and a difficult dialog.

All of this made me realize what is most important in the former Soviet Union: for old government institutions to give way to young, private companies that can create new global markets. In the process, business contracts must be fulfilled. When private enterprise is not allowed to flourish, government corruption is often a primary reason.

Itera, for example, despite the odds against it, is an adaptable, entrepreneurial company which has been able to market natural gas to the former Soviet Union by establishing business and personal relationships so necessary for business in the region. I am informed that Itera is not actively engaged in a joint venture with the Government of Armenia and Russia's largest gas company, to provide enhanced natural gas transportation and distribution facilities in Armenia. This will provide strong support for the economic well being for the people of Armenia and the region.

I will continue to work with my constituents to expand commerce around the world—to the benefit of all citizens. This will, I believe, contribute to peace in our time and to peace for future generations.

RECOGNIZING THE LIFE OF BETTY SHABAZZ

SPEECH OF

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 3, 1997

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the gentlelady from the District of Columbia, Representative ELEANOR HOLMES NORTON, for hosting this special order. We join ELEANOR as she pauses to pay tribute to her special friend and one of this Nation's great leaders, the late Dr. Betty Shabazz. It is more than fitting that we acknowledge the passing of this distinguished and gifted individual.

The passing of Dr. Betty Shabazz leaves us to mourn a mother, educator, and human rights leader. Betty was a young mother when she witnessed the brutal assassination of her husband, Malcolm X, in 1965. She moved from the shadows of her husband's life to become a leader in her own right. At a memorial service which was held in her honor, Dr. Betty Shabazz was remembered as an educator, college administrator, child advocate, civil rights leader, keeper of Malcolm X's legacy, and nurturing mother. These words describe an individual who rose above every challenge which confronted her. By doing so, she taught us a valuable lesson about courage, compassion and dignity.

I also had the opportunity to know this great lady during her lifetime. She was intelligent, personable, and someone whom I deeply admired. My wife, Jay, and I both always enjoyed seeing and talking with her, usually at the annual Congressional Black Caucus Annual Weekend here in Washington, DC. Her devotion to her family and the legacy of Malcolm X was something we admired. We also admired the manner in which she persevered and acquired her education and became distinguished in her own right.

Mr. Speaker, President Clinton praised Dr. Shabazz as an extraordinary woman whose life is an inspiration to all of us. We are saddened to lose the remarkable gift and vision of Dr. Shabazz. We also recognize the fact that Betty's family is in need of our prayers in the days ahead. I express my sympathy to her family, ELEANOR, and many others who shared a close personal friendship with Dr. Betty Shabazz. While her death leaves a void, we know that Dr. Shabazz has left a legacy that will stand the test of time.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

SPEECH OF

HON. KEN E. BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes:

Mr. BENTSEN. Mr. Chairman, I rise to support the fiscal year 1998 foreign operations appropriations bill, especially the $3.1 billion in aid to Israel.

Especially at this critical juncture of the peace process, the United States must continue to support Israel and help assure its security as it takes the very difficult steps needed to secure peace. Any cuts in foreign aid to Israel now could damage Israel's security, its negotiating posture, and the peace process, as well as other United States interests in the region. As one of the United States strongest allies and the only true democracy in the Middle East, Israel is certainly deserving of this support. This is especially true as Israel faces renewed threats of terrorist attacks such as those on the Mahane Yehunda market place on July 30, 1997 and on the Ben Yehuda pedestrian mall just yesterday. I condemn these cowardly attacks, which underscore the need for continued United States assistance and cooperation in ensuring Israel's security.

I want to emphasize that foreign aid to Israel is in the United States' strategic and economic best interest. Israel is the most reliable ally of the United States in the Middle East and continued foreign aid funding will maintain a solid partnership with the United States. Because of the depth of the United States-Israel relationship and the permanence of Israel's democracy, the United States knows we can depend on Israel in a crisis. By its continued support of Israel, the United States honors a historic commitment to a fellow democracy with which we share unique security, economic, and cultural ties.

I am especially pleased by the growing relationship between Israel and my State of Texas. Texas and Israel are substantial trading partners, sharing economic interests in telecommunications, medical technology, high-technology computers, and agriculture. In 1996, Texas exports to Israel totaled nearly $580 million in goods and services, which represented an 89 percent increase since 1995. With regard to medical technology, Israel and Texas have established many joint research programs. For example, the Texas-Israel Telemedicine Exchange has brought together the Texas Children's Hospital in Houston and the Rabin Medical Center in Petach Tikvah in developing a telemedicine framework for Israel's hospitals and health care clinics. As this partnership continues to develop, new business opportunities will make the economies of Texas and Israel stronger and more competitive in the 21st century.

The United States has a strong national interest in bringing peace, stability, and economic growth to one of the most strategic and potentially destabilizing regions of the world. The United States can best achieve these goals by continuing its commitment to ensuring Israel's security. I urge my colleagues to continue a proud tradition of support for Israel and to recognize that our Nation's national interests will be reinforced by voting for this appropriation.

CONGRESSIONAL TRIBUTE TO MIKEL RYAN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. HOYER. Mr. Speaker, I rise today to recognize Mikel Ryan for his contribution to the national defense and economic health of the United States. Mr. Ryan has displayed outstanding leadership in a wide ranging civil service career that culminated as Chairman of the Department of Defense Range Commander's Council Frequency Management Group.

Mr. Ryan received a B.A. in telecommunications from the University of Northern Colorado in 1981, and has done graduate work in telecommunications at Colorado State University.

On August 26, 1997, Mr. Mikel Ryan completed his 2-year tenure as Chairman of the Department of the Defense Range Commander's Council Frequency Management Group [FMG]. Under Mr. Ryan's leadership, the FMG greatly enhanced its role assisting the development of national spectrum policy that affects the test range spectrum requirements and issues to senior level DOD personnel. In addition, he enhanced the links between the DOD and the civil aerospace industry, a key component of the national economy. Mr. Ryan's leadership of the FMG minimized negative effects of recent losses of Federal spectrum access on the entire DOD test range structure.

Currently, Mr. Ryan heads the Mid-Atlantic Area Frequency Coordination Office at the Naval Air Warfare Center Aircraft Division at Patuxent River, MD. He is responsible for frequency management for the entire division. Mr. Ryan is also the executive coordinator for the automated spectrum planning, engineering, coordination, and tracking system. This system is the frequency management software with over 2,300 users worldwide.

Mr. Ryan has over 23 years of experience in the U.S. Government in communications. He joined the U.S. Army in October 1973, and served as a paratrooper/radioman in the 82d Airborne Division for 3 years. After earning his special forces qualification in September 1977, Mr. Ryan served as a senior communications sergeant on an operational detachment in the 19th Special Forces Group Airborne, Aurora CO. In August 1982, Mr. Ryan joined the 11th Special Forces Group Airborne.

Mr. Ryan's greatest contribution has been his exceptional leadership and support to the entire spectrum of the Nation's wide variety of policies, including support for the test and operation of highly complex National defense systems, and the civil aerospace industry. He has played a key role in assuring that there is spectrum available to support the test and operation of highly complex National defense systems, and the economic health of the United States. Thanks in large part to Mr. Ryan's diligence and committed hours of persistent and effective coordination, the National Test Range spectrum requirements has become an integral part of the daily defense operations. His support for defense and economic health will have a long lasting impact. Mr. Ryan's development of new range policies and increased cooperation is the cornerstone of a growing 21st century.

The United States is indeed indebted to Mr. Mikel Ryan for his selfless and distinguished service. Mr. Ryan, your outstanding leadership and ceaseless efforts have laid a solid foundation for the development of range policies. We offer our thanks and appreciation for a job well done and wish you continued success in the future.

UNITED STATES AIRMEN HELD IN GERMANY'S BUCHENWALD CONCENTRATION CAMP DURING WORLD WAR II

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. WELDON of Florida. Mr. Speaker, on June 10 Representative PETER DEUTSCH and I introduced House Concurrent Resolution 95, a resolution that would officially honor United States airmen held in Germany's Buchenwald concentration camp during World War II. Senators TIM HUTCHINSON and JOSEPH LIEBERMAN introduced an identical resolution in the Senate the same week. Our bill recognizes the service and bravery of 82 U.S. airmen, who were the only U.S. soldiers ever held in a concentration camp.

At the time I introduced the bill, I submitted a list of U.S. military prisoners that had been held in Buchenwald, but inadvertently left off some of those names. The list I have included below is a complete list and corrects that earlier mistake. I would appreciate your inclusion of this new list in the CONGRESSIONAL RECORD.

LIST OF WW II AMERICAN AIRMEN HELD AT BUCHENWALD CONCENTRATION CAMP

UPDATED SEPTEMBER 5, 1997

Not located (5)

Freeman, E.C.; Hanson, J.T.; Horrigan, R.J.; Scharf, B.T.; and Scott, G.W.

Deceased (33)

Alexander, William; Allen, Roy W.; Appleman, S.M.; Beck, Levit C.; Bozarth, J.W.; Chapman, Park; Crouch, M.E.; Dearey, R.W.; Duncan, James H.; Edge, W.L.; Fix, E.E.; Granberry, W.L.; Heimerman, L.A.; Hoffman, R.B.; Horwege, G.L.; and MacLenahan, J.H.

Martini, F.; Masters, L.O.; Mauk, W.E.; Mikel, G.; Pecus, Steve; Pederson, J.W.; Pennel, Sam; Salo, L.H.; Smith, J.W.; Stralka, P.A., Jr.; Suddock, D.E.; Vallee, E.; Vance, Ira E.; Vincent, E.H.; Wilson, P.J.; Wojnick, R.J.; and Zeiser, J.

Still living (44)

Bauder, W.F.; Bedford, R.L.; Bowen, C.E.; Brown, R.H.; Carr, F.W.; Chalot, J.A.; Chessir, D.; Coats, B.A.; Cowan, F.K.; Coffman, J.D.; Dauteul, D.F.; Denaro, Joe; Fore, J.W.; Hastin, J.D.; Hilding, R.D.; Hunter, H.F.; Johnson, R.T.; King, Myles A.; Larson, M.E.; Little, B.S.; Ludwig, E.F.; and McLaughlin, D.G.

Mitchell, G.E.; Moser, J.F.; Pacha, A.M.; Paxton, S.K.; Powell, W.; Raynolds, N.L.; Richey, G.T., Sr.; Ritter, E.W.; Roberson, C.W.; Ryherd, W.H.; Shearer, D.R.; Sypher, L.H.; Thompson, W.A.; Vratney, Frank; Watson, J.P.; Ward, Robert; Williams, W.J.; Zander, A.E.; Phelps, B.F.; Pelletier, A.J.; Friel, Edward J.; and Petrich, M.R.

HIGHER EDUCATION MADE MORE AFFORDABLE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. PACKARD. Mr. Speaker, with global technology and competition what it is today, a quality education is more important than ever. Middle-class families work hard day-in-and-day-out in order to save enough money to afford college for their children. They should not be punished by a perverse Washington tax system that demands more and more money from families. They should be allowed to keep more of their money. After all, it is their money.

Fortunately, furthering one's education after high school has just been made more affordable and accessible with the enactment of the Taxpayer Relief Act. Various education tax incentives, such as the $1,500 HOPE tax credit and the Lifetime Learning credit, will bring the dream of a college education more within reach than ever before.

But while it is important to make higher education more accessible, we must also ensure that future college students are prepared to enter the halls of higher learning. We need to focus on providing the best possible education system at the elementary and secondary levels. Money should go directly into the classroom and be spent wisely on classroom instruction, not wasted on education bureaucracy.

As a father, grandfather, and former member of the Carlsbad, California School Board, I take a personal interest in providing quality education for our children. Parents and local school boards know best what their children's educational needs are—not bureaucrats in Washington. Families should not only have the opportunity to choose the educational path that is best-suited for their kids' needs, but education should be affordable and accessible for all. The education tax incentives in the Taxpayer Relief Act do exactly that.

SALUTE TO CHARLES WILLOUGHBY

HON. JAMES V. HANSEN

OF UTAH

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. HANSEN. Mr. Speaker, my colleague, Mr. BERMAN, and I rise today to pay tribute to Mr. Charles Willoughby who, after 7 years of loyal service to the Committee on Standards of Official Conduct, is leaving to become senior associate general counsel at Howard University. We wish Chuck well in this new endeavor.

We join past committee members in expressing gratitude to Chuck for his dedicated service to the committee. Chuck came to the committee from the U.S. Attorney's Office in the District of Columbia. He served the committee in both its investigation function as well as its education function. He has served the committee in difficult times yet always with

dignity and grace, with a spirit of bipartisanship, and a deep respect for the House of Representatives.

Chuck has served the committee under four different chairmen. We speak for all of them in thanking him for his dedication to the committee and a job well done. In saying goodbye to Chuck, we say goodbye to someone universally liked and respected—a very difficult compliment to obtain in our business.

We wish our friend Godspeed in his new position and will remember his excellent service to the House of Representatives.

TRIBUTE TO PHIL HOLLYWOOD

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. PALLONE. Mr. Speaker, on Saturday, August 23, one of the races at Monmouth Park in Oceanport, NJ, was dedicated to Mr. Phil Hollywood, a native of my hometown of Long Branch, NJ, who has distinguished himself as a business leader in our Nation's Capital. It is an honor for me to join in paying tribute to this good friend and great citizen.

Phil Holywood was born in Long Branch, attended grade school at the Lyceum, and served as an altar boy at Star of the Sea Roman Catholic Church. While attending Red Bank Catholic High School, he worked as a stockboy at the local Woolworth's and as a part-time caddie at the Old Orchard Country Club in Eatontown, NJ. After high school, he enlisted in the Navy, serving on a destroyer in the South Pacific during World War II. After the war, he took a job as a desk clerk at the Shoreham Hotel in Washington, a venerable Washington landmark. He stayed there for 47 years, rising to the position of vice president and managing director, while also serving in various capacities for the Hotel Association of Washington.

During this storied and distinguished career, he had the honor of greeting many Presidents of the United States as well as many foreign leaders. Mr. Hollywood was Inaugural housing director for three Presidential Inaugurations. While he was always extremely attentive to the needs of the eminent visitors to the Shoreham, Phil Hollywood extended special care to guests from Monmouth County and especially Long Branch.

Phil retired in 1991, and he resides in Washington with his wife Brinda. Their two daughters and three grandchildren all live nearby.

Mr. Speaker, it is an honor for me to join with the many friends of Phil Hollywood in paying tribute to the many accomplishments of this Long Branch boy who made for himself a great career in Washington but never forgot his native roots.

NURSING HOME PUBLIC INFORMATION ACT OF 1997

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. TOWNS. Mr. Speaker, when millions of Americans must make the difficult decision to put an aging relative in a nursing home, we trust the institution to care properly for our loved ones. But as a recent General Accounting Office [GAO] study points out, nursing homes across the United States don't always treat the 1.8 million residents like family.

At a time when the nursing home industry is undergoing explosive growth as a result of an aging population, my recently introduced Nursing Home Public Information Act of 1997 would allow families to make an informed choice when choosing a nursing home. By directing HHS to publicly disseminate information currently compiled in databases maintained or available to HHS concerning nursing homes, this bill takes a step in the right direction toward educating the public.

While most nursing homes adhere to Federal and State regulations, each year billions of dollars are lost to fraud and abuse. According to the GAO, Federal Medicare and Federal/State Medicaid programs paid nursing home providers more than $35 billion in 1995. The Department of Justice estimates that as much as 10 percent is lost to fraud and abuse.

By aggressively targeting five States, the Department of Health and Human Services [HHS], through Operation Restore Trust, has obtained 74 criminal convictions and recovered $67.3 million for Medicare. More than four dozen civil suits have collected $72.8 million in fines and settlements, and companies have returned another $47.4 million.

Convicting abusive providers, levying fines, recovering overpayments, negotiating settlements—all these actions are necessary to reduce fraud and abuse. But they will never be more than the second best way to do this. The best way is to prevent fraud, abuse, and waste from occurring in the first place. This requires informing the public. As a recent Government Reform and Oversight Human Resources Subcommittee hearing revealed, the public receives little or no information relating to fraud, abuse, and quality of care in nursing homes.

Mr. Speaker, I urge my colleagues to join my efforts to assist millions of families across the Nation by supporting the Nursing Home Public Information Act of 1997.

25TH ANNIVERSARY OF THE NORTHEAST COUNCIL OF SENIOR CITIZENS, INC.

HON. ROBERT A. BORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 5, 1997

Mr. BORSKI. Mr. Speaker, I rise to pay tribute to an organization in my district that serves as a unified voice of senior citizens.

It was 25 years ago this week—on September 13, 1972—that six senior citizen clubs gathered for a meeting in which they formed the Northeast Council of Senior Citizens, Inc., also known as the Region V, Archdiocesan Senior Citizen Council.

An ecumenical, nonpartisan, organization for senior citizens, their mission was simple: to develop programs which would promote the health, welfare, spiritual growth, safety and protection of senior citizens in northeast Philadelphia.

Over the past 25 years, the Northeast Council has grown to include 52 senior citizen clubs with a membership of over 10,000 elderly citizens. Its commitment to improving the quality of life for seniors in Philadelphia grows stronger each day.

Mr. Speaker, the Northeast Council of Senior Citizens, Inc. serves as a positive role model for older Americans across the country. It consistently demonstrates that seniors can gather together, share common interests and ideas, and speak in a powerful, unified voice on issues important to this large segment of our population.

The council regularly holds meetings, seminars, brainstorming sessions, dinners, picnics, and social events. In addition, the council supplies knowledgeable speakers and distributes literature, keeping seniors well informed of current issues which directly affect their lives. In many ways, the members serve as the eyes, ears and powerful voice of the senior community—a voice I listen to frequently.

The Third Congressional District of Pennsylvania, which I represent, is the 20th oldest district, by population, in the country. Over 100,000 constituents—1 of every 5—is over the age of 65. Issues like Social Security, Medicare, nursing homes, and long-term health care are of great concern to them and their families.

An organization like the Northeast Council of Seniors brings our elderly citizens together to discuss these crucial issues. Their passionate opinions also remind me of the responsibility I have to ensure that their concerns are addressed.

The Northeast Council of Senior Citizens brings together the most dedicated and energetic members of our senior community. By uniting the most active and energetic seniors who are dedicated to improving the quality of life for their fellow men and women, these individuals are doing much to dispel stereotypes of the aging community, and encouraging people of all ages to be active and involved.

Mr. Speaker, it is my privilege to represent the men and women who belong to the Northeast Council of Senior Citizens. I ask you and my colleagues to support this commendation and congratulate the Northeast Council of Senior Citizens as they observe their 25th anniversary as an organization, and join me in wishing them many more years as a positive and active force in Philadelphia.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2264) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998, and for other purposes:

Mrs. KELLY. Mr. Chairman, I rise today in strong opposition to the Istook amendment and in support of the Porter substitute.

This legislative body needs to wake up and realize that, whether we like it or not, teens across America from all types of families—dysfunctional and solid—are having sex. Now, do we ignore the facts in adherence to our utopian principles of parental guidance and abstinence sacrificing our children and their future in the process? Or do we accept the facts and work to educate our children in hopes of encouraging abstinence, preventing devastating sexually transmitted diseases, preventing abortion, and preventing unintended pregnancies

There is another fact being overlooked here as well. Family planning clinics already are required to encourage teens to talk with their parents about reproductive health issues—but guess what—some parents aren't talking. In fact, some parents treat sex as such a taboo that their children are left to learn on their own with no guidance at all, when poor decisions can prove deadly. Other parents are abusive, leaving teens to take care of themselves. This is not a perfect world.

Members in favor of the Istook amendment cite a tragedy in Illinois where a 37-year-old teacher took a 13-year-old student, with whom he was having a sexual relationship, to a federally funded clinic for contraceptives. This is indeed a tragedy and that teacher needs to be put away for a very long time. But to claim that his relationship is the result of the existence of title X clinics is dishonest and misleading.

This relationship was going on prior to their visit to a title X clinic and, had the girl disclosed that her partner was an adult authority figure, by law he would have been reported. This crime was committed by this perverted teacher, not the family planning clinic.

I do not stand here today to trivialize the seriousness of this appalling case. In fact, the substitute amendment being offered by Chairman PORTER requires that clinics provide counseling to minors in recognizing and resisting attempts of coercion by their partners.

Please open your eyes and support the Porter substitute. It is a matter of health. Don't let unrealistic ideology sacrifice the futures of our children.

FOREIGN OPERATIONS EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 4, 1997

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2159) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, and for other purposes:

Mr. TORRES. Mr. Chairman, the recent release by the CIA of roughly 5 percent of the documents in its possession which pertain to its 40-year-old controversial role in Guatemala provides extraordinary insights into the lengths to which the U.S. Government was prepared to go in order to achieve its cold war antisubversion goals. The documents provide a good argument for the need to close institution like the School of the Americas [SOA], a product of an era in which a growing consensus of critics say Washington's paranoia was enshrined as its official Guatemalan policy. The following research memorandum, authored by Gretchen Oelsner, research associate for the Council on Hemispheric Affairs, demonstrates the need for the United States to end its support for the School of the Americas.

TORRES AMENDMENT

The School of the Americas was instrumental in providing the venue for covert liaisons with key Guatemalan army personnel, often resulting in longstanding relationships. By training their young officials, and subsequently recruiting some of them for the CIA's payroll, Washington was able to ensure cooperation with its anti-Communist policy, even at the eventual cost of a friendly country's sovereignty and democratic institutions. On Wednesday, July 9, Representative ESTEBAN TORRES introduced an amendment to the Foreign Aid appropriations bill which would have limited funding for the School of the Americas, but it was defeated by a narrow margin (23–21). The tight vote suggests that there is hope that the School of the Americas eventually will be closed down. It is imperative that the amendment on the floor today succeed because its approval would be an important step in ending a legacy of human rights violations by U.S.-trained members of the Guatemalan armed forces.

CIA involvement in Guatemala began when the country's popularly elected president Jacobo Arbenz threatened in the early 1950's to nationalize mainly underutilized land holdings controlled by the United Fruit Co. and offered to remunerate the U.S. Goliath at the artificially low rate of assessment that the company itself had placed on its land for tax purposes. With strong personnel connections to Secretary of State John Foster Dulles and his brother, Director of Central Intelligence Allen Dulles, the company was able to arrange for the CIA to inaugurate an effective scenario in response to fast-breaking developments in the country. By backing Lt. Col. Castillo Armas, one of its contracts in the Guatemalan Army, the State Department, along with the CIA, orchestrated a successful coup against Arbenz in 1954. Forty years of terror, torture, and death squad activity followed, often in part funded and directed by Washington, which resulted in the deaths of more than 150,000 civilians.

MYSTERIOUS DEATHS

The most recent instance of CIA activity in the country involved the suspicious deaths of Michael DeVine in 1990 and Efraín Bámaca Velásquez in 1992. DeVine, a U.S. citizen, was an innkeeper residing in the Peten, a heavily forested region of the country known for its Mayan antiquities and valuable hardwood. Later, it was established that he had been assassinated and beheaded by a Guatemalan military unit in June 1990, perhaps after he happened upon a smuggling operation being run out of the zone's military compound. In response to this grisly incident, and to the Guatemalan military's failure to comply with a promised vigorous investigation into the circumstances behind DeVine's death, Congress ceased aid shipments to the Central American country. However, the CIA was quick to replenish the funding gap. Both the Clinton and Bush administrations admit that $5 to $7 million were secretly funneled annually to the Guatemalan Armed Forces, though Bush officials insist the funds were used to pay CIA sources and placate the armed forces, not for the purchase of weapons.

Another victim of the violence was Efraín Bámaca Velásquez, a leftist guerrilla leader married to Washington, DC lawyer Jennifer Harbury. Contrary to information provided at first by Guatemalan military reports as well as United States diplomats, a United States Defense Intelligence Agency document stated that ''Bámaca was not killed during a firefight with army troops, but was captured, interrogated, and killed.''

PUTATIVE MURDERER REMAINS A FREE MAN

Col. Julio Roberto Alpírez, a senior intelligence officer and SOA alumnus, implicated in the murders of both Bámaca and DeVine, acknowledges that he 'routinely exchanged information with CIA officials.'' White House officials also have conceded that Alpírez received at least $60,000 from the CIA during 1990–92. In July 1992, shortly after embarrassing details of Alpírez's complicity in Bámaca's execution had surfaced, the agency terminated his contract, awarding him $44,000 in severance pay. While a later report by the CIA's Intelligence Oversight Board found that its agents neither had ordered nor had prior knowledge of DeVine's death, and that there was no way to definitively determine responsibility for Bámaca's killing, Justice Department officials did admit Alpírez was involved in DeVine's murder. Even though further evidence had indicated that the colonel ordered DeVine's death and supervised the torture and execution of Bámaca, he was later exonerated by Guatemalan officials. Outside observers maintain that it is astonishing that the agency claims to have had no knowledge of the murder of the U.S. citizen, even though one of its paid informers was involved in his death. This is especially so in the case of the guerrilla fighter Bámaca, whose cause the agency was spending millions of dollars annually to eliminate. Critics speculate that the CIA station chief felt it important that Bámaca be neutralized, so the agency sanctioned local Guatemalan authorities led by Alpírez, to have him tortured and killed.

SCHOOL OF THE AMERICAS

Colonel Alpírez received important training at the ill-reputed School of the Americas, located at Fort Benning, GA, but then based in Panama. In fact, he attended the school twice, once in the Combat, Arms and Support Services in 1970, and later at the Command and General Staff College in 1989, just before he was involved in the high-profile murders. This institution has earned the nicknames ''School of Coups'' and ''School of Assassins'' because of the activities of many of its alumni—some of whom later gained renown as the worst human rights abusers in Latin America. Former Panamanian President, Jorge Illueca, had no trouble terming the school the ''biggest base for destabilization in Latin America.''

The institution teaches combat skills, counterinsurgency operations, sniper fire, military intelligence, commando tactics and psychological warfare. When the Pentagon finally released the controversial training manuals used at the facility after their contents already had begun to leak, pages were found in them advocating such interrogation techniques as blackmail, detaining the innocent relatives of those being questioned, torture and murder.

The clandestine tactics promoted by the CIA coincided with some of the training being offered at the institution. Subsequently, many SOA graduates, after having been signed on by the CIA, almost routinely were responsible for the torture and disappearance of ''subversives'' during the region's civil wars. According to the advocacy group, School of the Americas Watch, the school's alumni have been responsible for choosing targets for assassination, fashioning genocidal strategies which essentially legalized military atrocities throughout the eighties, helped plan and implement ex-President Sermon's 1993 auto-coup and were the architects behind numerous extrajudicial executions. In addition, General Edgar Godoy Gaitán, Gen. Luis Francisco Ortega Menaldo, and Col. Otto Perez Molina were some of the SOA Guatemalan alumni who were on the CIA payroll as well as implicated in right-wing death squad killings.

The Nation magazine, April 17, 1997, reported that U.S. undercover agents on the CIA payroll for decades had worked inside the Guatemalan G–2 army unit, one of the two brains behind the terror state, and which was known to have been responsible for the torture and murders of thousands of civilians. According to former military strongman Oscar Huberto Mejía Victores, Guatemala's death squads were initiated in the 1960's by the CIA. Ortega Menaldo and Perez Molina both served as leaders of the G–2 forces during the eighties and nineties, at a time when its death squad activities and drug trafficking roles already were established.

In the same way the U.S. Government denied knowledge of Bámaca's death, they did not admit some of the subject matter taught at the SOA. Only after then-Representative Torrecelli revealed the details of the rebel's death was the White House forced to confess its connections to the Guatemalan operations and its knowledge of the circumstances of Bámaca's death. It was not until a dirty tricks training manual was discovered and made public that Washington was forced to confess that it teaches terror tactics.

Final closure to Guatemala's endless civil war cannot occur until the School of the Americas is shut down and culpable military and political figures are held accountable for their actions in the murders of United States and Guatemalan citizens.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S8837–S8876

Measures Introduced: Two bills were introduced, as follows: S. 1150 and 1151. **Page S8870**

Measures Reported: Reports were made as follows:

S. 1150, to ensure that federally funded agricultural research, extension, and education address high-priority concerns with national multistate significance, to reform, extend, and eliminate certain agricultural research programs. (S. Rept. No. 105–73) **Page S8870**

Measures Passed:

Foreign Operations Appropriations, 1998: Pursuant to the consent agreement of July 16, 1997, Senate passed H.R. 2159, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1998, after striking all after the enacting clause and inserting in lieu thereof the text of S. 955, Senate companion measure, as passed by the Senate on July 17, 1997. Further, the Senate insisted on its amendment, requested a conference with the House thereon, and the Chair appointed the following conferees on the part of the Senate: Senators McConnell, Specter, Gregg, Shelby, Bennett, Campbell, Stevens, Cochran, Leahy, Inouye, Lautenberg, Harkin, Mikulski, Murray, and Byrd. **Page S8869**

Subsequently, Senate vitiated passage of S. 955, and the bill was indefinitely postponed. **Page S8869**

FDA Modernization and Accountability Act: Senate began consideration of the motion to proceed to consideration of S. 830, to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the regulation of food, drugs, devices, and biological products. **Pages S8837–69**

Also, by 89 yeas to 5 nays (Vote No. 220), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, Senate agreed to close further debate on the motion to proceed to the consideration of the bill. **Pages S8839–40**

Senate will continue consideration of the motion to proceed to consideration of the bill on Monday, September 8, 1997.

Nominations Confirmed: Senate confirmed the following nominations: Robert Charles Chambers, of West Virginia, to be United States District Judge for the Southern District of West Virginia. **Page S8875**

Messages From the House: **Page S8870**

Petitions: **Page S8870**

Statements on Introduced Bills: **Pages S8870–72**

Additional Cosponsors: **Page S8872**

Amendments Submitted: **Pages S8872–74**

Additional Statements: **Pages S8874–75**

Record Votes: One record vote was taken today. (Total–220) **Pages S8839–40**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 3:38 p.m., until 11 a.m., Monday, September 8, 1997. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S8876.)

Committee Meetings

(Committees not listed did not meet)

CAMPAIGN FINANCING INVESTIGATION

Committee on Governmental Affairs: Committee continued hearings to examine certain matters with regard to the committee's special investigation on campaign financing, receiving testimony from David Strauss, former Deputy Chief of Staff for Vice President Gore; and former Mayor Michael L. Mitoma, Carson, California.

Hearings continue on Tuesday, September 9.

NOMINATIONS

Committee on the Judiciary: Committee concluded hearings on the nominations of Marjorie O. Rendell, of Pennsylvania, to be United States Circuit Judge for the Third Circuit, A. Richard Caputo, to be United States District Judge for the Middle District of Pennsylvania, Bruce C. Kauffman, to be United States District Judge for the Eastern District of Pennsylvania, and Richard A. Lazzara, to be United

States District Judge for the Middle District of Florida, after the nominees testified and answered questions in their own behalf. Mr. Lazzara was introduced by Senators Mack and Graham.

House of Representatives

Chamber Action

Bills Introduced: 14 public bills, H.R. 2411–2424; 2 private bills, H.R. 2425–2426; and 4 resolutions, H. Con. Res. 146–147, and H. Res. 221–222 were introduced. **Page H6962**

Reports Filed: The following report was filed today:

H.R. 901, to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, amended (H. Rept. 105–245); **Page H6962**

Motion to Adjourn: By a yea and nay vote of 44 yeas to 339 nays, Roll No. 366, rejected the Miller of California motion to adjourn. **Pages H6924–25**

Labor, HHS, and Education Appropriations Act: The House continued consideration of amendments to H.R. 2264, making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1998. The House completed general debate and considered amendments to the bill on September 4. **Pages H6925–48**

Rejected:

The McIntosh amendment that sought to increase funding for the Individuals with Disabilities Education Act by $4.3 million and reduce Employment Standards Administration Salaries and Expenses funding accordingly (rejected by a recorded vote of 167 ayes to 260 noes, Roll No. 367); **Pages H6925–40**

Withdrawn:

The Riggs amendment that sought to increase funding for Older Americans Act programs by $19.6 million and reduce Bureau of Labor Statistics salaries and expenses funding by $9.8 million and reduce HHS general departmental management funding by $9.8 million. **Pages H6940–41**

Pending amendment:

The Blunt amendment was offered that seeks to increase vocational and adult education funding by $11.2 million and reduce OSHA funding accordingly. **Pages H6941–48**

The bill is being considered pursuant to the order of the House of Thursday, July 31. **Pages H6667–69**

Defense Authorization Act Motion to Instruct Conferees: By a recorded vote of 261 ayes to 150 noes, Roll No. 368, agreed to the Traficant motion to instruct conferees on H.R. 1119, to authorize appropriations for fiscal years 1998 and 1999 for military activities of the Department of Defense, and to prescribe military personnel strengths for fiscal years 1998 and 1999, to insist upon the provisions of section 1032 of the House bill relating to the assignment of Department of Defense personnel to Border Patrol and Control. The motion was debated on September 4. **Page H6948**

Committee Resignation: Read a letter from Representative Sherman wherein he resigned from the Committee on the Budget. **Page H6949**

Committee Election: Agreed to H. Res. 221 electing Representative Sherman to the Committee on Banking and Financial Services. **Page H6949**

Terrorist Bombing in Jerusalem: Agreed to H. Con. Res. 146, expressing the sense of the Congress regarding the terrorist bombing in Jerusalem on September 4, 1997. **Pages H6949–54**

In Honor of Mother Teresa: The House stood for a moment of silence in honor of Mother Teresa. **Page H6949**

Legislative Program: The Chief Deputy Majority Whip announced the legislative program for the week of September 8. **Page H6949**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday, September 8 for morning hour debate. **Page H6954**

Calendar Wednesday: Agreed that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 10. **Page H6954**

Amendments: Amendments ordered printed pursuant to the rule appear on page H6963.

Quorum Calls—Votes: One yea-and-nay vote and two recorded votes developed during the proceedings of the House today and appear on pages H6925, H6939–40, and H6948. There were no quorum calls.

Adjournment: Met at 9:00 a.m. and adjourned at 3:31 p.m.

Committee Meetings

ELECTRICITY: INNOVATION AND COMPETITION

Committee on Commerce: Subcommittee on Energy and Power held a hearing on Electricity: Innovation and Competition. Testimony was heard from public witnesses.

COMMERCE, JUSTICE, STATE, AND JUDICIARY APPROPRIATIONS

Committee on Rules: Heard testimony from Representatives Rogers, Northup, Hyde, Burton of Indiana, Morella, Shays, Ramstad, Fox of Pennsylvania, Mollohan, Sawyer, Maloney of New York, Becerra, Jackson-Lee of Texas and Delahunt, but action was deferred on H.R. 2267, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998.

Joint Meetings

EMPLOYMENT-UNEMPLOYMENT

Joint Economic Committee: Committee held hearings to examine the employment-unemployment situation for August, receiving testimony from Katharine G. Abraham, Commissioner, Bureau of Labor Statistics, Department of Labor.

Committee recessed subject to call.

CONGRESSIONAL PROGRAM AHEAD

Week of September 8 through 13, 1997

Senate Chamber

On *Monday,* Senate will continue consideration of the motion to proceed to consideration of S. 830, Food and Drug Administration Modernization and Accountability Act, and resume consideration of S. 1061, Labor/HHS Appropriations, 1998.

On *Tuesday,* Senate will resume consideration of S. 1061, Labor/HHS Appropriations, 1998, and begin consideration of S. 830, Food and Drug Administration Modernization and Accountability Act.

During the week, Senate also expects to consider H.R. 2107, Interior Appropriations, 1998, S. , D.C. Appropriations, 1998, conference reports when available, and consider any cleared legislative and executive business.

(Senate will recess on Tuesday, September 9, 1997 from 12:30 p.m. until 2:15 p.m. for respective party conferences.)

Senate Committees

(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry: September 11, to hold hearings to examine the implications for farmers of the recently proposed Global Tobacco settlement, 9 a.m., SD–106.

Committee on Appropriations: September 9, business meeting, to mark up an original bill making appropriations for the government of the District of Columbia for the fiscal year ending September 30, 1998, 4 p.m., SD–106.

September 11, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine the health risks of 1950's atomic tests, 9 a.m., SD–192.

Committee on Armed Services: September 9, to hold hearings on the nomination of Gen. Henry H. Shelton, USA, to be Chairman of the Joint Chiefs of Staff, 10 a.m., SR–222.

Committee on Commerce, Science, and Transportation: September 10, to hold hearings on the nominations of Heidi H. Schulman, of California, and Katherine Milner Anderson, of Virginia, each to be a Member of the Board of Directors for the Corporation for Public Broadcasting, Robert L. Mallett, of Texas, to be Deputy Secretary, and W. Scott Gould, of the District of Columbia, to be an Assistant Secretary, both of the Department of Commerce, and Sheila Foster Anthony, of Arkansas, to be a Federal Trade Commissioner, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: September 10, to hold oversight hearings to review Forest Service organizational structure, staffing, and budget for the Alaska region, 9:30 a.m., SD–366.

September 11, Full Committee, to hold hearings on S. 660, to provide for the continuation of higher education through the conveyance of certain public lands in the State of Alaska to the University of Alaska, and S. 1092, to provide for a transfer of land interests in order to facilitate surface transportation between the cities of Cold Bay, Alaska, and King Cove, Alaska, 9:30 a.m., SD–366.

September 11, Subcommittee on National Parks, Historic Preservation, and Recreation, to hold hearings to review the implementation of the Commemorative Works Act (P.L. 99–652, as amended) and the administrative and public process involved in the site selection of the World War II Memorial and the recently announced Air Force Memorial, 2 p.m., SD–366.

Committee on Finance: September 10, to hear and consider pending nominations, 10:30 a.m., SD–215.

Committee on Foreign Relations: September 10, to hold hearings on the nominations of Thomas J. Dodd, of the District of Columbia, to be Ambassador to the Republic of Costa Rica, Donna Jean Hrinak, of Virginia, to be Ambassador to the Republic of Bolivia, and Curtis Warren Kamman, of the District of Columbia, to be Ambassador to the Republic of Colombia, 2:30 p.m., SD–419.

September 11, Full Committee, to hold hearings on the nominations of Susan E. Rice, of the District of Columbia, to be Assistant Secretary of State for African Affairs, Brian Dean Curran, of Florida, to be Ambassador to

the Republic of Mozambique, Timberlake Foster, of California, to be Ambassador to the Islamic Republic of Mauritania, Amelia Ellen Shippy, of Washington, to be Ambassador to the Republic of Malawi, and Nancy Jo Powell, of Iowa, to be Ambassador to the Republic of Uganda, 10 a.m., SD–419.

Committee on Governmental Affairs: September 8, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, to hold hearings to examine the progress of proposed reforms of the District of Columbia school system, 9:30 a.m., SD–342.

September 8, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, to hold hearings on S. 222, to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies, 2 p.m., SD–342.

September 9, 10 and 11, Full Committee, to resume hearings to examine certain matters with regard to the committee's special investigation on campaign financing, 10 a.m., SH–216.

September 12, Full Committee, to hold hearings to examine issues regarding regulatory reform, 10 a.m., SD–342.

Committee on the Judiciary: September 9, Subcommittee on Immigration, to hold hearings to examine the economic and fiscal impact of immigration, focusing on the report of the National Academy of Sciences, 10:30 a.m., SD–226.

September 9, Subcommittee on Antitrust, Business Rights, and Competition, to hold hearings to examine the operation of the antitrust division of the Department of Justice, focusing on the Hart-Scott-Rodino process which requires companies to notify the Government of perspective mergers, 2 p.m., SD–226.

September 12, Subcommittee on Immigration, to hold hearings to examine proposals to permanently extend the expiring provision of immigration law which allows religious workers to be sponsored by religious organizations in the United States, 10 a.m., SD–226.

Committee on Labor and Human Resources: September 11, to hold hearings to examine the confidentiality of medical information, 10 a.m., SD–430.

Select Committee on Intelligence: September 10, to hold a closed briefing on intelligence matters, 2:30 p.m., SH–219.

House Chamber

Monday, Consideration of 3 Suspensions:

1. H.R. 876, Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997;

2. H.R. 700, Agua Caliente Band of Cahuilla Indians; and

3. Concur in Senate amendment to H.R. 1866, Need-Based Educational Aid Antitrust Protection Act of 1997; and

Consideration of H.R. 2264, Labor, Health and Human Services Appropriations Act for FY 1998.

No recorded votes are expected before 7:00 p.m.

Tuesday, Wednesday, and Thursday, Consideration of H.R. 2267, Commerce, Justice, State, and the Judiciary Appropriations Act for FY 1998 (subject to a rule); and

Consideration of H.R. 2378, Treasury, Postal Service Appropriations Act for FY 1998; and

H.R. 2264, Labor, Health and Human Services Appropriations Act for FY 1998 (subject to a rule).

Friday, No votes are expected.

House Committees

Committee on Agriculture, September 11, Subcommittee on Department Operations, Nutrition, and Foreign Agriculture, hearing to review food banks and the participation of the private sector in the delivery of food assistance, 8:30 a.m., 1300 Longworth.

Committee on Banking and Financial Services, September 9, hearing and markup of H.R. 2343, Thrift Depositor Protection Oversight Board Abolishment Act; and to consider pending Committee business, 2 p.m., 2128 Rayburn.

September 10, Subcommittee on Domestic and International Monetary Policy, to markup the 50 States Commemorative Coin Program Act, 10:30 a.m., 2128 Rayburn.

Committee on Education and the Workforce, September 9, Subcommittee on Early Childhood and Families, hearing on School Choice legislative proposals, 9 a.m., 2175 Rayburn.

September 11, Subcommittee on Workforce Protections, hearing to examine OSHA's Reinvention Project, 10 a.m., 2175 Rayburn.

Committee on Government Reform and Oversight, September 10, Subcommittee on Civil Service, hearing on Employment Discrimination in the Federal Workplace, Part I, 10 a.m., 2154 Rayburn.

September 10, Subcommittee on National Security, International Affairs, and Criminal Justice, to continue hearings on Reauthorization of the Office of National Drug Control Policy, Part II, 1 p.m., 2247 Rayburn.

September 11, Subcommittee on Human Resources, to continue oversight hearings on the Need for Better Focus in the Rural Health Clinic Program (RHC) Part II, 10 a.m., 2247 Rayburn.

September 12, Subcommittee on Government Management, Information, and Technology, oversight hearing on Defense Surplus Property, 9:30 a.m., 2154 Rayburn.

Committee on International Relations, September 10, hearing on Freedom from Religious Persecution Act of 1997, 10:30 a.m., 2172 Rayburn.

September 10, Subcommittee on International Economic Policy and Trade, hearing on the Transatlantic Initiative: Opportunities and Prospects, 2 p.m., 2200 Rayburn.

Committee on the Judiciary, September 8, Subcommittee on Immigration and Claims, to markup the following: H.R. 2412, to amend the Immigration and Nationality Act to modify the religious worker visa programs and to extend the visa waiver pilot program, and to amend the

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the effective date for certain paperwork changes in the employer sanctions program; H.R. 2413, Immigration Technical Corrections Act of 1997; a private claims bill and a private immigration bill, 7 p.m., 2237 Rayburn.

September 9, full Committee, to markup the following: H.R. 1683, Jacob Wetterling Crimes Against Children and Sexually Violent Offenders Registration Improvements Act of 1997; H.R. 424, to provide for increased mandatory minimum sentences for criminals possessing firearms; H.R. 1493, to require the Attorney General to establish a program in local prisons to identify, prior to arraignment, criminal aliens and aliens who are unlawfully present in the United States; H.R. 2412, to amend the Immigration and Nationality Act to modify the religious worker visa programs and to extend the visa waiver pilot programs, and to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to modify the effective date for certain paperwork changes in the employer sanctions program; H.R. 2413, Immigration Technical Corrections Act of 1997; and a private claims bill, 2:30 p.m., 2141 Rayburn.

September 10, Subcommittee on Immigration and Claims, hearing on H.R. 992, Tucker Act Shuffle Relief Act of 1997, 10 a.m., 2237 Rayburn.

September 11, Subcommittee on Courts and Intellectual Property, hearing on H.R. 2265, No Electronic Theft (NET) Act, and also on electronic copyright piracy, 10 a.m., 2237 Rayburn.

September 11, Subcommittee on Crime, hearing regarding cellular telephone fraud, 9:30 a.m., 2141 Rayburn.

Committee on National Security, September 9, to markup H.R. 695, Security and Freedom Through Encryption (SAFE) Act, 1 p.m., 2118 Rayburn.

Committee on Resources, September 9, Subcommittee on Forests and Forest Health, hearing on the following bills: H.R. 1739, BWCAW Accessibility and Fairness Act of 1997; and H.R. 2149, BWCA Wilderness Legacy Act, 2 p.m., 1334 Longworth.

September 9, Subcommittee on National Parks and Public Lands, hearing on H.R. 1849, Oklahoma City National Memorial Act of 1997, 10 a.m., 1324 Longworth.

September 10, full Committee, hearing on the following: H.R. 2259, King Cove Health and Safety Act of 1997; and a measure to provide the University of Alaska with a Federal land grant, 11 a.m., 1324 Longworth.

September 11, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to markup the following measures: H.R. 1787, Asia Elephant Conservation Act of 1997; and H. Con. Res. 131, expressing the sense of Congress regarding the ocean; and to hold an oversight hearing to review the management of our Nation's fisheries by the National Marine Fisheries Service, 10 a.m., 1324 Longworth.

September 11, Subcommittee on Forests and Forest Health, oversight hearing on the affect of international forestry agreements on U.S. Forest Service decision-making, 10 a.m., 1334 Longworth.

September 11, Subcommittee on Water and Power, hearing and markup of the following measures: Bureau of Reclamation Technical Corrections Act of 1997; and Small Reclamation Water Resources Project Act; and to markup H.R. 1400, Tumalo Irrigation District Water Conservation Project Authorization Act, 2 p.m., 1334 Longworth.

Committee on Rules, September 8, to consider H.R. 2267, making appropriations for the Department of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1998, 7:30 p.m., H–313 Capitol.

Committee on Science, September 10, hearing on Next Generation Internet Initiative, 10 a.m., 2318 Rayburn.

September 11, Subcommittee on Energy and Environment, hearing on Preparing for El Nino, 10 a.m., 2318 Rayburn.

September 11, Subcommittee on Technology, to markup the Small Business Technology Transfer Program Reauthorization Act of 1997, 2 p.m., 2318 Rayburn.

Committee on Small Business, September 11, Subcommittee on Regulatory Reform and Paperwork Reduction and the Subcommittee on Government Programs and Oversight, joint hearing on H.R. 96, Small Business Regulatory Assistance Act of 1997, 10:30 a.m., 311 Cannon.

Committee on Transportation and Infrastructure, September 9, Subcommittee on Aviation, hearing on H.R. 991, to amend the Railway Labor Act concerning the applicability of requirements of that Act to U.S. air carriers and flight deck crews engaged in flight operations outside the United States, 2 p.m., 2167 Rayburn.

September 10 and 11, Subcommittee on Surface Transportation, to markup H.R. 2400, Building Efficient Surface Transportation and Equity Act of 1997, 10 a.m., 2167 Rayburn.

Committee on Veterans' Affairs, September 11, to markup pending business, 9:30 a.m., 334 Cannon.

Committee on Ways and Means, September 9, Subcommittee on Oversight, to continue hearings on the Recommendations of the National Commission on Restructuring the Internal Revenue Service to expand Electronic Filing of Tax Systems Improvements, 10 a.m., 1100 Longworth.

September 10, Subcommittee on Human Resources, hearing on Child Support System Improvements, 10 a.m., B–318 Rayburn.

September 11, Subcommittee on Trade, hearing on the Administration's comprehensive review of the North American Free Trade Agreement (NAFTA), 10 a.m., 1100 Longworth.

Permanent Select Committee on Intelligence, September 9, executive, hearing on Encryption legislation, 10 a.m., H–405 Capitol.

September 11, executive, to markup Encryption legislation, 10 a.m., H–405 Capitol.

Next Meeting of the SENATE

11 a.m., Monday, September 8

Senate Chamber

Program for Monday: Senate will continue consideration of the motion to proceed to S. 830, FDA Administration Modernization and Accountability Act, and may resume consideration of S. 1061, Labor/HHS Appropriations, 1998.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, September 8

House Chamber

Program for Monday: Consideration of 3 Suspensions:

1. H.R. 876, Mississippi Sioux Tribes Judgment Fund Distribution Act of 1997;

2. H.R. 700, Agua Caliente Band of Cahuilla Indians; and

3. Concur in Senate amendment to H.R. 1866, Need-Based Educational Aid Antitrust Protection Act of 1997; and

Consideration of H.R. 2264, Labor, HHS, and Education Appropriations Act for FY 1998 (open rule).

No recorded votes are expected before 7:00 p.m.

Extensions of Remarks, as inserted in this issue

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